

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Revision No.24/2018.

Muhammad Shafi

Versus

Tahir Mehmood 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. 27.09.2019 Mr. Touqeer Hafeez Abbasi, Advocate for the petitioner.

Through the instant criminal revision, the petitioner has assailed the order dated 12.10.2017, passed by learned Judicial Magistrate, Islamabad (West), whereby request of the petitioner to proceed further against respondents No.1 & 2 in case FIR No.500, dated 27.12.2015, U/S 420, 468, 471, 406, 467 PPC, P.S Ramna, Islamabad was declined.

2. Learned counsel for the petitioner inter-alia contends that respondents No.1 & 2 were acquitted U/S 249-A, Cr.P.C in the said case on 20.06.2015; that the document which was not earlier available with the I.O gave rise to a new situation after acquittal of respondents No.1 & 2, therefore, further proceedings are necessary in the case.

3. I have heard learned counsel for the petitioner and gone through the record.

4. Perusal of the record reveals that the petitioner got lodged FIR No. 500, dated 27.12.2015, U/S 420, 468, 471, 406, 467 PPC, P.S Ramna, Islamabad against respondents No.1 & 2, however, during the proceedings, the matter was compromised between the parties and the petitioner submitted affidavit of compromise and as a result whereof order of acquittal was passed in terms of section 249-A, Cr.P.C on 20.06.2015.

5. The petitioner on the strength of certain investigation moved application to the learned Judicial Magistrate that the I.O intends to file supplementary challan but request of the petitioner was declined through the impugned order dated 12.10.2017 on the following grounds:-

“4. It evinces from the record that both the accused in FIR No.500/2014, P.S Ramna already acquitted by the learned Judge on submission of first challan vide order dated 20.06.2015, hence, further proceedings on the receipt of supplementary challan to the extent of same accused in the same FIR is not warranted as the same would hit by the cardinal principle of double jeopardy.

5. In view of Article 13 of the Constitution of Pakistan, and Section 403 Cr.P.C, it is safely observed that the accused Tahir Mehmood present in the court and other accused Nusrat Mehmood who is requested to be summoned, may not be tried again in this FIR as they already acquitted from this case. Filing of supplementary challan and addition of any offences in FIR at subsequent stage is of no avail at all, therefore, considering the accused Tahir Mehmood and Nusrat Mehmood having been acquitted in the case, the matter is no more proceedable, hence, instant file is consigned to the record room after its due compilation and completion.”

6. The above referred proposition has been confronted to learned counsel for the petitioner, who candidly conceded that complete record was available to the I.O at the time of passing of the acquittal order of respondents No.1 & 2 and the matter was compromised, however, he contends that the petitioner is primarily aggrieved due to non-compliance of the compromise Mark-A, whereby respondents No.1 & 2 committed to hand over the Plaza situated in Sector G-12, Islamabad. This aspect disclosed non-implementation of compromise agreement, which is civil right and requires its enforcement through Court of competent jurisdiction and enforcement of terms of compromise cannot be converted in criminal proceedings. The impugned

order has been passed in accordance with law as no illegibility has been observed in the same.

7. For what has been discussed above, instant petition bears no merits, therefore, the same is hereby **dismissed in limine**. However, the petitioner may approach Civil Court for enforcement of terms of compromise, if so, advised.

(MOHSIN AKHTAR KAYANI)
JUDGE

R.Anjam