

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No.1336-Q of 2020

Kamran Sultan
Versus
S.H.O P.S Golra Sharif, etc

Petitioner by:	Mr. Zia Hussain Raja, Advocate for the petitioner.
State by:	Zohaib Hassan Gondal, State Counsel Shabbir Ahmed, S.I/SHO & Javed Iqbal, A.S.I.
Date of Hearing:	08.06.2020

Ghulam Azam Qambrani, J: Through this petition, the petitioner has invoked the constitutional jurisdiction of this Court, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 read with Section 561-A Cr.P.C with the following prayer;-

"In the above circumstances, it is most humbly prayed that the writ petition may kindly be accepted, the impugned registration of the case FIR No.214 dated 12.04.2020 P.S. Golra, U/s 420, 468, 471 PPC may kindly be declared to be passed and registered without lawful authority and no cognizable offence under Section 420, 468, 471 PPC is made out and may kindly be quashed in the interest of justice.

It is further prayed that the I.G Police may kindly be directed to hold departmental inquiry against the responsible police officials, who registered this false case and registration of a case which was not falls within the jurisdiction of the Police Station Golra, Islamabad."

2. Briefly stated facts of the case are that a case was registered against the petitioner vide F.I.R No.214 dated 12.04.2020, under Section 420, 468, 471 P.P.C with the Police Station Golra Sharif, Islamabad, with the averments that he is involved in preparation of forged file of vehicle and subsequently used it as genuine.

3. Learned counsel for the petitioner contended that brother of the petitioner namely Usama Sultan purchased a car Honda Civic Registration No.CB-627 on 06.04.2020 from one Muhammad Ashfaq through an agreement on white paper and the said car was parked at

workshop situated at Abbottabad. That on 11.04.2020, at about 07:40 pm, the petitioner and his brother Usama Sultan were abducted from Abbottabad by the police officials of Golra Sharif, who were in civil dresses and armed with weapons; that elder brother of the petitioner namely Imran Sultan submitted an application before the check post Sikandarabad, Abbottabad with regard to abduction of his brother; that the petitioner came to know about the alleged vehicle which was also tempered at the same workshop Abbottabad for some mechanical problem which is the property of Excise Taxation and Narcotics Control, government of K.P.K and the same was in official use of Mr. Naseem Khan, Sub-Inspector Excise Bureau of Intelligence and investigation Hazara Region who had applied for Superdari of the alleged vehicle which was allowed vide order dated 05.05.2020. It is further submitted that the alleged vehicle was recovered from Abbottabad whereas the FIR was lodged at Police Station Golra, Islamabad which shows the malafide on the part of the D.S.P Khalid Awan and S.H.O Police Station Golra, Islamabad. Further contended that the petitioner and his brother Usama Sultan were tortured by respondent No.1 to 3 to extract money from him. Next contended that the petitioner was arrested on 11.04.2020 from Abbottabad whereas the fake F.I.R was registered on 12.04.2020 at Police station Golra, Islamabad; that the petitioner has been falsely implicated in the instant case with malafide intention and lastly prayed for quashment of the above said F.I.R.

4. On the other hand, learned State counsel opposed the contentions raised by the learned counsel for the petitioner and submitted that the petitioner is involved in preparation of forged files of vehicles and used them as genuine, hence, prayed for dismissal of the instant petition.

5. Arguments heard, record perused.

6. The stance of the petitioner that he has committed no offence and he has been falsely involved in the instant case, is a question to be determined by the learned trial Court after recording of evidence which exercise cannot be done by this Court in exercise of its Constitutional Jurisdiction. It is a fact that scope of quashing of F.I.R or interfering in the investigation is limited while exercising powers in jurisdiction under Article

199 of the Constitution of the Islamic Republic of Pakistan. Resorting to the provisions of Section 561-A Cr.P.C, or to the provisions of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 seeking quashment of a criminal case, is an extraordinary remedy, which can be invoked only in exceptional circumstances and the said provisions can never be exploited as a substitute for the prescribed trial or to decide the question of guilt or innocence of an accused. Determination of the correctness or falsity of the allegations levelled against the petitioner in the F.I.R is an obligation cast upon the Court prescribed by the Code of Criminal Procedure for the purpose on the basis of legal evidence led at the trial after a proper opportunity to both the parties to plead their causes. No such extraordinary circumstances have been mentioned in the instant case, which can permit this Court to deviate from the normal course of law and to quash the F.I.R by exercising extraordinary constitutional remedy under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 read with section 561-A Cr.P.C and is not supposed to enter into a factual controversy unless it is established that certain facts are not disputed between the parties and keeping in view the controversy between the parties, it is not fair to quash the impugned F.I.R at this stage.

7. While considering quashing of a criminal case in exercise of powers vested under Article 199 of the Constitution, the High Court is required to take into consideration the various alternate remedies available to a petitioner before the learned trial Court.

8. In view of what has been discussed above, this Court is not inclined to quash the impugned F.I.R. This petition having no force is, therefore, **dismissed**.

~~(Ghulam Azam Qambrani)~~
Judge

Announced in open Court on this 30th day of June, 2020.

~~Judge~~

Rana.M.Ift