

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

Writ Petition No.3088/2019

Lt.Col.Haroon ur Rashid
VERSUS
The SHO PS Shalimar, Islamabad, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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12.9.2019. Malik Jawwad Khalid, Advocate for petitioner.

The petitioner, through the instant petition has prayed for quashing of FIR No.359/2016 dated 28.12.2016 under Sections 392, 342, 148, 149, 354, 448, 506(ii) PPC PS Shalimar, Islamabad.

2. Learned counsel for the petitioner, interalia contends that instant FIR has been lodged to settle the family dispute of the property and as such no incident took place as alleged in the FIR. It is further contended that criminal complaint titled **Hassan Ashfaq Bhatti Vs Col.Haroon Rasheed etc** was also filed which was dismissed vide order dated 10.5.2015 by the Additional Sessions Judge-V (West), Islamabad qua the similar subject matter and as such civil suit titled **Hassan Ashfaq Bhatti etc Vs Mr.Romail etc** is pending before the competent civil court whereby the plaintiffs are seeking declaration and possession of house No.166-B, Sector F-11/1, Islamabad. Instant FIR is registered with malafide to settle the civil dispute through criminal prosecution.

3. Learned counsel for the petitioner has been confronted regarding the status of a criminal case whereby he conceded that challan has been submitted in the Court on 30.10.2018 whereby petitioner has been placed in column No.2 of the report u/s 173 Cr.P.C.

4. Keeping in view the above background when challan has already been submitted in the competent court, any interference by

the High Court through a Constitutional jurisdiction for quashing of FIR amounts to bypass the statutory remedies provided in terms of Section 249-A Cr.P.C and 265-K Cr.P.C which are available to the petitioner. Reliance is placed on case law titled **Dr.Sher Afgan Khan Niazi Vs Ali S.Habib and others (2011 SCMR 1813) and Directorate General, Anti-Corruption Establishment, Lahore and others Vs Muhammad Akram Khan and others (PLD 2013 Supreme Court 401).** Even otherwise inherent jurisdiction of the High Court in terms of Criminal Procedure Code can only be exercised when alternate and efficacious remedy is not available or where the very registration of the FIR is silent qua any offence and as such petitioner has failed to stretch his case under the said principle, therefore, instant petition is misconceived and same is hereby **dismissed in limine.**

(MOHSIN AKHTAR KAYANI)
JUDGE

M.S.ZAKI