

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.S-1051 of 2023

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| Date | Order with signature of Judge |
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- 1.For hearing of MA No.7633/2023
- 2.For hearing of main case

16.01.2024

Mr. Hanif Samma, Advocate for petitioner.  
Ms. Shabana Haq Solangi, AAG.

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Learned counsel for the petitioner raised his anxiety that the learned trial Court has closed the side of the petitioner for cross-examination and passed the impugned order dated 08.08.2023. He further submits that due process is the requirement of law, therefore, impugned orders dated 08.08.2023 and 12.09.2023 be set aside so that a fair and just conclusion be arrived. Service has been held good upon the respondent but none is in sight.

Heard and perused the record. It is an established position adhered by Courts that fair trial is a fundamental right as envisaged under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”) where cross-examination is an integral part of it aimed to check the credibility of witnesses, to elicit truth or expose falsehood as when the statement of a witness is not subjected to the cross-examination, as cross-examination’s evidentiary value cannot be equated and that cross-examination is not a mere formality, but a valuable right to bring the truth out<sup>1</sup>.

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<sup>1</sup> Per Muhammad Ali Mazhar.J in *Raja Muhammad Shahid v. I.G.P. Sindh & others* (2023 SCMR 1135)

The process of cross-examination helps to uncover contradictions and discrepancies which are important for a trial Court to reach to a just conclusion and not providing opportunity of defence and depriving the person from right of cross-examination held to be against Article 10-A of the Constitution as well, the principles of natural justice which requires that a party be afforded fair opportunity to converge, give explanation and contest.

In view of the above facts and circumstances, the impugned orders dated 08.08.2023 and 12.09.2023 are set aside. Learned trial Court is directed to decide the matter in accordance with law within three months after providing an opportunity of cross-examination to the petitioner. Petition stands disposed of accordingly.

JUDGE

Aadil Arab