

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitutional Petition No. S-1109 of 2023

Date	Order with signature of Judge
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1. For order on office objection
2. For hearing of main case

07.12.2023

Mr. Noor Hussain Jamali advocate for the petitioners alongwith petitioners

Mr. Muntazir Mehdi, Additional PG alongwith PI Muhammad Nawaz Kalmati, focal person on behalf of SSP Sujawal, PI Zulfiqar Ali Shar, SHHO Daro, SI Akhtar Hussain Lashari SHO Banno, Sujawal and SI Shahnawaz PS Memon Goth Karachi

Mr. Sharafudin Jamali, AAG

Through this petition, the petitioners simply seek directions to restrain the official respondents from harassing them and their family members and to provide protection to them.

Petitioner No.1 who is present in person along with her counsel submits that she married with petitioner No.2 on 21.10.2023 of her own accord and free will. As per petitioners the private respondents attacked their house and they forcibly snatched 60 cows, 07 buffaloes, and cash of Rs. 40,000/- and other valuable articles. She further submitted that the police officials also illegally raided the house of the petitioners without any search warrant and illegally pressurized them to appear at the police station where they were harassed and also threatened to be booked in false cases. The grievance of the petitioners is that official respondents in connivance with private respondents are harassing and interfering in their matrimonial affairs and daily life pursuits, without lawful justification.

Admittedly, this is the case of harassment at the hands of police in connivance with private respondents. The meaning of the word "harass" has been explained as "Injure and injury"; these words have numerous and comprehensive popular meanings, as well as having a legal import. A line may be drawn between these words and the word "harass" excluding the latter from being comprehended within the word "injure" or "injury". The synonyms of "harass" are: To weary, tire, perplex, distress tease, vex, molest, trouble, and disturb. They all have relation to mental annoyance." In the Oxford Dictionary of New Words, the meaning of the word "harassment" has been explained, which reads as "The subjection of a person to aggressive pressure or intimidation. "Harassment" should be interpreted as potentially producing some unreasonably adverse impact on the victim. The conduct should produce more than "worry", "trouble", "discomfort" or "unease" unless perhaps these are experienced to an extreme degree."

The main objectives of police is to apprehend offenders, investigate crimes, and prosecute them before the courts also to prevent

the commission of crime, and above all ensure law and order to protect citizens' life and property.

The law enjoins the police to be scrupulously fair to the offender and the Magistracy is to ensure a fair investigation and fair trial for an offender. Unfortunately, these objectives have remained unfulfilled. Aberrations of police officers and police excesses in dealing with the law and order situation have been the subject of adverse comments from this Court as well as from other courts but they have failed to have any corrective effect on it. The police has the power to arrest a person even without obtaining a warrant of arrest from a court. The plenty of this power casts an obligation on the police and it must bear in mind, as held by this Court that if a person is arrested for a crime, his constitutional and fundamental rights must not be violated.

Learned A.A.G. submits that no harassment shall be caused to the petitioners. His statement is tenable and this petition is liable to be disposed of in terms of the statement of learned AAG; however, it is made clear that if the police officials have exceeded their power and authority in connivance with the private respondents they must be brought to book which is only possible if the DIGP Hyderabad hear the parties and take prompt action if the police officials are indulged in the crime. The Police Officers are required to protect and not abduct.

In view of the above, this petition is disposed of with the direction to the Investigating Officer to submit the report to the concerned Magistrate in terms of the statement made by petitioner No.1 Mst. Zohra that she had neither been kidnapped nor coerced by anyone rather she had contracted a valid marriage with Asghar Sehto under the law as such if there is any FIR that is false and needs to be quashed. The learned Magistrate shall pass an appropriate order on the statement of petitioner No.1 if there is FIR against the couple and dispose of the case under the law. In the meantime, no harassment shall be caused to the petitioners. However, if any of the parties are indulged in cognizable offenses police shall act under law. So far as the issue of forcibly snatching the domestic animals robbing the valuable articles and setting off fire the houses of the petitioners and their family members the DIGP Hyderabad will look into the matter at his end and shall take prompt action if the story so put forward by the petitioners to be true and correct, in the meanwhile the police officials who are involved in such a criminal activity shall not be given field posting till conclusion of the disciplinary proceedings by the competent authority.

JUDGE