

Mst. BISMA NOUREEN----Petitioner

Versus

**FEDERATION OF PAKISTAN through Secretary, Ministry of Interior, Islamabad and
11 others----Respondents**

Writ Petition No.3585 of 2021

ORDER

TARIQ MEHMOOD JAHANGIRI, J.----Through the instant writ petition, the petitioner has challenged order dated 26.07.2021, passed by learned Additional District Judge, West-Islamabad, whereby application filed by the petitioner seeking review of order dated 26.06.2021, was rejected.

2. Succinctly stated facts of the case are that the petitioner filed a suit for permanent injunction and recovery of Rs. 2.000 billion on account of malicious prosecution on the ground that she was without her original CNIC, due to which she was not allowed to enter into the premises of august Supreme Court of Pakistan, whereupon she insisted for entry and police came there and she was sent to Women Police Station but later on she was released on surety. Being aggrieved of alleged illegal acts, the petitioner filed above mentioned suit for recovery of damages. Learned trial Court / Additional District Judge, West-Islamabad vide judgment / decree dated 26.06.2021, rejected the plaint under Order VII, Rule 11, C.P.C. The petitioner filed an application for review of judgment / decree dated 26.6.2021 which was dismissed on 26.7.2021, hence instant writ petition.

3. Petitioner in person states that impugned order is erroneous, illegal and unlawful, hence the same is liable to be set aside.

4. Arguments heard, record perused.

5. Admittedly, a civil suit titled as "Mst. Bisma Noureen v. FOP and others" for permanent injunction and recovery of Rs.2.000 billion on account of malicious prosecution was filed by the petitioner in the Court of Additional District Judge, West-Islamabad. Plaint was rejected under Order VII, Rule 11, C.P.C. vide judgment/decreed dated 26.6.2021.

6. The petitioner did not file any appeal against the judgment / decree dated 26.6.2021, hence the same has attained finality. Instead of filing an appeal, the petitioner filed a review petition before the learned trial Court which was dismissed vide impugned order dated 26.07.2021. Learned trial Court has stated in the impugned order that the petitioner is unable to mention some mistake or error apparent on the face of the record, or any sufficient reason for review of the decree passed or order made against her. Hence, application for review was dismissed under Order XLVII, Rule 1, C.P.C.

7. As appeal is provided under section 96, C.P.C. against judgment / decree dated 26.06.2021, whereby, plaint was rejected under Order VII, Rule 7, C.P.C. The petitioner did not file any appeal rather filed a review petition.

8. The scope of review is very limited. It has been held by the Hon'ble Supreme Court of Pakistan in a case titled as "Government of Punjab and others v. Aamir Zahoor ul Haq and others" (PLD 2016 SC 421) that:

"Scope of the review, thus is limited and is confined only to error apparent on the face of the record or floating on the surface of the judgment which, if noticed earlier, would have direct bearing on the conclusions drawn by the Court."

9. It has also been held by the Hon'ble Supreme Court of Pakistan in a case titled as "Majid Mahmood v. Muhammad Shafi" (2008 SCMR 54), that:

"8. The exercise of review jurisdiction does not mean a rehearing of the matter and as finality attaches to the order, a decision, even though it is erroneous per se, would not

be a ground to justify, its review---"

In another case titled as *Ali Ahmed v. Muhammad Iqbal* (2009 SCMR 394) the Honorable Supreme Court of Pakistan observed that:

"7. It was further observed that "A review by its very nature was not an appeal or rehearing merely on the ground that one party or another conceived himself to be dissatisfied with the decision of the Court"

The Honorable Supreme Court of Pakistan held in another case titled as *Haji Muhammad Boota v. Member (Revenue) BOR* (2010 SCMR 1049) that:

" It is well-settled by now that "where petitioner took up all material grounds taken by him during the course of hearing of appeal and dealt with and decided in judgment under review and thus sought rehearing of arguments addressed by him at the time of hearing and disposal of appeal and wished a different decision from one already given without satisfying jurisdictional requirement necessary for maintaining review petition. The petition was dismissed. *Akbar Ali Bukhari v. State Bank of Pakistan* 1981 SCMR 518. The re-hearing of the case in garb of review petition cannot be allowed as held in case titled *Zulfikar Ali Bhutto v. The State* PLD 1979 SC 741 and moreso review cannot be granted on the ground that certain facts require re-appraisal by Supreme Court *Basharat Khan v. The State* 1984 SCMR 1033 (1), *Muhammad Nazir v. State* 1979 SCMR 89, *Kala Khan v. Misri Khan* 1979 SCMR 347 and *Saghir Ali v. Mehar Din* 1968 SCMR 729."

10. The review jurisdiction is confined to the patent error or mistake floating on surface of the record. It was held by the Honorable Supreme Court in case titled as *Sh. Mehdi Hassan v. Province of Punjab through Member Board of Revenue* (2007 SCMR 755) that:

"-----This is settled law that the points already raised and considered before the Court, cannot be re-agitated in review jurisdiction which is confined to the extent of patent error or a mistake floating on the face of record which if not corrected may perpetuate illegality and injustice. The mere fact that another view of the matter was possible or the conclusion drawn in the judgment was wrong, would not be a valid ground to review the judgment unless it is shown that the Court has failed to consider an important question of law. The learned counsel has not been able to point out any such error of law in the judgment or interference in the review jurisdiction."

Reliance is also placed on cases reported as PLD 2020 SC 227, 2002 SCMR 1336, 2017 MLD 937, 2017 MLD 1049, 2020 CLC 1273, 2017 CLC (Note) 192.

11. It is well settled that certiorari is only available to quash a decision for an error of law. It will also be issued for correcting errors of jurisdiction when an inferior Court or a tribunal acts without jurisdiction or in excess of its jurisdiction, or fails to exercise its jurisdiction or where the Court or a tribunal acts illegally in exercise of its undoubted jurisdiction and it decides a matter in violation of the principle of natural justice. The High Court while issuing a writ of certiorari acts in exercise of supervisory and not appellate jurisdiction. The High Court in exercise of its writ jurisdiction will not review the findings of facts and laws reached by the inferior Court or a tribunal. Reliance may be made to the following case laws:

- (i) Case titled as *Amjad Khan v. Muhammad Irshad (Deceased) through LR*s (2020 SCMR 2155).
- (ii) Case titled as *President All Pakistan Women Association, Peshawar Cantt v. Muhammad Akbar Awan and others* (2020 SCMR 260).
- (iii) Case titled as *Chief Executive MEPCO and others v. Muhammad Fazil and others* (2019 SCMR 919).
- (iv) Case titled as *Chairman, NAB v. Muhammad Usman and others* (PLD 2018 SC 28).
- (v) Case titled as *Shajar Islam v. Muhammad Siddique and 2 others* (PLD 2007 SC 45).

12. For what has been discussed above, petitioner in person has failed to point out as to

how the impugned order dated 26.7.2021, passed by the learned Additional District Judge, West-Islamabad is the consequence of error of law or without jurisdiction or in excess of jurisdiction.

13. In view of above, instant writ petition is not maintainable, hence dismissed in limine being meritless with no order as to costs.

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