

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No.432 of 2020

Faisal Mehmood
Versus
District & Sessions Judge, etc.

Petitioners By:	Malik Javed Iqbal Awan, Advocate
Respondent No.2 by:	Malik Mumtaz Ahmad, Advocate
State by:	Mr. Zohaib Hassan Gondal, State counsel .
Date of decision:	07.05.2020

GHULAM AZAM QAMBRANI, J.:- The petitioner has invoked the Constitutional jurisdiction of this Court by filing instant petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking a direction to the SHO/ respondent No.3 for registration of criminal case against respondent No.2.

2. Briefly stated facts of the instant petition are that the petitioner filed an application under Section 22-A Cr.P.C. before the learned (Ex-Officio Justice of Peace), Additional Sessions Judge (West) Islamabad, for registration of F.I.R against respondent No.2 (hereinafter be called as "***respondent***") stating therein that he was married with respondent No.2 on 10.01.2014, out of the said wedlock a baby girl was born on 30.10.2014, who is alive and in the custody of the respondent; that the respondent filed a suit for recovery of maintenance allowance, which was decreed on the basis of a compromise; that thereafter the respondent filed an application before the learned Judge Family Court, upon which the said case was reopened wherein the respondent levelled

an allegation against the petitioner that he coarsely miscarriage the baby; that after statement of the doctor and LHV, she withdrew her suit and application on 31.07.2019. Thereafter, the petitioner filed petition under Section 22-A Cr.P.C, which was dismissed vide order dated 06.12.2019, hence, the instant petition.

3. The learned counsel for the petitioner argued that the petitioner filed an application before the concerned police station for registration of F.I.R but in vain; that the petitioner approached the Ex-officio Justice of Peace by filing a petition U/s 22-A of Cr.P.C. which was dismissed without application of judicial mind.

4. Conversely, the learned counsel for respondent assisted by learned State Counsel strongly opposed the contentions raised by the learned counsel for the petitioner contending that no offence has been committed by the respondent and supported the impugned order.

5. Arguments heard, record perused.

6. Perusal of the record reveals that the petitioner and respondent No.2 are husband and wife. There is a family dispute between the spouses. As per statement of the Doctor Tehmina Sajjad Khan (photocopy annexed at page 28 of this petition), the petitioner Faisal Mehmood brought his wife on 24.07.2019 for her treatment; that due to bleeding, miscarriage was occurred and it was done with the consent of the petitioner and his wife, as such, the learned Additional Sessions Judge has rightly dismissed the petition of the petitioner holding that "the petitioner himself is signatory of the permission, so, he is equally liable for any offence, if committed". In view of the facts and circumstances of the instant case, there is no question of commission of any cognizable offence by the respondent. The contents of the petition do not disclose

commission of cognizable offence which would warrant interference with the well reasoned order of the learned Ex-Officio Justice of Peace.

7. It is a settled principle of law that the Ex-Officio Justice of Peace while seized of a petition under Section 22-A/22-B of Cr.P.C is not to act mechanically by issuing a direction for registration of a criminal case in each and every case, which have to be decided on its own peculiar facts and circumstances. In any case, the allegations levelled against the respondent by the petitioner cannot be addressed by this Court while exercising its extraordinary constitutional jurisdiction, as the same entail a factual inquiry.

8. For what has been discussed hereinabove, the learned counsel for the petitioner has failed to point out any illegality or irregularity in the impugned order calling for interference by this Court in its Constitutional jurisdiction. Resultantly, the instant petition having no force, is hereby **dismissed**.

Ghulam Azam Qambrani
Judge

Rana. M. Ift