

ORDER SHEET

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

W.P. No.3018/2021

Mst. Abda Tabassum

Versus

Learned Additional Sessions Judge/Justice of Peace, Islamabad, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20.09.2021.	Mr. Jameel Hussain Qureshi, Advocate for petitioner.

Through this writ petition the petitioner has assailed the order dated 28.06.2021, passed by learned Ex-Officio Justice of Peace, Islamabad, whereby application u/s 22-A & B Cr.P.C. filed by petitioner for registration of FIR against proposed accused has been turned down.

2. Learned counsel for the petitioner *inter-alia* contends that learned Justice of Peace, Islamabad has not considered the alleged cognizable offence referred in the application u/s 22-A & B Cr.P.C., whereby personal property and belongings have been removed after breaking the lock of the house; that proposed accused has got lodged the FIR No.288, dated 20.04.2021, u/s 450/506-ii/34 PPC, P.S. Ramna, Islamabad against the brother of petitioner though the same is counter blast to the present application but this aspect has not properly

been appreciated in any manner.

3. Arguments heard, record perused.

4. Perusal of record reveals that petitioner was married to one Sarfraz Nawaz but the marriage did not last and parties have dissolved the marriage by way of *Tallaq* due to acute disparity. Family cases have already been filed, which are pending before the District Courts at Bannu, however, petitioner claims that she filed an application for registration of FIR with the allegations that father of her ex-husband has gifted house at the time of marriage and as such proposed accused removed all the house hold articles including dowry articles after breaking the locks and as such application was filed for registration of FIR but the same was not lodged, even learned Justice of Peace, Islamabad has not passed the order.

5. The impugned order reveals that proposed accused has already got lodged the FIR No.288, dated 20.04.2021, u/s 450/506-ii/34 PPC, P.S. Ramna, Islamabad and as such similar allegations have been referred in the said FIR. This aspect clearly demonstrates that parties are locked in family dispute qua the gifted property as well as dowry articles, such aspect could not be resolved by registration of FIR. Even otherwise, it is not

obligatory for High Court to issue writ in each case irrespective of facts and circumstances, which could call for exercise of judicial restraint, especially where parties have already raised their concerns before the competent court in family jurisdiction or earlier FIR has been lodged, therefore, petitioner can initiate criminal proceedings by filing private complaint. Reliance is placed upon 2005 SCMR 951 (Habibullah vs. Political Assistant, Dera Ghazi Khan). Even otherwise functions performed by Justice of Peace, Islamabad were quasi-judicial functions and the order impugned has been passed after due application of mind and no illegality has been observed in this case, especially when the counter FIR has already been lodged on somehow similar grounds, therefore, instant writ petition is dismissed in limine with observations that petitioner can approach the competent court through alternate remedy by filing private complaint, if so advised.

(MOHSIN AKHTAR KAYANI)
JUDGE