

Form No: HCJD/C-121
ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No.2048/2020

Muhammad Ramzan

Versus

Station House Officer, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20-10-2021	Mr Atta Ullah Hakim Kundi, Advocate for petitioner. Mr Danyal Hassan, State Counsel. Mr Samiullah Wazir, Mr Burhan Latif, Advocates for respondent. Mr Raza Muhammad, SI P.S. Kohsar and Mr Tariq, ASI PS Secretariat with record.

Athar Minallah, C.J.- Through this petition, the petitioner Muhammad Ramzan (*hereinafter referred to as the '**Petitioner**'*) has assailed order, dated 25-07-2020, passed by the learned Ex-Officio Justice of Peace.

2. The facts, in brief, are that Abdul Ghafoor (*hereinafter referred to as '**Respondent no.1**'*) filed a complaint on behalf of Waqar-e-Madina Travel & Tours (*hereinafter referred to as the '**Company**'*). The Company is, inter alia, engaged in the business of facilitating citizens of Pakistan to perform Hajj and Umrah. Respondent

no.5 i.e. Haji Mushtaq asserts to be the Chief Executive of the Company. The complaint was filed on 18-01-2020 before Respondent no.1. However, the latter did not register a criminal case and, therefore, petition under section 22-A of the Code of Criminal Procedure, 1898 (*hereinafter referred to as 'Cr.P.C.'*) was filed and the same was allowed vide the impugned order passed by the learned Ex-Officio Justice of Peace. It is noted that earlier a complaint was filed on 30-03-2019, wherein similar allegations were made against the petitioner. The petition filed under section 22-A of Cr.P.C. was dismissed by the learned Ex-Officio Justice of Peace vide order, dated 02-11-2019. A plain reading of the said order shows that the complaint was dismissed by the learned Ex-Officio Justice of Peace because two separate civil suits were pending before competent courts. The respondents did not assail the earlier order, dated 02-11-2019, but filed a fresh complaint on 30-03-2019.

3. The learned counsel for respondents no.4 and 5 has argued that the complaint filed on 18-01-2020 and the petition under section 22-A Cr.P.C. were based on a distinct cause of action i.e.

the respondents had allegedly misused the letter-head pads. It has been alleged that the petitioner had unauthorizedly stolen the signed letter-head pads and had subsequently resorted to its misuse.

4. The learned counsel for the petitioner on the other hand has contended that several civil disputes are pending between the parties before the various competent courts. One of the suits between the respondents and one Sher Zaman is stated to be pending before a competent court in Dera Ismail Khan. The learned counsel has, therefore, stressed that on the basis of the same dispute, a second complaint was filed for registration of the criminal case.

5. The learned counsels have been heard and the record perused with their able assistance.

6. It is not disputed that the petitioner was working as an employee of the Company. The latter had left the employment and it is alleged that he had stolen the letter-head pad signed by respondent no.5. The authenticity of the signatures is not disputed. However, the dispute is regarding contents

of some documents regarding which civil suits are pending before competent courts at Dera Ismail Khan and at Islamabad, respectively. The earlier complaint filed on 30-03-2019 had alleged that the letterhead signed by respondent no.5 were taken when the petitioner had left his employment. The learned Ex-Officio Justice of Peace had dismissed the petition vide order, dated 02-11-2019, on the sole ground that two separate civil suits were pending before the competent court at Islamabad. The order was not challenged and, therefore, it attained finality. The fresh complaint was not materially different except that it has been alleged that the stolen letterheads have been misused.

7. It is an admitted position that a civil suit is pending before a competent court at Dera Ismail Khan wherein the contents of a document have been challenged. It is not disputed that it is regarding the same letterheads alleged to have been stolen by the petitioner. Whether or not the contents of the document are fabricated or otherwise, is yet to be decided by the competent court at Dera Ismail Khan upon conclusion of trial. This Court is, therefore, satisfied that since several other civil suits are also

pending relating to the same allegations, therefore, the proceedings would be materially prejudiced if a criminal case was to be registered and investigated. The registration of a criminal case at this stage would definitely jeopardize the civil disputes pending before various competent courts. This court is also satisfied that the alleged dispute is of a civil nature and no case was made out for ordering registration of a criminal case. The direction given by the learned Ex-Officio Justice of Peace is, therefore, not sustainable.

8. For the foregoing reasons, this petition is allowed and the impugned order, dated 25-07-2020, is hereby set aside.

(CHIEF JUSTICE)