

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

Writ Petition No. 938 of 2020  
Muhammad Abdullah Khan  
Versus  
Justice of Peace, Islamabad-West, etc.

Petitioner by: Mr. Riasat Ali Azad, Advocate,  
Respondents 2 to 5 by: Syed Shahbaz Shah, State Counsel  
with Ashfaq Ahmad ASI.  
Date of Decision: 08.10.2020.

**FIAZ AHMAD ANJUM JANDRAN, J:** Through the instant writ petition, petitioner assails order dated 18.02.2020, passed by the learned Additional Sessions Judge/ Ex-officio Justice of Peace, Islamabad-West, whereby application under Section 22-A Cr.P.C filed by the petitioner was dismissed.

2. Learned counsel for the petitioner contends that in case of a report regarding commission of cognizable offence, the local police is under an obligation to proceed in terms of Section 154 Cr.P.C, and holding of inquiry before registration of F.I.R is not permissible under the law; that application moved by the petitioner, on the face of it, discloses commission of a cognizable offence by the proposed accused; that case of the petitioner is fully proven by the fact that he has telephonic record in his possession wherein said Haider ASI, against whom petitioner retains grievance, is talking about the detinue and demanding some illegal gratification for his release, therefore, there was no justification to reject the application at its inception.

3. Learned counsel further contends that the observations rendered by the learned Ex-officio Justice of Peace amounts to judgment before trial and are liable to be set-aside.

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4. As against above, learned State Counsel contends that during initial inquiry it was found by the police that no cognizable offence was made out, therefore, application for registration of FIR could not be processed. It is further asserted that the order impugned is well reasoned and does not call for any interference.

5. Heard the learned counsel for the petitioner, learned State Counsel and examined the record.

6. It is settled principle that the learned Ex-officio JOP is vested with the powers to issue directions for registration of FIR in case there is a report regarding commission of a cognizable offence. At the same time, it is mandatory that the powers should be exercised with application of judicial mind and reasoning. The Hon'ble Apex Court in case reported as **Younas Abbas & Others v. Additional Sessions Judge Chakwal & Others (PLD 2016 SC 589)**, has elaborated the role of Ex-officio JOP in following terms:-

*'Functions performed by the Ex-officio Justice of Peace were not executive, administrative or ministerial inasmuch as he did not carry out, manage or deal with things mechanically. Such functions as described in clauses (i), (ii) and (iii) of section 22-A(6), Cr.P.C., were quasi-judicial as Ex-officio Justice of Peace entertained applications, examined the record, heard the parties, passed orders and issued directions with due application of mind. Every lis before him demanded discretion and judgment. Functions so performed could not be termed as executive, administrative or ministerial on any account.'*

7. As expounded by the august Supreme Court, the powers exercised by the Ex-officio JOP are quasi judicial that includes entertaining applications, examination of record, hearing the parties and to pass appropriate directions with due application of mind. Every complaint/application warrants discretion and judgment. It is thus held that application of judicial mind, examination of record and passing of directions with due application of

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mind are *sine qua non* for exercising powers under Section 22-A(6) Cr.P.C.

8. By following the principle (*Supra*), record of the present case has been examined whereby it reveals that Abdul Rehman, nephew of the petitioner along with others is involved in various cases of theft and robbery. Earlier petitioner moved an application under section 491 Cr. P.C for the recovery of said Abdul Rehman which was dismissed while petitioner has not been able even to argue any malice or *malafide* on the part of police/ investigating agency.

9. The submission of the learned counsel that the alleged abductee was produced before the learned ilaqa Magistrate on the very next day of surprise visit by the bailiff explicitly establishes the allegation of illegal confinement at the hands of police, is of no significance at this stage being the subject of petition under Section 491 Cr.P.C which has already been dismissed.

10. The circumstances highlighted above indicate that the impugned order is well reasoned and, therefore, does not call for any interference. Consequently, present writ petition being devoid of merits is dismissed, however, petitioner shall be at liberty to avail other remedies, available to him under the law, if so advised.

(FIAZ AHMAD ANJUM JANDRAN)  
JUDGE

Imran