

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

**Writ Petition No.2680 of 2019**

Mst. Abida Qasim  
*Versus*  
The learned Sessions Judge, Islamabad-East, etc.

Petitioner By: Syed Khurram Shahzad, Advocate.  
Respondent No.6 By: Mr. Ikhlaq Ahmed, Advocate.  
State by: Malik Mazhar Javaid, State Counsel and  
Mr. Zohaib Hassan Gondal, State Counsel.  
M. Irfan Asif, A.S.I alongwith record.  
Date of Hearing: 10.02.2020.

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**GHULAM AZAM QAMBRANI**:- Through this Writ Petition, the petitioner (Mst. Abida Qasim) has challenged the orders dated 08.07.2019, whereby the learned Judicial Magistrate Section-30 (East), Islamabad, refused the extension in physical remand of the accused/ respondent No.6 (hereinafter be called as respondent) and dated 15.07.2019, whereby the learned Additional Sessions Judge-VI, Islamabad-East, dismissed the Criminal Revision Petition, filed by petitioner.

2. Facts, in brief, relevant for disposal of the instant petition are that on 10.04.2019, the petitioner lodged F.I.R No.115, with the Police Station Lohi Bher, Islamabad, with the allegations that on 08.04.2019 at about 12:30 pm, respondent along with his wife namely Rehana entered into the apartment of the petitioner,

snatched 80-Tolas Jewelry, two Passports, CNIC, Samsung mobile phone and also physically assaulted her.

3. After registration of F.I.R, respondent appeared before the learned Additional Sessions Judge-VI, Islamabad- East,for grant of pre-arrest bail which was confirmed on 25.04.2019. Being aggrieved of the said order, the petitioner filed Criminal Miscellaneous No.274-BC/2019 before this Court which was allowed by means of order dated 20.06.2019 and the matter was remanded to learned Sessions Judge, Islamabad-East, with the direction that after hearing the parties, decide the pre-arrest bail application of the respondent in accordance with law.

4. Thereafter, the accused/ respondent No.6, along with other co-accused moved bail before arrest before the learned Addl. Sessions Judge-East, Islamabad, which was declined vide order dated 01.07.2019 and the respondent was arrested on 01.07.2019 and produced before the learned Judicial Magistrate on 02.07.2019 for physical remand. Perusal of record reveals that the learned Judicial Magistrate granted two days physical remand. Again on 04.07.2019, respondent/ accused was produced before the learned Judicial Magistrate, who granted further physical remand of one day. Thereafter, on 05.07.2019, further request for physical remand of the respondent/ accused was made and the investigation officer mentioned that I.D Card and Passport had been recovered from the accused/ respondent and the learned

Judicial Magistrate again granted one day physical remand. On 06.07.2019, further two days physical remand was allowed for the recovery of alleged snatched vehicle and other articles. The record further shows that investigation officer filed another application on 08.07.2019; for physical remand of the accused for five days, but the learned Judicial Magistrate passed the following order:-

*“Perusal of record reveals that earlier six days physical remand of the accused in total has been granted by this Court. Passports and the CNIC were allegedly recovered from accused on 04.07.2019, and thereafter, no further progress has been shown by the IO in the instant case which could justify the request of grant of further physical remand. Therefore, in these circumstance the request of IO for grant of further physical remand is hereby turned down and the accused is sent to judicial lock-up.”*

5. Learned counsel for the petitioner submits that the impugned orders have been passed in violation of the provisions of law as such the same are liable to be set-aside; that huge precious articles are yet to be recovered from the accused.

6. Conversely, learned counsel for the accused/ respondent submits that ample opportunities were given to the prosecution for recovery of alleged articles, but the Investigation Officer failed to make any progress; that the alleged vehicle is not mentioned in the F.I.R and lastly submitted that the complainant is a black-mailer and several F.I.Rs are registered against her.

7. Arguments heard. Record perused.

8. I have perused the entire diaries, reports and zimminies maintained by the investigation officer. It has been observed that

from the very beginning of the arrest of accused/ respondent, the investigation officer has repeatedly mentioned in the diaries that the recovery of articles is yet to be effected. On such requests, continuously the learned Judicial Magistrate granted physical remand of the respondent to the police, but only recovery of passports and CNIC have been allegedly effected from him and then, showing no progress by the Investigation Officer about the recovery of alleged stolen/ snatched jewelry, the learned Judicial Magistrate refused to grant further physical custody of the accused to the police.

9. The investigation officer of the case has not challenged the refusal order dated 08.07.2019 for the physical remand of the accused, either before the Revisional Court or before this Court. Reliance is placed upon Judgment titled as "Abul Hassan Versus The State and Others" (1969 S C M R 215)

*This- petition is directed against an order of a learned Single Judge of the High Court of West Pakistan, Karachi, dismissing an application under section 439, Cr. P. C. The petitioner lodged a First Information Report against respondents Nos. 2, 3 and 4 for the murder of his father, Arz Muhammad. The police submitted challan against respondents Nos.3 and 4 and showed respondent No.2 as absconder. Latter respondent No.2 surrendered in the Court of Civil Judge and First Class Magistrate at Sangar, who remanded him to judicial custody. The petitioner moved the Court to remand respondent No. 2 to police custody so that necessary investigation against him might be completed. The prayer was refused. The learned Judge in the High Court while rejecting the application under section 439, Cr. P. C. observed "there is no provision in- law for directing the accused to be handed over to police for the purpose of investigating an offence when the police does not want the accused for the purpose of investigation."*

*The learned counsel for the petitioner has failed to point out' any provision of law which authorizes such directions which was prayed for in the Courts below.*

*The petition has no merits and is, therefore, dismissed.*

10. A bare reading of Section 167 Cr.P.C shows that it provides procedure for the Investigation Officer, where the investigation is not completed within 24 hours; it is the investigation officer only, who can furnish an application for the grant of physical remand or challenge the refusal orders passed on such application before appropriate forum. The petitioner in her private capacity cannot invoke the writ jurisdiction of this Court, as having no nexus with the matter and no *locus standi* to file such petition.

11. In view of the above facts and circumstances of the case, I have found no illegality or perversity in the impugned orders dated 08.07.2019&15.07.2019, passed by the learned Judicial Magistrate, Section-30, Islamabad-East and learned Additional Sessions Judge-VI, Islamabad-East, respectively.

12. In view of above, the instant petition is without merit and is accordingly **dismissed**.

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

ANNOUNCED IN OPEN COURT ON \_\_\_\_/2020.

**JUDGE**

“Rana.M.Ift”

**APPROVED FOR REPORTING.**