

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 1534 of 2020

Aitbar Hussain Abbasi, etc.

Vs

Director General, FIA Islamabad, etc.

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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03-09-2020. Raja Rizwan Abbasi, Advocate for the petitioner.
Raja M. Aleem Khan Abbasi, Advocate for the respondent/complainant.
Syed Muhammad Tayyab, DAG.
Mr. Tahir Tanveer, Assistant Director and Mr. Jawad Ali, Assistant Director, FIA.

Athar Minallah, C.J.- Through this petition the petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking annulment of FIR No. 08/2020, dated 29.04.2020, registered at Police Station Federal Investigation Agency/Anti-Corruption Establishment Circle Islamabad (hereinafter referred to as the "**FIR**").

2. The Investigating Officer after concluding the investigations has submitted report under section 173 of the Criminal Procedure Code, 1898 (hereinafter referred to as "**Cr.P.C**") before the learned trial court. The learned counsel who has appeared on behalf of the private respondent has argued that the instant petition has become infructuous after submission of report under section 173 of Cr.P.C on the touchstone of law laid down by the august Supreme Court in the case titled "*Director General, Anti-Corruption*

Establishment, Lahore and others vs. Muhammad Akram Khan and others" [PLD 2013 SC 401]. The learned counsels were asked whether the learned trial court has taken cognizance pursuant to filing of report under section 173 of Cr.P.C. The learned counsel for the petitioner has stated that cognizance has not been taken as yet. He has vehemently argued that the entire proceedings leading to submission of report under section 173 of Cr.P.C are without lawful authority and jurisdiction. The learned counsel has referred to rule 10 of the Federal Investigation Agency (Inquiries and Investigations) Rules, 2002 in support of his contention that the Federal Investigation Agency was not competent to initiate proceedings.

3. It would not be appropriate to make any observation regarding merits of the case lest it may prejudice the pending proceedings. Nonetheless, the grounds raised by the learned counsel for the petitioner in the instant petition obviously can also be raised before the competent court. It cannot be presumed at this stage that the learned trial court would ignore the grounds, which may be taken before it on behalf of the petitioner. The wisdom of law enunciated by the august Supreme Court in the case titled "*Director General, Anti-Corruption Establishment, Lahore and others vs. Muhammad Akram Khan and others*" [PLD 2013 SC 401] is that constitutional jurisdiction under Article 199 is extraordinary discretionary in nature and its exercise is subject to the Court's satisfaction that there is no other adequate remedy provided under the law. In this case submission of report under section 173 of Cr.P.C does not

prejudice the rights of the petitioners because the latter can, inter alia, raise the ground of lack of jurisdiction even at the stage when the competent court considers whether or not to take cognizance in the light of the report submitted under section 173 of Cr.P.C.

4. In the light of above discussion, this Court is not inclined to exercise its constitutional jurisdiction because it is satisfied that adequate remedy under the law is provided and that it can be availed before the learned trial court. The petition is, therefore, accordingly disposed of.

CHIEF JUSTICE

Saeed.