

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc. Appl. No. S - 635 of 2011

DATE ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection.
2. For hearing.

23.01.2013.

Mr. Muhammad Nadeem Tagar, Advocate for the applicant.

Mr. Badal Gahoti, Advocate for Respondents No.3 to 5.

Mr. Shahzada Saleem Nahyoon, A.P.G for the State a/w Munawar Hussain Saand, SHO PS Sanghar.

1 & 2. This application has been filed by the applicant for the recovery of his minor son ; namely, Khan Muhammad aged about 09 years. Prior to the filing

of this application, the paternal grand mother of the minor had filed a Constitutional Petition No. D-854 of 2011 before this Court for the same purpose. The said petition was disposed of by a learned Division Bench vide order dated 29.11.2011. The relevant portion of the said order is reproduced below:-

“Accordingly, the present petition is hereby disposed of with direction to the D.P.O. / S.S.P., Hyderabad and Sanghar to search / trace out the alleged abductee namely Khan Muhammad whenever his whereabouts are pointed out by his parents or the Petitioner party and after such recovery of the minor, hand over him to his parents.”

It was further ordered by the learned Division Bench that the parents of the minor shall be at liberty to move a fresh petition or application whenever the whereabouts of the minor are known to them. The learned counsel for the applicant submits the applicant has filed the present application in view of the order of the learned Division Bench, as the minor is still missing and is in the custody of Respondent No.3. However, Respondent No.3, who is present in person, denies this allegation, and the SHO P.S. Sanghar submits that the minor was not found at the house of Respondent No.3 when he went to recover him.

In my humble opinion, the order passed by the learned Division Bench is still operative and the D.P.O. / S.S.P., Hyderabad and Sanghar are still bound to comply with the said order, as a specific direction was given to them to search / trace the minor whenever his whereabouts are pointed out by his parents or by his paternal grand mother, and to hand him over to his parents after recovery. In the present application, the applicant has not disclosed or mentioned the whereabouts of the alleged abductee, which was the condition precedent for filing a fresh petition or application as per the order passed by the learned Division Bench. The applicant may convey the present and specific whereabouts of the minor to the D.P.O. / S.S.P., Hyderabad and Sanghar, who shall comply with the aforementioned order passed by the learned Division Bench in letter and spirit.

This Criminal Miscellaneous Application is disposed of in the above terms.

J U D G E

Tufail