ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Miscellaneous Application No.790 of 2023

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

1. For order on MA No.15523/2023 (Urgency)
2. For order on office objection at 'A'
3. For hearing of main case
4. For hearing of MA No.12359/2023

**21.12.2023**

Ms. Wajiha Aman applicant in person
Mr. Ehtashamullah Khan, respondent No.9 in person
Syed Meeral Shah Bukhari, Additional PG
Mr. Sharafudin Jamali, AAG

---

Through this Criminal Miscellaneous Application, the applicant Miss. Wajiha Aman seeks indulgence of this Court and has raised her voice of concern by calling in question the order dated 03.10.2023 passed by learned XXX Civil Judge & Judicial Magistrate Karachi East, in Summary Case Nil of 2023 (re-The State v Fazal Rabbi and others) arising out of FIR No. 439 of 2023, registered for the offense under Section 324/147/148/149/504/337-A(i)/354 Cr.P.C. of PS KIA Karachi, whereby the learned Judicial Magistrate took cognizance for the offense punishable under Section 147/148/149/337-A(i), 337-F(i), 337-L(ii), 324, 504 PPC against the accused as disclosed in the final report and sent up the case to the learned Sessions Court for trial. An excerpt of the order is reproduced as under:-

> **Heard the arguments of complainant Ehtishamullah Khan, accused Wajiha Aman, and ADPP and perused the record which reveals that the eye witness of whole incident that is plumber is not made witness in the case, medicals of both parties available on record which shows that incident happened and offense committed, litigation between both parties are also pending before Superior courts on water and gas connection and this FIR root cause is also water issue, record reveals the multiple sections are included in challan that is 147/148/149/337-A(i), 337-F(i), 337-L(ii), 324, 504 PPC however from bare reading of Section 141 it appears that its Fourth proviso deals with water enjoyment however from bare reading of 354 it appears that it does not attract to this case. Also from record it reveals that incident of fighting between complainant and accused party occurred and offense committed as sufficient material is available on record to proceed with the case as at this stage Court will only look into the existence of evidence and not on the weightage of evidence which is sole responsibility and capability of trial Court. The factum of genuineness of defence evidence be left upon the concerned trial Court to determine such fact during trial. Hence, I hereby take cognizance for the offence punishable under Section 147/148/149/337-A(i), 337-F(i), 337-L(ii), 324, 504 PPC against the accused persons mentioned in final report. As from the sections the case is exclusively triable by session Court so let the R & P's be sent to session Court after completing codal formalities."**

2. The facts precisely in the FIR No. 439 of 2023, registered for the offense under Section 324/147/148/149/504/337-A(i)/354 Cr.P.C. of PS KIA Karachi are that the complainant Ehtashamullah Khan and applicant Ms. Wajiha Aman are residing in a joint property at their respective portions. It is alleged that on 22.3.2023 the complainant found the applicant party manipulating the water connection. The complainant asked them not to do and they became infuriated and jointly assaulted the

complainant, and caused severe injuries on his face; and, they also abused his wife and sister-in-law. After getting a letter for treatment from the concerned PS the complainant lodged the subject FIR against all the accused. During the investigation, the Investigating officer added sections **337-F(i), 337-L(ii)** PPC in the charge sheet and submitted the report before the learned Magistrate for approval. The learned Magistrate took cognizance of the offenses and referred the matter to the learned Sessions Judge for trial. Applicant being aggrieved by and dissatisfied with the aforesaid order has filed the instant Criminal Miscellaneous Application. In the intervening period applicant also filed a Direct Complaint against the complaint party and police which is reported to be pending.

3. At the outset I enquired from the applicant as to how this Criminal Miscellaneous is maintainable on the analogy that under the criminal administration of justice and Code of Criminal Procedure a criminal case is initiated on filing of FIR. After registration of the FIR, the police officer starts an investigation for collecting the evidence when the evidence is collected and the investigation completed, the Investigating Officer is required to submit his report under Section 173 Cr.P.C. Besides, the opinion of the Investigating Officer is not binding upon the Court, once the report has been submitted under Section 173 Cr.P.C and the Magistrate is of the view that sufficient material is available on record, which connected the accused with the alleged crime and the same opinion cannot be bypassed by the Investigating Officer of the case, if the case is remanded to the Investigating Officer, in such a scenario, it is for the accused to record statement under Section 342 Cr. P.C. in the said case and it is for the trial Court to decide the case on merit while passing the judgment.

