

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

C.P.No.D- 2988 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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11.10.2017.

Mr. Tarique Ali Mirjat, Advocate for petitioner alongwith petitioner.
Mr. Bhagwandas Bheel, Advocate for respondent No.6.
Syed Meeral Shah, Additional Prosecutor General.

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Petitioner who is the complainant of FIR bearing Crime No.24 of 2016 P.S. Khadro District Sanghar for offences u/s 337-A(i), F(i), 506(2), 147, 148, 149, 114, 354-A PPC, has filed this petition, impugning the order dated 13.10.2016, whereby the report of the Investigation Officer declaring the case under non-cognizable offence has been approved and the matter has been forwarded to the SHO concerned for further proceedings in compliance of the Police Rules 1934.

2. Learned counsel for the petitioner has argued that the impugned order is illegal and not sustainable in law, because neither the I.O. nor the learned Magistrate concerned have taken into account the affidavits of witnesses submitted in support of the prosecution case.

3. On the other hand learned counsel for the private respondent No.6 has argued that a false case was registered by the complainant in response to a case got registered by the accused party against the complainant party. According to him in fact the complainant party had injured the accused party but in order to put

pressure upon them, this case was registered. He has also informed that the parties are closely related to each other.

4. Learned Additional Prosecutor has supported the impugned order.

5. We have considered submissions of the parties and have perused the material available on record.

6. The case of the petitioner has not been disposed of by the Investigation Officer, but as he could not find any supporting evidence in respect of her allegations of being stripped naked by the accused and exposed to public, except finding minor injuries on the complainant's husband and her father-in-law falling in the category of non-cognizable offence, he submitted such report before the Magistrate concerned.

7. In our estimation, if the I.O. finds that a non-cognizable offence has been committed by the accused, it would not mean that no offence at all has been committed and the accused would be released or discharged. For a non-cognizable offence, a particular procedure has been provided in Criminal Procedure Code which is to be followed by the Investigating Officer. We have also seen that the learned Magistrate while agreeing with the opinion of I.O. has sent the police papers to the SHO for following the said procedure. Learned counsel for the petitioner has not referred to any material which shows that the impugned order is based on some extraneous material or it is not in accordance with law. He has neither placed before us any evidence in support of the complainant's allegations that her clothes were torn off by the accused and she was stripped naked and exposed to the public in such a condition. In such circumstances, we see no reason to interfere in the impugned order, however, we direct the SHO concerned to

follow the procedure provided for the offence falling in the category of non-cognizable offences strictly in accordance with law.

With the above observations, this petition stands disposed of.

JUDGE

JUDGE

Tufail