

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Revision No. 105 of 2019

Sikandar Khan
Vs
The State

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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27-02-2020.

Mr. Husnain Haider Thaheem, Advocate for the
petitioner.
Mr. Rabi Bin Tariq, State Counsel.
Mr. Pervaiz Inspector and Mr. Abdul Hameed,
S.I.

Through this petition the petitioner,
Sikandar Khan has assailed order, dated
21.10.2019, passed by the learned trial Court.
2. The petitioner is an accused in FIR No.
201, dated 17.05.2017, registered under
sections 371-A, 371-B and 496-B of the
Pakistan Penal Code, 1860 at Police Station
Koral, Islamabad (hereinafter referred to as the
"**FIR**"). The petitioner was arrested from the
crime scene and charge has also been framed
pursuant to filing of report under section 173 of
the Criminal Procedure Code, 1898 (hereinafter
referred to as the "**Cr.P.C**"). The petitioner
filed an application under section 265-K of
Cr.P.C, which was dismissed by the learned trial

Court vide the impugned order, dated 21.10.2019.

3. The learned counsel for the petitioner has contended; that application under section 265-K of Cr.P.C could have been filed at any stage and, therefore, the observations recorded by the learned trial Court to the effect that it was premature are not inconsonance with the law; the petitioner was not involved in commission of offence; only offence under section 496-B of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") is attributed to the petitioner; a plain reading of the FIR shows that even the said offence is not attracted; the petitioner was merely found to be present at the crime scene and was not in any manner involved in any act so as to attract offence under section 496-B of PPC. The charge framed by the learned trial court also does not attribute any role to the petitioner.

4. The learned State Counsel, on the other hand, has stated that the impugned order does not suffer from any arbitrariness requiring interference; trial has commenced after framing of the charge; the involvement of the petitioner would be determined upon the conclusion of the trial; sufficient incriminating material has been brought on record for the trial to continue and,

therefore, application filed under section 265-K, Cr.P.C was rightly dismissed.

5. The learned counsel for the petitioner and the learned State Counsel have been heard and the record perused with their able assistance.

6. Perusal of the record shows that the petitioner ^{has} ~~has~~ alleged to have been present at the crime scene. Despite the able assistance of the learned counsel for the petitioner, the impugned order has not been found to suffer from any legal infirmity. The learned trial Court has not exercised its discretion in an arbitrary or fanciful manner requiring interference by this Court. The petitioner would be at liberty, if so advised, to file a petition at a later stage when sufficient evidence has been brought on record.

7. For the above reasons, this petition is without merit and, therefore, accordingly dismissed.

CHIEF JUSTICE

Saeed