JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

WRIT PETITION NO. 748 OF 2022

MUHAMMAD SHOAIB

Versus

THE ADDITIONAL SESSIONS JUDGE/JUSTICE OF PEACE, ISLAMABAD and others

Petitioner by	**:**	**Qazi Khalil Ur Rehman, Advocate.**
Respondents by	**:**	**Mr. Rabi Bin Tariq, State Counsel.** **Mr. Muhammad Niaz, S.I., P.S. Noon, Islamabad.** (For Respondents No.1 & 2) **Agha Syed Faisal Hussain Shah, Advocate.** **(For Respondent No.4)**
Date of hearing	**:**	**25.04.2022.**

SAMAN RAFAT IMTIAZ, J. The Petitioner [Muhammad Shoaib] has invoked the Constitutional Jurisdiction of this Court by way of filing the instant writ petition seeking setting aside of the Order dated 03.01.2022 ("**Impugned Order**") passed by the Respondent No.1 (learned Ex-Officio Justice of Peace), whereby his petition under Section 22-A and 22-B Cr.P.C. has been dismissed. The Petitioner further seeks direction for Respondent No.3 (Station House Officer, Police Station Noon, Islamabad) to register FIR against proposed accused.

2. Brief facts of the case as per the Memo of Petition are that the Petitioner filed a complaint before Respondent No.3 against Respondent No.4 [Muhammad Tahir Jamil] for registration of FIR which was not accepted. Thereafter the Petitioner filed an application before the learned Ex-Officio Justice of Peace under Section 22-A and

22-B of Cr.P.C. and sought direction to Respondent No.3 for registration of FIR which was also dismissed vide the Impugned Order. Feeling aggrieved, the Petitioner filed instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

3. Learned counsel for the Petitioner while narrating the incident submitted that on 22.12.2021 at about 2 p.m. the Petitioner along with Maqsood Hashmi, was going to Sara-e-Kharbooza for surveying a plot in a Honda Rebirth Car driven by Maqssod Hashmi. When they reached Golra Chowk near Jameel Sweets on main G.T. Road Islamabad, a vehicle bearing registration No.AA-660, Corolla Fielder, suddenly came in front of the vehicle of the Petitioner due to which Petitioner's vehicle hit the Corolla Fielder. Respondent No. 4 along with his guards came outside the car and started abusing. Respondent No. 4 called out to his companion to take out weapons and to kill them. Upon hearing this, the Petitioner and Maqsood Hashmi started running but the Petitioner was abducted and was put in the vehicle and his face was covered with their jackets. After driving for approximately 15 minutes they were shifted into a different vehicle, meanwhile the Respondent No. 4 and his companion were receiving various calls. After driving for about 4 to 5 hours, once again the Respondent No. 4 entered the vehicle and fired at the Petitioner which hit him on his left side of chest, while the other bullet hit him on his right leg and threw him out on roadside and then fled away. After 10/15 minutes the vehicle of Punjab police reached there, who took him to DHQ Hospital from where they shifted the Petitioner

to PIMS hospital. The police took his statement but instead of lodging FIR on the complaint of the Petitioner, the Respondent No.3 lodged FIR on the complaint of Respondent No.4 bearing FIR No.555/21 dated 22.12.2021 under Section 392 then inserted 395/324/365-A/511 PPC, Police Station Noon, Islamabad.

4. That thereafter the Petitioner approached the Respondent No.3 where a detailed inquiry was conducted and the Petitioner submitted all documents before Inquiry Officer. They suspended the Investigating Officer but even then the police has not lodged any FIR so the Petitioner filed a petition under Section 22-A and 22-B Cr.P.C seeking the directions for registration of FIR which was dismissed vide Impugned Order.