4. The theme of the submissions of the applicant is that her point of view was not investigated by the Investigating Officer in terms of the ratio of the judgment passed by the Supreme Court in the case of ***Sughra Bibi v The State* PLD 2018 SC 595,** which needs to be investigated and report be submitted to the trial court. However, the applicant attempted to give the history of the case and submitted that learned Judicial Magistrate without visualizing the facts and taking into consideration that the Investigation Officer of the case, neither investigated the version of the applicant nor made any efforts to investigate the case based on documents as well as oral evidence provided by the applicant but on the contrary, the Investigating Officer under the influence of complainant has dishonestly, has illegally and unlawfully submitted the report under Section 173 Cr. P.C., which has been erroneously approved by the learned Judicial Magistrate in violation of law while exercising jurisdiction in a colorable

manner and mistakenly took cognizance of the purported offenses. The applicant has narrated her ordeal with the assertion that the section 324 PPC was falsely alleged by the prosecution in connivance with the investigating officer as the complainant provided the purported two bullets to the Investigating officer, 20 days after the alleged incident as the purported injuries are self-inflicted and have been declared non-cognizable in Final Medical report. She further submitted that the investigating officer had failed to record the statement of independent witnesses. Per the applicant, she has filed Private Complaint No. 1841 of 2023 against the complainant party, whereby she called all three independent witnesses (i.e. immediate neighbor (Farooq Ahmed) and 2 security guards (Ashraf and Siraj}) who appeared before the learned Judicial Magistrate and recorded their statement, which explicitly show that no such incident had taken place. Applicant further assed that the statement of the witness namely Almas Bhatti, who produced two bullets after 20 days after the alleged incident, contrary to the statement of Shafiq-ur-Rehman who was allegedly with him on the day of the alleged incident. She submitted that the complainant has lodged multiple false FIRs due to personal enmity since 2010 against Applicant's family. She submitted that the complainant failed to produce any documentary as well as oral evidence/material that shows that the alleged water line belongs to the complainant party. As per the applicant though her version has been recorded but not investigated properly by the investigating officer in terms of the scheme of the Sugran Bibi case. She submitted that the learned Judicial Magistrate, while taking cognizance against the applicant, erroneously observed that “the factum of the genuineness of defense evidence be left upon the concerned trial court to determine such fact during the trial". She further submitted that the learned Judicial Magistrate ignored the fact that the applicant's family has been living without water to date due to the complainant party's illegal act over the disputed property. She added that the learned Judicial Magistrate while taking cognizance against the applicant violated and failed to safeguard the fundamental rights of the applicant i.e. right to life and property. She prayed for allowing the instant Criminal Miscellaneous Application.

5. Respondent No.9 present in person has refuted the stance of the applicant, narrated his ordeal, and supported the impugned order. He submitted that the applicant/accused along with her accomplices had severely beaten him and his family members and his teeth were broken on the pity issue of water connection. He submitted that the tooth is an organ, therefore, the applicant is liable for the offense of “itlaf-i-udw” under section 334 PPC for which punishment is provided under section 337-U of PPC. He next submitted that the applicant and her accomplices are

nominated in FIR with the Specific role of assault and causing injuries to the complainant and his family members. As per the complainant, the motive has also been described in the FIR and the applicant has failed to establish any mala fide on the part of the complainant. He added he had received grievous injuries as per MLC on the vital part of his body. He also lost his tooth and the medical evidence does support his case which needs to be tried and culprits be brought to book under law. He pointed out the applicant is accused as such cannot be in court uniform to argue the case like a lawyer.

6. Learned Addl. P.G. has also supported the stance of the complainant as well as the impugned order.

7. Since both the parties are at daggers drawn and insisted on hearing this Criminal Miselenious Application with the vehemence that no date be given to either party and the matter should be heard and decided today on merits, as such I have heard the applicant and respondent No.9 who are present in person and perused the material placed on record and order dated 03.10.2023 passed by the learned Judicial Magistrate whereby he took cognizance of the offenses and sent the case to the learned Sessions Court for trial.

