

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Misc. Applr. No.'S- 174 and 176 of 2013.

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Date Order with signature of judge.

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- 1.For orders on office objection as flag A.
- 2.For Katcha Peshi.

14.04.2014.

Mr. Ali Nawaz Ghangro, advocate for the applicant.

Mr. Rashid Mustafa Solangi, advocate for respondent No.2.

Mr. Yasir Arafat Seelro, advocate for the respondent No.3.

Mrs.Shamim Khokher, State Counsel.

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At the outset of proceedings, learned counsel for the petitioner, contends that the impugned order dated 07.08.2013 can not be termed as speaking order; learned Magistrate has decided summary of both the FIRs No.50/2013 and 48/2013 of P.S Wagan by same contentions, except change of crime number; he has just relied upon the inquiry report but has not discussed the FIR and other material collected during investigation. Therefore, both orders are liable to be set aside and matter may be remanded back for fresh orders.

2. Learned counsel for the respondents and APG are unable to controvert above legal position however, they contend that as per directions of this Court inquiry was conducted thereby learned Magistrate has considered such inquiry only and rest of



material has not been discussed; therefore, they have no objection if cases are remanded back for fresh orders.

3. In view of above, by consent instant applications are allowed. Impugned orders are hereby set aside; cases are remanded back for decision on summary report afresh in accordance with the law. However, looking to the manner as undertaken by learned Magistrate, it would be in the interest of justice that instant matters shall be referred to any other Magistrate for deciding the same thus concerned Sessions Judge is hereby directed to assign both these matters to any other Magistrate within his jurisdiction for decision in accordance with the law, in the light of material gathered by prosecution including inquiry report, without being influenced by earlier order.

In above terms, instant applications are disposed of.



JUDGE

Shabir