

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No.2032 of 2020

Muhammad Shahzad Khan

Versus

The State and another.

Petitioner by: Mr. Sajjad Haider Malik, Advocate.

State by: Mr. Hameed Saeed Dar, State
Counsel alongwith Ahsan Ullah S.I.

Date of Hearing: 13.08.2020.

Ghulam Azam Qambrani, J: Through this petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 read with Section 561-A Cr.P.C, the petitioner, Muhammad Shahzad Khan, has invoked the constitutional jurisdiction of this Court, with the following prayer;-

"In these circumstances, it is most humbly prayed that writ petition may kindly be accepted and FIR # 246/2020 dated 14.07.2020 U/S 420/468/471/411/170/171/34 PPC P.S. AABPARA ISLAMABAD may kindly be quashed in the best interest of justice.

Any other relief this Honorable Court may deems fit and proper, may kindly be awarded."

2. Briefly stated facts of the case are that FIR No. 246 dated 14.07.2020 under Sections 420, 468, 471, 411, 170, 171, & 34 PPC has been registered at Police Station Aabpara Islamabad, against the petitioner with the allegation that he was driving a stolen and tampered vehicle bearing No.NZE-140, Chassis No.2039779 and fake number plates were affixed on it.

3. Learned counsel for the petitioner contended that perusal of the FI.R reveals that the date of occurrence is mentioned as 07.07.2020 whereas the FIR was lodged on 14.07.2020; that as per FIR, the petitioner was arrested from Shaheed-e-Millat Road, whereas he was arrested on 14.07.2020 from Room No.614, Centaurus Mall, Islamabad; that as per report of Forensic Science Laboratory, the

recovered vehicle was not tampered, which clearly shows the malafide on the part of the police; that no offence has been committed by the petitioner; that the local police has got lodged the instant criminal case against the petitioner just to blackmail and pressurize him, hence the impugned FIR is liable to be quashed.

4. On the other hand, learned State counsel opposed the contentions raised by the learned counsel for the petitioner contending that the petitioner was found in possession of a stolen vehicle; that the challan has been submitted before the learned trial Court; that the petitioner has alternative remedy before the learned trial Court and lastly prayed for dismissal of the instant petition.

5. Arguments heard, record perused.

6. As per contents of the FIR, the petitioner was found in possession of a stolen vehicle, regarding which FIR No.420/18 dated 30.10.2018 u/s 381-A PPC has been registered at Police Station City Chichawatni, District Sahiwal. Perusal of the record reveals that the challan has been submitted before the learned trial Court. Stance of the petitioner that he has committed no offence and he has been falsely involved in the instant case, is a question of fact to be determined by the learned trial Court after recording of evidence, which exercise cannot be done by this Court in exercise of its Constitutional Jurisdiction. In this regard reliance is placed upon the cases reported as "Col. Shah Sadiq Vs. Muhammad Ashiq and others" (2006 SCMR 276), "Muhammad Saleem Bhatti Vs. Syed Safdar Ali Rizvi and 2 others" (2006 SCMR 1957) and "Syed Nayab Hussain Sherazi Vs. Station House Officer, Police Station Sabzazar, Lahore and 4 others" (2018 P.Cr.L.J. 656).

7. The scope of quashing of F.I.R or interfering in the investigation by this Court is limited while exercising powers in jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan. Resorting to the provisions of Section 561-A Cr.P.C, or to the provisions of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, seeking quashment of a criminal case, is an

extraordinary remedy, which can be invoked only in exceptional circumstances and the said provisions can never be exploited as a substitute for the prescribed trial or to decide the question of guilt or innocence of an accused. Determination of correctness or falsity of the allegations levelled against the petitioner in the F.I.R is an obligation cast upon the Court prescribed by the Code of Criminal Procedure for the purpose on the basis of legal evidence led at the trial after a proper opportunity to both the parties to plead their causes. No such extraordinary circumstances have been mentioned in the instant case, which can permit this Court to deviate from the normal course of law and to quash the F.I.R by exercising extraordinary constitutional remedy under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 read with Section 561-A Cr.P.C and is not supposed to enter into a factual controversy, unless it is established that certain facts are not disputed between the parties and keeping in view the controversy between the parties, it is not fair to quash the impugned F.I.R at this stage.

8. While considering quashing of a criminal case in exercise of powers vested under Article 199 of the Constitution, this Court is also required to take into consideration the various alternate remedies available to a petitioner before the learned trial Court under Section 249-A or 265-K Cr.P.C.

9. In view of what has been discussed above, this Court is not inclined to quash the impugned F.I.R. at this stage. This petition having no force is, therefore, **dismissed**.

(Ghulam Azam Qambrani)
Judge

Announced in open Court on this day 25th of August, 2020.

Judge

Rana M. Ift