

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD.

Writ Petition No.1448 of 2020

Civilian Employees Cooperative Housing Society, through its President, Islamabad
and another.

Versus

Director General, Federal Investigation Agency (F.I.A.), Islamabad and 15 others.

Petitioner By : Mr. Asim Sohail and Ms. Sana Javed,
Advocates.

Respondent By : Syed Zulfiqar Abbas Naqvi and Mudassar
Hussain Malik, Advocates for respondent
No.7.
Raja Rizwan Abbasi, Advocate for
respondent No.8.
Raja Inam Amin Minhas, Advocate for
respondent No.9.
Raja Khalid Mehmood Khan, learned
Deputy Attorney-General.
Mr. Toufeeque ul Irfan, learned State
Counsel.
Khalid S.I.
Dr. Moeen Masood, Director, F.I.A.,
Islamabad Zone.
Qaiser Masood, Addl. Director
Law/Deputy Legal Advisor, F.I.A. HQ.
Zia ul Hasan, AD/IO, F.I.A., CCC.
Inspector Naeem Niazi, F.I.A., CCC,
Islamabad.

Date of Decision : 08.07.2020.

AAMER FAROOQ, J. - The petitioners, in the instant petition, seek
direction to respondents No.1 to 3 to arrest all the accused nominated in the
F.I.R. No.04 of 2020 by F.I.A. and investigate the matter without any influence.

2. On the complaint of the petitioners, F.I.R. No.04 of 2020 was registered by Federal Investigation Agency (FIA); the grievance of the petitioners is that respondents No.1 to 4 i.e. Investigation Agency is not performing its duties diligently.

3. Learned counsel for the petitioners, *inter-alia*, contended that despite the registration of F.I.R. since long nothing has been done in the same. It was submitted that even the culprits have not yet been arrested and the Investigating Officer seems to be under their influence. In response to the query of the Court regarding the maintainability of the petition in the pending investigation, the learned counsel placed reliance on case reported as "*Anwar Ahmad Khan Vs. The State and another*" (**1996 SCMR 24**) and submitted that where investigation was mala fide or without jurisdiction, the High Court under Article 199 of the Constitution can interfere in the matter.

4. Learned Deputy Attorney General submitted that the accused persons are on bail before arrest and the matter is pending before the Court of Competent Jurisdiction. It was further submitted that Joint Investigation Team (JIT) has been formed to investigate the matter. It was also brought to the knowledge of the Court that on the complaint of one of the accused even F.I.R. was registered against the Investigating Officer, which could not have been done.

5. Though no notice was issued but respondents No.7 to 9 entered appearance and questioned the maintainability of the petition. It was also argued that the accused are on bail before arrest, however, are cooperating in the investigation.

6. Arguments advanced by learned counsel for the parties have been heard and the documents placed on record examined with their able assistance.

7. In response to the notice, the Federal Investigation Agency submitted Progress Report in the case, which is as follows:-

“UPDATED PROGRESS OF CASE / STATUS OF 10 ACCUSED”

1. Updated progress of Case FIR No.04/2020 of PS FIA CCC Islamabad togetherwith updated status of 10 nominated accused is submitted below:-

- (i) Absconding accused Muhammad Nawaz has secured protective bail from Hon’ble Peshawar High Court, Bannu Bench on 15.06.2020 till 29.06.2020, vide judgment dated 15.06.2020. Accused obtained pre-arrest bail from the court of learned Special Judge Central, Islamabad, and joined investigation on 02.07.2020.
- (ii) Two (02) nominated accused, Abdul Aziz and Shafqat Ali have obtained pre-arrest bails from court of learned Special Judge Central Islamabad vide Order dated 05.06.2020. Both the accused have joined investigation on 11.06.2020.
Two (02) other nominated accused, Malik Din Ex-Circle Registrar, ICT Islamabad and Zakirullah ex-Secretary of CECHS have also secured pre-arrest bails from the said court on 18.06.2020. They have not joined investigation uptill now.
- (iii) Two (02) other nominated accused, Fazal-ur-Rehman and Majid Hussain are not available in Pakistan and have gone to UK since 2009 and 2014 respectively, as per the updated Travel History obtained from IBMS FIA HQ Islamabad. The process of their arrest has been initiated through NCB-Interpol FIA HQ Islamabad. FIA has obtained their proclamation/orders from the Illaqa/Judicial Magistrate, Islamabad.
- (iv) The FIA has also obtained arrest warrants of remaining 03 accused (1) Col (R) Muhammad Azhar ex-President (2) Qaiser Riaz Cheema ex-Secretary (03) Ahmed Saeed ex-President of CECHS from the competent court on 11.06.2020.
As a result of the FIA’s raids/strenuous efforts, 02 accused Qaiser Riaz Cheema and Ahmed Saeed have obtained pre-arrest bails from Court of learned Special Judge Central Islamabad. Next date is 20.07.2020.
- (v) FIA has seized questioned 532 original files (of plots) worth about Rs. 15 Crore, 92 lacs through seizure memos.
- (vi) FIA has seized 27 Bank Accounts of different accused under section 5(5) of the FIA Act 1974.
- (vii) Besides, the FIA has sought details of all nominated accused’s immovable properties from relevant quarters, i.e. CDA, Cooperative Housing Societies Department, ICT Islamabad, ADC (Revenue) ICT Islamabad, DHA Islamabad/Rawalpindi/Bahria Town and Punjab Land Development Authority.

2. It is pertinent to point out here that FIA CCC Islamabad registered FIR No.04/2020 dated 30.04.2020. FIA Raiding team conducted raid on 07.05.2020 to arrest accused Nawaz. He resisted and threatened FIA Team of dire consequences with armed men and escaped/absconded from spot. As a result, the FIA registered another FIR No.06/2020 dated 07.05.2020 against accused Nawaz and his armed men.
3. Then, accused Nawaz in collaboration with concerned police officials of PS Margalla, Islamabad managed to get false FIR No. 96/2020 dated 15.07.2020

against IU/FIA Team. Action of PS Margalla Islamabad amounts to frustrating the FIA's FIR No.04/2020 dated 30.04.2020 being carried out in pursuance of apex Court's Order dated 15.01.2019. However, the FIA interested investigation of case FIR No.04/2020 to JIT for fair and square Investigation.

4. It may kindly be appreciated that there is no lapse on the part of FIA which has been conducted Investigation fairly and squarely cross-the-board. The FIA supplicates before this august Court for affording protection to the FIA Team, so that the involved culprits be brought to book.

Addl. Director Law
F.I.A. HQ Islamabad"

In light of the referred report, the accused persons are on bail before arrest and the matter is pending before the Court of Competent Jurisdiction. It further transpires that a Joint Investigation Team has also been formed.

8. In view of the above position, with respect to the relief regarding the arrest of nominated persons in the F.I.R; the matter is pending before the Court of Competent Jurisdiction and the petitioners being the complainant of the F.I.R. can join the proceedings and contest the bail applications. However, regarding the conduct of investigation, it is expected that F.I.A. shall perform its obligations in accordance with law.

9. The instant petition is **disposed of** in light of the abovementioned observations.

(AAMER FAROOQ)
JUDGE

*M. Zaheer Janjua