

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.857 /2018

Mst. Kausar Parveen
Vs
Justice of Peace and 2 others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
------------------------------	----------------------------	---

27.02.2020

Mr. Abdul Rauf Qureshi, Advocate for the petitioner.
Mr. Zohaib Hassan, State Counsel.
Murtaza, S.I.

GHULAM AZAM QAMBRANI. J.:-Through

the instant petition the petitioner has made the following prayer:-

"In view of the above circumstances, it is most respectfully prayed that the order of the respondent No.1 may kindly be set-aside and directions may kindly be issued to the respondent No.2 to register F.I.R against the accused persons and act strictly in accordance with law in the interest of justice.

2. The facts, in brief, are that the petitioner filed an application under Section 22-A & 22-B, Cr.P.C. before the learned Justice of Peace/ Additional Sessions Judge-West, Islamabad, for registration of a criminal case against the accused persons named in the said application, wherein comments were called from respondent No.2, whereafter the application was dismissed vide the

impugned order dated 13.02.2018.

3. Learned counsel for the petitioner, *inter alia*, submitted that the learned Additional Sessions Judge has exercised its power beyond its jurisdiction while passing the impugned order; that if an offence is found to be cognizable on bare reading of a complaint, the police has no justification to refused the registration of F.I.R; that the impugned order has been passed without any lawful justification ignoring the criminal action committed by the accused person.

4. Learned State Counsel supported the order passed by the learned Addl. Sessions Judge and submitted that no cognizable offence is made out; therefore, F.I.R. was not registered.

5. It is a settled principle of law that the Ex-Officio Justice of Peace while seized of a petition under Section 22-A/22-B of Cr.P.C is not to act mechanically by issuing a direction for registration of a criminal case in each and every case, which have to be decided on its own peculiar facts and circumstances as has been held by the Hon'ble Lahore high Court, Lahore in case "*Mian Abdul Waheed vs. Additional Sessions Judge, Lahore and seven others*" [2011 P.Cr.L.J 438]. In any case, the allegations levelled against the accused persons by

the petitioner cannot be addressed by this Court while exercising its extraordinary constitutional jurisdiction, as the same entail a factual inquiry. In the instant case civil ligation is pending between the petitioner and proposed accused person with regard to the disputed plot and the petitioner is trying to convert the civil proceedings into criminal litigation.

6. For what has been discussed hereinabove, the learned counsel for the petitioner has failed to point out any illegality or irregularity in the impugned order calling for interference by this Court in exercise of its Constitutional jurisdiction. Resultantly, the instant petition having no force, is hereby **dismissed**.

~~(GHULAM AZAM QAMBRANI)~~
JUDGE

Rana. M. Ift