8. The question involved in the present proceeding is whether the order dated 03.10.2023 passed by the learned Magistrate on the report of the Investigating Officer under Section 173 Cr. P.C. needs to be reversed and to direct the Investigating Officer to investigate the version of the applicant in terms of the ratio of the judgment passed by the Supreme in **Sughran Bibi case** as discussed supra. And whether from the ingredients of F.I.R. an offense under sections 337-F(i), 337-L(ii), 324 PPC are made out or not. And whether the learned Magistrate has rightly taken cognizance of the offenses punishable under Section 147/148/149/337-A(i), 337-F(i), 337-L(ii), 324, 504 PPC against the accused persons mentioned in the final report?

9. First and foremost, in the present scenario, it is necessary to have a look at the procedural and legal point of view of the case, in terms of Section 190(1) of the Cr.P.C. which contains the provision for cognizance of offenses by the Magistrate and it provides three ways by which such cognizance can be taken which are reproduced hereunder:-

(a) Upon receiving a complaint of facts that constitute such offense;

(b) upon a police report in writing of such facts–that is, facts constituting the offense, made by any police officer;

> (c) upon information received from any person other than a police officer or upon the Magistrate's knowledge or suspicion that such offense has been committed.

10. An examination of these provisions makes it clear that when a Magistrate takes cognizance of an offense upon receiving a private complaint of facts that constitutes such offense, a case is instituted in the Magistrate's Court and such a case is one instituted on a complaint. Again when a Magistrate takes cognizance of any offence, upon a police report in writing of such facts made by any police officer it is a case instituted in the Magistrate's court on a police report (F.I.R). The scheme underlying Cr.P.C. reveals that anyone who wants to give information about an offense may either approach the Magistrate or the officer in charge of a Police Station. If the offense complained of is a non-cognizable one, the Police Officer can either direct the complainant to approach the Magistrate or he may obtain the permission of the Magistrate and investigate the offense. Similarly, anyone can approach the Magistrate with a complaint and even if the offence disclosed is a serious one, the Magistrate is competent to take cognizance of the offence and initiate proceedings. It is open to the Magistrate but not obligatory upon him to direct investigation by police. Thus two agencies have been set up for taking offences to the Court.

11. The instant matter arises out of a case that is based on a police report as the FIR was lodged at Police Station PS KIA Karachi under Section 154 Cr.P.C. and, therefore, the investigation was conducted by the police authorities in terms of the procedure prescribed in the Cr.P.C. and thereafter report was submitted. At this stage, the Judicial Magistrate after submission of the report appears to have taken cognizance of the aforesaid offenses and registered a case against the Applicant and others, besides the applicant has also filed a private complaint against the complainant before the Magistrate under Section 200 Cr.P.C., obviously the Magistrate had full authority and jurisdiction to conduct an inquiry into the matter and if at any stage of inquiry, the Magistrate thinks it appropriate that other additional sections also were fit to be included, he would not be precluded from adding them after which the process of cognizance would be taken by the Magistrate and then the matter would be committed for trial before the appropriate Court. But he needed to have a glance at whether the ingredients of the offenses were made out or not before taking cognizance, which factor is prima facie taken care of by him in his order.

12. The crux of the above discussion is that if a case is registered by the police based on the FIR registered at the Police Station under Section 154 Cr.P.C. and not by way of the private complaint under Section 190 (a)

of the Cr.P.C. before the Magistrate, obviously the magisterial inquiry cannot be held regarding the FIR which had been registered as it is the investigating agency of the police which alone is legally entitled to conduct the investigation and, thereafter, submit the report under section 173 Cr.P.C. or charge sheet under Section 170 Cr. P.C., unless of course a complaint before the Magistrate is also lodged where the procedure prescribed for complaint cases would be applicable. It is further clarified that in a police case, however after submission of the report, the matter goes to the Magistrate for forming an opinion as to whether it is a fit case for taking cognizance and committing the matter for trial in a case which is lodged before the police by way of FIR and the Magistrate cannot exclude or include any section of PPC into the charge-sheet or take cognizance of the offense other than triable by him after the investigation has been completed and charge-sheet has been submitted by the police, however, it is made clear that if he is not satisfied with the investigation report, he can order for further investigation on that aspect of the case, which the prosecution has left or if he finds sufficient material to take direct cognizance of the matter.

