

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Crl. Misc. Application No. 472 of 2019

Date	Order with signature of Judge
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1. For hearing of main case
2. For hearing of CMA No.11237/2019.

30.03.2026

Mr. Abbad-ul-Husnain, Advocate for the Applicant.
Mr. Shoaib Safdar, APG.

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The instant Criminal Miscellaneous Application has been instituted by the Applicant invoking the inherent jurisdiction vested in this Court, impeaching and impugning the order dated 18th September, 2014, as rendered by the learned Vth Additional Sessions Judge & Ex-Officio Justice of Peace, Karachi Central, in Criminal Petition No. 143 of 2013. By virtue of the said impugned order, the learned Court below was pleased to dismiss the applications preferred on behalf of the Applicant, both the application filed under Section 476 of the Code of Criminal Procedure, 1898, read with Sections 193 and 195 of the Pakistan Penal Code, 1860, as well as the application filed under Sections 3 and 4 of the Contempt of Court Act, all of which were consigned to dismissal by the Court of first instance.

At the very threshold of the proceedings, the learned counsel appearing on behalf of the Applicant brought to the notice of this Court an order dated 7th December, 2017, as passed by the Hon'ble Supreme Court of Pakistan in Criminal Petition No. 42-K of 2017. Perusal of the said order of the Apex Court reveals that the Hon'ble Supreme Court, upon examination of the matter, was pleased to hold and declare that the complaint filed under Section 182 of the Pakistan Penal Code had been preferred by a police officer of a rank inferior to and below that of the police officer before whom Respondent No. 1 had originally lodged and laid information under Section 154 of the Code of Criminal Procedure, 1898. The Hon'ble Apex Court, upon recording this finding, was further pleased to observe and hold that the said complaint had, in consequence thereof, been filed without competence and jurisdiction, and was accordingly rendered incompetent, legally infirm, and not maintainable in the eye of law. It was, however, simultaneously observed by the Hon'ble Supreme Court and this Court is bound by and respectfully concurs with

the said observation that the incompetent filing of the relevant complaint shall, in no manner whatsoever, operate as a bar or impediment upon the competent and jurisdictionally empowered police officer from preferring a fresh complaint under Section 182 of the Pakistan Penal Code, in strict and full conformity with the legal requirements and conditions precedent prescribed therefor. The petition before the Hon'ble Supreme Court was accordingly disposed of.

Turning to the material on record, it transpires that notices were duly issued to Respondent No. 1 in the instant proceedings. In response thereto, the Station House Officer of Police Station Shahrah-e-Noor Jehan, Karachi, submitted a report before this Court to the effect that Respondent No. 1 has since expired and is no longer amongst the living. In substantiation and corroboration of the said report, a death certificate issued by Union Committee No. 27, Ratan Tallao, District South has been placed on the record of these proceedings and duly annexed thereto.

In view of the foregoing factual matrix and the legal position as delineated above, the learned counsel for the Applicant does not press the instant Miscellaneous Application. The same is, accordingly, hereby dismissed as having been rendered infructuous, together with all pending applications connected therewith, which also stand dismissed on the same footing.

J U D G E

Shahbaz