

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Crl. Revision Appln. No. S- 07 of 2017.

Date of hearing	Order with signature of Judge
22.09.2017.	

Mr. Imtiaz Ahmed Bhatti, Advocate for applicant.
Mr. Muhammad Ismail Chandio, Advocate for respondents No.2
and 3.
Mr. Asif Ali Bhatti, ADPP.

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Through this criminal revision application, the applicant has impugned Order dated 09.01.2017 passed by the Special Judge, Anti Corruption (Provincial) Larkana, in special case No.82/2010, arisen out of F.I.R No.03/2009 registered at P.S ACE, Shikarpur.

Learned counsel for the applicant submits that an application was moved on behalf of the applicant challenging the enquiry committee's report, whereby respondents No.2 and 3 were let off and were cited as witnesses while filing challan before the Court. He submits that the District Coordination Officer in view of *Rule 2 (g)* of the Sindh Inquiries and Anticorruption Rules, 1993, was not competent to conduct enquiry against the respondents No.2 and 3, as they are grade 16 officers, for which the appropriate authority is Chief Secretary. While confronted as to how such order of accepting the enquiry report has been challenged so belatedly, the learned counsel submits that same was challenged as soon as it came to the applicant's knowledge. In support of his contention he has relied upon case of *Syed Muhammad Ahmed v. The State and others* (PLD 2006 Supreme Court 316), *Sher Muhammad and 2 others v.*

*Muhammad Akbar (2011 P.Cr.L.J 904) and Qurban Ali v. Punhoon and 2 others (1982 P.Cr.L.J 52).*

On the other hand counsel for respondents No.2 and 3 submits that instant revision application is not maintainable as the applicant himself is an accused and not a complainant; whereas he is the actual beneficiary. He further submits that entry in which interpolation was done pertains to year 1962 when the respondents were not even employed and their only fault is that they attested the request for bank loan. He has further submitted that charge was framed in the year 2010, whereas application was filed in 2016, when the evidence of the respondents No.2 and 3 has been recorded and the applicant's counsel has already cross-examined them. Counsel has also relied upon Section 7 of the Prevention of Corruption Act-II of 1947.

I have heard both the learned counsel and perused the record. It appears that after registration of the case some enquiry was conducted as reflected from the challan and such enquiry appears to have been conducted by a committee and it nowhere reflects that it is only the District Coordination Officer, who has cited the respondents No.2 and 3 as witnesses instead of accused. It further appears that challan was furnished before the Court in 2010 and was accepted on 20.12.2010; whereas the application was filed in 2016. If the applicant was aggrieved by any such submission and acceptance of challan, he ought to have availed remedy at the very relevant time through appropriate proceedings. It is also an admitted position that the applicant's counsel

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has cross-examined the respondents, who have been cited as witnesses and now at belated stage an application was filed, which appears to be mis-conceived in nature. It is further noted that the applicant himself is an accused and not complainant, therefore, he is not an aggrieved person within the contemplation of Section 435, 439 or 561-A Cr.P.C.

In view of hereinabove facts and circumstances of the case, instant criminal revision application appears to be incompetent as well as mis-conceived, therefore, same was accordingly dismissed through a short order during the earlier part of the day and these are the reasons thereof.

  
JUDGE  
22/9/12