13. In the light of foregoing, my view is that the Magistrate in a case that is based on a police report cannot add or subtract sections of PPC at the time of taking cognizance as the same would be permissible by the trial court only at the time of framing of charge under section 221 of the Cr. P.C (Charge to state offense) or under section 227 of the Cr. P.C (Court may alter charge) as the case may be which means that after submission of the charge sheet, it will be open for the prosecution to contend before the trial court at the stage of framing of charge to establish that on the given state of facts, the appropriate sections of PPC which according to the prosecution should be framed can be allowed to be framed. Simultaneously, the accused also has the liberty at this stage to submit whether the charge under a particular provision should be framed or not and this is the appropriate forum in a case based on the police report to determine whether the charge can be framed and a particular section of PPC can be added or removed depending upon the material collected during investigation as also the facts disclosed in the FIR and the charge-sheet or Investigation Report. The Cr.P.C. has engrafted the two channels defining the powers of the Magistrate to conduct an inquiry in a complaint case and police investigation based on a case registered at a police station where the investigating authorities of the police conduct investigation and there is no ambiguity regarding these procedures. My view is supported by the decision rendered by the Supreme Court in the case of *Muhammad Ajmal and others v. The State and others* (**2018 SCMR 141**) the Supreme Court has held at paragraphs 21& 22 as under:-

> "It may also be pointed out that the successor Additional Sessions Judge while passing the impugned order dated 23.4.2015 has fallen into patent error, holding that the earlier judgment of the Additional Sessions Judge, Bahawalpur has not debarred the Magistrate to add section of law i.e. section 302 PPC because the then Additional Sessions Judge had rightly held that the Magistrate may exercise powers after holding the trial and recording evidence. The mode and manner adopted by the Magistrate examining the senior medical officer on the point of cause of death of the deceased is completely alien to the Law of Evidence and Code of Criminal Procedure."

14. Adverting to the question of applicability of the ratio of the case of ***Sughran Bibi PLD 2018 SC 595*** in the present proceedings**,** the same is mentioned in para No. 2 of the judgment which is reproduced as under:-

> *"On 21.03.2008, more than a decade ago, one Mohsin Ali had lost his life through the hands of the police, and FIR No. 177 was lodged by Zulfiqar, SI in respect of the said incident on the same day at Police Station Shahdara Town, District Lahore for offences under sections 324, 353 and 186, P.P.C. read with section 34, P.P.C. and section 13 of the Pakistan Arms Ordinance, 1965. It was alleged in that FIR that Mohsin Ali and others had launched a murderous assault upon a police party and in exercise of its right of private defence the police party had fired back resulting in death of Mohsin Ali. After completion of the investigation, a Challan was submitted in that case before the Court of Session, Lahore for trial of the accused persons implicated therein. On 12.01.2010 the present petitioner namely Mst. Sughran Bibi (mother of Mohsin Ali deceased) instituted a private complaint in respect of the self-same incident alleging that as a matter of fact Mohsin Ali had cold-bloodedly been murdered by the local police by managing and staging a fake encounter. On 19.05.2010 a learned Additional Sessions Judge, Lahore seized of the case and summoned 16 accused persons to face a trial in connection with the said private complaint. As per the legal norms, the private complaint filed by the petitioner was taken up first for trial, and on 18.06.2015 a Charge was framed against the summoned accused persons and, we have been informed, no progress has so far been made in that trial of the complaint case. Now through the present petition filed as a Human Rights Case under Article 184(3) of the Constitution of the Islamic Republic of Pakistan, 1973 Mst. Sughran Bibi petitioner has sought issuance of a direction to the local police to register a separate FIR containing the different version of the same incident being advanced by her."*

15. The Supreme Court settled a point for determination in the said case of ***Sughran Bibi*** as per para No.3 under:-

> ***" The issue before us, to put it very simply, is as to whether a separate FIR can be registered for every new version of the same incident when commission of the relevant cognizable offence already stands reported to the police and an FIR already stands registered in that regard or not. An ancillary issue is that if no separate FIR can be registered for any new version of the same incident then how can such new version be recorded and investigated by the police."***

16. After a detailed discussion of the previous judgments on the issue it was held in para No. 27 of judgment as under:-

> "27. As a result of the discussion made above, we declare the legal position as follows:
>
> (i) According to section 154, Cr.P.C. an FIR is only the first information to the local police about commission of a cognizable offence. For instance, information received from any

source that a murder has been committed in such and such village is to be a valid and sufficient basis for registration of an FIR in that regard.

