

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No. 3119 of 2012

Muhammad Yousaf, etc.

Vs

Senior Superintendent of Police, Islamabad, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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07) 04-12-2015. Mr. Salman Yousaf Khan, Advocate for the petitioners.
Mr. Awais Abbasi, State Counsel.
Mr. Shams, S.I alongwith record.

Through this order the instant petition alongwith
W.P.No.3426 (Q)/2015 shall be decided.

2. The Investigating Officer at the very outset has informed that the report under Section 173 of Cr.P.C has been submitted and the trial is proceeding. The learned counsel for the petitioner also affirms the same. In the light of the law laid down by the august Supreme Court in case of "Director General, Anti Corruption Establishment, Lahore and others Vs. Muhammad Akram Khan and others" reported as **PLD 2013 S.C. 401** the question of quashing a criminal case cannot be considered in the circumstances, particularly when the report under Section 173 of Cr.P.C has already been filed. The proper course for the petitioner in the circumstances is to avail the remedies available to him before the Trial Court. The relevant portion from the judgment in the above cited case is as follows:-

“The law is quite settled by now that after taking of cognizance of a case by a trial court the F.I.R registered in that case cannot be quashed and the fate of the case and of the accused persons challaned therein is to be determined by the trial court itself. It goes without saying that if after taking of cognizance of a case by the trial court an accused person deems to be innocent and falsely implicated and he wishes to avoid the rigours of a trial then the law has provided him a remedy under sections 249-A/265-K Cr.P.C. to seek his premature acquittal if the charge against him is groundless or there is no probability of his conviction.”

3. The learned counsel for the petitioners however, has expressed his concerns that the police might harass the petitioners. The law in this regard is settled in the judgment of the august Supreme Court, titled “Muhammad Bashir versus SHO Okara Cantt and others” **PLD 2007 S.C. 539** and the relevant portion is as follows:-

“It must, therefore, be kept in mind that mere registration of an FIR could bring no harm to a person against whom it had been recorded. No one, consequently, need fear a false FIR and if a police officer arrested a person in the absence of the requisite material justifying the same and

only on the pretext of such a person being mentioned in an FIR, then such would be an abuse of power by him and the remedy for such a misuse of power would not be to permit another abuse of law by allowing an unlawful exercise of collection of evidence to assess the veracity of allegations leveled through the information conveyed to a SHO before recording of an FIR. The remedy lies elsewhere.”

4. The Investigating Officer shall strictly proceed in accordance with law. The learned counsel for the petitioners has also stated that the instant petition at this stage is, therefore, not being pressed and the petitioners shall avail adequate remedies available to them under the law before the Trial Court.

5. The instant petition is, therefore, dismissed as being not pressed.

**(ATHAR MINALLAH)
JUDGE**

Asif Mughal/*