

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.1683/2020.

Muhammad Sadaqat Abbasi & another

Versus

Senior Superintendent of Police (SSP), Islamabad, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	05.08.2020.	Mr. Javed Iqbal Khan, Advocate for petitioners.

Through this writ petition, the petitioners have prayed for quashing of FIR No.102, dated 05.03.2020, U/S 149, 186, 147, 353 PPC, P.S. Karachi Company, Islamabad.

2. Brief facts referred in the instant FIR are that petitioners alongwith others have instigated the employees of Federal Directorate of Education (FDE) for agitation and protest against the orders of Education Directorate and it was alleged that they have forcibly locked the respective offices and restrained the officials from performance of their lawful duties.

3. Learned counsel for the petitioners *inter-alia* contends that petitioners were not present at the time of alleged occurrence and they were victimized due to their positions in the Directorate and respondent/ complainant, Director Administration Services Saqib Shahab has involved the petitioners with malafide intention in order to settle the score; that writ petition No.18/2020 and writ petition No.1814/2020 were filed before this Court by the petitioners and another

employee of FDE against the illegal appointment and posting of Director General of FDE, which made very basis of registration of criminal case. Learned counsel has also drawn the attention of this Court towards different show cause notices as well as office orders against the petitioners and other employees under the Government Servant (Efficiency & Discipline) Rules, 1973 and contends that charges leveled in those show cause notices and charge sheets do not commensurate with the allegations referred in the FIR.

4. Arguments heard, record perused.

5. Perusal of record reveals that as per above mentioned FIR, petitioners were allegedly involved in agitation/demonstration in the office of FDE, Islamabad, whereby they have allegedly instigated other employees of FDE to agitate and protest, even they have locked different offices and restrained officials from performance of their lawful duties, although petitioners have denied these facts but all these allegations require thorough probe and investigation, which could not be resolved by this Court in the constitutional jurisdiction. Even otherwise, all these allegations as well as arguments raised by the petitioners based upon disputed facts, which could only be resolved after recording of evidence.

6. It is trite law that only those FIRs would be quashed where no offence is made out or authority which has registered the case has no jurisdiction or the

dispute is of civil nature, which has been converted into criminal procedures or malicious prosecution is floating on the record. Reliance is placed upon 2011 SCMR 1937 (Rana Shahid Ahmad Khan Vs. Tanveer Ahmed). Even otherwise, High Court has no jurisdiction whatsoever to take the role of investigating agency and to quash FIR while exercising the inherent powers U/S 561-A Cr.P.C. until and unless very exceptional circumstances exist. Reliance is placed upon 2008 SCMR 76 (Dr. Ghulam Mustafa Vs. State). The petitioners have failed to demonstrate any of above referred grounds in their arguments. Even otherwise investigation has not yet been concluded.

7. In view of above reasons, instant writ petition is not maintainable and the same is hereby dismissed in limine.

8. Before parting with the order, it has been observed that petitioners are on pre-arrest bail w.e.f. 09.03.2020 from the Court of Additional Sessions Judge-X (West), Islamabad.

9. Learned counsel for the petitioners has been confronted regarding the present status of pre-arrest bail application, whereby he conceded that petitioners' pre-arrest bail application is still pending before the concerned trial Court due to Covid-19 Pandemic.

10. The above referred state of affairs on behalf of the concerned Court is beyond imagination and even this aspect has not been noticed by learned Sessions

Judge (West), Islamabad, as to why pre-arrest bail application filed by the petitioners is pending for the last five (05) months.

11. In view of above position, learned MIT of this Court is directed to call an explanation from Additional Sessions Judge-X (West), Islamabad for delay in conclusion of pre-arrest bail petition of the petitioners, where-after, a report shall be submitted for perusal in Chambers and further action.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid