Form No: HCJD/C-121

JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

(JUDICIAL DEPARTMENT)

Writ Petition No. 416 of 2023

Sheikh Rasheed Ahmed

Versus

IG, Islamabad and others.

Petitioner by:	Sardar Abdul Raziq Khan and Sardar Shahbaz Khan, Advocates.
Respondents by:	Mr. Jaseem Ahmed Bhutto and Raja Muhammad Shakeel Abbasi, Advocates. Raja Muhammad Aleem Khan Abbasi, Advocate, Vice Chairman, Islamabad Bar Council. Mr. Riasat Ali Azad, President, Islamabad High Court Bar Association. Ch. Khaliq-uz-Zaman, Prosecutor General, Punjab. Syed Pervaiz Bukhari, Advocate/State Counsel Balochistan, on behalf of Prosecutor General, Balochistan. Malik Muhammad Iqbal Kallue, learned Assistant Attorney General. Malik Abdur Rehman and Mr. Kashif Hussain Shah, learned State Counsel. Mr. Tahir Kazim, Law Officer, IG Office, Islamabad. Touheed Memon, SP (Investigation), Keamari Circle, Karachi. Ghulam Ali, DSP Keamari, Karachi. Riaz Hussain, Inspector, Police Station Berot Hub, District Lasbella, Balochistan. Shafique and Raza Muhammad, Sub-Inspectors.
Assisted by:	Aamir Ali Rana, Law Clerk, Islamabad High Court.
Dates of Hearing:	06.02.2023, 16.02.2023, 06.04.2023, 19.09.2023, 16.11.2023, 11.01.2024, 27.02.2024, 24.04.2024.

TARIQ MEHMOOD JAHANGIRI, J: The Petitioner, through the instant petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 ("**Constitution**"), seeks the quashing of following

First Information Reports ("FIRs") by declaring them illegal, unlawful, result of abuse of powers and misuse of authority:

> ***i.*** *FIR No. 94/2023, dated 01.02.2023, offences under sections 120B, 153A and 505 of the Pakistan Penal Code,1860 ("**PPC**"), registered at police station Aabpara, Islamabad ("**FIR I**");*
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> ***ii.*** *FIR No. 47/2023, dated 02.02.2023, offences under sections 506ii, 353 and 186 of PPC, registered at police station Murree, District Murree ("**FIR II**"); and*
>
> ***iii.*** *FIR No. 40/2023, dated 02.02.2023, offences under sections 506, 504, 500 and 153 of PPC, registered at police station Mochko, Keamari, Karachi ("**FIR III**").*

02. Brief facts, leading to the instant petition, are that the Petitioner is the chairperson of political party i.e. Awami Muslim League, a veteran politician, on numerous occasions he was elected as member of the National Assembly of Pakistan and served in the Federal Government in various capacities. He is currently in opposition and an ally of Imran Khan and PTI. A campaign of political victimization commenced and a notice under section 160 of Code of Criminal Procedure, 1898 ("**Cr.P.C**") was maliciously issued to him after obtaining a frivolous application from a dummy complainant. The Petitioner assailed that notice in this Court through the Writ Petition No. 340 of 2023 on 01.02.2023, whereby operation of the said notice was suspended, and notices were issued to the IG and other police officials to appear on 06.02.2023. However, the police officials, headed by SHO Ashfaq Ahmed Warraich and Inspector Ashiq Ali, in violation of the aforenoted order, raided the house of Petitioner, situated at Bahria Golf City, Tehsil Murree, District Rawalpindi, at midnight without a warrant and without associating the local police and forced their entry into it, they searched his bedroom, illegally taken away

