

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

Writ Petition No. 844 of 2020

Sami Ullah

VS

SHO Police Station, Sihala, Islamabad

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

12.03.2020.

**Mr. Naveed Akhtar Rajpoot, Advocate for
the Petitioner.**

Petitioner through instant petition has
prayed as under:-

*“It is therefore, humbly prayed this Writ
Petition may kindly be accepted and the
impugned order dated 10.02.2020, may
kindly be set-aside and the direction may
kindly be issued to the respondent No.1 for
registration of a criminal case against the
accused person moved by the petitioner, in
the best interest of justice.”.*

2. Facts as narrated by the learned counsel
for the petitioner are that:-

The petitioner is engaged in the business
of supply of construction material since, 2003
for which purpose he hired premises bearing
No. GT Road DHA Phase-II, Gate No.3 on
rent, from one Mansoor ur Rehman Afridi, in
the year 2003. Petitioner constructed office and
shops on the said rented premises and placed
his equipment and material and other
belongings worth Rs.59,06,900/- there. On
24.07.2019, at 5:45 pm the proposed accused
namely Ahmed Bin Asad Jan and Mst. Anjum
Asad widow of Asad Jan, along with other
accomplices, equipped with weapons,
unlawfully and forcibly evicted the petitioner
and unlawfully occupied the said premises on
30.07.2019. The construction raised by the
petitioner was bulldozed with the help of

bulldozers and his belongings worth Rs.59,06,900/-, as per list appended with the petition, were taken away by the accused persons. Petitioner through written complaint reported the incident to SHO Police Station Sihala, Islamabad, so as to lodge FIR against the proposed accused and also filed complaint in the Police Record Management System. Thereafter, petitioner submitted application u/s 22-A Cr.PC to the Additional Sessions Judge-III, (East) Islamabad/Ex-Officio Justice of Peace, on the ground that the concerned PS is not registering the FIR of the above said incident.

3. On receipt of application, learned Court/JOP, sought comments from the respondents/SHO and while dismissing the application vide impugned order dated 10.02.2020 observed as under:-

“During probe by SI/Umar Hayat of P.S Sihala, Islamabad and investigation of the instant case, it revealed that the petitioner was a tenant on the disputed plot whose possession was handed over to real owner Mrs. Asad Anjum by the Revenue Department, district Administration in presence of Police under the order of D.C, Islamabad. The petitioner intervene in the official duty and thus, nominated in the above criminal case but later on, withdrew his bail due to withdrawal of the case by the D.C, Islamabad. During probe, no article was found stolen. Even, the facts were found same as mentioned above during enquiry by SP/Rural, Islamabad. The version of the petitioner is not found on facts.”

Hence petition before this Court.

4. Learned counsel for the petitioner while narrating the above said facts, *inter-alia*, submitted that it is the duty of the police officials to register case on every complaint. Thus, through the impugned order dated 10.02.2020, grave miscarriage of justice has

been done and fundamental rights of the petitioner have been violated. Learned counsel prayed for setting aside the impugned order as being not tenable in the eye of law.

5. Arguments heard, record perused.

6. The petitioner is aggrieved by the judgment passed by Respondent No.3/learned Justice of Peace, whereby, his application under section 22-A was declined. Perusal of section 22-A Cr.P.C reveals that it has been inserted in the code on 30.10.1985 for conferring additional role to Ex-officio Justice of the Peace in Pakistan in respect of entertaining complaints and issuance of appropriate directions to the concerned police authorities regarding registration of criminal cases and in respect of neglect, failure or excess committed by the police authorities in relation to its functions and duties. Subsequently, Sub-section (6) has been added by Ordinance CXXXI of 2002, dated 21.11.2002 which reads as under:-

“(6) An ex-officio justice of the peace may issue appropriate directions to the police authorities concerned on a complaint regarding—

- (i) Non-registration of a criminal case;*
- (ii) Transfer of investigation from one police officer to another; and*
- (iii) Neglect, failure or excess committed by a police authority in relation to its functions and duties.”.*

The word “may” in sub-section (6) of section 22A convey the intention of legislature that while it empowers the Justice of Peace to issue appropriate directions to the police authorities but at the same time imposes responsibility to consider the merits of every case before entertaining any application. The Hon’ble Apex Court, while interpreting section 22-A (6) has

been pleased to hold vide their judgment passed in case titled ***Younas Abbas and others vs. ADJ Chakwal and others*** reported as (PLD 2016 SC 581), that “functions as described in clause (i) (ii) and (iii) of sub-section (6) of section 22A; are quasi-judicial as he entertains applications, examine the record, hear the parties, passes orders and issue directions with due application of mind.”.

7. Admittedly, the Ex-officio Justice of Peace u/s 22-A/B of Cr.PC is authorized to examine the correctness of the information to decide whether it constitutes a cognizable offence or not. Thus after perusal of the findings in the impugned judgment I am of the view that the learned Ex-Officio Justice of Peace/ADJ has rightly declined the application u/s 22-A Cr.PC by following the dictum and guidelines laid down by the Honourable Supreme Court in the judgment cited above.

8. In view of above, instant writ petition is dismissed *in limine*. However, the Petitioner is at liberty to avail any other remedy available to him under the law for redressal of his grievance, if any.

(LUBNA SALEEM PERVEZ)
JUDGE