

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

**W.P No.875-Q of 2020**

Raja Ali Zaman  
*Versus*  
The S.H.O P.S Tarnol, Islamabad, etc

Petitioner by: Rana Rashid Mehmood, Advocate.  
Respondent No.2 by: Mr. Haroon-ur-Rasheed, Advocate.  
State by: Mr. Zohaib Hassan Gondal, State  
Counsel alongwith Saqib Mehmood,  
A.S.I.  
Muhammad Riaz, Inspector Legal.

Date of Hearing: 06.07.2020

---

**Ghulam Azam Qambrani, J:** Through this petition, the petitioner has invoked the constitutional jurisdiction of this Court, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 read with Section 561-A Cr.P.C with the following prayer;-

*"In view of the above circumstances, it is most humbly prayed that instant writ petition may kindly be accepted, the impugned FIR No.88/2020 under Section 489-F PPC, Police Station Tarnol, Tehsil and Distt. Islamabad may kindly be declared to be registered without any lawful justification, jurisdiction against the law and same may please be quashed in Accordance with law.*

*Any other relief which this Honorable Court may deems fit and proper may also be granted, in the interest of justice and equity.*

2. Briefly stated facts of the case are that a case was registered against the petitioner vide F.I.R No.88 dated 12.02.2020 (hereinafter be called as "**impugned F.I.R**"), under Section 489-F P.P.C with the Police Station Tarnol, Islamabad, stating therein that the petitioner entered into an agreement to sell with the respondent on 17.07.2016 regarding sale of land measuring 06 Kanal and transfer of physical possession of additional land measuring 16 Kanal 08 Marlas @ Rs.250,000/- per kanal (total as Rs.41,00,000/-) at Pind Parian,

Islamabad; that after fulfilling first part of agreement regarding 06 Kanal of land, respondent promised to fulfil second part on next day i.e. 19.07.2016 for which petitioner issued a cheque No.130815884 dated 18.07.2016 drawn at Bank of Punjab, F-17 Branch, Islamabad, which was dishonoured on its presentation. Respondent moved an application under section 22-A Cr.P.C which was dismissed due to non-prosecution. Further stated that respondent No.2 in connivance with respondent No.1/S.H.O got lodged the impugned F.I.R against the petitioner just to harass and blackmail him, hence the instant petition.

3. Learned counsel for the petitioner contended that the impugned F.I.R has been lodged with malice and ulterior motive narrating a false and frivolous story; that no offence has been committed by the petitioner; that respondent No.2 have already filed a civil suit under Order XXXVII C.P.C on 09.01.2020 before the learned Additional Sessions Judge, Islamabad-West; that the petitioner has also already filed a suit for declaration, permanent injunction against respondent No.2 which is also pending adjudication but respondent No.2 in connivance with the local police got lodged the instant criminal case against the petitioner; that the impugned F.I.R is a result of concealment and highhandedness on the part of the respondent as well as the local police and F.I.R has been lodged under the influence of complainant just to harass and humiliate the petitioner; that no case is made out against the petitioner, hence the impugned FIR is liable to be quashed

4. On the other hand, learned counsel for respondent assisted by learned State counsel opposed the contentions raised by the learned counsel for the petitioner and prayed for dismissal of the instant petition.

5. Arguments heard, record perused.

6. Perusal of the record reveals that the petitioner has already filed a civil suit for Declaration and Permanent Injunction against the respondent with regard to the disputed land, which is pending adjudication and the respondent has also filed a suit under Order

XXXVII C.P.C for recovery of Rs.41,00,000/- against the petitioner which is also pending adjudication before the learned Additional District Judge, Islamabad. Stance of the petitioner that he has committed no offence and he has been falsely involved in the instant case, is a question to be determined by the learned trial Court after recording of evidence which exercise cannot be done by this Court in exercise of its Constitutional Jurisdiction. It is a fact that scope of quashing of F.I.R or interfering in the investigation by this Court is limited while exercising powers in jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan. Resorting to the provisions of Section 561-A Cr.P.C, or to the provisions of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, seeking quashment of a criminal case, is an extraordinary remedy, which can be invoked only in exceptional circumstances and the said provisions can never be exploited as a substitute for the prescribed trial or to decide the question of guilt or innocence of an accused. Determination of correctness or falsity of the allegations levelled against the petitioner in the F.I.R is an obligation cast upon the Court prescribed by the Code of Criminal Procedure for the purpose on the basis of legal evidence led at the trial after a proper opportunity to both the parties to plead their causes. No such extraordinary circumstances have been mentioned in the instant case, which can permit this Court to deviate from the normal course of law and to quash the F.I.R by exercising extraordinary constitutional remedy under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 read with section 561-A Cr.P.C and is not supposed to enter into a factual controversy, unless it is established that certain facts are not disputed between the parties and keeping in view the controversy between the parties, it is not fair to quash the impugned F.I.R at this stage.

7. While considering quashing of a criminal case in exercise of powers vested under Article 199 of the Constitution, the High Court is also required to take into consideration the various alternate remedies available to a petitioner before the learned trial Court.

8. In view of what has been discussed above, this Court is not inclined to quash the impugned F.I.R. This petition having no force is, therefore, **dismissed**.

**(Ghulam Azam Qambrani)**  
**Judge**

Announced in open Court on this 07<sup>th</sup> day of July, 2020.

**Judge**

*Rana M. Ift*