

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD
CP No. S- 320 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
11.03.2016	

1. For Orders on MA 3188/16
2. For Orders on Office Objection
3. For Orders on MA 3189/16
4. For Katcha Peshi
5. For Orders on MA 3190/16

Mr. Jameel Ahmed Rajpar, Advocate for petitioner

1. Urgency disposed of.
 2. Deferred for the time being.
 3. Granted subject to all just legal objections.
- 4&5. Through this constitutional petition, counsel for petitioner has impugned the order dated 11.2.2016 whereby the learned Civil Judge and Judicial Magistrate-II Hyderabad has taken cognizance of the offence in Crime No. 07 of 2016 registered under Section 452, 506/2, 420 PPC at police station Hussainabad, Hyderabad; but subsequently during investigation Section 489-F has also been included. Case of the petitioner which his counsel has argued is that the order is non-speaking and there was no material collected by the I.O in investigation to justify inclusion of Section 489-F PPC in the challan, the learned Magistrate has taken cognizance illegally. I have perused the material and the impugned order. The I.O on the basis of investigation has included section 489-F in the challan sheet, which has been accepted by the Magistrate concerned through the impugned order. No illegality is pointed out to show that the I.O cannot include in the report under Section 173 Cr.P.C. the offence other than the ones mentioned in the FIR, if such offence is found to have been committed. Whenever during investigation some

evidence is found pointing out to commission of an offence other than the one mentioned in the FIR, the I.O in law is competent to include such offence in the challan. The offences mentioned in the FIR do not mean that only those offences are to be mentioned in the challan, for the simple reason that the FIR is merely an information meant for setting out the machinery of law to find out the truth. When the report filed by the I.O was in positive, the Magistrate was required under the law to accept it. There was no occasion for him to pass a detailed order in this regard. He has acted in administrative capacity and has simply accepted the report which is based on the material found during investigation. The petitioner has a remedy under Section 249-A Cr.P.C. which is adequate and efficacious, if he is of the view that there was no material against him which justified inclusion of Section 489-F or in that matter any other offence, he can move such application before the trial court. This application on the face of it is without merits and is dismissed in limine.

JUDGE

*Karar/-