

**ORDER SHEET.**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**W.P. No.2356/2019**

Tanveer Ullah Khan

*versus*

Senior Superintendent of Police, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(1)	26.06.2019	Raja M. Nisar-ul-Haq Abbasi & Raja M. Shafat Khan , Advocates for petitioner.

Through the instant writ petition, the petitioner seeks fresh investigation by high rank police officers other than Special Investigation Team (SIT) Members and to set-aside investigation/report carried by the said SIT Members of Islamabad Police through which cancellation of FIR No.130/2019 has been recommended.

2. Brief facts referred in the instant writ petition are that Tanveer Ullah Khan "*petitioner*" and Mst. Hajra Karam Khan "*respondent No.4*" entered into an agreement to sell dated 16.06.2017 with regard to 01-Kanal of land, situated in Khewat No.337, Khatooni No.423/424, Khasra No.614, Fateh Jang, Attock "*disputed land*" against total sale consideration of Rs.11,000,000/- (Rupees One Crore & Ten Lac), out of which Rs.10,500,000/- (Rupees One Crore & Five Lac) was paid by petitioner and the due amount was to be paid to respondent No.4 at the time of transfer of land, though respondent No.4 failed to do so, which ultimately resulted into registration of case

FIR No.130/2019, dated 18.04.2019, under Section 406 PPC, P.S. Kohsar, Islamabad against respondent No.4. Consequently, Special Investigation Team was constituted to confirm as to whether Section 406 PPC was made out or not, which eventually recommended cancellation of case FIR. Hence, the instant writ petition.

3. Learned counsel for petitioner contends that findings of SIT seemed to be given in connivance with respondent No.4 and are based upon malafide; that *mens rea* on the part of respondent No.4 is apparent and constitutes criminal offence; that investigation has been conducted in slipshod manner without proper consultation of record and has resulted in miscarriage of justice; that the recommendation of SIT is based on malafide and illegal, which is liable to be set-aside.

4. Arguments heard, record perused.

5. Perusal of record reveals that the case FIR No.130/2019, dated 18.04.2019, under Section 406 PPC, P.S. Kohsar, Islamabad has been registered against respondent No.4 on the complaint of petitioner, who is aggrieved with the investigation conducted by police department and prayed for fresh investigation by a senior police officer. Learned counsel for petitioner has been confronted regarding maintainability of instant writ petition, especially when connected writ petition bearing No. 1701/2019 (Hajra Karam Khan vs. The State) regarding

quashing of same FIR has been heard and decided with the observations that the very registration of the instant FIR is illegal together with the fact petitioner has filed a suit for specific performance against respondent No.4 before the learned Senior Civil Judge, Attock availing proper remedy for resolution of dispute. This episode clearly spells out that the matter is of civil nature and this question of law has already been settled in connected W.P. No. 1701/2019.

6. On the other hand, the prayer made by the petitioner for change of investigation is no more an alive issue as the case FIR No.130/2019 has been quashed in the said connected writ petition.

7. In view of above discussion, the instant writ petition is here by DISMISSED *in limine*.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Khalid Z.