

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Misc. Application No. 490 of 2020

DATE

ORDER WITH SIGNATURE OF JUDGES

1. For orders on office objection
2. For hearing of main case

11-05-2023

Mr. Aamir Mansoob Qureshi, Advocate for applicants.
Mr. Muhammad Ahmed, Assistant Attorney General.

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Omar Sial, J: Nawab Ali and Mohammad Khurram have impugned an order dated 29.10.2020 passed by the learned 9th Judicial Magistrate, Karachi South. In terms of the said order an application under section 249-A P.P.C. filed by the applicants was dismissed.

2. I have gone through the record with the assistance of the learned AAG as well as the learned counsel for the applicants. My observations and findings are as follows.

3. Both the applicants are accused in F.I.R. No. 26 of 2013 registered under sections 419, 420 and 109 P.P.C. and sections 3, 4 and 6(i) of the Passports Act at the F.I.A.'s Anti-Human Trafficking Cell. The challan filed in court reflects that the accusation against the applicants is that they sat in the same airplane, after purchasing legitimate tickets and obtaining legitimate boarding cards and going through the entire security procedures at the airport, as an accused in another case.

4. The learned AAG most half-heartedly admitted that the charge against the applicants, as stated above, was correct and that apart from the fact that they sat in the same plane as an accused of another case, was the only piece of evidence which the prosecution had against them. He confirmed that there was no evidence to show any collusion of the applicants with the accused of the other case, however, the accused in the other case, by the name of Shahrukh Jatoy was a brother of the applicant

Nawab Ali. It is also pertinent to mention that Shahrukh Jatoi has since been acquitted.

5. Section 3 of the Passports Act, 1974 prohibits departure from Pakistan without a passport. This is admittedly not the case as far as the applicants are concerned. Section 4 is the charging section whereas section 6 also pertains to passports, which is not the case against the applicants. It is admitted that they were travelling with proper and genuine travel documents. Section 419 and 420 P.P.C. are not remotely being made out against them. The F.I.R. itself reveals that Shahrukh Jatoi may have left the country with the connivance and collusion of some government functionaries at the airport. The applicants are not named in the F.I.R., and subsequently too, the only evidence of alleged collusion if any with Shahrukh Jatoi is that they had boarded the same plane.

6. In view of the above, and the fact that the State acknowledges that no further evidence was collected by the investigating officer in the case, arising out of F.I.R. No. 26 of 2013, there is no doubt in my mind that there is no possibility of a conviction of the applicants. The impugned order is therefore set aside and the applicants acquitted under section 249-A Cr.P.C.

JUDGE