

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

Crl. Misc. No.52-BC of 2020

Mst. Waheeda Zulifqar Zaidi
Versus
Syed Awais Haider & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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15.07.2020	Petitioner in person. Respondent No.1 in person. Ms. Khadija Ali, State Counsel alongwith M. Arshad Awan, Inspector.
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Ghulam Azam Qambrani, J.:- The petitioner (Mst. Waheeda Zulifqar Zaidi wife of Syed Zulifqar Zaidi) seeks cancellation of bail granted in favour of respondent No.1/ accused(hereinafter be called as ***"respondent"***), in case F.I.R No.488, ⁵ dated 18.11.2019, offence under Section489-F P.P.C, registered at Police Station Kohsar, Islamabad.

2. Briefly facts of the case as alleged in the F.I.R are that the petitioner/ complainant was induced by the respondent, who was second Manager in MCB, Blue Area branch, Islamabad, for investment and received certain amount at different times from her, which he returned alongwith profit. That six months prior to registration of instant case, respondent received an amount of Rs.30,00,000/- (thirty lac) from her, but neither gave any profit nor returned principle amount, and on her repeated requests, he issued a cheque dated 09.08.2019 amounting to Rs.30,00,000/- of the Standard Chartered Bank, which upon presentation before the

concerned bank, was dishonored due to insufficient amount, hence, the above said F.I.R.

3. The respondent/ accused applied for the grant of pre-arrest bail before the learned Additional Sessions Judge-IX, Islamabad-West, which was confirmed on 18.12.2019. The petitioner being aggrieved filed the instant petition for cancellation of bail granted to respondent/ accused.

4. Petitioner in person appeared before the Court and submitted that the learned trial Court while passing the impugned order has committed material irregularity and failed to appreciate the evidence available on record; that the respondent with malafide intention issued bogus cheque to the petitioner; that the respondent has deprived the petitioner from huge amount; that sufficient evidence was available on record to connect the petitioner with commission of the alleged offence; that no malafide has been established against the petitioner to falsely involve the respondent in the instant case, as such, the impugned order is liable to be recalled.

5. On the other hand, respondent in person appeared before the Court and submitted that the petitioner has already received an amount of Rs.67,00,000/- from him against the said cheques as well as profits. Further stated that no ground for cancellation of bail is available to the petitioner; that the challan has already been submitted before the learned trial Court on 25.12.2019. That the whole story narrated by the petitioner is baseless and false. Further stated that he has filed a civil suit for cancellation of the above said cheque against the petitioner which is pending adjudication. Learned State counsel opposed the impugned order.

6. Arguments heard; record perused.

7. Perusal of the record reveals that there is a business transaction between the parties and as per record; they have concluded three business agreements. Civil suit filed by the respondent for Declaration and Cancellation of the alleged cheque is still pending adjudication before the competent Court of jurisdiction. Further, there is an inordinate and unexplained delay of about three months in lodging of the F.I.R. Further the petitioner admitted before the Court that she had already received an amount of Rs. 67,00,000/- from the respondent on account of business transaction.

8. There is no evidence that the respondent has tampered with the prosecution evidence or misused the concession of bail. The bail can only be cancelled if the order on the face of it is perverse and has been passed in violation of the principles for the grant of bail. In this regard, reliance is placed on the Judgments titled Muhammad Akram Vs. Zahid Iqbal and others (2008 SCMR 1715), "Muzaffar Iqbal Vs Muhammad Imran Aziz and others" (2004 SCMR 231), "The State Vs Khalid Mehmood" [2006 SCMR 1265], "Shahneel Gul and two others vs. The State" (2018 YLR 999) and "Ahsan Akbar Vs The State" [2007 SCMR 482].

9. The considerations for the grant of bail are quite different from the considerations for cancellation of bail. Once bail has been granted by a competent Court of law, strong and exceptional grounds are required for cancelling the same. In such cases, it is to be seen as to whether order granting bail is patently illegal, erroneous, factually incorrect and has resulted in miscarriage of justice

whereas, in the instant case the petitioner has failed to establish any such ground in the instant case. Further the grant of bail does not mean an acquittal. The learned trial Court is in a position to adjudicate on the guilt or otherwise of the respondent/ accused after evidence is led and analyzed and it can also look into and evaluate the malafide from the facts and circumstances of the instant case.

10. I have also gone through the impugned order dated 18.12.2019, which is based upon legal principles and no illegality has been observed, therefore, requirement of Section 497(5) Cr.P.C is not visible, as no perversity, illegality or violation of Court order or tampering with prosecution evidence of this case has been established against the respondent, therefore, instant petition is misconceived and the same is hereby **dismissed**.

11. However, the observations made hereinabove are meant for disposal of this application, which shall have no bearing on merits of the case.

(GHULAM AZAM QAMBRANI)
JUDGE

Rem. M. 9/11