

Form No: HCJD/C-121  
**ORDER SHEET**  
**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**W.P No. 216 of 2021**

**Kanwal Shauzab**  
Versus  
**Learned Justice of Peace & others**

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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02-06-2021 M/s Imaan Zainab Hazir, Muhammad Usman Warraich, Hassan Rashid Qammar, Muhammad Sajid Tanoli, Babar Hayat Samon, Inam ur Rahim and Barrister Jahangir Jadoon, Advocates for the petitioners in their respective petitions.  
Mr Tariq Mehmood Khokhar, Additional Attorney General.  
S. M Tayyab, DAG.  
Mr Sqlain Haider Awan, AAG.  
Mr Saqib Jawad, Advocate for complainant.  
M/s Muhammad Saqib Bhattiand Syed Sabbi-ul-Hassan, Advocates for the respondents.  
Mr Majid Rashid Khan, State Counsel.  
Mr Adnan Haider Randhawa, Amicus.  
Sh. Amir Sohail Anjum, A.D (Legal), FIA.  
Mr Imran Haider, A.D, FIA.  
Ms Nooria Khan, I.O, FIA.  
Mr Arshad Ali, SHO. P.S Shalimar.  
Mr Akhtar Zaman, S.H.O, P.S Ramna.

Pursuant to the last order one of the amicus curiae namely, Mr. Abid Hassan Manto, learned senior ASC has sought three weeks' time to enable him to submit his opinion.

2. Sh. Amer Sohail Anjum, Assistant Director (Legal), Federal Investigation Agency has appeared alongwith Ms Nooria Khan, Investigating Officer. After hearing them it appears that the complainant in W.P.No.1645 of 2021 is engaged in the

profession of journalism and her complaint is against the petitioner, namely Asad Ali Toor who is from the same profession. It, prima facie, appears that the matter does not involve protection of free speech because the complaint is by a natural person against another natural person. However, the notice was issued to the latter in a mechanical manner. It is noted that section 20 of the Prevention of Electronic Crimes Act, 2016 (hereinafter referred to as the "**Act of 2016**") has criminalized defamation. The nature of the offence is such that great care has to be exercised by the Federal Investigation Agency at the stag of entertaining and issuance of notices to the persons alleged to have harmed the reputation of the complainant. Such diligence and care is expected because of the nature of the offence and the profound consequences in case of its misuse. Regrettably, it has been consistently observed that the Agency without observing care mechanically issues notices which causes unnecessary harassment. This Court in an earlier order had directed the Agency to observe certain guidelines, but regrettably, they are being ignored.

3. An application has been filed by the petitioner, wherein copy of another purported notice has been attached. The learned counsel has

informed that the said notice is circulating on the social media but it has not been served on the petitioner as yet. A plain reading of the notice shows that it may not be genuine because from its contents it is obvious that the fundamental ingredients of the offence under section 20 of the Act of 2016 are not fulfilled. Since admittedly the purported notice has not been received by the petitioner, therefore, no order can be passed in relation thereto.

4. This Court had merely suspended the notice issued to the petitioner in a mechanical manner but had not restrained the Investigating Officer from conducting an inquiry to satisfy herself whether, prima facie, the complaint is entertainable. If so then the Investigating Officer was expected to have observed the guidelines described by this Court in the order, dated 03.11.2020, passed in W.P.No.2939 of 2020, titled 'Rana Muhammad Arshad vs Federation of Pakistan, etc', while issuing the notice to the petitioner. In case the petitioner receives such a notice then he would be expected to join the inquiry proceedings. The Investigating Officer is expected to proceed in accordance with law and submit a report before the date fixed. However, till the next date of hearing no adverse action shall be taken against the petitioner.

5. Re-list on 20.06.2021.

**(CHIEF JUSTICE)**

*Asif Mughal/\**