

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD**

**Writ Petition No.61/2020**

Shah Muhammad Baloch

Vs

The Learned Justice of Peace, etc

**Petitioner by:** Mr. Farhan Nazir Kiani, Advocate,  
**Respondents by:** Mr. Tahir Hameed Khan Niazi, State  
Counsel.  
Abdul Jabbar, Additional S.H.O. Fiaz I.O.  
**Date of Decision:** 04.02.2020.

**FIAZ AHMAD ANJUM JANDRAN, J:** Through the instant writ petition, petitioner assails order dated 08.01.2020, passed by learned Additional Sessions Judge/Ex-officio Justice of Peace, Islamabad-East, whereby application under Sections 22-A&B Cr.P.C, filed by the petitioner has been dismissed.

2. Learned counsel contends that in case of a report regarding commission of cognizable offence, the local police is under obligation to proceed in terms of Section 154 Cr.P.C and holding of inquiry before registration of FIR is not permissible under the law; that application moved by the petitioner, on the face of it, discloses commission of a cognizable offence by the proposed accused, therefore, there was no justification to reject the application at its inception.

3. Learned counsel further contends that the observations rendered by the learned Ex-officio Justice of Peace amounts to judgment before trial and are liable to be set-aside.

4. As against above, learned State Counsel contends that during initial inquiry it was found that the lady/proposed accused, who allegedly issued cheque, was living abroad and the petitioner has not produced any document in support of the allegation, therefore, application for registration of FIR could not

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be processed. It is further asserted that the order impugned is well reasoned and does not call for any interference.

5. Heard the learned counsel for the petitioner, learned State Counsel and examined the record.

6. It is settled principle that the learned Ex-officio JOP is vested with the powers to issue directions for registration of FIR in case there is a report regarding commission of a cognizable offence. At the same time, it is mandatory that the powers should not be exercised sparingly rather with application of judicial mind. The Hon'ble Apex Court in case reported as **PLD 2016 SC 589 {Younas Abbas & Others Vs Additional Sessions Judge Chakwal & Others}** has elaborated the role of Ex-officio JOP in following terms:-

*'Functions performed by the Ex Officio JOP were not executive, administrative or ministerial inasmuch as he did not carry out, manage or deal with things mechanically. Such functions as described in Clause (i), (ii) & (iii) of Section 22-A(6), Cr PC, were quasi judicial as Ex Officio JOP entertain applications, examine the record, heard the parties, passed orders and issue directions with due application of mind. Every lis before him demanded discretion and judgment. Functions so performed could not be termed as executive, administrative or ministerial on any account. '*

7. As expounded by the august Supreme Court, the powers exercised by the Ex-officio JOP are quasi judicial that includes entertaining applications, examination of record, hearing the parties and to pass appropriate directions with due application of mind. Every complaint/application warrants discretion and judgment. It is thus held that application of judicial mind, examination of record and passing of directions with due application of mind are *sine qua non* for exercising powers under Section 22-A(6) Cr.P.C.

8. By following the principle (*Supra*), record of the present case has been examined whereby it reveals that parties are in civil litigation; sister of the proposed accused had been in marriage bond with son of the petitioner; sister of the proposed

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accused earlier filed an application for registration of an FIR to the local police and subsequently before the learned Ex-officio JOP which was dismissed vide order dated 21.01.2020 by observing that *"as per police report and as per previous as well as pending status of litigation between the parties, this petition has just been moved to put pressure on opponent and this petition has been moved for ulterior motive. The passport has already been confiscated by the FIA; so allegation of petitioner seems concocted."*

9. The learned State Counsel placed on record copy of police report dated 02.01.2020, of the ASP Operations, ICT whereby it is reported that on inquiry, petitioner remained unable to extend cause of advancing huge amount to the proposed accused while the signatures of the proposed accused on other papers and on the cheque in question appear to be quite different.

10. Apart from above, respondent No.3/SHO Police Station Barakahu, Islamabad in his report dated 04.02.2020 maintained that during probe, it revealed that the alleged accused is abroad {USA} while the petitioner has failed to produce any documentary evidence in support of his version.

11. The circumstances highlighted above aptly indicate that the impugned order is well reasoned and, therefore, does not call for any interference. Consequently, present writ petition being devoid of merits is dismissed, however, petitioner shall be at liberty to avail other remedies, available to him under the law, if so advised.

**(FIAZ AHMAD ANJUM JANDRAN)**  
**JUDGE**

Suhail