

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
Criminal Misc. Application No. S- 405 of 2024

<b>Date of hearing</b>	<b>Order with signature of Judge</b>
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- 1. For orders on office objections.
- 2. For hearing of main case.
- 3. For hearing of MA No.3297/2024 (S/A)

**02.09.2024**

Mr. Humayoun Sheikh, Advocate for applicants.  
Mr. Shafi Muhammad Mahar DPG.

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Report submitted by the Process Server duly supported by two witnesses stating therein that private respondent could not be found to be served. Statement of Process Server is duly supported by two witnesses of the locality, no further attempt is found required in this regard.

The present Criminal Misc. Application has been filed being aggrieved of the order dated 10.07.2024 as passed in Criminal Misc. Application No. 2318 of 2024 by the learned Additional Sessions Judge/Justice of Peace, Moro who has been pleased to order for recording statement of respondent No.1/complainant under section 154 Cr.P.C and in case cognizable offence is made out, FIR be lodged.

Learned counsel for applicant contends that the incident as reported in the matter was not for the first time as the earlier Criminal Misc. Application No. 346/2024 was filed with the same allegation before the same Court wherein it was also alleged that two persons were abducted and were taken away and are being illegally detained. Wherein, however, order dated 06.09.2024 was passed by the said Court whereby not only it was observed that the alleged detenues were already produced before a Court, the applicant was fined of Rs. 30,000/-. It is further contended by learned counsel for applicant that apart from non-compliance of the said order of payment, the applicant in the present matter has concealed the said

proceedings for the obvious reasons and obtained the impugned order. Learned counsel further contended that multiple FIRs already stands recorded against the said respondent which were brought before the learned Sessions Judge but the same were not considered in the impugned order.

Learned DPG in the matter also preferred not to support the impugned order. He contended that on account of multiple FIRs having been brought up such a convenient order is not liable to be passed. He further contends that the orders of such coercive nature restrict the working of the police officials.

Having heard learned counsels for the parties and perused the record.

It bears from the record that the earlier proceedings were indeed filed, the concealment thereof raises a serious question, however, the complainant in the matter irrespective to the attempt made yet not resulting in appearance/participation, dispensation of proper justice demands that though the impugned order be set aside on the very count of concealment, no restriction to the complainant is liable for attempting to lodge proceedings under section 200 Cr.P.C. The reason for such an availability of exercise is that a party has not been heard, where a party has not been heard all the doors of administration of justice are not liable to be closed, however where the record shows that outright cognizance is not liable to be taken restricting the coercive powers of criminal investigation are liable to be atleast hindered especially where provision of Section 200 Cr.P.C provide for material in the first place to be examined by a Judicial Officer before the taking of cognizance, the said room provides enough availability of redressal of any actual grievance.

For the foregoing reasons, the instant Criminal Misc. Application is accepted, the impugned order stands set aside, however with the availability as provided which is not prima facie restricted by the relevant law.

JUDGE