

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.2493/2019.

Ansar Mehmood

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	04.07.2019.	Raja Habib ur Rehman, Advocate for petitioner.

Through this writ petition the petitioner has prayed for quashing of proceedings initiated by respondent No.4/SHO P.S. Industrial Area, Islamabad in case FIR No.132, dated 15.03.2018, U/S 506, 380, 447, 448, 148, 149, 420, 468, 467, 471, 109 PPC, P.S. Industrial Area, Islamabad.

2. Learned counsel for the petitioner *inter-alia* contends that I.O has submitted the challan against accused Haroon Asghar and Rafiq Shah before the trial Court after completion of investigation and then submitted another interim challan against two other accused namely Zaffar Mehdi and Muhammad Tanvir and when challan has been submitted in the Court, SHO P.S. Industrial Area, Islamabad is not permitted to further investigate the crime. Reliance is placed upon 2006 SCMR 373 (Bahadur Khan Vs. Muhammad Azam), PLD 2007 SC 31 (Muhammad Nasir Cheema Vs. Mazhar Javaid and another) PLD 2007 SC 31 (Muhammad Nasir Cheema Vs. Mazhar Javaid and another) and 2014 SCMR 1499 (Qari Muhammad Rafiq Vs. Additional IG

of Police (Inv.) Punjab and others).

3. Arguments heard, record perused.

4. Perusal of record reveals that petitioner has been declared accused in case FIR No.132, dated 15.03.2018, U/S 506, 380, 447, 448, 148, 149, 420, 468, 467, 471, 109 PPC, P.S. Industrial Area, Islamabad registered on the complaint of Mst. Farida Haroon sister of deceased namely Fayyaz Gul, who died in Pakistan and was owner of constructed commercial property situated in Plot No.09, IJP Road, Islamabad.

5. As per the contents of FIR, accused nominated in this case has misappropriated the property of the deceased and sister of deceased has initiated the legal proceedings against different accused including present petitioner. The main grievance of the petitioner is the investigation conducted by SHO P.S. Industrial Area, Islamabad and as per his assertion when challan has already been submitted in the Court further investigation is not permissible.

6. I have gone through the record as well as reported judgments and come to an irresistible conclusion that in present case two interim challans have been submitted in the Court against two different set of accused and as such investigation has not been completed, even charge has not been framed and trial has not yet been commenced, whereas reported judgment of the Apex Court 2014 SCMR 1499 (Qari Muhammad Rafiq Vs. Additional IG of Police (Inv.)

Punjab and others) has different proposition in which investigation was transferred when challan has already been submitted in the Court and charge was framed, even trial was commenced, therefore, petitioner could not get benefit of said view.

7. Similar view was also rendered in PLD 2007 SC 31 (Muhammad Nasir Cheema Vs. Mazhar Javaid and another), therefore, in present situation when investigation has not yet been completed, the I.O cannot be restrained to proceed with the same. In such eventuality I.O is well empowered to collect each and every piece of evidence by conducting the investigation in accordance with law.

8. Keeping in view the above, instant petition is misconceived and the same is hereby dismissed in limine.

(MOHSIN AKHTAR KAYAN)
JUDGE

Zahid