

ORDER SHEET

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

Cr. Misc. Appln. No.S- 116 of 2015.

Date

Order with signature of Judge.

- 1.For orders on office objection as flag A.
- 2.For orders on M.A No. 3033/2015.
- 3.For katcha peshi.

24.10.2016.

Mr. Rafique Ahmed K. Abro, advocate for the applicant.

Mr. Sardar Ali Shah, A.P.G a/w DSP Legal Mohammad Bachal Shaikh, on behalf of SSP Kamber Shahdadkot and SIP Zulfiqar Ali I/C PP Rabi Pul of P.S Qubo Saeed Khan.

=====

Applicant has challenged the order dated 04.8.2015 passed by learned Civil Judge and Judicial Magistrate-I, Shahdadkot whereby he has disposed of the case bearing Crime No.6/2015 registered at Police Station Qubo Saeed Khan for the offences U/S 365-B, 364-A, 365, 395, 506/2, 148, 149 PPC under 'C' class.

A perusal of the impugned order shows that the case has been disposed of on the basis of statements of two independent persons namely Khuda Bux and Ghulam Mustafa who had shown some doubt over the incident.

DSP Legal Mohammad Bachal Shaikh, on behalf of SSP Kamber Shahdadkot and SIP Zulfiqar Ali I/C PP Rabi Pul of P.S Qubo Saeed Khan are present in Court today and state that as the incident took place within the limits of Balochistan Province, therefore, they disposed of the case under C class, and thereafter have written a letter to the authorities concerned in Balochistan for registration of the F.I.R.

Learned A.P.G has, however, not supported the impugned order. He states that abductees have supported the contents of the F.I.R which shows that incident took place within limits of P.S Qubo Saeed Khan. He further states that even otherwise, if it is believed that incident took place within the jurisdiction of Balochistan Province, the



61

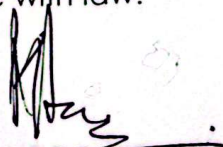
case can not be disposed of under 'C' class as it would mean that no evidence was found against the accused.

Learned counsel for the applicant has also submitted his arguments on the same line.

I have heard learned counsel for the parties and perused the material available on record. It appears that contradictory stances have been taken to justify disposal of the case under 'C' class. Learned Magistrate has passed such order, while relying on the statements of two persons who were admittedly not even the prosecution witnesses and, DSP Legal on the contrary states that for want of jurisdiction the matter was disposed of.

As learned A.P.G has informed that the abductees have fully supported the case and prima facie it appears that the incident took place within jurisdiction of P.S Qubo Saeed Khan Sindh Province, the disposal of the case under 'C' class can not be justified.

In these circumstances, impugned order being not sustainable in law is set aside. Learned Magistrate is directed to accept the challan and proceed with the matter in accordance with law.

  
JUDGE 24-10-2016

shabir