**(ii) If the information received by the local police about commission of a cognizable offence also contains a version as to how the relevant offence was committed, by whom it was committed and in which background it was committed then that version of the incident is only the version of the informant and nothing more and such version is not to be unreservedly accepted by the investigating officer as the truth or the whole truth.**

(iii) Upon registration of an FIR a criminal "case" comes into existence and that case is to be assigned a number and such case carries the same number till the final decision of the matter.

(iv) During the investigation conducted after registration of an FIR the **investigating officer may record any number of versions of the same incident brought to his notice by different persons which versions are to be recorded by him under section 161,** Cr.P.C. in the same case. No separate FIR is to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case.

(v) During the investigation the investigating officer is obliged to investigate the matter from all possible angles while keeping in view all the versions of the incident brought to his notice and, as required by Rule 25.2(3) of the Police Rules, 1934 "It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person."

(vi) Ordinarily no person is to be arrested straightaway only because he has been nominated as an accused person in an FIR or in any other version of the incident brought to the notice of the investigating officer by any person until the investigating officer feels satisfied that sufficient justification exists for his arrest and for such justification he is to be guided by the relevant provisions of the Code of Criminal Procedure, 1898 and the Police Rules, 1934. According to the relevant provisions of the said Code and the Rules, a suspect is not to be arrested straight away or as a matter of course, and, unless the situation on the ground so warrants, the arrest is to be deferred till such time that sufficient material or evidence becomes available on the record of investigation prima facie satisfying the investigating officer regarding correctness of the allegations leveled against such suspect or regarding his involvement in the crime in issue.

(vii) Upon conclusion of the investigation the report to be submitted under section 173, Cr. P.C is to be based upon the actual facts discovered during the investigation irrespective of the version of the incident advanced by the first informant or any other version brought to the notice of the investigating officer by any other person."

17. The result of the above-detailed judgment was that a request of **Sughran Bibi** in respect of the second FIR of the same incident was turned down by the Supreme Court and her petition was dismissed.

18. The Supreme Court in para No. 27 (ii) has declared that the **"version of the incident is only the version of the informant and nothing more and such version is not to be unreservedly accepted by the investigating officer as the truth or the whole truth."** The definition

of the word version is ***"a particular form of something differing in certain respects from an earlier form or other forms of the same type of thing."***

19. It is clear from the above that for every different version/plea for the offense under investigation if raised, no separate FIR is to be registered; however, for any version introduced after the first FIR, the same is to be investigated along with the first version.

20. Turning to the case in hand it is observed that the incident of fighting between the parties had taken place as per police Investigation and prima-facie both the parties received injuries and are in litigation one party has filed F.I.R and the second party has filed Direct Complaint and both cases are pending before the competent court of law for adjudication, in such a situation, it would be significant to first address the dealing with the State case and complaint case, lodged/initiated in respect of the same offense. It is established law that if there are two cases for the same offense i.e. State case and complaint case, it is not the 'lodgment of F.I.R' or 'filing of a direct complaint' which means taking of cognizance by the Court but both are meant to bring the law into motion only for purpose of determination whether there is sufficient material to try any person for an allegation (offense) or otherwise?. It is not the outcome of the Preliminary Enquiry (Chapter-XVI of the Code) nor that of investigation (Chapter-XIV of the Code) on which the guilt is determined by the Court of law but it is the 'trial' and only 'trial' which, per procedure, ensures proper and fair opportunity to the person (accused) facing the charge to disprove the allegation by cross-examination and producing witnesses or document (s) in support of his plea or disproof of allegation/ charge. The opinion of the investigating officer or that of the court as a result of procedure, provided by Chapter XVI of the Code, shall not necessarily require to be stamped by the 'competent court' trying the case. I can safely conclude that for the benefit and guidance of all concerned, the determination of guilt or innocence of the accused persons is the exclusive domain of only the Courts of law established for the purpose. However, in the present case, this exercise is yet to be done. On the aforesaid proposition, I am guided by the decision of the Supreme Court in the case of *Muhammad Ahmed v. State* **2010 SCMR 660**.

