

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI
Criminal Misc. Application No.349 of 2021
along with
Criminal Misc. Applications No.12 to 14 & 16 to 22 of 2022

Date: Order with signature(s) of the Judge(s)

1. For orders as to maintainability of Crl. Misc. Application as well as M.A No.6112/2021.
2. For hearing of M.A No.4972/2022.

08th December 2022

Mr. Muhammad Ahmed Masood, Advocate for the Applicants.
Mr. Raj Ali Wahid Kunwar, Advocate for the Intervener.
Mr. Gul Faraz Khattak, DAG.
Mr. Shiraz Rajpar, Assistant Director (Legal) FIA and I.O Inspector
Ms. Arfa Saeed, FIA, CCRC Karachi.

Through captioned Criminal Misc. Applications, applicants have sought for quashment of FIR No.9 of 2021 registered at P.S FIA CCRC, Karachi.

2. At the outset, learned DAG present in Court, contends that the proceedings / investigation of this case was at initial stage and thereafter the same were stayed by this Court; however, on direction by this Court, I.O proceeded further. I.O present in Court, submits report, which being relevant is reproduced herewith;

"In compliance of Honourable High Court of Sindh Order dated 15.11.2022, it is respectfully submitted that as per order the police file of FIR No. 09/2021 registered at FIA CCRC Karachi was perused. It transpired that earlier during investigation bank accounts of Abtach were seized. However further investigation revealed that there were no incriminating material or transactions indicating any proceeds of crime under the Money Laundering Act. For the reason the bank accounts were unfrozen/unblocked. Furthermore, during investigation forensic conducted on electronic devices collected from Abtach offices under seizure memo and report called. The report also did not disclose any incriminating material."

3. Learned DAG contends that these proceedings are liable to be quashed. Assistant Director (Legal) Mr. Shiraz Rajpar is present in Court, who concurs the contention of learned DAG and further contends that after scrutinizing the whole investigation, hinging on forensic report,

which was awaited since long and on receiving the same, they examined the case in entirety and reached on the conclusion that there is no iota of evidence against the applicants and hence further proceedings against them would be nothing but abuse of process. I.O Inspector Ms. Arfa Saeed of FIA CCRC, Karachi is also present in Court, who has submitted report and contends that the investigation was transferred to her and her stance is the same as of learned DAG and Assistant Director (Legal) FIA.

4. Needless to mention that when the prosecution agency is itself not pressing the charges, no one can be put under the Swords of Damocles and this was the primary duty of the investigation officer to proceed with the case; however, counsel for the intervener contends that except money laundering cases, there are also other charges against the applicants and certain documents were submitted by the applicants with the FIA and he may be permitted to submit credible evidence against the applicants with the investigation agency. Needless to mention that in white-collar crime, in FIA laws particularly there is a mechanism of inquiry and FIR is subsequent to that. Hence, the inquiry / investigation cannot be stopped at any stage in any case and the FIA officials are legally bound to curb the crime falling in the schedule and can initiate the inquiry as reported by any concerned country or agency, even on the information given by any citizen including intervener, if there is cogent evidence with regard to any crime committed by the present applicants except present charges, they would be at liberty to proceed; however, on the pretext of inquiry, the applicants shall not be arrested and no coercive action shall be taken against them and they shall be provided an opportunity of hearing and proceeding in accordance with law.

5. Accordingly, the Criminal Misc. Applications in hand are allowed as a result, the proceedings emanating from FIR No.09/2021 are hereby quashed. All listed applications are disposed of accordingly.

Office to place copy of this order in the connected petitions.

J U D G E