

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Misc. Application No.809 of 2023

DATE: ORDER WITH SIGNATURE OF THE JUDGE

For hearing of main case

29.04.2024

Mr. Hakim Ali Khan, Advocate for the Applicant
Ms. Rubina Qadir, Deputy P.G. for the State

The facts in brief necessary for the disposal of the instant Crl. Misc. Application u/s 561-A Cr.PC are that an FIR was lodged by the applicant with PS Sachal Karachi alleging therein theft of his belongings. On investigation, such FIR was recommended by police to be disposed of under `A` Class, it however, was disposed of by learned IXth-Judicial Magistrate Malir Karachi under `C` Class vide order dated 12.08.2023, which is impugned by the applicant before this Court by making the instant Crl. Misc. Application.

It is contended by learned counsel for the applicant that the learned trial Magistrate has passed the impugned order without providing a chance of hearing to the applicant, therefore, the same being illegal is liable to be set aside by this Court, which is not opposed by learned Deputy Prosecutor General for the State.

Heard arguments and perused the record.

Admittedly, the report furnished by police for disposal of the subject FIR was under `A` Class, which always remained open for further investigation. The learned trial Magistrate without considering the report of the police has disposed of the subject FIR under `C` Class by making irrelevant and unnecessary observations concerning the merits of the case. Surprisingly such an exercise was taken without providing a chance of hearing to the applicant, which is against the mandate contained by Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973, which prescribes the right of a fair trial. Consequently, the impugned order is set aside with a direction to the learned trial Magistrate to pass the same afresh by providing a chance of hearing to all the concerned.

The instant Crl. Misc. Application is disposed of accordingly.

JUDGE