ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

JUDICIAL DEPARTMENT.

Crl. Misc. No. 193-Q of 2021

Malik Tahir Nawaz & another

Versus

The State& another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23.02.2022	Sardar Shabbir Hussain Advocate for petitioners. Syed Shahbaz Shah, State Counsel with Naseer ASI.

Through the instant writ petition, petitioners (*Malik Tahir Nawaz & Mirza Naveed Imdad*) have prayed for *quashing* of FIR No.13, dated 15.01.2021, under Sections 109, 447, & 506 PPC, Police Station Bani Gala, Islamabad.

2- As per allegations set-forth in the FIR, petitioners are accused of criminal trespass on the land of the complainant besides extending life threats.

3- According to the learned counsel, an attempt has been made to convert civil litigation into criminal; that the allegations constitute a civil dispute for which the parties are already in litigation, therefore, further proceedings would be abuse of process of law.

4- On the other hand, learned State Counsel submits that petitioners have already availed remedy of bail,and retain alternate remedy before the Trial Court as the challan in the instant matter has been filed before the Court of Competent Jurisdiction, and the court has taken cognizance of the matter, therefore, petition is liable to be dismissed.

5- Heard, record perused.

6- Record available on file shows that the subject FIR was registered on 15.01.2021, while pre-arrest bail of the petitioners have already been confirmed by the learned Additional Sessions Judge, Islamabad (East) vide order dated 20.04.2021.

7- It is also a matter of record that the parties are tagged in civil litigation, while the question of entitlement or

enforcement of any sale agreement cannot be decided without recording of evidence, which exercise is not permissible in constitutional jurisdiction. Normal course, in the attending circumstances of the case, cannot be allowed to be deflected particularly in presence of alternate, efficacious remedy in terms of Section 249-A/265-K Cr.P.C for his premature acquittal.The Court of competent jurisdiction has taken cognizance of the matter and FIR could not be quashed and fate of the case and of the accused challaned therein was to be determined by the trial Court itself. Reliance is placed upon cases of "*State through Advocate-General, NWFP Peshawar and others. V. Gulzar Muhammad and others" (1998 SCMR 873) and "Miraj Khan V. Gull Ahmed and 3 others" (2000 SCMR 122),* (PLD 2013 SC 401).

8- In addition, FIR cannot be quashed merely on account of pending civil litigation as civil and criminal litigation can run side by side. Reliance is placed upon case of "*Dr. Sikander Ali Mohi-ud-Din v. Station House Officer and others" (2021 SCMR 1486).*

9- In view of above, instant writ petition fails and is accordingly **dismissed.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

A.R.Ansari