

Form No: HCJD/C-121.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 2035 of 2019

Tasleema Bibi

Vs

SSP, Islamabad etc

PETITIONER BY: Mr. Muhammad Farooq, Advocate.
RESPONDENTS BY: Mr. Rabi Bin Tariq, State Counsel.
Mr. Waqar Ud Din Sayed, DIG (Operation),
Islamabad.
Mr. Kamran Adil, AIG, Islamabad.
Mr. Ghulam Muhammad Baqir, DSP, Islamabad.
Mr. Azhar Shah, DSP, Islamabad.

DATE OF HEARING: 28-05-2019.

ATHAR MINALLAH, CJ.- The petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, alleging that respondents no.4 and 5 were kept in illegal confinement by respondent no.3.

2. The facts, in brief, are that respondents no.4 and 5 namely, Ali Sher and Hamza, who are nephews of the petitioner and stated to be 12 and 14 years old respectively, were alleged to have been abducted by Saqib Mahmood, Assistant Sub Inspector on 13.05.2019 and kept in illegal confinement. The petitioner had also alleged that when she approached respondent no.2 i.e. the Incharge of Police Station, Golra, Islamabad namely, Muhammad Arshad, Inspector, the latter threatened that other family members would also be arrested unless the elder brother of the two children surrenders himself before the Investigating

Officer. The petitioner had filed a petition under section 491 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the "**Cr. P. C**") and pursuant thereto the learned Additional Sessions Judge-West, Islamabad vide order, dated 18.05.2019 had appointed a Bailiff to conduct the search of the Police Station. The Bailiff after conducting the search and enquiring from the concerned officials had submitted a written report. After perusal of the report the petition was disposed of. The petitioner, thereafter, invoked the jurisdiction of this Court under Article 199 of the Constitution.

3. In compliance with this Court's order, dated 24.05.2019, the Senior Superintendent of Police, namely Malik Naeem Iqbal had appeared alongwith respondents no.2 and 3. On the last date of hearing this Court was informed that the two children i.e. respondents no. 4 and 5 were indeed taken into custody by the Investigating Officer, despite the fact, that they were not involved in any criminal activity. The Superintendent of Police had sought time in order to take appropriate action. The Inspector General of Police, Islamabad Capital Territory vide order, dated 27.05.2019 was directed to enquire into the matter and take appropriate action in accordance with law. When the case was taken up today, Mr. Waqar Ud Din Sayed, Deputy Inspector General (Operations), Islamabad Capital Territory submitted a written report. The relevant portion of the report is as follows:-

- " 1. **Mr. Waqar-ud-Din Sayed, DIG/Operations, Islamabad**
The DIG Operations has been directed to ensure that the rule of law is upheld and human rights fully protected and respected. He has been directed to ensure that highest standards of policing are followed in the working of the ICT Police. He has also been directed to ensure that no tolerance is shown to the police officers who abuse the process of law. The DIG Operations has been

directed to once again convey the directions to all from the level of the Zonal Ssp to the level of the Muharrars and to ensure personally that the system is institutionalized (Annex-A).

2. Malik Naeem Iqbal, SP/Saddar Zone

He has been issued an explanation notice on account of his conduct and his failure to supervise officers under him especially the DSP and SHO. He has been directed to submit his reply within 03 days on receipt of which, further action will be taken. (Annex-B)

3. Mr. Ghulam Muhammad Baqir, DSP/SDPO Saddar Circle

He has been issued an explanation notice on account of his conduct and his failure to supervise officers under him especially the SHO and I.O. He has been directed to submit his reply within 03 days on receipt of which, further action will be taken. (Annex-C)

4. Inspector Arshad Ali No.ID/112, SHO/PS Golra and P/ASI Saqib Mahmood, Investigating Officer

Both the officers have been placed under suspension and departmental action has been initiated against them (Annex-D). An FIR No.233/2019 u/s 328-A/344/506 PPC, Police Station Golra Sharif has also been registered against them and the DIG/Operations has been directed to arrest them. (Annex-E)."

4. This Court is satisfied that the Inspector General of Police, Islamabad Capital Territory has taken appropriate action against the officials who had allegedly abducted the two children and had kept them in illegal confinement for a considerable time. It would be appropriate not to make any further observation, lest it may prejudice the right of fair trial of the accused before the competent Court. Moreover, this Court records its appreciation for the timely action taken by the Inspector General of Police, Islamabad Capital Territory and other senior officers, which would definitely help in improving the culture of the Police Stations of Islamabad Capital Territory and make public

functionaries more accountable for their acts and omissions, which affect the fundamental rights of the citizens. This Court expects that the Inspector General of Police and the other officials of the Police department of the Islamabad Capital Territory will demonstrate the same zeal in bringing about a meaningful change in the culture of the police stations of the Islamabad Capital Territory. It is further expected that fair and transparent investigations would be conducted pursuant to registration of FIR No.233/2019, dated 27.05.2019 against respondents no.2 and 3.

5. It is noted that the Police Order, 2002 has become effective and operative in the Islamabad Capital Territory because the Local Governments established and elected under the Islamabad Capital Territory Local Government Act, 2015 have assumed their respective offices. Subsection (3) of Section 1 of the Police Order, 2002 has, therefore, taken effect and issuance of a notification in this regard has become a mere formality and a ministerial act. Consequently, Chapter XVII titled 'Offences by and Punishments for Police Officers' has also become operative. Section 156 of the Police Order, 2002 declares that an officer who without lawful authority, or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place or vexatiously and unnecessarily seizes the property of any person or vexatiously and unnecessarily detains, searches or arrest any person or inflicts torture or violence to any person in his or her custody, shall, for every such offence, on conviction be punished with imprisonment for a term, which may extend to five years and with fine. The Inspector General of Police, Islamabad Capital Territory may, therefore, also consider taking action under the said provisions in the instant case. The Federal Government and the Chief Commissioner,

Islamabad Capital Territory are expected to fulfill their respective obligations under the Police Order, 2002 for ensuring effective performance and accountability of the Police force of the Islamabad Capital Territory.

6. The instant petition is, therefore, disposed of in the above terms.

(CHIEF JUSTICE)

Approved for reporting.

*Asif Mughal**