valuable articles and assets, maltreated his employees, illegally arrested him in a case FIR No. 94/2023, dated 01.02.2023, offences under sections 120B, 153A and 505 of the PPC, registered at police station Aabpara, Islamabad. The political opponents in furtherance of their campaign of political victimization lodged another frivolous case against the Petitioner i.e. FIR No. 47/2023, dated 02.02.2023, offences under sections 506ii, 353 and 186 of PPC, registered at police station Murree, on the complaint of Ashiq Ali Munawar Inspector (Investigation) at police station Aabpara, Islamabad. Moreover, the scale of vindictive campaign was augmented by the Federal and Provincial Governments of the PDM and its nominated caretaker government when the police and other agencies were used to register frivolous cases against the Petitioner at different police stations on the complaints of various dummy persons by abusing their powers and authority. When the Petitioner was in physical custody of Islamabad police yet another criminal case has been lodged against him in the province of Sindh on the complaint of Khuda Bakhsh i.e. FIR No. 40/2023, dated 02.02.2023, offences under sections 506, 504, 500 and 153 of PPC, registered at police station Mochko, Keamari, Karachi. Similarly, one more FIR has been registered in the province of Balochistan i.e. FIR No. 20/23, dated 04.02.2023, offences under sections 153, 506, 500, 186 of PPC and section 25-D of the Telegraph Act, 1885, registered at police station Berot Hub, District Lasbellah, Balochistan. Moreover, identical applications were filed in different areas in order to register multiple FIRs against the Petitioner. Thus, the above-mentioned actions demonstrate the magnitude of high-handedness, malafides and misuse of authority on the part of the respondents. The Petitioner, in a nutshell, has sought to quash the impugned FIRs as mentioned above.

03. Similar issues were raised in the following connected Writ Petitions:

i. The W.P. No. 3778 of 2022, titled as *"Sohail Ali Khan versus Federation of Pakistan, etc."* filed by Sohail Ali Khan, Additional Secretary, Ministry of Information and Broadcasting and ex-officio Managing Director, PTV.

ii. The W.P. No. 3779 of 2022, titled as *"Mrs. Shahira Shahid versus Federation of Pakistan, etc."* filed by Shahira Shahid, Additional Secretary Incharge, Ministry of Information and Broadcasting and ex-officio Chairperson PTV.

iii. The W.P. No. 3780 of 2022, titled as *"Mirza Rashid Baig versus Federation of Pakistan, etc."* filed by Mirza Rashid Baig, Director News, PTV News Centre.

The Petitioners, Sohail Ali Khan and Mirza Rashid Baig, through their aforesaid Petitions, had challenged the following two FIRs which were registered against them on the complaints of supporters of PTI and Imran Khan in the jurisdiction of Lahore, Punjab and Peshawar, Khyber Pakhtunkhwa, respectively, and gist of the said FIRs is as under:

i. FIR No. 3715/22, dated 19.09.2022, registered on the complaint of Arshad-ur-Rehman son of Muhammad Hassan, Imam Masjid and Khateeb in Jamia Masjid Ayesha Siddiqa, Jiwa Park, Bagrian, Lahore, under sections 9, 11-X(3) of the Anti-Terrorism Act, 1997, at police station Green Town, Lahore, **wherein it was alleged that Mr. Javed Latif**, (former Federal Minister, Member of the National Assembly of Pakistan and Member of PML-N), **uttered some objectionable words against Mr. Imran Khan, Chairman PTI, during a press conference, which was broadcast on Pakistan Television (PTV), in connivance with Maryam Aurangzeb** (former Member of the National Assembly of Pakistan and Member of PML-N) **and abetted by Sohail Ali Khan, Managing Director, PTV and Mirza Rashid Baig, Controller Programme, PTV** and thus committed a heinous crime. (‘**FIR Green Town, Lahore’**).

ii. FIR No. 1273/22, dated 19.09.2022, registered on the complaint of Mr. Rehman Ullah son of Syed Hamza, under sections 506, 505, 298, 153-A, 511 P.P.C. and 7, 9, 11-W and 11- X(1) of the Anti-Terrorism Act, 1997, at police station Rehman Baba, District Peshawar, **wherein it was alleged that on**

> **14.09.2022, a press conference was conducted by Mian Javed Latif** (former Member of the National Assembly of Pakistan and Member of PML-N), **at the behest of Maryam Aurangzeb** (former member of the National Assembly of Pakistan and Member of PML-N) **was broadcast on PTV during which Mr. Javed Latif, uttered objectionable remarks/words against Mr. Imran Khan, chairman PTI, the said act was committed with the help of Shahira Shahid, Chairperson PTV and Sohail Ali Khan, Managing Director, PTV**, thus committed a heinous crime. (**'FIR Rehman Baba, Peshawar'**).

