

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Writ Petition no. 363 of 2022

Jehanzeb Khan

Versus

Justice of Peace, Additional Sessions Judge-III, Islamabad-East and others

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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03.02.2022 Mr. Khizar Hayat Khan, Advocate for the petitioner.

The petitioner assails the order dated 24.01.2022 passed by the learned ex-officio Justice of Peace directing the registration of an FIR on the application of respondent no.3, who is an authorised representative of Innvotek Pharmaceuticals, the erstwhile employer of the petitioner.

2 The application under sections 22-A/22-B Cr.PC was moved on behalf of Innvotek Pharmaceuticals praying for the registration of an FIR against the petitioner, claiming that he continued to retain the company car given to him for the purposes of his employment long after him ceasing to be an employee and thereby committed criminal breach of trust as the car was given to him on trust for the purpose of his employment only.

3 The report of the Superintendent of Police to the learned Justice of Peace on the sections 22-A/22-B application stated that the dispute was primarily of a civil nature pertaining to the outstanding dues of salary for which the petitioner has also availed civil remedy. The learned Justice of Peace nonetheless directed the SHO to register the FIR and to proceed in accordance with law subject to submission of proof of vehicle and ownership of company before the SHO.

4 Learned counsel for the petitioner accepts that a suit for declaration, recovery of salary dues and permanent injunction was filed by the petitioner in November, 2021

against Innvotek Pharmaceuticals wherein a temporary injunction dated 11.11.2021 was granted in favour of his client. The language of the temporary injunction in material part is reproduced below:-

“...defendant is restrained from illegally snatching the vehicle No. AEF-688 from plaintiff. However, this order would have no effect on any other legal/judicial proceedings.”

5 Learned counsel has cited *2019 MLD 503* to assert that the pendency of a civil dispute is a relevant factor for the Justice of Peace to take into account, which according to him has not been looked at in the impugned order. However, the said judgment has no relevance to the case at hand because there the criminal case was sought to be registered for the same rented property for which the civil litigation was pending, whereas in the instant case the civil dispute pertains to salary dues while the FIR sought to be registered pertains to a car that is being retained by the petitioner without due authorization from the company. The other judgments cited (*2019 PCr.LJ Note 23 Lahore, 2019 YLR 1299 Lahore, 2017 P Cr.LJ Note 179 Sindh and 2018 YLR 1897 Balochistan*) by learned counsel have different facts and circumstances and are not found relevant.

6 In ground 3 (l) of the writ petition, it is averred that:

“...The respondent No.3 is not entitled to claim ownership of motorcar bearing Reg No. 688/AEE nor can claim its recovery because it has been confiscated due to non-payment of outstanding dues of the petitioner...”

(emphasis supplied)

7 What would the law and order situation be if a claimant in a civil dispute is allowed to confiscate some property of a defendant pending the decision in the litigation? Which doctrine of law entitles a plaintiff to appropriate some property of a defendant saying that the defendant is not entitled to claim ownership of its asset until its prayer in the

suit is granted? The sheer absurdity of the plea of the petitioner merits that is not answered.

8 In ground 3(f), the petitioner claims that respondent no.3 promised to pay its outstanding dues “...with the commitment that till the payment of the due amount to the petitioner he will not be dispossessed from the suit vehicle....” However, the alleged verbal promise, for which no documentary proof is on record, is inconsistent with the sections 22-A/22-B Cr.PC application filed by respondent no.3. The petition relies on some oral understanding with some official of the company but such alleged undertaking, unless proved in evidence led at the trial, is not worthy of any credence at this stage when the company itself seeks recovery of the vehicle.

9 As the petitioner has already filed a suit for recovery of his dues from the company, his continued possession of the car of the company does not appear to be warranted in law. Further, the temporary injunction reproduced above is against illegal snatching, and in its terms creates an exception for recourse to the legal process undertaken by the company for recovery of the car by filing the application under sections 22-A/ 22-B Cr.PC.

10 This Court’s role is limited to examining any illegality or lack or excess of jurisdiction by the learned Justice of Peace in passing the impugned order. Only the orders passed, directions issued and actions taken by the Justice of Peace in excess of his powers can be quashed through judicial review. The learned Justice of Peace is not bound by the report of the police as he exercises a quasi-judicial function by looking at all the facts and circumstances before him, the police report being only one of them – see *Younus Abbas versus Additional Sessions Judge, Chakwal, PLD 2016 Supreme Court 581*. The entire purpose of the jurisdiction conferred under section 22-A(6) Cr.PC will be defeated if (as argued by the learned

counsel for the petitioner) the police report becomes binding on a Justice of Peace.

11 Resultantly, I do not find any illegality in the order impugned and this petition is therefore **dismissed in limine**.

12 The observations made are for the purpose of disposal of this petition only and shall have no bearing on any other legal proceedings which will be conducted in accordance with law.

(SARDAR EJAZ ISHAQ KHAN)
JUDGE

Imran

Approved for reporting.