

## **ORDER SHEET.**

### **IN THE ISLAMABAD HIGH COURT, ISLAMABAD.** **JUDICIAL DEPARTMENT.**

**Writ Petition No.1770/2020.**

**Muhammad Imran**

**Versus**

**District Magistrate P.S. Bani Gala, Islamabad, etc.**

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
<b>(01)</b>	<b>06.07.2020.</b>	<b>Raja Rizwan Abbasi, Advocate for petitioner.</b>

Through this writ petition the petitioner has prayed for constitution of medical board to examine the injured namely Rameez Ayub/respondent No.2, who got lodged the case FIR No.207, dated 05.10.2018, U/S 324 PPC, P.S. Bani Gala, Islamabad.

2. Learned counsel for the petitioner *inter-alia* contends that complainant/respondent No.2 was allegedly injured in the above mentioned FIR and as such, no permanent disability to the said complainant has been declared by the doctor in MLR and he is living healthy life with no impairment and Section 336 PPC is not made out, but the said offence has been leveled which is contrary to record; that in order to resolve the controversy petitioner has filed an application to the District Magistrate for constitution of medical board to re-evaluate the condition of respondent No.2.

3. When confronted regarding present status of case, learned counsel for the petitioner conceded that challan has been submitted in the Court and case is under trial.

4. In view of above position, when FIR was lodged on 05.10.2018 and even medical examination was conducted on the said date by the doctor, which is

apparent from the MLR appended with this petition, constitution of medical board at this belated stage is not warranted under the law after period of two years. Reliance is placed upon 2018 YLRN 58 Lahore (Abdul Rasheed v. Additional Sessions Judge/Ex-Officio Justice of Peace, Bhakkar). Similarly, the superior Courts are reluctant in constitution of medical board when the matter has already been proceeded in the trial after submission of challan as the person who intends to take benefit of any medical opinion can settle those issues during the trial by way of cross examination of the concerned witness.

5. The other important aspect which could not be overlooked is present stage of trial which is likely to be concluded in near future and as such, if the petitioner has any grievance against medical evidence (MLR) or the opinion of the doctor, he may cross-examine the MLO (PW) and may ask the relevant question to justify his plea qua permanent disability/impairment of the complainant, however, original MLR could only be explained by the relevant witness in the witness box, therefore, instant writ petition is not maintainable on merit as well as due to *laches*. Hence, the same is hereby dismissed in limine.

(MOHSIN AKHTAR KAYANI)  
JUDGE