The Petitioner Shahira Shahid, through W.P. No. 3779/2022 also impugned the aforenoted FIR registered at P.S. Rehman Baba, Peshawar.

04. As common questions of law were involved in the above-mentioned petitions for quashing of the FIRs in four (04) provinces of the country regarding the occurrence allegedly took place in Islamabad, so the following questions were framed:-

> ***i. Whether FIR can be registered in a case where the contents of the FIR/allegation levelled in the FIR do not disclose commission of a cognizable offence;***
>
> ***ii. Whether FIR can be registered in four (04) provinces of the country regarding the occurrence allegedly took place in Islamabad;***
>
> ***iii. Whether multiple FIRs (more than one FIR) can be registered regarding one/single occurrence.***

In order to resolve the above-mentioned important controversies, notices were issued to the Attorney General for Pakistan, Vice Chairman of Pakistan Bar and Islamabad Bar Councils, Presidents of Supreme Court and Islamabad High Court Bar Associations, Advocate Generals and Prosecutor Generals of the provinces, Inspector Generals of the provinces, Director General, FIA and complainants of the FIRs. In compliance of the notices, most of the law officers and counsel for the complainants appeared and stated that multiple

FIRs (more than one FIR) cannot be registered in view of the law laid down by Supreme Court of Pakistan in case titled as *Mst. Sughran Bibi* ***versus*** *The* State (**PLD 2018 SC 595**).

05. Police officials present in the Court and law officers also stated that FIR regarding occurrence allegedly took place in Islamabad cannot be registered in other provinces of the country, whereas in case where contents of the FIR do not disclose commission of cognizable offence, FIR cannot be registered, so upon asking the question that how the FIRs have been registered in violation of law, police officials/I.O of the case FIR No. 1273/22, dated 19.09.2022, under sections 506, 505, 298, 153-A, 511 P.P.C. and 7, 9, 11-W and 11- X(1) of the Anti-Terrorism Act, 1997, at police station Rehman Baba, District Peshawar, appeared and stated that the police have transferred the matter to FIA, whereas, the Assistant Director (Legal) CCRC, F.I.A., Peshawar present in the Court admitted that no case could be registered and stated that the inquiry has been closed. Moreover, the Investigating Officer and other police officials of the case FIR No. 3715/22, dated 19.09.2022, under sections 9, 11-X(3) of the Anti-Terrorism Act, 1997, at police station Green Town, Lahore, also stated that no case in Lahore could be registered, so the police has submitted the report for the cancellation of FIR in the concerned Court. The same stance was taken by the police of P.S Lasbellah, Balochistan that the cancellation report of the FIR has been moved, so the petitioners seeking quashing of the FIRs in Peshawar, Lahore and Lasbellah opted to withdraw the petitions, so the petitions were dismissed as withdrawn, regarding the said FIRs. Similarly, the learned counsel for the Petitioner opted not to press the matter to the extent of impugned **FIR II** which was

registered in P.S. Murree, Rawalpindi. As far as the **FIR I** is concerned, the Petitioner was arrested and subsequently enlarged on bail by another Bench of this Court, and he is now facing trial. In light of the foregoing events, learned counsel for the Petitioner opted not to press the W.P. No. 340 of 2023 which was dismissed as withdrawn on 16.02.2023.

06. Now, the matter which needs adjudication of this Court is that whether the FIR No. 40/2023, dated 02.02.2023, offences under sections 506, 504, 500 and 153 of PPC, registered at police station Mochko, Keamari, Karachi can be quashed or not. In the FIR of Karachi, the only allegation levelled is that the petitioner has uttered words ("**انتہائی غلیظ**" and "**غیر اخلاقی**") in Polyclinic Hospital, Islamabad, against Bilawal Bhutto Chairman Pakistan Peoples Party / Foreign Minister in front of media persons when the petitioner was in custody of Islamabad Police. The DSP (Investigation), I.O. and other police officials appeared in the Court from Karachi, when confronted, frankly admitted that no case regarding uttering ("**انتہائی غلیظ**" and "**غیر اخلاقی**") could be registered and also admitted that regarding the alleged occurrence which took place in Polyclinic Hospital, Islamabad, an FIR in Karachi cannot be registered but stated that senior leader of Pakistan Peoples Party (PPP) i.e. Bilawal Bhutto Zardari is involved, so they cannot give statement officially regarding the quashing of the FIR.

