Form No: HCJD/C-121
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 692 of 2022

Muhammad Ilyas

Vs

Inspector General of Police, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	06.02.2025	Mr. Sajjad Baloch, Advocate for the petitioner. Mr. M. Taimoor Janjua, State Counsel. Mr. Nadeem Tahir, S.I. Homicide Unit Circle.

MUHAMMAD AZAM KHAN, J. The Petitioner [Muhammad Ilyas] has filed the instant Writ Petition of "Habeus Corpus" under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, stating therein that he is a labourer by profession and that on 19.12.2022 between 8:00 to 9:00 pm his brother namely Muhammad Hamid was abducted by unidentified individuals wearing police uniforms. The Petitioner has sought the recovery of his brother.

2. According to the Petitioner he initially approached the concerned Police Station, where he was informed that his brother had not been arrested and no other police official from any other jurisdiction has entered their arrival into Police Station's record regarding arrest of his brother. The Petitioner then reported the matter, leading to the registration of FIR No. 119/2022 dated 21.02.2022 under Section 365 of the Pakistan Penal Code, 1860 **("PPC")** at Police Station Secretariat, Islamabad. The Petition further reveals a prior blood feud between the Petitioner and Respondent No. 5 [Asad Ali Shah, Superintendent of Police, Counter Terrorism Department,

Bannu, KPK], who allegedly misused his authority to abduct the Petitioner's brother from the jurisdiction of Police Station Secretariat, Islamabad, where the Petitioner's brother had been working as a laborer at a shop in Bharakahu and the Petitioner's brother remains in unlawful custody of the said Respondent. Despite checking in his native village of Bannu and with local police stations there, the Petitioner has been unable to trace his brother. Finally, the Petitioner prays that the instant Petition be accepted, and that Respondents Nos. 1 to 3 be directed to recover his brother from the illegal custody of Respondents Nos. 4 and 5, produce him before the Court, and thereafter set him at liberty in the interest of justice.

3. The local police of Police Station, Secretariat Islamabad registered FIR No. 119/2022 under Section 365, PPC against the unknown accused. Later on, Complainant/Petitioner recorded his supplementary statement in which he nominated Respondent No. 5, Ibad Wazir, Qazi Muhammad Arif and other police officials for the abduction of his brother by misusing their authority being Police Officers. He further stated in his supplementary statement that there was a prior blood feud between the Petitioner and Respondent No. 5, which led to the abduction of his brother. He further stated that due to that enmity they left the limits of District Bannu and started residing at Karachi and later in Islamabad. The local police in Islamabad began their investigation and, during the process, obtained the CDR data of the mobile SIM used by the alleged abductee. The CDR data revealed that the last recorded location was New Hassan Ghari, Shami Road, Peshawar, after which the mobile phone was switched off. The local police of Islamabad made several efforts, through the Inspector General of Police, Islamabad, to the Inspector General of Police, KPK, seeking assistance in the arrest of the nominated accused and warrants

for arrest of the accused were obtained from the Court of Judicial Magistrate, Islamabad. The local police obtained CCTV footage, which showed that during the abduction, two double-door vehicles and one black Toyota Corolla car were used. The footage also revealed that the inmates of these vehicles were wearing police uniforms. In the CCTV footage, one Ibad Wazir, Inspector CTD, Peshawar, was identified. The CDR data for Respondent No. 5 and Ibad Wazir, Inspector, was obtained, revealing that Ibad Wazir's location at the relevant time was in Islamabad. Furthermore, prior to the incident, Ibad Wazir, Inspector CTD, Peshawar, was found to have been in contact with Respondent No. 5. Ibad Wazir, Inspector, and Respondent No. 5 applied for pre-arrest bail before the District and Sessions Court, Islamabad. However, on 25.07.2022, their pre-arrest bails were recalled due to their failure to appear before the Court. The bails were dismissed as withdrawn, as the Investigating Officer (I.O.) informed the Islamabad High Court that there was no evidence against them.

4. During the investigation, it was revealed to the Investigating Officer (I.O.) that an accused, Muhammad Sajjad S/o Sher Nawaz, had been arrested and was confined in D.I. Khan Jail in connection with case FIR No. 431/2022 dated 12.11.2022 under Section 9(C) of the CNSA, 1997. During interrogation, Muhammad Sajjad admitted to the occurrence related to the present FIR. He was further interrogated within the D.I. Khan Jail and later shifted to Islamabad after completing the legal formalities. Muhammad Sajjad pointed out the location where the Petitioner's brother was abducted, with the help of his accomplices, including Murad Khan alias Datchi and other police officials. Based on his pointation, the police recovered the CNIC and mobile phones of the abductee, Muhammad Hamid. Muhammad Sajjad also confessed to the police that he, along with his accomplices, including Murad Khan alias Datchi and

some police officials, had committed the abduction. He further admitted that they later murdered the abductee and disposed of his body in the Indus River.

5. The accused Ibad Wazir, Inspector and Qazi Arif were exonerated by the complainant during trial. Respondent No. 5 has not been challaned. Murad Khan alias Datchi has been declared absconder while Muhammad Sajjad is on bail and facing trial.

6. Arguments of the learned counsel for the Petitioner and learned State Counsel heard in detail, record also perused with the able assistance of both the sides.

7. The present writ petition was filed for the recovery of the Petitioner's brother, Muhammad Hamid, from the abductors, including Respondent No. 5, in connection with FIR No. 119/2022 dated 21.02.2022, registered under Section 365, PPC, at P.S. Secretariat, Islamabad. Subsequently, Sections 302 and 201, PPC, were added to the case, and a challan under Section 173, Cr.P.C. was submitted to the Court for trial before the learned Additional Sessions Judge, Islamabad. The trial is currently ongoing, with accused Muhammad Sajjad appearing before the Court. Accused Murad Khan alias Datchi remains an absconder, while Ibad Wazir, Inspector, and Qazi Asif were exonerated by the Complainant. Additionally, the Investigating Officer did not challan Asad Ali Shah, SP, CTD, Bannu.

8. Now the question before this Court is that as to whether recovery of abductee Muhammad Hamid is still required or not. This question is answered when Sections 201, 302 and 34, PPC are added in FIR No. 119/2022 of P.S. Secretariat, Islamabad meaning thereby that the local police came to the conclusion after thorough investigation that the said abductee has been murdered.

9. In view of the above, continuing the proceedings in this Petition appears to be a futile exercise which as such has become infructuous and serves no purpose. Therefore, the same is **disposed of** accordingly. However, the Petitioner/Complainant retains the legal right to raise his grievance before any appropriate forum if he so desires.

(MUHAMMAD AZAM KHAN)
JUDGE

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