JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

Writ Petition No.2287/2020
Ch. Abdul Ghani
Versus
The State, etc.

Petitioner by:	**Barrister Omer Azad Malik and Usman Ahmed Ranjha, Advocate,**
Respondents by:	**Syed Shahbaz Shah, State Counsel, Mansoor Ahmad SI with record.**
Date of Decision:	**29.09. 2020.**

FIAZ AHMAD ANJUM JANDRAN, J: Through the instant writ petition, petitioner (Ch. Abdul Ghani) prays for quashment of the F.I.R. No.159 dated 26.12.2019 under Section 420, 468, 471 PPC, registered at Police Station Shams Colony, Islamabad.

2. The relevant facts are that on 26.06.2019, petitioner got conducted examination of vehicle bearing No.AND-502, Honda Civic Model 2003, from the Forensic Science Laboratory (F.S.L) Islamabad and vide its report dated 02.08.2019, its chassis number plate was found cult and weld, hence the subject F.I.R.

3. Learned counsel for the petitioner contends the vehicle was purchased through open auction from the Customs Department Quetta for consideration of Rs.645,000/-; that earlier vehicle was subject to test but no concealed figure had been restored; that petitioner is bonafide purchaser of the vehicle and during investigation, all relevant documents have been verified by the competent authorities, therefore, further proceedings in the impugned F.I.R would be wastage of time and abuse of process of law. Learned counsel placed reliance upon case law cited reported as 2005 P.Cr L J 1638 & PLD 2014 Sindh 164.

4. On the other hand, that as per report of F.S.L, chassis number of the vehicle was found cult and weld which is in contravention of the report, being relied upon by the petitioner, therefore, these facts require factual inquiry not permissible at this stage. It is further argued that where the disputed questions of facts are involved, normal course would not be allowed to be deflected.

5. Heard, record examined.

6. It is settled principle that, this Court under Article 199 of the Constitution and Section 561-A of Criminal Procedure Code retains power to quash the FIR but this power is required to be exercised in exceptional and rare cases. The exercise in routine will not only crumble down the process but also result in devastating the exercise carried on by the Investigating Agency and the complainant as well before its logical conclusion i.e. the culmination of trial which is the ultimate object of criminal justice system. It does not seem proper to bulldoze the process and brush aside the exercise with one stroke of pen. This would also amount to lay the complainant in chaos and uncertainty that he/she had been deprived of the right to prove his/her case which if allowed would have been proved.

7. Admittedly, there are two reports of the Forensic Science Laboratory, one relied by the petitioner dated 02.06.2015 while the other dated 02.08.2019 on the basis of which the instant F.I.R was registered. Both are at variance while it is also the version of the petitioner as contained in Ground-F of his petition that he was not aware of any discrepancy in the chassis of said vehicle. These facts warrants factual inquiry, which is not permissible at this stage and in such eventuality, it would not be appropriate to halt the normal course where the defence i.e. the accused would also have an opportunity

to lead evidence. If the accused succeeds to get an order of quashing of FIR by way of filing writ petition, it would amount to defeat the criminal trial system. Guidance in this respect is sought from the law laid down by the Hon'ble Apex Court of the Country in **PLD 2016 SC 55 (Muhammad Farooq V. Ahmed Nawaz Jagirani and others)** wherein it was held that: -

> "*the High Court in exercise of inherent jurisdiction cannot strangulate the trial by overstretching its jurisdiction under Section 561-A, Cr.PC (see Noor Muhammad case, supra) and embark upon to examine adequacy and or inadequacy of evidence, which stage will only reach after charge is framed and complainant is given an opportunity to prove his case beyond reasonable doubt.*"

8. As observed above, in presence of disputed questions of facts and availability of efficacious alternate remedy, normal course would not be allowed to be deflected. If at any stage, after taking cognizance by the Court, accused is of the view that he is innocent, he has a remedy under Section 249-A Cr.P.C/265-K Cr.P.C. Guidance in this respect is taken from the case law reported as **PLD 2013 SC 401 (Director-General, Anti-Corruption Establishment, Lahore and others. V. Muhammad Akram Khan and others)** wherein it was held that:-

> "*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 himself 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.*"

9. The case law relied upon by the learned counsel do not extend any help to the petitioner due to having distinct facts and circumstances.

10. In the light of above, the instant writ petition is without merits and is accordingly **dismissed**, however, the petitioner shall be at liberty to avail all remedies available to him under the law, if so advised.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Suhail