

W

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Misc. Appln. No.S-269 of 2014

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
--------------------	---------------------------------------

FOR KATCHA PESHI.

30.9.2015.

Mr. Ahsan Ahmed Qureshi, advocate for applicant along with applicant.

Mr. Shahzado Saleem, A.P.G along with Inspector Ashfaque Hussain Mangi.

Mr. Imdad Ali Mashori, advocate for proposed accused.

-.....-

Through instant application, applicant Muhammad Nawaz has impugned the order dated 06.12.2014, passed by learned Civil Judge and Judicial Magistrate, Dokri, whereby he agreed with the opinion of police and disposed of the case under cancelled 'B' Class, submitted before him under section 173, Cr.P.C by the respondent No.3 (In-charge CIA, Larkana).

2. Brief facts of the instant case are that complainant Muhammad Nawaz Jhatial lodged FIR at PS Badah on 08.10.2014 at about 1800 hours alleging therein that on 13.7.2014 his daughter namely, Babli was killed by her "Dewar" Abid by firearm gun in his presence and his witnesses; applicant went to P.S, but such F.I.R was not registered. On 18.7.2014 at about 11-00 p.m (night time), SHO Ashfaque Ahmed Mangi, ASI Ali Hassan Mugheri, HC Ibrahim Mallano, PC Javed Soomro, HC Allah Rakhio Huliyo, PC Imtiaz Ali, HC Liaquat Ali Shaikh of PS Nasirabad entered in his house to arrest his son Khadim Hussain on the pretext of his arrest, they robbed two brief case having ladies and gents cloths, one T.V Sony 14", small briefcases having cash amount and Nokia mobile



phone, fancy dresses, one Motorcycle CG-125 and one black colored buffalo.

3. After registration of FIR, In-charge, CIA Police Larkana investigated the case and submitted summary in "B" Class.

4. Learned counsel for the applicant has contended that the case has been recommended for its disposal under false class by the I.O on the basis of statements of accused persons, though the eyewitnesses of the alleged incident have fully supported the version of the complainant before investigating agency; that the accused has been nominated in the FIR with specific role; that the learned Magistrate has given undue weight to the opinion of the police and has not considered the eyewitnesses of the incident who have fully supported the version of the complainant; that mala fide on the part of police / investigating agency are very much clear from the fact that initially they were not going to make any progress in the case, as such the petitioner filed a Constitutional Petition before this Hon'ble Court being C.P.No.S-1014/2014 seeking directions to In-charge CIA to recover robbed property including buffalo of the petitioner and to arrest all the accused nominated in the FIR; that since beginning the applicant was apprehending that his case might be destroyed and disposed of under cancelled class, therefore, he had filed such petition before this Hon'ble Court showing such apprehension.

5. Mr. Imdad Ali Mashori, learned counsel for the proposed accused contended that order dated 06.12.2014, passed by the learned Civil Judge & Judicial Magistrate, Dokri is speaking, well reasoned and as per law; that FIR is based on false story and actual fact is that the son of applicant/complainant, namely Khadim Jhatiyal is involved in murder case bearing Crime No.69 of 2014 registered at Police Station Nasirabad under section 302, 148, 149, PPC and such FIR was lodged by the




WA

proposed accused Inspector Ashfaque Ahmed, on behalf of the State wherein son of the applicant namely Khadim Hussain murdered his sister Babli with allegation of 'Kari', applicant in order to take that revenge has registered this false case implicating the proposed accused. Lastly learned counsel for the proposed accused has relied upon the case of Muhammad Farooq Qureshi v. Judicial Magistrate Section 30, 2010 P.Cr.L.J 261. Learned A.P.G appearing on behalf of State has supported the impugned order.


6. I have heard learned counsel for the respective parties and perused the record with the assistance of all the learned counsel.

7. The Investigating Officer after collecting evidence has opined that the complainant lodged FIR showing false incident with motive to save his real son Khadim Hussain from the consequences of FIR No.69/2014 under section 302, 148, 149, PPC of PS Nasirabad and this fact is also surfaced on the record that applicant's son had committed the murder of his sister under the garb of "Karap" in which proposed accused Inspector Ashfaque Ahmed Mangi, who was the then SHO of PS Nasirabad had lodged FIR nominating Khadim Hussain (present applicant's son). It is also a matter of record that grievance started when despite alleged approach of the applicant the police not recorded report as per wishes of present applicant but insisted to continue with FIR already lodged for murder of a woman wherein son of the applicant was named by proposed accused. This appears to be a *prima facie* motive for lodgment of instant FIR against the proposed accused. It is worth to mention here that mostly in this area, the innocent women are being killed under the garb of "Karap" and cases are either not registered or lodged in a manner and fashion to have full advantage of such brutal act even which practice was / is always required to be curbed by Incharge police station concerned by lodging the FIR.



S

Further, i am quite surprised that the applicant *from very beginning* was apprehending and insisting malafide against the police yet insisted to go with such agency although he could have resorted to alternate equal remedy i.e '**direct complaint**' which attitude also appears to be not logical rather to discourage the dare, shown by proposed accused in setting the law into motion without waiting for interested or related to come for reporting a murder. Since, the petitioner has failed in establishing any illegality in the impugned order which *otherwise* appears to be well reasoned hence the same needed no interference. Thus, the instant miscellaneous application was dismissed by short order dated 30.9.2015 and these are the reasons in support thereof.


Judge 22/10/2015 -

M.Y.Panhwar/**