

JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, **ISLAMABAD**

WRIT PETITION NO. 87 OF 2021

YAHYA HUSSAIN ABDULLAH.

Vs.

THE LEARNED JUSTICE OF PEACE, ETC.

Petitioner by : Syed Ali Imad ul Islam Shah, Advocate.

**Respondents by : Mr. Ishaq Shah, State Counsel.
Mr. Qaim Ali Shah, S.I.**

Date of decision : 02.02.2020.

LUBNA SALEEM PERVEZ, J. The petitioner Yahya Hussain Abdullah, through instant petition, has assailed order dated 06.01.2021, whereby the learned Additional Sessions Judge (East), Islamabad, while exercising powers of Justice of Peace u/s 22-A & B Cr.PC, dismissed the petition of the petitioner.

2. Necessary facts of the case are that the petitioner filed petition u/s 22-A Cr.PC before the learned Ex-Officio Justice of Peace (hereinafter referred to as Ex-Officio **JOP**), seeking registration of FIR against proposed accused namely Nazabat Hussain and others allegedly illegally occupying his property measuring 40 kanal situated at Jindala Road, Islamabad, which petition was declined by the Ex-Officio JOP, vide order dated 06.01.2021. The petitioner has assailed the said order through instant petition.

3. Learned counsel for the petitioner submitted that the Ex-Officio JOP has legally erred in law while rejecting the petition u/s 22-A & B Cr.PC on the ground that previously another FIR bearing No. 420/2020, dated 27.08.2020, has been registered in the P.S. Bara Kahu, Islamabad, having same facts and circumstances by and against the same parties. He submitted that the civil and criminal liabilities can be carried out simultaneously and that the police authorities can not involve in investigation prior to registration of FIR; that the police officials cannot

refuse to register FIR of the cognizable offence, reported to them; that the Ex-Officio JOP has no authority to refuse the petition as the petitioner has reported a cognizable offence against the proposed accused. He submitted that FIR No. 420/2020, dated 27.08.2020, has been registered for offences of cheating and forgery and using fake documents to grab the lawfully owned land of the petitioner. Thus, he submitted that the petition u/s 22-A & B Cr.PC was liable to be accepted with the direction to the police authorities to register FIR of the incident reported, vide application dated 28.08.2020, submitted before the S.H.O. Police Station Nilore, Islamabad.

4. On the other hand, learned State Counsel supported the impugned order passed by learned Ex-Officio JOP and submitted that the FIR No. 420/2020, dated 27.08.2020, has already been registered for the alleged offence and, therefore, registration of second FIR is not legally permissible, he, therefore, requested for dismissal of the present writ petition.

5. Arguments heard. Record perused.

6. Perusal of the record and the report of Superintendent of Police, S.H.O. Police Station Nilore, Islamabad, as well as impugned order dated 06.01.2021 revealed that the petitioner has already registered an FIR against the same proposed accused in P.S. Bara Kahu, Islamabad, on the basis of same facts narrated for registration of FIR before P.S. Nilore, according to which the proposed accused has allegedly used fake agreement having forged signature of father of petitioner namely Muhammad Tariq Awan, with the intention to occupy his 40 Kanals land situated at Jandala Islamabad. Perusal of the impugned order passed by learned Ex-Officio JOP further revealed that both the parties have admitted before him that the possession of the property has been taken over by NAB in a reference against the father of the petitioner being an Ex-Bureaucrat. It further transpired that both the parties have filed civil suits against each other pertaining to the same property and has obtained interim injunction.

7. In view of the above, I am of the considered view that the matter is already pending before the civil courts, in civil suits filed by both the parties against each other for the ownership and title of the subject land. Moreover, the petitioner has already registered FIR against the proposed

accused on the same set of facts and circumstances, thus, the law does not permit registration of two FIRs in two different Police Stations for the same alleged happening / offence, hence, no illegality or infirmity has been found in the order dated 06.01.2021, passed by learned Ex-Officio JOP. The instant petition, being devoid of any merit, is hereby **dismissed**.

(LUBNA SALEEM PERVEZ)
JUDGE

M. JUNAID USMAN