

Form No: HCJD/C-121.

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.3523/2020

SAQIB SHARAF AND ANOTHER.

Vs.

**EX-OFFICIO JUSTICE OF PEACE/ADDITIONAL SESSIONS JUDGE-X,
ISLAMABAD-WEST.**

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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19.01.2021	Ch. Abdur Rehman Bajwa, Advocate for Petitioners. Mr. Zulfiqar Ahmad Qureshi, Advocate for Respondent No.4. Mr. Asadullah Taimoor, State Counsel. Mr. Idrees, S.I, PS. Golra Sharif, Islamabad.
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Petitioner has invoked the constitutional
jurisdiction of this Court by way of filing instant
writ petition with the following prayer:-

***"It is therefore, respectfully prayed that the
this Honourable Court may very graciously be
pleased to accept the writ petition and issue
an appropriate writ, set aside impugned order
dated 12.11.2020 passed by respondent No.1
and dismiss the petition filed U/S 22-A & 22-B
Cr.P.C. by respondent No.4, in the best
interest of justice.***

***Any other relief which this Honourable Court
may deem fit and proper may also be awarded
in favour of the petitioners and against the
respondents.***

2. Brief facts relevant for disposal of instant
writ petition are that Respondent No.4 filed an
application before S.H.O. Police Station, Golra,
Islamabad for registration of FIR against the
petitioners and Respondent Nos. 5 & 6 alleging
therein that petitioners in connivance with
accused police officials got registered FIR No.
626 dated 19.10.2020 u/s 380, 411 PPC
against his son. On 21.10.2020, during
interrogation of the said case the two proposed
accused police officials / Respondent Nos. 5 &
6 in the presence of petitioners, physically
tortured his son and inflicted an injury on his

neck with some sharp edged weapon with the intention to kill him. Whereas, the police officials alleged that in the investigation room, that the son of the Respondent No.4 namely Zaghun Zulfiqar, while breaking the glass got himself injured and was immediately shifted to PIMS hospital for treatment, and since allegedly he tried to commit suicide criminal case in this regard bearing FIR No. 630 was registered on 09.05.2018. However, complaint of Respondent 4, was rejected by Respondent No.2/SHO, who refused to register the FIR, hence, the Respondent No.4 filed petition u/s 22-A & B Cr.P.C. before learned Ex-Officio Justice of Peace/Additional Sessions Judge-X, Islamabad-West, who accepted the same while observing as under:-

"5. The grievance of the petitioner is that both respondent Nos. 1 and 2 in connivance with each other and on the behest of respondent Nos 3 and 4, committed a cognizable offence. Admittedly aforementioned FIR regarding occurrence dated 21.10.2020 has already been registered. However, as per fricative ruling of August Supreme Court of Pakistan dated 09.05.2018 rendered in HRC No. 10842-P of 2018 in case titled "Mst. Sughra Bibi vs The State" (PLD 2018 Supreme Court 595), there is no bar in recording of cross version of nominated accused. Hence, SHO, P.S. Golra Sharif, Islamabad is directed to record the cross version of the petitioner and proceed further in accordance with law. With these observations this petition is hereby accepted. Copy of this order is sent to SHO P.S. Golra Sharif, Islamabad for compliance. File be consigned to record to room."

Being aggrieved, the petitioners have preferred present writ petition.

3. Learned counsel for the petitioners contended that the order passed by the learned ex-officio justice of peace suffers from misreading and non-reading of material available on record as well as legal perversity; that the learned Ex-Officio Justice of Peace misinterpreted the law laid down by the superior courts of the country and failed to

appreciate the fact that an FIR for the same occurrence has already been registered against Zaghum Zulfiqar, son of Respondent No.4 and as per settled law two FIRs cannot be lodged for the same occurrence. Learned counsel in view of the said submissions prayed for setting aside the impugned order passed by the learned Ex-Officio Justice of Peace.

4. Conversely, learned counsel for Respondent No.4 supported the impugned order while terming it just and legal which as per his stance has been passed by the learned Ex-officio Justice of peace after proper appreciation of facts narrated in application submitted by the Respondent No.4 and after application of proper judicial mind, as such, the same is in accordance with the law laid down by the superior courts of the country; that for an occurrence regarding which FIR has already been lodged, the Court can pass order for recording of cross version. Learned counsel, however, submitted that the learned Ex-Officio Justice of Peace would have even be justified if order for registration of second FIR was ordered by him. Reliance was placed on cases re: Mst. Sughran Bibi versus The State (PLD 2018 SC 595), Ali Muhammad and othes versus Syed Bibi and others (PLD 2016 SC 484), Ward Ali Khan Durani and others versus Government of Sindh and others (2001 SCMR 1556).

5. Learned State Counsel endorsed the submissions made by the learned counsel for Respondent No.4 and prayed for dismissal of present petition while submitting that the order passed by the learned Additional Sessions Judge / Ex-Officio Justice of Peace is well

reasoned and prayed for dismissal of the instant writ petition.

6. I have heard the learned counsel for the parties as well as learned State Counsel and have also perused the impugned order as well as available record.

7. The learned Ex-Officio Justice of Peace while accepting the petition u/s 22-A & B Cr.P.C. and directing the Police to record cross version petitioner/Respondent No.4 has referred judgment passed by the Larger Bench of the Hon'ble Apex Court reported as ***Sughran Bibi versus The State (PLD 2018 SC 595)***, in which the Hon'ble Court, after considering the pro and contra case laws on the issue, while declaring the legal proposition in the matter has observed that:-

(i)

(ii)

(iii)

(iv) *During the investigation conducted after registration of an FIR the investigating officer may record any number of versions of the same incident brought to his notice by different persons which versions are to be recorded by him under section 161, Cr.P.C. in the same case. No separate FIR is to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case.*

(v) *During the investigation the investigating officer is obliged to investigate the matter from all possible angles while keeping in view all the versions of the incident brought to his notice and, as required by Rule 25.2(3) of the Police Rules, 1934 "It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person."*

(vi)

(vii) *Upon conclusion of the investigation the report to be submitted under section 173, Cr.P.C is to be based upon the actual facts discovered during the investigation irrespective of the version of the incident advanced by the first informant or any other version brought to the notice of the investigating officer by any other person."*

Thus, I am of the firm view that the learned Ex-officio Justice of Peace has rightly concluded that registration of another FIR for the same occurrence in the present case is not necessary and issued directions regarding recording of cross version of the Petitioner/Respondent No.4 to the Police. The learned Additional Sessions Judge has considered all the material facts and circumstances of the case and dealt the same on merits, hence, no different opinion can be taken by this Court.

8. In view of what has been discussed above, I do not find any merit in the instant petition which is dismissed, accordingly.

(LUBNA SALEEM PERVEZ)
JUDGE

Adnan.