

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Revision Application No. S-90 of 2022

(*Rasheed Ahmed Chandio Vs. The State & others*)

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

28-11-2023.

Mr. Ali Gul Abbasi, advocate for the applicant.

Mr. Alam Sher Bozdar advocate for the private respondents.

Mr. Shafi Muhammad Mahar, Deputy P. G for the State.

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IRSHAD ALI SHAH, J;- The facts in brief necessary for disposal of instant Crl. Revision Application are that a complaint was filed by the applicant for prosecution of the private respondents for allegedly having committed an offence punishable u/s 3/4 of Illegal Dispossession Act, 2005, it was brought on record; the private respondents joined the trial; subsequently, such complaint was dismissed for non-prosecution by learned trial Court, such dismissal was impugned by the applicant before this Court by preferring a Crl. Revision Application, it was also dismissed for non-prosecution; on filing of an application for its restoration, it was observed by this Court that the applicant may file a fresh complaint at any time; it was filed accordingly; on inquiry, it was dismissed by learned trial Court, such dismissal is impugned by the applicant before this Court by way of instant Crl. Revision Application.

2. It is contended by learned counsel for the applicant that the dismissal of the complaint of the applicant was illegal; therefore, it is to be examined by this Court. Learned DPG for the State did not support the dismissal of the complaint of the applicant. However

learned counsel for the private respondents by supporting such dismissal has sought for dismissal of instant Crl. Revision Application.

3. Heard arguments and perused the record.

4. The complaint once brought on record could hardly be dismissed for non-prosecution only way left for learned trial Court was either to have recorded acquittal or conviction of the culprits involved therein. Be that as it may, it is settled by now; the offence relating to Illegal Dispossession/Occupation is continuous in nature. In the instant case at one time, the complaint was brought on record and then at later stage it was dismissed; though it was on same cause. On same property formation of the two contradictory opinions are appearing to be strange. In these premises, the dismissal of the complaint could not be sustained, is set aside with direction to learned trial Court to pass the a afresh order with regard to taking the cognizance of the complaint or otherwise in accordance with law after providing chance of hearing to all the concerned.

5. The Instant Crl. Revision is disposed of in above terms.

Judge

Nasim/P.A