

JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT

W.P No.3905-2020

Rizwan Ullah Khalidi

vs.

ASJ Islamabad (West), Islamabad and others.

Petitioner by: Mr. Gul Hussain Jadoon, Advocate.

Respondent by: Ms. Saadia Shehzadi, State Counsel.
Muhammad Asghar, S.I.

Date of Decision: 18.07.2022.

MOHSIN AKHTAR KAYANI, J: Through the instant writ petition, the petitioner has assailed the order dated 27.11.2020, passed by learned Ex-Officio Justice of Peace/Addl. Sessions Judge (West), Islamabad, whereby his application under Section 22 A&B Cr.P.C., for registration of F.I.R, has been dismissed.

2. Learned counsel for the petitioner contends that petitioner has submitted application before S.P, Police Station Ramna, Islamabad on 13.08.2020 with the allegation that respondent No.4/Mst. Salma Shahid, his ex-wife has prepared the forged agreement to sell and got decree for specific performance in her favour on 11.07.2016 from learned Civil Court, whereby the said document, which was made basis of the judgment and decree, was executed with forged signatures of the petitioner, but the learned Ex-Officio Justice of Peace has not considered this aspect and dismissed the application without any legal justification.

3. Conversely, learned State Counsel has opposed the instant petition on the ground that the matter has already been agitated before the competent Civil Court by the petitioner himself, who has referred this aspect and has also assailed the judgment and decree in terms of Section 12(2) CPC prior to the filing of application before S.P Police Station Ramna, Islamabad. It has further

been contended that learned Ex-Officio Justice of Peace has also pointed out the remedy in terms of Section 476 Cr.P.C, which could only be adjudicated by learned Civil Court if as when subject forged document will be scrutinized.

4. Arguments heard and record perused.

5. Perusal of record reveals that petitioner has filed application for registration of F.I.R, which was not entertained by the S.P Police Station Ramna, Islamabad, whereafter he was compelled to file application under Section 22 A&B Cr.P.C. before learned Ex-Officio Justice of Peace with the allegation that his ex-wife has got prepared forged document i.e. agreement to sell dated 02.02.2015 with signatures of the petitioner that he has sold out the property, but in his application petitioner has categorically stated that no such document has ever been executed by him as the same was forged, but the said instrument was used by respondent No.4 in the trial Court and on the basis of which, ex-parte decree dated 10.03.2015 against the petitioner has been passed through misrepresentation and fraud, who has further assailed the same through application under Section 12(2) CPC on 07.09.2019 alleging therein that the decree was obtained through misrepresentation and fraud. However, the petitioner has filed application on 13.08.2020 before S.P Police Station Ramna, Islamabad with the claim that F.I.R should be registered on such forgery made on the part of Mst. Salma Shahid, as such this Court has confronted the petitioner to demonstrate a *prima facie* case of forgery on the basis of any conclusive evidence, but no plausible explanation has been put forward by the petitioner, even the petitioner has conceded this aspect in his application that the matter is now pending with the competent Court, whereby the operation of the impugned judgment and decree has already been suspended much prior to the filing of application by the petitioner before S.P Police Station Ramna, Islamabad.

6. In such scenario, learned Ex-Officio Justice of Peace has rightly pointed out the remedy in terms of Section 476 Cr.P.C., which is equally efficacious under the law, even otherwise, the status of the documents in question has not yet been determined until and unless the final judgment of the civil Court is passed.

7. In view of above, instant writ petition is not maintainable, therefore, same is hereby **DISMISSED**. However, petitioner reserves his right to agitate the matter at the relevant time after providing conclusive evidence.

(MOHSIN AKHTAR KAYANI)
JUDGE

RAMZAN