

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD
CP No. S- 1183 of 2015

DATE	ORDER WITH SIGNATURE OF JUDGE
15.02.2016	

1. For Katcha Peshi
2. For Hearing of MA 14411/15

Mr. Muhammad Hashim Leghari, Advocate for petitioner
Mr. Muhammad Asif Shaikh, Advocate for Respondent No.3
Mr. Sher Muhammad Leghari, State Counsel

Applicant is accused in Crime No. 140 of 2014 registered at police station Hussainabad under Section 147, 148, 149, 506/II PPC. His case is that he is innocent but despite that challan against him was submitted before the Trial Court without proper investigation which was accepted by the Trial Court viz. IIIrd Judicial Magistrate, Hyderabad. After submission of the challan he made an application to DIG, Hyderabad for reinvestigation. Resultantly, re-investigation was conducted and he was found innocent, therefore, the report disposing of the case under “C” class was submitted before the Trial Court but the Trial Court without attending to facts of the report declined it.

Learned counsel for applicant has argued that learned Trial Court by referring to the previous order dated 12.1.2015 whereby the cognizance was taken by it, declined to consider the report without giving reasons. He states that this approach of the Trial Court was not in accordance with law.

Learned counsel for complainant states that the cognizance of the offence was already taken, therefore, there was no occasion for the Trial Court to accept the report under “C” class. He states that this being administrative order the Trial Court was not required to even give reasons for arriving at such conclusion.

Learned State counsel has supported the impugned order.

Admittedly in this matter reinvestigation was carried out after submission of the challan. The cognizance already stand taken by the Trial Court vide order dated 12.1.2015. Nonetheless, when in terms of reinvestigation the report was submitted disposing of the case under “C” class, the trial court was required to look into it and pass orders accordingly either accepting it or not. It was incumbent upon the Trial Court to attend to the report and decide it accordingly. It is an established rule that even after submission of the challan reinvestigation can be carried out. If I accept the approach of the Trial Court that just because previously the challan was accepted, the reinvestigation report cannot be looked into, then the very principle of reinvestigation after submission of challan would be meaningless and may seriously prejudice the innocent persons who are found innocent in the reinvestigation after submission of the challan. In my view the Trial Court was required under the law to look into the report and pass speaking order in accordance with law. In the facts and circumstances I set-aside the order and direct the Trial Court to pass a fresh order on the report of reinvestigation in accordance with law within a period of 07 days from today.

The petition stands disposed of.

JUDGE