07. Moreover, in compliance of order of this Court, the SP (Investigation) Keamari, Karachi submitted a written report/submissions, duly signed and approved by the Inspector General of Police, Sindh and the Prosecutor General, Sindh, wherein it is mentioned that upon the perusal of the contents of the impugned **FIR III** (40/23 P.S. Mochko, Karachi) and transcription, the

Petitioner allegedly uttered sordid and obscene words against the head of a political party which provoked party workers, thus, the matter requires fair investigation. It is further stated that the Petitioner committed the offence within the territorial jurisdiction of the police station Aabpara, Islamabad and an FIR was not registered in the said police station, however, section 179 of the Cr.P.C allows legal action to be taken regarding an occurrence of another jurisdiction when consequences of such an occurrence ensued in other places. Lastly, it is stated that the police of P.S. Mochko Keamari, Karachi, or any other police officers or team of police officers be allowed to fairly investigate the matter to prepare and submit a report before a Court of law.

08. The learned counsel for the Petitioner, *inter-alia*, submits that the impugned **FIR III** (40/23 P.S. Mochko, Karachi) is registered on the complaint of Khuda Bakhsh (who belongs to a political party i.e. PPP) when the Petitioner was in custody of Islamabad police, the complainant alleged that the Petitioner uttered unethical and vile/vulgar words against the chairperson, of the PPP, Mr. Bilawal Bhutto at Polyclinic Hospital, Islamabad and the said FIR is sheer mockery of the law and not sustainable; the impugned FIR is the result of malice, political victimization, illegalities, police excesses, misuse of authority, abuse of power and blatant contraventions of fundamental rights of Petitioner as guaranteed under Articles 4, 9, 10A, 13, 14, 15, 16, 17 and 19 of the Constitution and the constitutional Courts are the custodians of fundamental rights of citizens and civil liberties, thus, it becomes imperative to pass appropriate orders when these rights are patently infringed; he, further, submits that in light of *Mst. Sughran Bibi* ***versus*** *The State* (**PLD 2018 SC 595**) multiple FIRs cannot be registered regarding the

same occurrence, only one FIR can be registered and during investigation cross versions of different persons regarding the same occurrence can be recorded, however, a separate FIR cannot be registered for every new version, hence, as per the apex Court's decision multiple FIRs are not sustainable in law; furthermore, he submits that as per sections 234, 235 and 239 of Cr.P.C if, in one series of acts linked to form a same transaction, more than one offence is committed by the same person, he can be charged and tried at one trial for such offences and the impugned FIRs are amenable to the aforesaid provisions, hence, separate proceedings at different places are not maintainable; he, further, submits that the Petitioner invoked the constitutional jurisdiction of this Court for redressal of his grievances as no other efficacious and adequate alternate remedy is available to him; law provides specific territorial jurisdiction on every police station for registration of FIR and section 179 of Cr.P.C does not empower police to register an FIR regarding an occurrence which wholly took place in another police station's jurisdiction; lastly, he submits that section 177 of Cr.P.C provides that every offence shall ordinarily be inquired and tried by a Court within the local limits of whose jurisdiction it is committed.

09. On the other hand, learned counsel for the complainant of the impugned **FIR III** (40/23 P.S. Mochko, Karachi), *inter-alia*, submits that the police officials are bound to register an FIR whenever a cognizable offence is reported to them; the derogatory/unethical remarks uttered by the Petitioner, as narrated in the impugned **FIR**, attract the offence of defamation under section 499 of the PPC; section 179 of the Cr.P.C confers authority on a police station of another jurisdiction to register an FIR regarding an offence that has

not occurred in its jurisdiction but the consequences thereof have ensued in the said jurisdiction; admittedly the occurrence had taken place in the Polyclinic Hospital, Islamabad, however, the derogatory remarks of the Petitioner caused emotional damage/harm that ensued beyond the territorial limits of the ICT; an FIR in its entirety cannot be quashed on the basis of jurisdictional technicalities; High Court is not allowed to assume the role of investigating agency and it cannot quash an FIR at investigation stage; the Petitioner should surrender before the police of P.S Mochko and approach the Judicial Magistrate of P.S Mochko to avail alternative remedy of bail; he lastly prayed that the instant writ petition is liable to be dismissed.

