

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No.206-Q of 2020

Muhammad Qasim
Vs
The State and another.

Date of Decision:	14.05.2020
Petitioner By:	Qazi Khalil Ur Rehman, Advocate.
State by:	Zohaib Hassan Gondal, State Counsel with Basharat S.I & Sabir Japa, A.S.I.

Ghulam Azam Qambrani, J: The instant petition filed under Article 199 of Constitution of Islamic Republic of Pakistan, 1973 read with Section 561-A Cr.P.C, seeking quashment of F.I.R No.505, dated 11.11.2019 under Sections 325 P.P.C, registered with Police Station, Tarnol, Islamabad.

2. Briefly stated facts of the case are that respondent No.2, Safeer Ahmad s/o Jameel Akhtar lodged F.I.R No.502 dated 04.11.2019 under Section 364-A P.P.C with the Police Station Tarnol, Islamabad, with the averments that on 04.11.2019 at about 12:30 p.m. his wife Sidra Bibi alongwith his daughter namely Zainab Bibi aged about three years went in the neighbourhood for "DUM" where his daughter was found missing, his wife searched for her daughter but failed, hence the above said F.I.R was lodged against unknown accused persons with the allegation of abduction of her daughter from the house of the petitioners. The police arrested the petitioner in the said case. On 14.11.2019, when petitioner was being brought before the learned Judicial Magistrate for obtaining physical remand in a private vehicle, where the petitioner attempted to commit suicide, hence, on the written report of respondent No.2 Sabir Hussain A.S.I, F.I.R No.505 was registered under Section 325 P.P.C with the Police Station Tarnol, Islamabad.

3. Learned counsel for the petitioner contended that no offence has been committed by the petitioner; whereas the police officials badly tortured the petitioner and lodged the instant F.I.R against him; that ingredients of section 325 P.P.C are not attracted in the instant case and prayed for quashment of the impugned F.I.R.

4. On the other hand, learned State counsel opposed the arguments advanced by the learned counsel for the petitioner and contended that the petitioner has tried to commit suicide in police custody; he is nominated in the F.I.R and that challan has already been submitted before the learned trial Court; lastly, prayed for the dismissal of the instant petition.

5. Arguments heard, record perused.

6. The stance of the petitioner is that he has committed no offence whereas the police have lodged a false and frivolous case against him, is a question to be determined by the learned trial Court after recording of evidence which exercise cannot be done by this Court. It is a fact that scope of quashing of FIR 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.

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. In the present case, challan has already been submitted before the learned Trial Court and the petitioner can seek alternate remedy under section 249-A or 265-K Cr.P.C as the case may be. A criminal case registered cannot be quashed after the trial court has taken cognizance of a case, as the law has provided an aggrieved person with efficacious remedies for seeking a premature acquittal, if there is no probability of conviction or a case is not made out.

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

~~Ghulam Azam Qambrani~~
Judge

Rana M.Ift