

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

C.P.No.S-293 of 2014

DATE	ORDER WITH SIGNATURE OF JUDGE
-------------	--------------------------------------

1. For orders on office objections
2. For Katcha Peshi

17.09.2014.

Mr. Mujahid Abbas Kolachi Advocate for the petitioner
Mrs. Fozia Zahoor Baloch Advocate for respondent No.4.
Mr. Ashfaque Nabi Qazi Assistant A.G a/w SHO P.S Shahdadpur.

=

This petition has been filed by one Hadi Bux, who claims to be soldier in Pakistan Army for recovery of his wife. The detinue who is present in person in court, states that she has never contracted marriage with petitioner Hadi Bux and Nikahnama and free will affidavit are forged and fabricated. She further stated that she is married to one Faisal, who is also present in court.

This constitutional petition even otherwise was not maintainable as the petitioner in first instance should have approached the learned Sessions Judge in terms of Section 491 Cr.P.C. This is a sheer abuse of process of court. The petitioner claims the detinue to be his wife and the detinue denies his claim. In such circumstances, the petitioner should have approached the Family Court for restitution of conjugal rights. On the contrary he has harassed the detinue and her family under the cover of this petition on the basis of documents which are even denied by the detinue. It is further noted that no efforts have been made to lodge FIR if the detinue was in wrongful confinement of the respondents. On the contrary, mother of the petitioner has lodged FIR against the father of the detinue and others claiming that her soldier son has been kidnapped by his father in law. Learned counsel for the petitioner says that Hadi Bux was found somewhere at Hab Chowki near Balochistan. The detinue and her parents against whom FIR was lodged are residents of Hyderabad and there is hardly any reason or possibility of throwing a man more than 100 miles away by the parents of the detinue, therefore, apparently even the story of kidnapping of soldier by a common citizen appears to be doubtful. The proceedings of the instant petition appear to be misuse of process of court, therefore, this petition is dismissed with cost of Rs.10,000/- to be paid by the petitioner within one week, failing which the same shall be recovered from the petitioner as land revenue. The cost if deposited/ recovered, shall be paid to the respondents No.4 and 5.

JUDGE

A.K

