

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

**Writ Petition No.3695/2019**

Muhammad Riazal  
Vs.  
S.H.O and another

Petitioner By: Mr. Naveed Akhtar Rajput, Advocate.

State By: Mr. Zohaib Hassan Gondal, State Counsel  
alongwith Tipu Sultan Ranjha, Sub-Inspector.

Date of Hearing: 30.04.2020.

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**GHULAM AZAM QAMBRANI,J:** The petitioner through the instant petition assailed the validity of order dated 08.07.2019 (the impugned order), passed by the learned Additional Sessions Judge-III, Islamabad-East, in his capacity as Ex-Officio Justice Of the Peace, Islamabad, whereby the petition filed under Section 22-A & 22-B Cr.P.C filed by the petitioner was dismissed.

2. Briefly stated facts of the case are that the petitioner filed a petition under Section 22-A & 22-B Cr.P.C for registration of an F.I.R against the proposed accused alleging therein that he approached the concerned police station and submitted an application for registration of case but they refused to entertain the same. He also approached the high-ups of the police but his grievance was not redressed. The petitioner filed a petition under Section 22-A& 22-B Cr.P.C before the Ex-Officio of Justice of Peace/Additional Sessions Judge-III, Islamabad-East/respondent No.2, who after calling for a report from the concerned S.H.O, dismissed the petition vide order dated 08.07.2019, hence, this petition.

3. Learned counsel for the petitioner contended that the impugned order passed by the learned Ex-Office Justice of Peace, is against the law and facts; that cognizable offence was committed by the culprits and it was the duty of learned Additional Sessions Judge to issue direction for registration of criminal case hence, impugned order is not sustainable in the eye of law, as such, the same is liable to be set-aside and direction be issued to the S.H.O Bhara Kahu, Islamabad, respondent No.1 to register an F.I.R against the proposed accused.

4. Conversely, learned State counsel strongly opposed the contentions advanced by the learned counsel for petitioner contending that F.I.R No.244 dated 15.06.2019 under Sections 395, 506 (ii), 447, 511, 148, 149 P.P.C had been registered against the present petitioner.

5. Heard arguments and perused the available record with their able assistance of the learned counsel for the parties.

6. Perusal of the record reveals that the petitioner is involved in different criminal cases and as per report of the police Survey Machine and other related equipments have been recovered from the petitioner and others in presence of the witnesses and F.I.R No.244 dated 15.06.2019 under Sections 395, 506 (ii), 447, 511, 148, 149 P.P.C has been registered against the petitioner at Police Station, Bhara Kahu, Islamabad. The stance taken by the petitioner that the proposed accused who were armed with weapons and conducting some survey upon the land, fled away from the spot leaving behind all the machinery at the spot, without any scuffle/resistance by the petitioner, does not appeal to a prudent mind. As such, the learned Additional Sessions Judge has rightly held that no cognizable offence is made out and dismissed the petition filed by the petitioner.

7. It is necessary to mention here that in the case of Muhammad Bashir versus Station House Officer, Okara Cantt. And others (PLD 2007 SC 539), the Hon'ble Supreme Court of Pakistan has been pleased to observe as under:-

*"40. Therefore, in our opinion, the only jurisdiction which could be exercised by an Ex-officio Justice of the Peace under section 22-A(6), Cr.P.C. was to examine whether the information disclosed by the applicant did or did not constitute a cognizable offence and if it did then to direct the concerned S.H.O. to record an F.I.R. without going into the veracity of the information in question, and no more. Offering any other interpretation to the provisions in question would be doing violence to the entire scheme of the Cr.P.C. which could not be permitted.*

*41. We are conscious of the fact that in pursuance of petitions filed under Article 199 of the Constitution, the High Courts, at times, did refuse to issue writs directing recording of F.I.Rs. Suffice it to say that the exercise of discretion under the said jurisdiction was not dependent only on an illegality committed by a competent authority but was also controlled by some other important considerations such as the seeker of a writ being an aggrieved person; availability of alternative remedies such as filing of a complaint etc. in criminal matters and the applicant being qualified, in equity, for the grant of the sought relief. The powers of the Ex-officio Justice of the Peace under section 22-A (6) of the Cr.P.C. could, therefore, not be equated with the constitutional jurisdiction vesting in a High Court."*

8. In view of the above legal position, I am clear in my mind to observe that Ex-Officio Justice of Peace, under Section 22-A(6) Cr.P.C have to examine whether the information disclosed by the petitioner did or did not constitute a cognizable offence and if it did, then to direct the concerned S.H.O to register an F.I.R. The impugned order is reproduced herein below:-

*"From perusal of record and police report it transpires that petitioner himself has illegally occupied the house of the proposed accused, so, no cognizable offence is made out. Under these circumstances, no direction is required to be issued to the local police. Resultantly, the petition in hand needs no further consideration, thus the same is hereby dismissed. File be consigned to the record room after due completion/compilation."*

9. It is a settled principle of law that the Ex-Officio Justice of Peace while seized of a petition under Section 22-A/22-B Cr.P.C is not to act mechanically by issuing a direction for registration of a criminal case in each and every case, which have to be decided on its own peculiar facts and circumstances as has been held by the Hon'ble Lahore high Court, Lahore in case Mian Abdul Waheed vs. Additional Sessions Judge, Lahore and seven others (2011 P.Cr.L.J 438). In any case, the allegations leveled against the proposed accused by the petitioner cannot be addressed by this Court while exercising its extra ordinary constitutional jurisdiction, as the same entail a factual inquiry.

10. For what has been discussed hereinabove, learned counsel for the petitioner has failed to point out any illegality or irregularity in the impugned order calling for interference by this Court in its constitutional jurisdiction. Resultantly, the instant petition having no force, is **dismissed**.

**(GHULAM AZAM QAMBRANI)**  
**JUDGE**

*"Rana.M.Ift"*