

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No.1911-2019

Asif Naeem

Versus

Director F.I.A, Islamabad Zone and others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(08)	04.06.2024	Mr. Muhammad Abbas, Advocate for the petitioner. Mr. Usman Rasool Ghumman, AAG. Mr. Muhammad Ashraf Hafiz, Advocate proxy counsel for respondent No.4. Naeem Ashraf, D.D North/F.I.A. Waseem Ahmed, S.I/ACC, Islamabad.

MOHSIN AKHTAR KAYANI J. Through the instant writ petition, the petitioner has assailed the order dated 13.05.2019, passed by learned Ex-officio Justice of Peace, Islamabad, whereby direction was issued for registration of criminal case with reference to transfer of vehicle in the Excise and Taxation office through forged documents.

2. Learned counsel for the petitioner contends that F.I.A Authorities have submitted the detailed report dated 11.09.2018 before learned Ex-Officio Justice of Peace and closed the enquiry on merit with observation that further action is required. He further contends that despite detailed order by the Enquiry Officer of the F.I.A, learned Justice of Peace has ignored

the enquiry evidence and passed the order for registration of criminal case in a mechanical fashion through the impugned order.

3. Learned proxy counsel for respondent No.4 has put appearance and contends that principal counsel is not available, therefore, made request for adjournment, however, matter pertains to the year 2019, therefore, request is turned down.

4. Learned AAG as well as F.I.A officials contends that finally F.I.A has closed the matter and there was no element in this case to exercise the jurisdiction under F.I.A Act as issue relates to private dispute among the parties.

5. Keeping in view the above position, this Court has been guided with the principle settled in **2014 MLD 1694 (Qari Abdul Shakoor Vs. Additional Sessions Judge)**, where it was held

that if the allegations leveled by the complainant is found to be baseless through the interrogation, it is not obligatory to register a case in every complaint. It is further held that learned Ex-Officio Justice of Peace was duty bound to look into the matter minutely and peruse the comments filed by the Police to discourage the practice of registration of cases on account of animosity.

6. There is no cavil to the proposition that learned Ex-officio Justice of Peace was not supposed to exercise powers under Sections 22-A and 22-B, Cr.P.C. in a mechanical fashion and passed the order for registration of case blindly on false application. Even otherwise, alternate remedy of filing private complaint is also available to the complainant. Similar view has also been taken in case law reported as **2014**

PCr.LJ 1146 (Mureed Hussain Vs. Additional Sessions Judge/Justice of Peace Jampur).

7. While considering the pro and contra arguments of the parties as well as record, it appears that the primary allegation pertains to transfer of vehicle in the Excise and Taxation Office, though F.I.A report reflects that in terms of Section 32 of Motor Vehicle Ordinance, 1965 read with Section 47 of Motor Vehicle Rules, 1965, timeline of 30 days is prescribed to challenge the transfer certificate if any person is aggrieved with the said actions. The entire issue of vehicle also reflects that parties have locked into a civil litigation before Civil Court Rawalpindi qua the ownership of the disputed vehicle and it was also highlighted in the F.I.A report that parties may approach the local police for redressal of their grievance.

8. In this backdrop, order dated 13.05.2019, passed by learned Additional Sessions Judge-IX (West)/Ex-Officio Justice of Peace, Islamabad is hereby **SET-ASIDE**, which lacks the minimum requirement highlighted in the above mentioned case laws and complainant is directed to approach the concerned Police Station instead of F.I.A for redressal of his grievance if any. However, alternate remedy by way of filing complaint is also available to the respondent/complainant if he is interested to avail the same.

(MOHSIN AKHTAR KAYANI)
JUDGE

RAMZAN