

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

**“Writ Petition No.541 of 2021”**

Yousaf Manzoor  
Vs.  
The Learned Ex-Officio Justice of Peace, etc...

<b>Petitioner By:</b>	<b>Mr. Farhan Nazir Kiyani, Advocate.</b>
<b>Date of decision:</b>	<b>17.02.2020</b>

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**GHULAM AZAM QAMBRANI, J.:-** This order is directed to dispose of instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, praying for issuance of direction to respondents No.2 & 3 to record his statement under Section 154 Cr.P.C and taking cognizance against the proposed accused.

2. The petitioner is aggrieved of order dated 16.01.2021 passed by the learned Ex-Officio Justice of Peace/Additional Sessions Judge, Islamabad-West, whereby application, filed by the petitioner under section 22-A of the Criminal Procedure Code 1898, for issuance of direction to the local police for registration of F.I.R against the accused persons, was dismissed.

3. The petitioner has stated in his application under Section 22-A Cr.P.C as well as in this writ petition that the accused persons have committed a cognizable offence, therefore, respondents/ police officials be directed to register criminal case against the proposes accused persons.

4. Learned counsel for the petitioner contended that the proposed accused persons have forcibly entered into his house, committed theft of cash, gold ornaments, two valuable wrist watches, and also threaten him of dire consequences, thus, a congnozable offence was made out, but the learned Ex-Officio Justice of Peace, without any justification straight away dismissed his petition; that the impugned order passed by the

learned Ex-Officio Justice of Peace is liable to be set aside and a direction be issued to the police officials to register a criminal case against the proposed accused persons.

5. Arguments of the learned counsel for the petitioner heard and available record perused.

6. Perusal of record reveals that the proposed accused persons are wife, brothers-in-law of the petitioner and some police officials. Perusal of police report reveals that wife of the petitioner has already lodged a complainant against the petitioner (i.e. her husband) for his merciless behaviour towards her and also that the petitioner has extended threats of dire consequences to her brother. The police got her medical examined from the PIMS hospital and after obtaining MLC, the police found that offence under Section 337 F(i) P.P.C is made out against the petitioner, as a result of the same, an F.I.R No.494/ 2020 under Sections 337 F(i), 342, 506, 289 & 34 P.P.C., has already been lodged against the petitioner. Perusal of the record further reveals that the petitioner had already been contracted two marriages and he has left his previous wives after giving them severe beatings and that the petitioner has been enlarged on bail in the above said F.I.R. So far as the commission of theft of articles mentioned in the application under Section 22-A Cr.P.C is concerned, in this regard, it is stated that admittedly the said articles allegedly given by his wife to her brothers during the subsistence of matrimonial life of the parties.

7. The view expressed by the Hon'ble Supreme Court of Pakistan in the case reported as "Muhammad Bashir v. Station House Officer Okara Cantt and others" (**PLD 2007 Supreme Court 539**) has largely been departed from in the subsequent judgment of the Hon'ble Apex Court in the case of "Younas Abbas and others v. Additional Sessions Judge, Chakwal and others" reported as (**PLD 2016 Supreme Court 581**), wherein, nature of powers of Justice of Peace under subsection (6) of

section 22-A of the Code, has been redefined as quasi-judicial in nature and not ministerial. For ready reference, relevant portion of the judgment is reproduced hereunder:-

*"The duties, the Justice of Peace performs, are executive, administrative, preventive and ministerial as is evident from subsections (1), (2), (3), (4) and (5) of sections 22-A and 22-B of the Cr.P.C. Such duties have not been a subject matter of controversy nor have they ever been caviled at by anybody. Controversy emerged with the insertion of subsection (6) in section 22-A and section 25 of the Cr.P.C. when Sessions Judges and on nomination by them the Additional Sessions Judges became the Ex-officio Justices of Peace. The functions, the Ex-officio Justice of Peace performs, are not executive, administrative or ministerial inasmuch as he does not carry out, manage or deal with things mechanically. His functions as described in Clauses (i), (ii) and (iii) of subsection (6) of section 22-A, Cr.P.C., are quasi-judicial as he entertains applications, examines the record, hears the parties, passes orders and issues directions with due application of mind. Every lis before him demands discretion and judgment. Functions so performed cannot be termed as executive, administrative or ministerial on any account. We thus don't agree with the ratio of the judgments rendered in the cases of Khizar Hayat and others v. Inspector General of Police (Punjab), Lahore and others (PLD 2005 Lah. 470) and Muhammad Ali v. Additional I. G. (PLD 2015 SC 753) inasmuch as it holds that the functions performed by the Ex-officio Justice of Peace are executive, administrative or ministerial."*

It has also been held in the said judgment that the parameters laid down for exercise of writ jurisdiction by High Courts were equally applicable to the Ex-officio Justice of Peace while exercising his powers under subsection (6) of section 22-A of the Code. It was further held that before issuance of a direction on the complaint for registration of a criminal case under subsection 6(i) of section 22-A of the Code, the Ex-officio Justice of Peace must satisfy himself that sufficient material is available on the record to show that the aggrieved person before invoking the powers of Justice of Peace had recourse to the high-ups in the

police hierarchy. In the additional note, the Hon'ble member of the Bench has laid special stress on the prevention of abuse of section 22-A (6) of the Code.

8. Upon filing of the petition under Section 22-A Cr.P.C., by the petitioner, the learned Ex-Officio Justice of Peace called for a report from the local police and after perusing the same, learned Justice of Peace arrived at a conclusion that no cognizable offence is made out against proposed accused persons, as such, was justified to dismiss the petition of the petitioner. During arguments, learned counsel for the petitioner was asked whether any cognizable offence is made out against the proposed accused persons, in reply, he stated that an offence under Section 506 P.P.C is made out. When confronted that the said offence is a non-cognizable one, answer was in the affirmative. From the facts and circumstances of the case, no cognizable offence is made out against the proposed accused persons.

9. Learned counsel for the petitioner has failed to point out any illegality or irregularity committed by the learned Ex-Officio Justice of Peace through the impugned order warranting interference by this Court.

10. For the foregoing reasons, this petition having no force, is hereby **dismissed** *in limine*.

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