21. From the reading of the above provision, it should no more be confusing that for 'trial' it is immaterial whether the cognizance of offense was taken upon a 'police report' or a 'complaint'. The status of 'material' collected during the investigation or course of 'Preliminary Enquiry' is the same hence one can competently choose any of the above available

remedies which are of equal status, value, and substance for 'trial'. Since the law does not restrict one to choosing the alternative of 'direct complaint' if he/she claims to be dissatisfied with the attitude of the police (investigating authority) then there arises certain legal question (s) such as:-

> *"Whether to continue with the investigation in FIR of the complainant or drop it when the complainant has chosen an alternative remedy?"*

22. As, the opening Section 154 of Chapter-XIV of the Code, usually known as FIR, stood defined as "bring the law into motion' for this Chapter, the motion of the law cannot be dependant upon the wish and will of one (complainant/informant) but needs to be left to complete its cycle. This first information can be verified when an 'investigation' into the information of cognizable offense (FIR) is done and the result thereof is submitted before the competent court of law either for agreeing for disposal thereof under "A to C' classes or taking cognizance, which, the concerned Magistrate will deal with the judicial mind.

23. From above, it becomes quite clear that even if the complainant (informant) and /or aggrieved party is no longer interested in sticking with the outcome of the investigation, conducted on his own FIR, the FIR continues holding field imploring for its legal disposal which could either be :

i) disposal of FIR under any of the classes, known as "B or C'. Worth making it clear that a report under "A' class never amounts to termination or final determination of crime/offence but it starts breathing once the 'unknown accused' becomes 'known';

ii) acquittal or conviction of the accused

24. Moreover, if the court takes cognizance of the offense on the police report, for which the court is, no doubt, competent, despite the complainant party having filed a direct complaint in respect of the same offense. This, now, gives rise to a question as to how the trial of two separate case (s) is to be conducted when both are about the offense (s), arising from the same incident.

25. Before diving deep, germane to mention here that the filing of the direct complaint for the same offense in the existence of a pending investigation or trial of State case (FIR or outcome thereof) is itself indicative that the complainant party was not satisfied with same so they thought it proper to resort to alternative equal remedy which, even, can give due to the accused for the offense, complained against him/them.

The result in the complaint case would also be a result "determination" of the State case.

26. So far as the insertion and deletion of sections of PPC are concerned which needs to be trashed out by the trial court when the charge is framed whether sections rightly applied by the prosecution or otherwise based on the Investigation report; and the trial Court will see every aspect of the case including the version of the applicant in all respect as agitated by her and no prejudice shall be caused to either party.

27. Prima facie, there is material brought on record by the Investigating officer for the Trial of the case, based on the statements of Pws, injury certificates, and the Crime empties and other ancillary material, let the trial court see the record and ascertain the factual position of the case at its end so that the truth may come out for the reason however the Trial Court will not ignore genuineness of defense version during trial. Hence, I do not see any material illegality or major defect in the impugned order to interfere in the matter and to quash the proceedings at the initial stage and/or order for further investigation or direct the Investigating officer to investigate the version of the applicant, at the belated stage, after submission of the charge sheet and taking cognizance of the offense as it is the function of the Trial Court to do the said exercise, if permissible under the law, after hearing the parties. As a consequence of the aforesaid analysis, I do approve the order of the learned Magistrate who took cognizance of the offenses as forwarded by the Investigating officer as he has not permitted addition of Sections 337-F(i), 337-L(ii), 324 PPC on his own accord in the case, rather he agreed with the report submitted by the Investigating Officer and took cognizance of the offenses and sent up the case for Trial to Sessions Court, I therefore, dismiss this Criminal Miscellaneous Application by observing and clarifying the order of the learned Magistrate to the extent that the learned trial Court shall be at liberty to raise all questions relating to additions/deletions of the Sections based on FIR and material collected during the investigation at the time of framing of charge.

28. The aforesaid exercise shall be undertaken within three months and material witnesses be examined so that the trial be concluded in time. MIT-II is directed to seek compliance of order within time.

JUDGE