5. The learned counsel for the Petitioner, *inter alia*, contended that the Impugned Order is illegal, improper and against natural justice; that the Impugned Order passed by the Respondent No.1 is the result of misreading and non-reading of material available on the file; that the Respondent No.1 also ignored this fact that Respondent No.4 directly fired upon the Petitioner on vital part, which is supported by medical evidence yet instead of lodging FIR against the Respondent No. 4, they have dragged the Petitioner in baseless FIR without recording his version; that the police is bound to register the case under Section 154 Cr.P.C. that the Impugned Order is not sustainable under the law; that the Impugned Order is based on surmise and conjectures which has resulted in grave miscarriage of justice. The Petitioner prayed for setting aside of the Impugned Order with the

direction for Respondent No.3 to register FIR against Respondent No.4.

6. On the other hand, learned Counsel for the Respondent No.4 submitted that the Petitioner is a habitual criminal; whereas the Respondent No. 4 is a bank employee; that the Petitioner hit the car of Respondent No.4 with planning; that there is no Medico Legal Report of injuries as alleged; that Respondent No. 4 was with the police till 5 pm on the day of the incident, which in itself refutes the Petitioner's allegation that the Respondent No. 4 abducted the Petitioner and drove him around for 4-5 hours; that the Petitioner's narration is fraught with discrepancies and contradictions; and that the Impugned Order has been passed after proper application of judicial mind and keeping in view the relevant law which as such does not suffer any illegality or infirmity so as to call for interference by this Court. It is lastly prayed that the instant petition may be dismissed.

7. The learned State counsel vehemently opposed the arguments raised by the learned counsel for the Petitioner and supported the Impugned Order and submitted that the Petitioner is involved in the cases of kidnapping and that there are other FIRs pending against him; that FIR has already been lodged regarding same incident and therefore, second FIR against the same incident cannot be lodged as per dictum of honourable apex court and that the instant petition is merely a counterblast.

8. I have heard the learned counsel for the parties as well as the learned State Counsel and have also perused the available record including the Impugned Order.

9. Bare perusal of the contents of the petition reveals that FIR for the same occurrence has already been registered bearing FIR No.555 dated 22.12.2021. It is settled law that FIR is merely the first information report regarding the commission of a cognizable offence and there is no provision for lodging of multiple information reports of the same incidents in the code of criminal procedure. Once a case has been registered in respect of an occurrence no second case be registered giving a counter version thereof by the accused persons. If that were allowed, then there would be two FIRs for every crime. Any other version advanced by any person during the investigation is to be recorded under Section 161 Cr.P.C. The primary purpose of the FIR is to inform about the commission of a cognizable offence which the police officer is empowered to investigate.

10. The Honourable Full Bench of Supreme Court dealt with the issue of lodging of more than one FIR of the same occurrence in *Mst. Sughran Bibi Vs. The State*, PLD 2018 SC 595. The Honourable Supreme Court referred to Rule 25.2 (3) of Police Rules, 1934 and held that said rule should suffice to dispel any impression that investigation of the case is to be restricted to the version of the incident narrated in the FIR or the allegation leveled therein. It is quite evident from the said Rule that once the FIR is registered then the Investigating Officer embarking upon the investigation may not

restrict himself to the story narrated or the allegation leveled in the FIR. He may entertain any fresh information becoming available from any other source regarding how the offence was committed and by whom it was committed and he may arrive at his own conclusion. In such regard the final report submitted under Section 173 Cr.P.C., is based upon his final opinion which is not necessarily guided by what the first informant had stated or alleged in the FIR. It is not unheard of that sometimes in the final report submitted under Section 173 Cr.P.C., the first informant is put up before the court as the actual culprit.

11. In view of the above pronouncement of the Honorable Supreme Court of Pakistan, I am not inclined to exercise discretion in favour of the Petitioner when admittedly a case already stands register in respect of the occurrence at Police Station Noon, Islamabad. Even otherwise the Petitioner may institute a private complaint in respect of his allegations. However, no case is made out for registration of a separate FIR. The learned Ex-Officio Justice of Peace rightly passed the Impugned Order. Therefore, instant writ petition being devoid of any merit is hereby **dismissed.**

(SAMAN RAFAT IMTIAZ)
JUDGE

JUNAID

Announced in the open Court on 20th of May, 2022.

JUDGE