

JUDGMENT SHEET
PESHAWAR HIGH COURT, D.I.KHAN BENCH
(Judicial Department)

W.P. No.01-D/2020 with
C.M. No.01-D/2020.

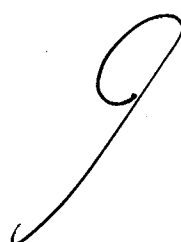
Zahoor Khan
Vs.
The State & 05 others

JUDGMENT

For Petitioner: **Mr. Siddiq Ullah Kundi, Advocate.**

For Respondents: **Nemo (being in motion).**

Date of hearing: **21.4.2020.**



SAHIBZADA ASADULLAH, J.- Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 read with Section 561-A, Cr.P.C., the petitioner has prayed for quashment of FIR No.1241 dated 24.12.2019, registered under Sections 419, 420, 468, 471 PPC at police station Cantt: D.I.Khan.

2. Arguments heard and the available record perused.

3. Perusal of the record reveals that the respondent No.6 submitted an application to the District Police Officer, D.I.Khan against the petitioner for registration of a criminal case, which was marked to SHO police station Cantt: for inquiry. The matter was inquired into and as a result, the aforementioned FIR was registered against the petitioner.

4. The police has statutory duty to register FIR regarding commission of any cognizable offence under Section 154 Cr.P.C. and its purpose is only to set the criminal law in motion. The provisions of Section 154 Cr.P.C are mandatory in nature and when an FIR is registered, then the local police under section 156 Cr.P.C. have the statutory rights to investigate the case and interference by the Court with duties of police is not permissible under the law, as FIR is not an encyclopedia of all the relevant facts, therefore, the image presented by the FIR will be clarified when all the incriminating material is brought on record during investigation. If the accused is found blameless during investigation, he can be dealt with in accordance with the provisions of sections 169/173 (3) Cr.P.C read with sections 249-A/265-K Cr.P.C, besides pressing into service the punitive proceedings by sending a complaint under section 182 PPC against informer/ complainant of the FIR. Therefore, it would be injustice, if, before the real facts are collected by the investigating agency, the FIR alleging the commission of cognizable offences, is quashed.

5. No doubt, this Court has the powers to quash FIR but in exceptional circumstances, i.e. where the allegations made in the FIR, on the face of it, do not constitute a cognizable offence, or the allegations made in the FIR are so illogical on the basis of which no

prudent person can ever reach to a just conclusion that there is sufficient ground for proceeding against the accused, or where there is an express legal bar in any of the provisions of the Code or the concerned Act, under which a criminal proceeding is instituted.



In case titled Dr. Ghulam Mustafa Vs. State, etc (2008 SCMR 76), it was held that:-

"High Court has no jurisdiction whatsoever to take the role of the investigating agency and to quash the FIR, while exercising constitutional power under Article 199 of the Constitution or under section 561-A Cr.P.C unless and until very exceptional circumstances existed".

6. In view of the above and after considering the contentions of learned counsel for the petitioner raised at the bar, we are of the firm opinion that factual controversy is involved in the case, which necessitates recording of evidence and this exercise cannot be done in constitutional jurisdiction of this Court.

7. As the petitioner has alternate remedies for redressal of his grievance in the shape of application under sections 249-A or 265-K Cr.P.C., as the case may be, which he can avail, therefore, this petition being bereft of any merit, is dismissed in limine.

Announced.
Dt: 21.4.2020.
Kifayat/*


JUDGE

JUDGE

(D.B)

Hon'ble Mr. Justice Abdul Shakoor
Hon'ble Mr. Justice Sahibzada Asadullah

