

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Criminal Miscellaneous Application No.S- 163 of 2023

1. For orders on office objection.
2. For hearing of main case.
3. For hearing of MA 2806/2023.

28.03.2023.

Mr. Imtiaz Ali Channa, Advocate for applicants a/w
applicant No.1.

Mr. Imran Ali Abbasi, A.P.G for State.

ORDER

MUHAMMAD FAISAL KAMAL ALAM, J.- Learned counsel has stated that FIR No.72 of 2022 lodged by the complainant is based on malafide as the complainant Ghulam Sarwar himself is a habitual offender and the FIR was lodged merely to create obstacles in the functioning of applicants who are police officials, and performing their duties diligently. It is further stated that investigation shows that at the place of incident applicants were not present as per C.D.R (Call Data Record). Consequently, the Summary was submitted with a recommendation that the FIR should be cancelled in 'C' class, which was disallowed through the impugned order.

2. On the other hand, learned A.P.G supports the impugned order and states that the summary and recommendation are not binding upon the learned Trial Court.

3. The impugned order has given reasons for not accepting the findings of I.O for disposal of FIR under 'C' class and consequently,

cognizance was taken. In my considered view, if in every order of such nature, is interfered with, then it would adversely affect the Criminal Justice System; unless there are exceptional circumstances. Even otherwise, if the applicants are innocent, remedies are available to them even during trial for their acquittal. At this stage learned counsel for the Applicants states that both the FIRs lodged under Crime No.72/2022 and 37/2022 (available at Pages 21 and 25 of the file) may be tried together.

4. Consequently, this Criminal Miscellaneous Application is dismissed alongwith listed application. However, both the cases shall be tried together by same Court of competent jurisdiction.

JUDGE

Tufail