

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

W.P No.2216/2019

Syed Azad Hussain Shah Naqvi
VERSUS
The State, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
02)	30.9.2019.	Mr.Arif Ali Zafar Chohan, Advocate for petitioners. Barrister Ayesha Siddique Khan, State Counsel. Mr.Babar/Respondent No.2 in person. Mr.Saif Ullah, S.I.

Through this writ petition, the petitioner has assailed the order dated 15.4.2019, whereby learned Judicial Magistrate Section -30 (East), Islamabad had accepted the cancellation report submitted in case FIR No.109 dated 11.3.2018 under section 25-D of Telegraph Act and 506 PPC registered at Police Station Bhara Kahu, Islamabad.

2. Learned counsel for the petitioner contends that petitioner lodged case FIR No. No.109 dated 11.3.2018 under section 25-D of Telegraph Act and 506 PPC Police Station Bhara Kahu, Islamabad, on receiving threatening call from mobile telephone No.03465269095 on 29.9.2017 at about 8.30 p.m. It is further contended that the Investigating Officer has not collected proper evidence and recommended the case for cancellation without any substantive and valid reason. It has further been contended that learned Judicial Magistrate had not discussed the available record nor any incriminating evidence has been brought on record despite the fact that incriminating piece of evidence is available on record.

3. Conversely, learned State Counsel contends that CDR was obtained but offence under section 25-D of Telegraph Act has not been made out, hence I.O has recommended the case for cancellation.

4. Arguments heard. Record perused.

5. The perusal of record reveals that petitioner is aggrieved with the order dated 15.4.2019 passed by the learned Judicial Magistrate Section-30, Islamabad whereby the learned Magistrate has agreed with the cancellation report of case FIR No.109 dated 11.3.2018 under section 25-D of Telegraph Act, 506 PPC Police Station Bhara Kahu, Islamabad. The impugned order has been seen in the light of the record whereby the said order is a non speaking order and as such the available incriminating record has not been discussed in the said order. Even the complainant was not given opportunity of hearing which itself is violation of Article 10-A of the Constitution of Pakistan.

6. In the light of above observation, instant writ petition stands accepted and the impugned order is set-aside and matter is remanded back to the learned Judicial Magistrate Section-30 (East), Islamabad to decide the same afresh in accordance with law after hearing the parties and considering the available record.

(MOHSIN AKHTAR KAYANI)
JUDGE

M.S.ZAKI.