

JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No.3845/2017.

Syed Azhar Hussain Shah

Vs.

**Additional Sessions
Judge (West) Islamabad
etc.**

Petitioner by:

Raja Umer Hussain Bhatti, Advocate.

State/Respondent No.3 by:

Barrister Ayesha Siddique, State
Counsel.

Date of Decision:

12.09.2019.

MOHSIN AKHTAR KAYANI, J:- Through this writ petition, the petitioner has assailed the order dated 28.07.2017, passed by learned Additional Sessions Judge (West) Islamabad, whereby criminal revision against the order dated 15.06.2017, passed by learned Judicial Magistrate was dismissed. The petitioner has also assailed the order dated 15.06.2017 passed by learned Judicial Magistrate, whereby private complaint filed by the petitioner was dismissed.

2. Learned counsel for the petitioner contends that the petitioner filed a private complaint against Iftikhar Ahmed and three others for committing fraud under the garb of FIR No.99/16, dated 21.04.2016, U/S 420, 468, 471 PPC, P.S Sabzi Mandi, Islamabad; that it was alleged that the petitioner sold his plot No.344-A, Street No.35, Sector F-11/3, Islamabad against sale consideration of Rs.1,37,00,000/- vide agreement to sell dated 18.09.2013 and has received Rs.68,50,000/-, however, the petitioner returned Rs.45,00,000/- but it came to his knowledge that two fake receipts were prepared by Iftikhar Ahmed alleged purchaser of the plot to show that he had paid Rs.68,50,000/-, therefore, the petitioner filed private complaint but the same was dismissed concurrently by the Courts below without considering available record and evidence.

3. Learned counsel for the petitioner has been confronted with the question that he should refer any jurisdictional defect in concurrent findings of the Courts below, whereby his complaint was dismissed, learned counsel for the petitioner contends that some forged documents have been prepared by the complainant in the

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proceedings of the criminal case and as such private complaint has been filed in this regard.

4. Perusal of the record reveals that the complaint filed by the petitioner was dismissed concurrently by the Courts below after recording of cursory statement but surprisingly the petitioner has not arrayed respondents of the private complaint, who are necessary party in the instant writ petition rather impleaded Additional Sessions Judge as well as the Judicial Magistrate as respondents, therefore, instant writ petition is not maintainable at this score alone. Even otherwise the alleged receipt of Rs.28,50,000/- was not appreciated by the police during the course of initial inquiry and the application before the SHO was not entertained, whereas petition U/S 22-A Cr.P.C was dismissed and writ petition No.2816/2016 titled *Syed Azhar Hussain Shah etc vs. Additional Sessions Judge/Justice of Peace etc* was also dismissed vide order dated 20.09.2016. All these proceedings reflect that the petitioner in order to settle the score in connected proceedings of FIR No.99/2016 as well as in civil suit for specific performance filed by Iftikhar Ahmed through instant writ petition. It is settled law that writ petition is not competent against concurrent findings of the Courts below, especially when no illegality has been pointed in the proceedings.

5. In view of the above reasons, the instant writ petition being devoid of merits is dismissed.

(MOHSIN AKHTAR KAYANI)
JUDGE

R. Anjam