JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 1010 OF 2021

ATTIYA ISLAM

VS

GOVERNMENT OF PAKISTAN MINISTRY OF INTERIOR THROUGH SECRETARY, ISLAMABAD ETC

Petitioner by	**:**	**Mr. Ehtasham Aslam Khan Advocate.**
Respondents by	**:**	**Mr. Muhammad Taimoor Janjua, State Counsel.** **Raja Zamir ud Din, AAG.** **Mr. Fawad Haider Advocate for respondents No.5 to 10.** **Murtaza Haral S.I, P.S Shalimar.**
Date of hearing	**:**	**25.03.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Attiya Islam **(petitioner)** seeks issuance of direction to the respondents No. 2 to 4 to do act according to law in the light of her cross-version and to issue direction to respondents No.1 to 4 to do needful act to search the real culprit of murder. The petitioner also prayed for issuance of direction to respondents No.1 to 4 to do necessary action against the respondents No.5 to 10 according to law in the light of petitioner's statement and to issue direction to respondents No.1 & 2 to initiate strict action against the Police officials who willfully neglects the evidence of case.

2. The brief facts of the case as per memo of petition are that the petitioner's husband Dr. Muhammad Saeed was murdered on 18-01-2019 and in this regard, FIR No.23 dated 18-01-2019 U/S 302/34 PPC was registered at Police Station Shalimar Islamabad. The petitioner was implicated as accused in the above-mentioned FIR. The Police has investigated the petitioner number of times. The petitioner was not initially nominated as accused in FIR, but she was implicated through a supplementary statement recorded on 10-02-2019, which was after delay of one month and without disclosing any source of information. The petitioner was arrested on 17.10.2019 and remained on physical remand for about 08 days. Nothing was recovered from her during physical remand. Furthermore, finger prints report and polygraph report also taken by the Respondent No.2 to 4

and as a result, all were cleared. After completion of police investigation, petitioner was declared innocent and a discharge report was submitted before the learned Judicial/Area Magistrate P.S Shalimar but same has been disagreed vide order dated 26-10-2019. The petitioner during investigation again and again requested to respondent No.2 to 4 to record her statement and investigate the respondent No.5 to 10, but respondents denied to record her statement. The petitioner moved applications on 24th Jan-2019, 20th Feb-2019 and on 22nd Feb-2019 before the respondents. The petitioner filed Writ petition No.04/2020 before this Court and after hearing, the said writ petition was disposed of vide order dated 22-01-2020 on the undertaking of Police that they will remain careful in future and no undue, unlawful approach shall be adopted. When the version of the petitioner was not recorded by the respondents No.2 to 4, then petitioner moved application under Section 22 A & B Cr.P.C which was disposed of by learned Additional Sessions Judge (West), Islamabad vide order dated 24-01-2020 by directing the respondent No.3 to record version of petitioner and receive other material to conduct investigation in accordance with settled principles of investigation and principle annunciated by the August Supreme Court in case cited in PLD 2018 SC 595 in letter and spirt. After that, the S.P Complaint informed the petitioner on 09-03-2020 that her version as per Court order has been recorded but no copy was provided to her nor she was called for further proceedings. The petitioner moved many applications in different dates before the respondents No.1 to 4 for justice which are still pending. Being aggrieved from the conduct of respondents, petitioner has filed the instant writ petition.

3. The petitioner's counsel argues that every citizen has a fundamental right to be treated in accordance with law without any discrimination, however, respondents No. 2 to 4 ignored the petitioner's lawful requests without justification and failed to perform their legal duties; that despite clear evidence and legal precedents, including PLD 2020 SC 310, which mandates action against negligent Police officials, the respondents neglected their duty to investigate and arrest the true culprits; that the deceased, Dr. Muhammad Saeed, had previously filed a complaint against respondents No. 5 to 10 regarding family disputes, but the Police failed to investigate respondent No. 6 despite allegations of greed over property; that after the murder of Dr. Muhammad Saeed, crucial documents were handed over to respondents No. 2 & 4, yet no lawful action was taken; that the inconsistent

