

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 1675/2017

Liagat Ali v. Justice of Peace etc:

For Petitioner: Raja Rizwan Abbasi, Advocate,
For State: Mr. Suhail Khurshid Gujjar, State
Counsel with Naseer & Hanif ASIs.
For proposed accused: Mr. Nadeem Ahmad Sheikh
Advocate.
Date of Hearing: 20.01.2022:

ARBAB MUHAMMAD TAHIR, J: The instant writ petition is arising out of order dated 22.04.2017, passed by the learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Islamabad (East) whereby application under Section 22-A & B Cr.P.C filed by the petitioner for the registration of FIR, was dismissed.

2. Facts, relevant for the disposal of instant writ petition, are that the petitioner submitted an application to the local police for registration of an FIR against the proposed accused on the allegations of trespass, taking of illegal possession of his plot by showing of arms and by extending life threats. According to the petitioner, police has not registered the FIR which compelled him to file an application under Section 22-A & B Cr.P.C before the learned Additional Sessions Judge/Ex-Officio Justice of Peace but his application was turned down vide impugned order, hence instant writ petition.

3. The learned Ex-Officio Justice of Peace dismissed the petition, *inter alia*, observing that the petitioner has not submitted any application to the higher police officers i.e. SSP (Operation) and I.G.

Islamabad; that the application in the first instance was submitted on 07.03.2017 and not on 09.03.2017; that the report of Girdawar dated 06.04.2017 suggests that at disputed place the proposed accused namely Dr. Murad is in possession; that already an FIR was got registered against the present petitioner by Dr. Murad Afridi, for which reason the present petition has been filed to settle this score and that the comments of the local police also do not support the version of the petitioner.

4. The learned counsel argued that in case of a report regarding commission of a cognizable offence, it is the duty of the police to register the FIR at the first instance in terms of Section 154 Cr.P.C and then to investigate the matter but in the instant case, the police joined hands with the proposed accused and involved the petitioner in a false case. Learned counsel placed reliance upon case law reported as PLD 2007 SC 539 & 2017 SCMR 739.

5. On the other hand, learned counsel for the proposed accused argued that the petitioner attempted to take illegal possession of the land owned by the proposed accused; that FIR No. 41/17 regarding incident of 6.03.2017 was registered against the petitioner, who as a counterblast moved the application which was rightly turndown by the learned Ex-Officio Justice of Peace vide impugned order.

6. Heard, record examined.

7. It is settled principle that the powers of Ex-Officio Justice of Peace are quasi Judicial that includes entertaining applications, examination of record, hearing the parties and to pass appropriate directions with due application of mind. Every application warrants discretion and judgment. Once police report

is requisitioned, due weight is required to be given to it and in case of contrary view, it is mandatory for the Ex-Officio Justice of Peace to advance reasons in this regard. Reliance is placed upon case of Younas Abbas & Others v. Additional Sessions Judge Chakwal & Others (PLD 2016 SC 589).

8. The dispute, on the face of it, is with regard to approximately three kanal land. The petitioner claims that the same is located within Mauza Rehara, Islamabad while as per proposed accused Dr. Murad Afridi, it is situated in Mauza Mohra Noor, Islamabad. Both the said mauzas, as per record, are contiguous. In order to ascertain the exact location of the disputed land, the demarcation was held number of times and lastly by the orders of the Deputy Commissioner, Islamabad dated 17.10.2018. The demarcation report dated 26.12.2018 concludes that the disputed land comprising Khasra No. 1939/2 is situated in Mauza Mohra Noor, Islamabad, supporting the claim of proposed accused Dr. Murad Afridi.

9. It is also a matter of record that the learned Assistant Commissioner, Islamabad conducted proceedings in terms of Section 145 Cr.P.C and vide order dated 01.03.2021 concluded that Dr. Murad Afridi has established his possession over the disputed land and the SHO P.S Bani-Gala was directed to de-seal the property in dispute and hand over its possession to Dr. Murad Afridi.

10. Furthermore, as per police report dated 20.03.2017 petitioner is nominated accused of FIR No. 41 dated 06.03.2017, got registered by proposed accused Dr. Murad Afridi; that the petitioner has not furnished any proof of ownership of disputed land; that he has also not furnished any evidence to substantiate any allegation while proposed accused

Dr. Murad Afridi has furnished proof of ownership. The police concluded that proposed accused Dr. Murad Afridi is in possession of the disputed land.

11. In the light of material placed on record and the police report, impugned order appears to be well reasoned, in accordance with law on the subject and does not call for any interference. Consequently, instant writ petition is **dismissed**. The injunctive order dated 15.09.2017 regarding stay of proceedings in FIR No. 41 dated 06.03.2017 under Section 452, 427, 148, 149 & 506 (ii) PPC P.S. Bani-Gala, Islamabad is recalled.

(ARBAB MUHAMMAD TAHIR)
JUDGE

A.R.ANSARI*

Announced in Open Court, on this_____day of
February , 2022:

JUDGE