

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. **JUDICIAL DEPARTMENT.**

W.P. No. 4333/2019.

Amjad Saeed

versus

Ex-Officio Justice of Peace/ Additional Sessions Judge (West), Islamabad, etc.

Petitioner by: Mr. Akhtar Hussain and Mr. Qammar Pervaiz,
Advocates for petitioner.

Respondents by: Barrister Ayesha Siddique Khan, State Counsel.
Mr. Sher Afzal Khan Marwat, Advocate.
Mumtaz, S.I.

Date of Decision: 06.02.2020.

MOHSIN AKHTAR KAYANI, J: Through this writ petition, the petitioner has assailed the order dated 09.12.2019, whereby learned Ex-Officio Justice of Peace, Islamabad has passed the direction for registration of FIR as per allegation referred in the complaint filed by respondent No.3.

2. Learned counsel for the petitioner contends that petitioner had entered into agreement with respondent No.3 vide agreement dated 02.10.2017 through which petitioner purchased land measuring 75 Marlas situated in Mouza Lundi, Ring Road Peshawar against the total sale consideration of Rs.5,62,50,000/-; that as per terms of agreement petitioner transferred 06 flats bearing No.306, 407, 408, 506, 606, 607 Tuba Heights, Sector E-11/4, Islamabad in the name of respondent No.3 and also paid the remaining amount in cash; that respondent No.3 filed an application for registration of FIR mainly on the ground that flats referred above were not transferred in his name and sold out to someone else, although agreement dated 02.10.2017 has already been concluded and new agreements of flats were executed by Wadood Khan with the owner of flats namely Haroon Adil and present petitioner has nothing to do with the said transaction but

despite said position learned Ex-Officio Justice of Peace has passed the order in mechanical fashion against the petitioner without adhering to the law as well as police report; that entire transaction reveals that there is a civil dispute between the parties which could only be resolved through competent Civil Court.

3. Conversely, learned counsel for respondent No.3 contends that flats were already transferred in his name vide clause 2 of agreement dated 02.10.2017 but despite this fact those flats were transferred in the name of different individuals which is cognizable offence in terms of Section 463 PPC and as such learned Justice of Peace has rightly passed the order for registration of criminal case.

4. Arguments heard, record perused.

5. Perusal of record reveals that respondent No.3 is aggrieved with the conduct of petitioner who has to transfer 06 flats bearing No.306, 407, 408, 506, 606, 607, Tuba Heights, Sector E-11/4, Islamabad vide agreement dated 02.10.2017 but those flats were subsequently transferred in the name of different individuals, although the petitioner has taken the stance that he after execution of agreement dated 02.10.2017 separately managed the agreement of sale dated 09.10.2017 between original owner of those flats namely Haroon Adil with Wadood Khan son of Dawood Khan (respondent No.3) and as such he (petitioner) is not responsible for the acts of Haroon Adil. At this stage, investigation officer in attendance stated that agreements are admitted between the parties and as such petitioner has not denied the execution of agreement and sale consideration but subsequent transfer of flats could not be verified as Haroon Adil is out of country.

6. The tentative assessment of record spells out that respondent No.3 has paid the entire sale consideration as per his own version, which has not been denied by the petitioner and as such flats were to be transferred in the name of respondent No.3 as per clause 2 of the agreement dated 02.10.2017, which were found in the name of different individuals, this entire situation has been

appreciated by the learned Justice of Peace in a proper manner, as such complaint filed by respondent No.3 has to be entertained by the SHO concerned under the law, but no justified reason was given by him. The petitioner has failed to demonstrate any of his legal right which has been violated in the proceedings before the learned Justice of Peace. The question relating to transfer of rights of flats in favour of respondent No.3 could only be verified after registration of case during investigation and as such it is not the case of either party that any civil proceedings have been initiated or pending, therefore, instant writ petition is hereby *dismissed*.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid