

Form No: HCJD/C-121.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 3910 of 2019

Nisar Ahmed Afzal

Vs

The State, etc.

DATE OF HEARING: 25-06-2020.

PETITIONERS BY: Syed Javed Akbar Shah and Malik
Muhammad Zulfiqar Advocates, for the
petitioner.

RESPONDENTS BY: Sheikh Muhammad Suleman and Khalil
ur Rehman Abbasi Advocates, for
respondents.
Mr Hassnain Haider Thaheem, State Counsel.
M/s Shafiq Ahmed, Inspector, Shaukat Ali,
Inspector, M. Akram, Inspector, Aamir, Sub
Inspector and Khalid, ASI, with record.

ATHAR MINALLAH, CJ.- The petitioner has
assailed order, dated 29.09.2019, passed by the learned
Judicial Magistrate of Section-30, (West) Islamabad whereby
cancellation report submitted by the Investigating Officer has
been accepted.

2. The facts, in brief, are that pursuant to filing of written complaint by Nisar Ahmed Afzal [hereinafter referred to as the "**Petitioner**"] a criminal case i.e. FIR No. 131/2018, dated 19.05.2018, was registered at Police Station Margalla, Islamabad[hereinafter referred to as the "**FIR**"]. It was alleged that the private respondents had committed offences under sections 420, 468, 471 of the Pakistan Penal Code, 1860 [hereinafter referred to as the "**PPC**"]. The investigations were carried out by the Investigating Officer including senior officials of the police Department. The alleged occurrence had taken place in 2003 while the criminal case was registered in 2018. After thoroughly investigating the matter, the Investigating Officer submitted a cancellation report because in the latter's opinion no criminal offence was committed or made out. The learned Magistrate after affording an opportunity of hearing to the parties passed a detailed and well reasoned order, dated 19.09.2019.

3. The learned counsel for the petitioner has been heard at length. Despite his able assistance he was not able to point out any legal infirmity requiring interference with the well reasoned order and that too while exercising jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

4. By now it is settled law that an inquiry or investigation falls within the exclusive domain of the executive authorities and interference is warranted only in

exceptional circumstances. Reliance is placed on the case titled "Muhammad Hanif v. The State" [2019 SCMR 2029]. The learned counsel for the petitioner has mainly argued on the merits of the case but could not point out any malafide on part of the Investigating Officer nor that the latter was bereft of jurisdiction. The impugned order is well reasoned and the cancellation report has been accepted after application of mind. The learned Magistrate has definitely not exercised discretion in an arbitrary or fanciful manner.

5. The petition is, therefore, without merit and accordingly **dismissed**.

CHIEF JUSTICE

Tanveer Ahmed.