JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

JUDICIAL DEPARTMENT

W.P. No. 1407 of 2021

Imtiaz Ali
Versus
Additional District Judge-IX, Islamabad, etc.

Petitioner by :	Petitioner in person.
Respondents by:	Mr. Khurram Mehmood Qureshi, Advocate With respondent No. 5-Shah-e-Room, Inspector FIA. M. Nasim Saqlain, AAG,
Date of hearing:	27.09.2022

ARBAB MUHAMMAD TAHIR, J: Through the instant writ petition, petitioner namely *Imtiaz Ali* impugns order dated 28.01.2021, passed by learned Addl. District Judge-IX Islamabad, whereby plaint in suit filed by the petitioner for the recovery of compensation and damages was returned under Order VII, Rule 10 CPC for its presentation to the Court having territorial jurisdiction. The operative Paragraph-4 being relevant reads as under:-

> "4. In view of the above facts and circumstances, the basic question of territorial jurisdiction arose. **Since the alleged wrong initiated, proceeded and culminated at Peshawar; hence, the cause of action, if any, accrued to the plaintiff does not come within the jurisdiction of this Court."** [Emphasis added]

2- Tersely, relevant facts are that on 25.09.2020 petitioner filed suit for recovery of compensation and damages against respondents 2 to 5 i.e. *Shah Room, S.I., Asghar Baloch, Inspector and Ali Gohar, Ex-S.I., FIA AHTC, FIA HQs, Islamabad and Mr. Inam Ghani, I.G.P, Punjab, Lahore*. The respondent No.1 filed an application under Order VII, Rule 11 CPC for rejection of plaint. The petitioner contested the same by

filing written reply. The learned Trial Court after hearing the parties, returned the plaint vide order dated 28.01.2021, being impugned through the instant writ petition.

3- Petitioner submits that as per Section 19 of the Code of Civil Procedure, suit at Islamabad is competent therefore; impugned order is liable to be set aside. To fortify his submissions, placed relied upon case law reported as *PLD 2015 SC 42 and 2020 CLC 454 (Sindh)* argued that

4- On the other hand, learned AAG assisted by learned counsel for the respondent No.5 supported the impugned order by contending that the alleged wrong initiated, proceeded and culminated in Peshawar, therefore, the Court at Islamabad lacks jurisdiction in the matter.

5- Heard, record examined.

6- The concept of ***jurisdiction*** has graciously been elaborated by the Hon'ble Supreme Court of Pakistan in case of "*Province of Punjab through Secretary to Government of Punjab, Communication and Works Department, Lahore and another Vs. Messrs Muhammad Tufail And Company through Muhammad Tufail (deceased) through Legal Heirs*" (**PLD 2017 SC 53**) in terms that:-

> "It is to be noted that Section 20, C.P.C. confers jurisdiction on a Court in two ways. Firstly, on the basis of where a defendant(s) resides, carries on business or works for gain within its local limits. Secondly on the basis of where the cause of action wholly or in part arose within its local limits. Jurisdiction means the authority to decide. The concept of jurisdiction of a Court encompasses (i) territorial jurisdiction, (ii) pecuniary jurisdiction and (iii) subject matter jurisdiction. The concept of jurisdiction has its genesis in the physical power of a Court to issue process to persons within the reach of the Court. Shorn of all extraneous 'frills', this is the essence of jurisdiction. A Court is to decide matters when persons relating thereto are within its reach. This basic jurisdiction is then regulated by defining the limits of that 'reach' by setting pecuniary limits, or by assigning different 'subjects' within one territory to different Courts, for example, by assigning

banking and environmental matters to different Courts within one territory."

6- A suit for compensation for wrongs to a person or movables is governed by Section 19 and Section 20 CPC which, for ease of reference are reproduced hereunder:

> **'19**. Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted -at the option of the plaintiff in either of the said Courts.
>
> **20**. **Subject to the limitations aforesaid, every suit shall be in a Court within the local limits of whose jurisdiction**.
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> (a) the defendant-, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or
> (b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either of the Court is given, or the defendants who reside, or carry on business, or personally work as aforesaid, acquiesce in such institution; or
> (c) **the cause of action, wholly or in part, arises**.'

7. As per section 20(c) subject to the limitations contained in Section 19, every suit (*suit for compensation for wrongs*) shall lie in a Court within the local limits of whose jurisdiction, the cause of action, wholly or in part arises. Thus to maintain the suit at Islamabad, it is mandatory for the petitioner to show, as stipulated in section 20(c) that the cause of action wholly or in part arises at Islamabad.

8- In the present case, there is no dispute that FIR No.55, stood registered against the petitioner on 08.07.2013 at FIA AHTC, Peshawar. After due trial, the petitioner was convicted by the Trial Court situated at Peshawar while he assailed his conviction before the Hon'ble Peshawar High Court and ultimately acquitted. Thus, cause of action if any accrued to the

petitioner come within the territorial jurisdiction of the Court at Peshawar and not the Court at Islamabad.

9- In view of above, impugned order is in accordance with law on subject and does not call for any interference. Consequently, instant writ petition is **dismissed.**

(ARBAB MUHAMMAD TAHIR*)*
JUDGE

Announced in an open Court on 21.10.2022

JUDGE

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