10. The submissions of learned counsel for the parties have been heard and the record has been perused with their assistance.

11. This Court sought assistance from various representative bodies of the Bar, through its order dated 06.02.2023, to decide the legal issues involved in the instant case. In this regard, Vice Chairman, Islamabad Bar Council, Islamabad, President of Islamabad High Court Bar Association (IHCBA) and Law Officers made submissions before this Court. Moreover, President of IHCBA submitted written submissions stating that section 179 of the Cr.P.C pertains to a trial of an accused, and it caters to a situation where an act is done in one place and its consequences follow into another place, registration of multiple FIRs on the basis of same occurrence is violative of section 179 of the Cr.P.C and it also attracts double jeopardy which is prohibited under Article 13 of the Constitution and section 403 of the Cr.P.C. The occurrence of the instant case took place in the jurisdiction of ICT where the legal process first commenced, thus, this Court has ample powers under section 185 of the

Cr.P.C to discontinue other trials and it can direct that the trial of the accused be held in the Courts subordinate to it; he lastly submitted that in view of the case of *Mst. Sughran Bibi* ***versus*** *The State* (**PLD 2018 SC 595**) no second FIR can be registered in respect of the same occurrence/incident.

12. Thus, now the substantial matter that needs to be addressed by this Court relates to the impugned **FIR III** i.e. FIR No. 40/2023, dated 02.02.2023, offences under sections 506, 504, 500 and 153 of PPC, registered at police station Mochko, Keamari, Karachi. Whereas the allegations against the Petitioner are that the complainant is the resident of Karachi and working as a senior Deputy President at PS-112 of Pakistan Peoples Party. He claimed that on 02.02.2023 at 16:30 hours he saw on social media that the Petitioner used "**انتہائی غلیظ**" and "**غیر اخلاقی**" words against the Chairman PPP Bilawal Bhutto (former Foreign Minister of Pakistan) at the Polyclinic Hospital, Islamabad with reporters of media. He further stated that the aforesaid utterances provoked thousands of party workers of PPP and many of them came to roads who were stopped by the complainant and his companions. It was also alleged that the Petitioner deliberately conspired to disturb the peace and order, cause clash and bloodshed, and disseminate incitement.

13. To resolve the controversy in the instant matter, points mentioned in paragraph No. 4 will be discussed in the following paragraphs.

14. The contents of the impugned **FIR III** (40/23 P.S. Mochko, Karachi) can be divided into two parts. The first part wholly pertains to the alleged immoral utterances of the Petitioner which had admittedly occurred within the territorial limits of the Islamabad. Whereas the second part relates to the alleged reaction of party workers to the said utterances of the Petitioner in

the territorial limits of Karachi. The Petitioner allegedly committed offences at Polyclinic Hospital, Islamabad which comes under the jurisdiction of police station Aabpara, Islamabad. It is evident from the perusal of the contents of the **FIR** that the Petitioner's alleged commission of offence followed no consequences in the province of Sindh because the whole occurrence was committed in the vicinity of the Islamabad. Moreover, the bare reading of the contents of the **FIR** makes it unequivocally clear that no cognizable offence is made out for the utterances of "**انتہائی غلیظ**" and "**غیر اخلاقی**" words against another person, and such utterances do not attract any cognizable offence. Sections 153, 500, 504 and 506 of the PPC have been levelled in the **FIR** which are non-cognizable offences except for section 153 of the PPC. It seems that section 153 of the PPC has been added just to register the **FIR III**. Section 153 of the PPC is reproduced below for ease of reference:

> "***153. Wantonly giving provocation with intent to cause riot–if rioting be committed; if not committed***. ***Whoever malignantly, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed****, shall, if the offence of rioting be committed inconsequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both."*

The plain reading of the contents of **FIR** unequivocally shows that no cognizable offence is made out. Moreover, the whole occurrence, as alleged, was committed by the Petitioner within the territorial jurisdiction of the ICT. Thus, it becomes quite obvious that the Petitioner did not commit any cognizable offence in the territorial jurisdiction of Karachi.