statements of respondent No. 5 suggested involvement in the crime, but the Police ignored these red flags; that the petitioner also sought to record her statement about her husband's murder, but the Police, due to bias and personal relations with other respondents, failed to conduct a proper investigation; that despite directions from the learned Sessions Judge under Section 22-A Cr.P.C. and confirmation from the SP, Investigation that the complaint was resolved, no cross-version statement was shared with the petitioner, violating natural justice principles; that the Police disregarded legal obligations by refusing to collect mobile data of suspects, ignoring multiple requests from the petitioner; and that on failure of Police to act lawfully, the petitioner has no other remedy but to file this writ petition before the Court.

4. On the other hand, learned AAG and State counsel vehemently opposed the arguments of learned counsel for the petitioner and argued that on the statement of complainant of the case namely Hafiz Sheraz regarding murder of his brother namely Dr. Saeed Iqbal, FIR No.23 dated 18.01.2019 u/s 302/34 PPC was registered at P.S Shalimar and investigation of the case was conducted. They further argued that the petitioner wants to establish cross-version in the instant case against the sons and daughters of the deceased who were abroad at the time of occurrence and this fact has been verified by the S.I.T during the course of investigation. In the last, they prayed that instant petition may kindly be dismissed being meritless.

5. While, learned counsel appearing on behalf of respondents No. 5 to 10 has also resisted to the instant petition and prayed for its dismissal.

6. I have heard the learned counsels for the parties and have also perused the record with their able assistance.

7. The brother of the deceased namely Hafiz Sheraz registered a case FIR No.23 dated 18.01.2019 u/s 302/34 PPC for the murder of his brother against unknown persons. During investigation, I.O recorded the statements of Kashif Saeed (respondent No.8), Akif Saeed (respondent No.5), Sana Muqeem (respondent No.7), and Mehwish Zeeshan (respondent No.9), under Section 161 Cr.P.C. On 10.02.2019, they nominated their step mother Atiya Islam, the present petitioner as accused. Atiya Islam and Shiraz were nominated through a supplementary statement. On 25.07.2019, on the statement of Akif Saeed

(respondent No.5), Shiraz Akhtar (complainant of the case) was also nominated as accused. Both Shiraz Akhtar and Atiya Islam were arrested and during physical remand nothing incriminating material was found. Atiya Islam (petitioner) was interrogated, but no fruitful result came on record to involve her for the murder of her deceased husband. The investigation officer declared Atiya Islam innocent during investigation. Eventually incomplete Challan against both the nominated accused persons was prepared and sent to the concerned Court on 30.10.2019 while placing their names in column No.2 of Challan, however, the learned Judicial Magistrate disagreed with the findings of the I.O. The complainant then filed a private complaint before the competent Court of law against both the accused namely Atiya Islam and Shiraz. Consequently on 27.06.2024, both the accused were acquitted by the learned Addl: Sessions Judge-West, Islamabad, during the pendency of the instant writ petition.

8. The petitioner registered the cross-version against the sons and daughters of the deceased and the investigation officer during the course of investigation found them abroad at the time of occurrence, as verified by the S.I.T. The petitioner initially did not nominate anyone for the murder of her husband, later on, she registered the cross-version at a much belated stage, by nominating the sons and daughters of her husband whom were born from his first wife for the role of abetment/conspiracy. As full-fledged trial has already been concluded by the learned Addl: Sessions Judge, Islamabad-West and acquitted both the accused while considering the evidence available on record, therefore, the petitioner has now the option to file a private complaint if she desires so and it will be a futile exercise to issue directions to respondents No.1 to 4 to conduct fresh investigation against respondents No.5 to 10 as they have already found and verified that they were abroad at the time of occurrence.

9. With these observations, this Court is of the view that the instant writ petition is misconceived and without any merits, which is ***dismissed.***

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on 7th day of April 2025.

JUDGE

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