

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

WRIT PETITION NO.2031-Q OF 2020

AMBREEN DILSHAD
Vs.
SSP PS KORAL AND OTHERS.

Petitioner by : **Ms. Kulsum Khaliq, Advocate.**

State by : **Hazrat Younas, State Counsel.**
Mr. Ameer Ali, A.S.I., P.S. Koral,
Islamabad.

Respondent No.3 by : **Nemo.**

Date of Decision : **07.02.2022.**

SAMAN RAFAT IMTIAZ, J.:- The Petitioner, Ambreen Dilshad filed the instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 read with section 561-A, Cr.P.C. for quashing of FIR No.390/2020 dated 09.07.2020 registered for offences under Sections 345/506(ii)/148/149, PPC at P.S. Koral, Islamabad.

2. Necessary facts of the case, as per contents of FIR, are that Complainant/Respondent No.3 is residing with her husband, Shahzad Ahmed in a rented house located at Alipur, Nai Abadi, Islamabad, and working in HBS Hospital as janitorial staff. Her husband had contracted second marriage a year ago with one, Shumaila, without informing the Complainant and kept her in the dark. On 06.07.2020 at about 12 noon when the Complainant came to know about the above fact a quarrel ensued between them. Thereafter, according to the FIR, the Complainant's husband along with several of his relatives as named in the FIR including the Petitioner beat up the Complainant and her brother Touqeer Ahmed with sticks. The Complainant was threatened with dire consequences at gunpoint and her clothes were torn off. During the fight, Complainant's brother's passport was snatched and Complainant's salary of four months equivalent to Rs. 50,000/- was stolen. Her Nikkahnama as well as marriage photo have also gone missing. Two mobile phones, i.e. Hot-8-Infinix having value of Rs.10,000/- and J-5 having value of Rs.5,000/-, Complainant's dowry articles having approximate value of Rs.100,000/-, fridge, LCD, bed and sofa set were also taken away. On

09.07.2020 the police recorded the statement of the Complainant's brother and witness, Mr. Touqeer Ahmed, who also named the Petitioner as one of the miscreant.

3. Learned counsel for the Petitioner submitted that there is a delay of three days in lodging of FIR which makes the prosecution story doubtful; it is evident from the contents of the FIR that no offence has been made out against the Petitioner as the contents of the FIR is of theft of Nikkahnama and house hold items; that the dispute is purely of family nature and instead of filing family suit, Respondent No.3 has registered the subject FIR for criminal proceedings; that it will be futile and an abuse of process of the court to proceed with the matter as there are no reasonable grounds to believe that Petitioner has committed any offence; and now the Complainant herself is not appearing in the trial proceedings. Learned counsel in view of said contentions prayed for quashing of subject FIR.

4. Conversely, learned State Counsel contended that the High Court has no jurisdiction whatsoever to take the role of investigating agency and to quash the F.I.R. while exercising constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan or under Section 561-A, Cr.P.C., unless and until very exceptional circumstances exist, which surely are missing in the instant case. It is also contended that challan to the extent of the present Petitioner has been submitted before the trial court on 11.03.2021 therefore, the Petitioner has an alternate remedy to move application under Section 249-A Cr.P.C. They prayed for dismissal of instant writ petition.

5. Arguments heard. Record perused.

6. The most basic prerequisite for the maintainability of a petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 is that there is no other adequate remedy available to the Petitioner. This most basic requirement is not met by an accused person seeking quashing of FIR as multiple remedies are available to her before constitutional jurisdiction can be resorted to. Such remedies include Section 249-A and 265-K Cr.P.C. which are available to the present Petitioner.

7. The inherent power of this Court under Section 561-A Cr.P.C. can be invoked in extraordinary cases where no offence is made out or any illegality has been committed causing grave miscarriage of justice. However, in the instant case the Petitioner has been specifically nominated in the F.I.R. wherein the Complainant has alleged that the Petitioner along with others beat up the Complainant in addition to committing theft of valuables and other house hold items, therefore, it cannot be said that no offence is made out. The power under Section 561-A Cr.P.C. cannot be used to interfere with or interrupt ordinary course of criminal procedure.

8. In view of the above discussion, I find the instant petition for quashing of FIR without merit, which as such is, hereby, **dismissed**.

(SAMAN RAFAT IMTIAZ)
JUDGE

JUNAID