15. Another crucial point that needs determination is whether an FIR can only be registered in a local police station in whose territorial jurisdiction a cognizable offence is committed. The procedure for registration of FIR is stipulated in the Cr.P.C and Police Rules 1934 ('**Police Rules**'). According to the Cr.P.C, offences are categorized into cognizable and non-cognizable. Section 154 of the Cr.P.C deals with the registration of FIR pertaining to cognizable offences which reads as under:

> *"**154. Information in cognizable cases**.*
>
> ***Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police station**, shall be reduced to writing by him or under his direction, and be read over to the informant, and **every such information, whether given in writing or reduced to writing** as aforesaid **shall be signed by the person giving it**, and **the substance thereof shall be entered in a book to be kept by such officer** in such form as the Provincial Government may prescribe in this behalf."*

Moreover, the Supreme Court in a landmark case titled as *Mst. Sughran Bibi* ***versus*** *The State* (**PLD 2018 SC 595**) interpreted section 154 of Cr.P.C in the following manner:

> *"12. **Section 154, Cr.P.C. is the legal provision under which an FIR is registered in respect of commission of a cognizable offence**...It is straightaway to be noticed that the heading of this section speaks of "**cognizable cases**" meaning thereby that after entering the first information relating to commission of a cognizable offence in the prescribed book, i.e. **after registration of an FIR the matter becomes a "case**". We have found the learned Attorney-General to be entirely justified in maintaining that an **FIR is essentially an "incident report" which informs the police for the first time about an occurrence in which some cognizable offence has been committed and after registration of the FIR the occurrence is treated as a "case" and thereafter every step taken in***

the ensuing investigation under sections 156, 157 and 159, Cr.P.C. is a step taken in that case*....”*

“13. The same ***distinction between a “case” and an “information” about commission of an offence*** *also appears to be writ large in the relevant Police Rules, 1934 as well. Rule 24.1 of the said Rules in Chapter XXIV dealing with ‘Information to the Police’ speaks of “information relating to an offence” received under section 154, Cr.P.C. and Rule 24.5 makes that distinction absolutely clear. Rule 24.5 of the said Rules provides as follows:*

> *“24.5. First Information Report Register.-- (1) The First Information Report Register shall be a printed book in Form 24.5 (1) consisting of 200 pages and shall be completely filled before a new one is commenced. Cases shall bear an annual serial number in each police station for each calendar year. -------”*

It is clear from Rule 24.5 reproduced above that commission of a cognizable offence, when reported to the police through the first information and registered in the FIR register, is treated as a “case” bearing an annual serial number and such “case” carries the same number for ever irrespective of any number of different versions received by the police *regarding commission of the said offence or any number of different circumstances or sets of culprits brought to the notice of the investigating officer during the investigation of the “case”.”*

Further, the terms “officer incharge of a police station” and “police station” are assigned the following meanings under section 4 of the Cr.P.C:

> ***"(p) "Officer incharge of a police station****." "Officer incharge of a police station" includes, when the officer incharge of the police station is absent from the station house or unable from illness or other cause to perform his duties, the police officer present at the station house who is next in rank to such officer and is above the rank of constable or, when the [Provincial Government] so directs, any other police officer so present:”*
>
> *“(****s) "Police Station."*** *“Police Station” means any post or place declared, generally or specially, by the [Provincial Government] to be a police station, and includes any local area specified by the [Provincial Government] in this behalf:”*

Furthermore, the Part VI, Chapter XV of the Cr.P.C deals with the jurisdiction of the criminal Courts in inquiries and trials. Its section 177 is related to the ordinary place of inquiry and trial of offences which reads as under:

> *"**177.** Ordinary place of inquiry and trial. **Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed**."*

It is obvious that a trial or inquiry of an offence shall be conducted in a Court within the local limits of whose jurisdiction such an offence was committed. However, certain exceptions are provided in sections 178 to 185 of the Cr.P.C regarding the place of inquiry/trial. The contents of the **FIR III** (40/23 P.S. Mochko, Karachi) are not covered by any of the said exceptions as mentioned in the aforenoted sections. It has been argued with great emphasis that under section 179 of Cr.P.C FIR can be registered when consequences of an occurrence follow into another police station's jurisdiction, the said section is reproduced below for ready reference:

