

**ORDER SHEET
IN THE LAHORE HIGH COURT
LAHORE.
JUDICIAL DEPARTMENT**

CrI. Revision No.1355 of 2019

Ali Ahmad

Versus

Ahmad Faraz alias Moon etc.

S.No of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary.
------------------------------	------------------------------	--

20.02.2019 Mr. Muhammad Nadeem Abbasi, Advocate for the petitioner.

Through the instant criminal revision filed under Sections 435 and 439 Cr.P.C the petitioner has impugned the order dated 12.10.2018 passed by learned Additional Sessions Judge, Lahore with the following prayer:-

“Under the circumstances, it is most respectfully prayed that instant criminal revision may kindly be accepted and impugned order dated 12.10.2018 passed by learned respondent No.1 may very kindly be set aside, to meet the ends of justice.

It is further prayed that during the pendency of the instant revision petition the proceedings of the Challan case FIR No.1628/17 offence u/s 34/302 PPC and other proceeding before any competent court may kindly be stayed in the interest of justice.

Any other relief which this Hon'ble court deems fit and proper, may also be granted."

2. The petitioner Ali Ahmad lodged a crime report FIR No.1628 of 2017 under Sections 302/34 PPC on 28.10.2017 with the Police Station Chung, Lahore alleging therein that his step mother namely, Mst. Razia

Bibi along with others have committed murder of his father. After a thorough investigation, the assertion of the petitioner/complainant levelled in the said FIR was found false and frivolous and the police recommended the cancellation of FIR.

3. Feeling dis-satisfied with the investigation the petitioner filed a private complaint and after recording the cursory statements and receiving the inquiry report from the learned Magistrate the learned Additional Sessions Judge vide order dated 12.10.2018 dismissed the private complaint filed by the petitioner so, the petitioner has impugned the said order passed by learned Additional Sessions Judge, Lahore through the instant criminal revision.

4. After hearing the learned counsel for the petitioner and perusing the record it transpired that while lodging the private complaint the petitioner has considerably changed his story which he had earlier introduced by way of lodging the above said FIR and the names of witnesses namely, Muhammad Sadiq and Muhammad Shehzad were not found mention in the FIR who deposed their cursory statements as CW-4 and CW-5.

5. The complainant levelled two different allegations against accused person. First one is that his deceased father Muhammad Ali was subjected to torture and the second is that Mst. Razia Bibi accused who also happened to be second wife of Muhammad Ali poured some liquid in his mouth, which makes his father's condition precarious and he passed away. The ocular account regarding this allegation is not supported by medical evidence as according to postmortem report deceased Muhammad Ali died due to cardiac arrest and not due to any injury. The doctor observed one injury on the forehead of deceased but on perusal of record it

reveal that the deceased had met an accident 1/2 days before the occurrence and he received the injury in that incident. The police has also collected the record of his treatment on the day of accident, which is available on the record and the doctor categorically has given his opinion that the cause of death is cardiac arrest. The second allegation against the accused Mst. Razia Bibi is that he poured some liquid in his mouth but the report submitted by the department of toxicology reveals that no poison was detected from the viscera of the deceased.

6. The other aspect of the case is that according to the hospital record, Muhammad Ali deceased was shifted to hospital by Ahmad Faraz accused as deceased was having a heart attack and after pronouncing him dead the hospital administration handed over the dead body to Ahmad Fraz who is a distant relative of Muhammad Ali deceased. It clearly suggests that the complainant was not available in the hospital at the time of death of his father. The previous grudge between the complainant and his father Muhammad Ali deceased also evinced from the record as Muhammad Ali deceased previously had lodged an FIR against his sons from his first wife and the petitioner and others had also grudge against Mst. Razia Bibi as his father contracted second marriage with her and he also had transferred a portion of his property in the name of Mst. Razia Bibi accused regarding which some litigation is pending between the parties.

7. For what has been discussed above and keeping in view the statements of the complainant and witnesses and background of the instant case and especially medical evidence which contradicts the ocular account, I hereby hold that there was no sufficient material available with the learned trial court to summon the accused persons to face the trial and the learned trial court has rightly

dismissed the private complaint filed by the petitioner.
So, the instant criminal revision is hereby dismissed in
limine.

(Muhammad Waheed Khan)
Judge.

APPROVED FOR REPORTING

JUDGE

Ansar*