

JUDGMENT SHEET  
**PESHAWAR HIGH COURT**  
**PESHAWAR**  
JUDICIAL DEPARTMENT

**Writ Petition No.3450-P/2015 with CM No.378-P/2018**

**Attiq-ur-Rahman Vs SHO etc**

Date of hearing     **05.12.2019**

Malik Nasrum Minallah, Advocate, for the petitioner.

Syed Qaiser Ali Shah, AAG, for the State.

Syed Abdul Fayaz, Advocate, for police officials.

**JUDGMENT**

**AHMAD ALI, J.** Through the petition in hand, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner (Attiq-ur-Rahman) has prayed this Court for the following relief:-

**“It is, therefore, most humbly prayed that on acceptance of this writ petition the impugned order dated 21.09.2015 of the learned respondent No.5 may very kindly be set aside and respondent No.1 may very kindly be directed to register FIR against respondent No.2 and 3 under the relevant sections of law.**

**Any other relief which this Hon’ble Court deems fit in the circumstances may also be granted in favour of the petitioner.”**

2. Brief facts of the case, as per averments made in the petition, are that on 06.07.2015, the

petitioner and his wife were standing in front of their house and in the meanwhile respondent No.2 accompanied by 03 muffled faced persons came in a vehicle with tinted glasses and aimed their weapons at petitioner and his wife. They directed them to get into the vehicle and upon their refusal they abused and beat them and thereafter dragged them into the vehicle. The petitioner and his wife started hue and cry whereupon the passerby attracted to the spot, therefore, they were let free upon their intervention. After a while, they once again attempted to throw the petitioner into the vehicle. Motive behind the story narrated by the petitioner is that there is a land dispute between him and respondent No.2, therefore, he tried to pressurize the petitioner by misusing of his authority. The petitioner approached the local police for registration of FIR against respondent No.2 & 3, but in vain. Thereafter, the petitioner knocked the door of the learned Justice of Piece through application u/s 22-A Cr.P.C, for the said purpose, but his application was dismissed vide judgment dated 21.09.2015 impugned herein through the instant petition.

3. Respondents were put to notice to file their comments which they have furnished wherein

issuance of the writ asked for was strongly opposed.

4. Arguments of the learned counsel for the parties heard record perused with their able assistant.

5. The petitioner has though come up with certain allegations against respondents, but perusal of record reveals that on the day of occurrence respondent No.2 had come to University Campus in connection with some admission matter, who was being chased by a suspected motorbike rider with muffled face. Sensing security threat, he apprehended the suspected chaser, who after removal of his mask was found to be his neighbor (present petitioner) with whom the respondent admitted to have a civil dispute over landed property/plot. The petitioner could not tender any explanation for chasing the official vehicle of police officials. Accordingly, he was handed over to local police of University campus and the matter was also brought into the notice of high-ups. In this respects comments of respondent No.2 are placed on file which are duly supported by a sworn affidavit.

6. Perusal of record further reveals that upon the complaint of petitioner, the local police also

lodged report vide DD No.36 on the same day (06.07.2015). Thereafter permission of concerned Judicial Magistrate u/s 156(3) Cr.P.C was sought for conducting proper inquiry to substantiate the allegations of the petitioner, therefore, his contention of being not entertained by the local police is discarded.

7. During the course of inquiry, Statements of those persons, who at the time of occurrence were present at the spot, besides watchman and other police officials, were recorded, wherein the allegations levelled by the petitioner stood not proved coupled with the fact that the CCTV footage also did not support his version. Prima facie on the pretext of civil dispute, the petitioner himself had tried to drag the respondent No.2 into courts and indulge him in criminal proceedings.

8. So far as, presence of the wife of petitioner at the time of occurrence is concerned, this contention of the petitioner has also become baseless, when, admittedly, she was found present on her duty at girls hostel (her place of posting) at the relevant time. The record further depicts that other complaints made by the petitioner in this regard have also been consigned being not proved and baseless.

9. The whole above analysis of the matter shows that proceedings in due course of law were already taken up in the matter in issue and when the Magistrate had already taken cognizance thereof and has proceeded with it in due course of law, filing of subsequent petition u/s 22(A) Cr.P.C seems to be just hamper the process of law as well as the enquiry proceedings before Illaqa Magistrate. The provision of 22(A) Cr.P.C are not meant for providing shortcut to the interesting parties but are invoked when police functionaries are avoiding to perform the legal duties while as per record, proceedings were already initiated in due course of law in the present matter. In this regard reliance could be safely placed on case law reported in **2016 P.Cr.L.J 1733**.

10. So, by cutting the cackle and in view of the facts and circumstances of the case and scrutiny of record appended, we are of the firm view that the impugned order of the Ex-Officio Justice of Peace, Peshawar, has not only been validly passed but is also in accordance with law, as such, needs no interference of this Court under the writ jurisdiction. Resultantly, the instant writ petition, which merits no consideration, is dismissed,

accordingly. Thus, CM No.378-P/2018, has become infructuous, which is also dismissed.

**ANNOUNCED;**  
05.12.2019

***J U D G E***

***J U D G E***

Amjad, PS, DB

Justice Musarrat Hilali & Mr. Justice Ahmad Ali