> "***179**. Accused triable in, district where act is done or where consequence ensues. **When a Person is accused of the Commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued**."*
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> ***Illustrations***
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> *"**(a) A is wounded within** the local limits of **the jurisdiction of Court X**, and **dies within** the local limits of **the jurisdiction of Court Z**. The **offence of the culpable homicide of A may be inquired into or tried by X or Z**."*
>
> *"**(d) A is wounded in the [State of Junagadh]**, and **dies of his wounds in [Karachi]**. **The offence of causing A's death may be inquired into and tried in [Karachi]**."*

Further, the ordinary meanings of the words "consequence" and "ensue" read as under:

> "**consequence**": "*a result of something that has happened*" or "*importance*."[1]
>
> "**ensue**": "*to happen after or as a result of another event*."[2]

The perusal of the section 179 makes it clear that it is applicable only to those cases where an accused commits an offence in one jurisdiction and the consequence of such offence ensued into another jurisdiction. The aforesaid section is further clarified by the illustrations appended to it. For instance, if a person is abducted from Islamabad and later his dead body is recovered from Rawalpindi then such a case falls within the ambit of section 179. However, in the present case no such consequence had ensued in the jurisdiction of Karachi as per the allegations of the **FIR**. Moreover, in a case titled as *Muhammad Sultan versus Muhammad Raza and others* (**2020 SCMR 1200**) the Supreme Court interpreted sections 177 and 179 of the Cr.P.C in the following manner:

> "*7.* ***A legal question has been raised qua the jurisdiction of the court and venue of trial as per law. Chapter XV Part VI of the Criminal Procedure Code deals with "Jurisdiction of the Criminal Courts in Inquiry and Trials". Section 177 of the Code of Criminal Procedure relates to general principle of jurisdiction and venue of trial*** *which is reproduced as under: -*
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> > *"177. Ordinary place of inquiry and trial. Every offence shall ordinary be inquired in and tried by a Court within the local limits of whose jurisdiction it was committed".*

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[1] See Oxford Advanced Learner's Dictionary of Current English, A S Hornby, Ninth Edition, 2015, Page 323 (Oxford University Press).
[2] See Oxford Advanced Learner's Dictionary of Current English, A S Hornby, Ninth Edition, 2015, Page 511 (Oxford University Press).

The language of the said provision is explicit in its context hardly leaving any ambiguity qua the interpretation with reference to jurisdiction and venue of the trial in ordinary circumstances however this principle has certain exceptions *which are established from the bare reading of provision of sections 179 and 180, Cr.P.C. To evaluate the exceptions of the general principle qua jurisdiction and venue of trial, provision of section 179, Cr.P.C. is reproduced as under:-*

> *"179. Accused triable in district where act is done or where consequences ensues. When a person is accused of the commission of any offence by reason of anything which had been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the limits of whose jurisdiction any such thing has been done, or any such consequence has ensued."*

8. ***Bare perusal of the language of the aforesaid provision depicts that if there is any departure from the general principle qua jurisdiction and venue of trial, two aspects are to be evaluated for the proper determination such as:-***

i. Commission of an offence.

ii. Commission of an act and other consequences ensued.

From the careful perusal of the language of the aforesaid provision, it is crystal clear that this provision has extended the limits of venue while classifying the principles to assume jurisdiction to take cognizance of an offence for the purpose of trial*."*

16. Likewise, the Rule **24.1** of the Police Rules provides that how an FIR can be recorded by a station house officer when an information of commission of cognizable offence is received by him under section 154 of the Cr.P.C. Further, Rule **24.5** stipulates the details of the register wherein FIRs are to be registered and maintained. Whereas Rule **25.1** stipulates that an officer in charge of a police station is empowered by section 156 of Cr.P.C, to investigate any cognizable offence which occurs within the limits of his jurisdiction. The Rule **25.3** covers a situation where occurrence of a cognizable offence in the jurisdiction of another police station is reported, and

