

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Cr. Misc. Application Nos.473, 475, 476, 477, 478, 479, 481  
and 482 of 2023  
[The State v. Muhammad Akbar and others]

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Date	Order With Signature Of Judge
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For hg of main case

06.11.2024.

Ms. Rubina Qadir, Deputy Prosecutor General, Sindh.  
Mr. Khawaja Saif-ul-Islam, advocate for respondent  
in Cr. Misc. Application No.479 of 2023.

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**MUHAMMAD IQBAL KALHORO, J:** The State through the Prosecutor General Sindh has challenged orders dated 08.03.2023, 21.03.2023, 25.03.2023, 03.04.2023, passed by Special Court Sindh Public Property (Removal of Encroachment), Karachi in different cases, whereby the reports submitted under section 173 CrPC have been declined by the said Court on the ground that they were filed beyond statutory period of 14 days.

2. I have heard learned Deputy Prosecutor General, Sindh and Mr. Khawaja Saif-ul-Islam, advocate for respondent in Cr. Misc. Application No.479 of 2023. The latter has supported the impugned order on the ground that already in respect of the subject property, the suit is pending before this Court between the respondents and Board of Revenue. I have perused the impugned orders, which on the face of it, are not sustainable in law. There is no provision in Criminal Procedure Code which stipulates that after statutory period of 14 days, the report under section 173 CrPC would not be accepted by the court. If the report under section 173 CrPC is not submitted within stipulated period, it will only indicate the fact that the investigation within time could not be completed, for which, Investigating Officer can be taken to task, but in so far as the FIR is concerned, it cannot be disposed of on such ground by not accepting the report under section 173 CrPC.

3. Learned DPG has submitted that in some cases, the report was submitted with a delay of only seven days. The learned trial Court overlooked completely scheme under section 344 CrPC which empowers the Court to allow delay in submission of challan for reasonable time in certain circumstances, meaning thereby that such delay is not against the spirit of law. Further, in certain circumstances, which may include incompleteness of investigation, within the same provision of law, the trial court can condone delay in submission of final report under section 173 CrPC because such report prima facie suggests collection of evidence presentable in the Court for the purpose of a trial against the accused. The trial court without looking into such material cannot proceed to decline the report under section 173 CrPC and drop the charge against the accused by simply saying that the said report has been filed beyond statutory period. The statutory period puts only a cap on the I.O. to finish the investigation within but does not imply innocence or otherwise of the accused or stoppage of proceedings emanating from the FIR. If a person has committed an offence, he cannot be allowed to go scot-free just because IO has remained incompetent to complete investigation within time. The trial court was, at the most, empowered to issue a show-cause notice to the Investigating Officer for late submission of the report under section 173 CrPC but, at the same time, was obligated to proceed with the matter against the accused on merits by examining the evidence collected during investigation.

4. I, therefore, allow these applications with direction to the trial court viz. Special Court Sindh Public Property (Removal of Encroachment), Karachi to accept the reports under section 173 CrPC and proceed with the matters in accordance with law.

These Cr. Misc. Applications are disposed of accordingly. Office to place a copy of this order in all these applications.

