

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No. 3979/2019

Raees Abdul Wahid

Versus

Inspector General, ICT, Islamabad etc.

Petitioner by: Mr. Saif-ul-Islam Sindhu, Advocate.

State by: Barrister Ayesha Siddique Khan,
State Counsel.
Sohail ASI, P.S Margalla, Islamabad.

Date of Decision: 18.12.2019.

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MOHSIN AKHTAR KAYANI J. Through this writ petition,

the petitioner has prayed for the following reliefs:-

"It is therefore, respectfully prayed that the instant Writ Petition of the petitioner may very graciously be accepted and the respondents may very be summoned/notice and the responsible Police Officers i.e. Respondents No. 2, 3 & 4 may kindly be proceeded against them for their illegal, unlawful and malafide act and sheer violation and committed lapses in performance of their lawful duties.

It is further prayed that the respondents be ordered to present the vehicle before this Honourable Court, confiscate the same, arrest the accused/respondent No.5, add the relevant section of law in the FIR No. 234/2019.

Any other relief, which this Honourable Court deems fit and proper may also be passed in the best interests of justice."

2. Learned counsel for the petitioner contends that petitioner had lodged F.I.R No. 234/2019, dated 13.11.2019, U/s 420 PPC, whereby the matter was not investigated in accordance with law by respondents No. 1 to 4 and they have given an extraordinary benefit to the accused, who were in possession of the vehicle No. AGW-958 Suzuki Ciaz, Model, 2018. He further contends that

direction is required that at least accused persons be arrested and recovery of the vehicle in question.

3. Conversely, learned State Counsel alongwith Investigation Officer/ASI contend that the matter has been investigated independently, whereby petitioner has failed to produce any document in his favour to claim the ownership of the vehicle in question, which was leased by Al-Baraka Bank in the name of Yasir Mehmood, who was lessee of the bank and defaulted in the payment of installment, resultantly vehicle was repossessed by the bank. He further contends that the agreement, which has been placed on record by the petitioner was obtained from the Stamp Vendor for the purpose of affidavit and same was converted into written agreement, which is illegal and as per his investigation document in question was not executed in a manner as has been claimed by the petitioner side. He further contends that the nominated accused Moharam Zahir Zada has been investigated, who purchased the subject vehicle from Junction Showroom Satellite Town, Rawalpindi on installments and he is paying the installments, who has denied any agreement with the complainant/petitioner. It has also been contended by the Investigation Officer that on the basis of investigation conducted by him, he has recommended the cancellation of the FIR, due to insufficient evidence vide report dated 01.12.2019, which was forwarded to the concerned Court.

4. Arguments heard, record perused.

5. From the perusal of record, it reveals that the petitioner being complainant of criminal case FIR No. 234/2019, U/s 420 PPC, P.S Margalla, Islamabad prayed for direction for initiation of proceedings against the police officials as well as arrest of the accused and recovery of vehicle No. AGW-958 Suzuki Ciaz, Model, 2018, however, the matter was investigated by the police and

cancellation report was submitted before the Court after investigation.

6. Besides the above referred position, the vehicle in question was a leased vehicle from Al-Baraka Bank, which was repossessed by the Bank, although the same was in the name of Yasir Mehmood, who is not party in these proceedings, therefore, at this stage any observation passed by this Court might effect the right of either party, especially when the matter is now pending before the learned Judicial Magistrate for his final verdict on the cancellation report submitted by the Investigation Officer.

7. For what has been discussed above, instant writ petition stands **dismissed** without touching the merits of the case as instant writ petition is not competent. However, petitioner is directed to approach the concerned Court, which is now dealing with the cancellation report notwithstanding any observation passed by this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

RAMZAN