

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No.S-1374 of 2023

Date	Order with signature of Judge
------	-------------------------------

1. For orders on CMA No.10013/2023
2. For order on CMA No.10014/2023
3. For hearing of main case

26.12.2023

1. Urgency application is granted.

2-3. This petition impugns order dated 14.10.2023 rendered by the Vth Additional Sessions Judge Malir Karachi. Operative part whereof reads as follows:

“Heard learned counsel for the petitioner and minutely examined the entire record available before me. Per contents of the petition, petitioner has stated that on 10-09-2023 at about 06:00 PM at telephone exchange Lasi Para Model Colony one Jirga was held, while respectable and guarantors were avoiding to participate because of fine being imposed over proposed accused due to their false litigation against the petitioner and proposed accused attacked over the petitioner and pelted stones over the petitioner, resultantly petitioner and his companions sustained injuries, then petitioner made phone call on 15 police helpline but proposed accused fled away from the spot and such videos were recorded by the mohalla people. He further contended that on the same day at about 11:00 PM proposed accused attacked upon the house of petitioner, forcibly entered into his house, outraged the modesty of his women and taken away three tola gold ornaments and cash of Rs.25,000/- from the petitioner's house on the force of weapons. In view of the above discussion, the SHO of PS Airport is directed to record statement of the petitioner and if sufficient material exist then act according to law. With these observations, the application in hand is disposed of.”

The impugned order directs a *prima facie* authorized officer to record a statement and then proceed with the law. Nothing exceptionable is demonstrated from perusal of the order impugned.

It is settled law that the ambit of a writ petition is not that of a forum of appeal, nor does it automatically become such a forum in instances where no further appeal is provided¹, and is restricted *inter alia* to appreciate whether any manifest illegality is apparent from the order impugned. It is trite law² that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially exercised on sound principles the supervisory forum would not interfere with that discretion, unless same was contrary to law or usage having the force of law. The impugned order is well reasoned and no manifest infirmity is apparent therefrom or that it could not have been rested upon the rationale relied upon.

¹ Per *Ijaz ul Ahsan J* in *Gul Taiz Khan Marwat vs. Registrar Peshawar High Court* reported as *PLD 2021 Supreme Court 391*.

² Per *Faqir Muhammad Khokhar J.* in *Naheed Nusrat Hashmi vs. Secretary Education (Elementary) Punjab* reported as *PLD 2006 Supreme Court 1124*; *Naseer Ahmed Siddiqui vs. Aftab Alam* reported as *PLD 2013 Supreme Court 323*.

Article 199 of the Constitution contemplates the discretionary³ writ jurisdiction of this Court and the said discretion *may* be exercised in appropriate circumstances. In the present matter no case has been set forth before this court for invocation of writ jurisdiction. In view hereof, this petition and listed applications are hereby dismissed in *limine*.

Judge

Anjad/P.A

³ Per Ijaz Ul Ahsan J. in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.