

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
(JUDICIAL DEPARTMENT)

W.P no.3626/ 2020

Ebadat Khan

Versus

Justice of Peace/ Additional Sessions Judge (East), Islamabad, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
04	25.01.2022	Ch. Muhammad Jehangir, Advocate for the petitioner. Mr. Asad Ullah Taimoor, Learned State counsel. M. Farooq, Sub-Inspector, police station Khanna, Islamabad.

The petitioner assails the order dated 02.10.2020 passed by the learned *ex-officio* Justice of Peace Islamabad-East, whereby the petitioner's application under section 22 A/B Cr.P.C for registration of an FIR against respondents no.4 and 5 (police officers Naseer ASI and Basit Butt) was disposed of with the direction to SSP (R) to conduct an enquiry into the matter as to why Basit Butt participated in the petitioner's arrest within the limits of police station Khanna when he was not posted there, and thereafter to proceed with the matter in accordance with law.

2 The petitioner had earlier filed an application under section 22 A/B Cr.P.C in December, 2019 for registration of an FIR based on his applications moved to the SHO, the SSP and the IG, that he was arrested on 12.11.2019 by Basit Butt in civil clothes and Naseer ASI in police uniform on the accusation that the petitioner was a drug peddler, appropriated Rs.1,62,000/- from his pockets, and then made a fake Qalandra against him. That application was disposed of vide order dated 09.01.2020 by the learned *ex-officio* Justice of Peace by referring the matter to the complaint redressal system. The petitioner then

moved another application under section 22 A/B Cr.P.C.¹ stating that nothing had come out of his earlier application by the complaint redressal system and prayed again for the FIR to be registered. The second petition was disposed of vide the impugned order dated 02.10.2020, against which the petitioner has come to this Court with the prayer to set aside or modify the impugned order and for a direction to respondent no.2, SHO police station Khanna Islamabad, to register a case against Naseer ASI and Basit Butt,

3 Respondent no.3, SSP (R), has filed a report enclosing the earlier inquiry report conducted by the concerned DSP/SDPO. It appears from the said inquiry that the name of Basit Butt is Abdul Basit, that he was present at the spot by chance, that he saw Naseer Ahmed ASI in uniform chasing the petitioner for arrest, that on his call he assisted the uniformed police officer in making the arrest, and that the petitioner has six FIRs registered against him from time to time for drug peddling (the last three being registered in 2015, 2017, 2019). Based on the said inquiry report, the SSP (R) has given his finding that the petitioner was arrested under section 55/110 Cr.P.C on the secret report of CTF and his applications for registration of an FIR against Naseer and Abdul Basit are based on his grudge against the police officials. He has prayed for the petition to be dismissed.

4 Although it is not for this Court to go into the details of the specific offences made out in an application to the ex-officio Justice of Peace, this Court cannot adjudicate this writ petition without a tentative assessment of the cognizable offences that might potentially be made out on the facts alleged before it; for how else would the Court come to the conclusion whether or not the order impugned before it was valid? From the contents of the instant petition it appears that the petitioner's case is for unlawful

¹ The certificate on this application states wrongly that this was the first ever petition moved on the subject.

arrest and extortion/theft of his money, the former for arrest by Abdul Basit for not being posted at PS Khanna at the relevant time and the latter for removing the cash out of his pockets. Both these allegations are countered by what can be called a plausible explanation for the time being coming forth from the inquiry report of SSP (R) referred above whereby under section 42 Cr.P.C every person is bound to assist a police officer in making an arrest, and the removal of cash being alleged to pressurize the police officials, supported by the statement of one Ghulam Qadir recorded in the inquiry report which has not been impeached by the petitioner’s counsel before me.

5 The petitioner’s case might have been different if he had not been nominated for drug peddling in six FIRs, his acquittal therein notwithstanding. His case is not helped by a long history of being nominated in six FIRs nor has he brought on record any specific circumstance that might be inconsistent with the SSP’s report that the petitioner was apprehended under sections 55/110 Cr.P.C on a secret CTF report which cannot be too far-fetched on account of his being arrested many a times earlier on charges of drug peddling.

6 In view of the foregoing, I do not find sufficient material before me to grant the prayer of the petitioner per his writ petition, which is therefore **dismissed**. The observations in this writ petition are for the purpose of this case only, and shall not effect or prejudice other remedies, if any, the petitioner might have.

(SARDAR EJAZ ISHAQ KHAN)
JUDGE