it shall be recorded in a daily diary and such information shall be sent to an officer incharge of a police station in whose jurisdiction such an offence was committed. Further, the Rule **25.4** relates to a situation where a police officer after registration of a case and commencement of investigation discovers that the offence was committed in the jurisdiction of another police station, then, he shall immediately transmit such information to an officer incharge of such police station and such officer on receipt of information shall immediately proceed to the place where investigation is being conducted and undertake the investigation. Moreover, the Rule **25.5** caters to a situation when there is a dispute of jurisdiction and provides a mechanism for its settlement. Also, the Rule **25.7** states that when a case is transferred from one police station to another, the offence registered in the original police station shall be cancelled and a first information report shall be submitted from the police station in the jurisdiction of which the case occurred.

17. The perusal of the aforenoted relevant provisions of the Cr.P.C and Police Rules make it evident that an FIR can only be registered in a police station within whose jurisdiction a cognizable offence is committed. When an occurrence of a cognizable offence is reported, or a cognizable case is inadvertently registered in a police station that lacked jurisdiction because the occurrence was committed in another police station's jurisdiction, the procedure stipulated in the Police Rules **25.3**, **25.4**, **25.5** and **25.7** must be adhered to without exception. However, the police authorities did not undertake such action with regard to the impugned **FIR**. Furthermore, no law allows an official of a police station in a different province to register an FIR regarding a cognizable offence which is not committed within the territorial

limits of the said police station. For the purposes of registration of an FIR, the locus of cognizable offence, i.e. place of occurrence, is relevant, not the locality of a complainant/informant or a purported reaction to such an offence. Further, when a cognizable offence is wholly committed at one place and its consequences do not ensue at any other place, an FIR can only be registered in a police station within whose jurisdiction such occurrence takes place. It is certainly not the intention of the legislature that when an offence is wholly committed in one province and its FIR could be registered in another province. To hold any other position than the one stated above could frustrate the statutory scheme regarding investigation and inquiry/trial of a cognizable offence as envisaged in the Cr.P.C and Police Rules. Therefore, an FIR can only be registered in a local police station within whose territorial jurisdiction a cognizable offence is committed.

18. Further, the point which needs consideration of this Court is that whether multiple FIRs (more than one FIR) can be registered in police stations of different provinces regarding the same occurrence. This issue has been resolved by the Supreme Court in a landmark case titled as *Mst. Sughran Bibi* ***versus*** *The State* (**PLD 2018 SC 595**), wherein it categorically settled that no second FIR can be registered by the police for the same incident or occurrence, however, only a cross version of the said occurrence can be recorded under section 161 of the Cr.P.C and its relevant part reads as under:

> *"13....Similarly, the FIR number allocated to a criminal case is the number of that case in the police record and till culmination of the case the said criminal case is to carry the same number and is to be identified by that number alone. This by itself is a sure indication of the scheme of the law that* ***in respect of an incident involving commission of a cognizable offence***

> ***there is to be only one FIR and every step taken during the investigation of the case is to be with reference to that FIR****...."*
>
> *"27. As a result of the discussion made above we declare the legal position as follows:*
>
> *(iv) During the investigation conducted after registration of an FIR the investigating officer may record any number of versions of the same incident brought to his notice by different persons which versions are to be recorded by him under section 161, Cr.P.C. in the same case.* ***No separate FIR is to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case****."*

Therefore, there is no scope for registration of a second FIR in respect of the same incident or occurrence when the first FIR stands registered in the relevant police station. It follows from the holding of the abovementioned landmark case that the multiple FIRs (more than one FIR) for the same occurrence cannot be registered anywhere in the whole country. Reliance is also placed on *Muhammad Azam Khan Swati* ***versus*** *Inspector-General of Police, Balochistan and 2 others* (**PLD 2023 Balochistan 85**) its relevant passage reads as under:

> *"9.* ***The manner, in which a number of FIRs have been registered against a member of upper house (Senate) that too, in different parts of the country regarding one and the same offence and, subsequently, its investigation and submission of challans before the concerned Courts, having jurisdiction, clearly indicate that it is abuse of process of law****.* ***There has to be an end to litigation in every legal system.*** *It would be shocking to the judicial conscience to try a man again and again for one and the same alleged offence and that is what would happen if we allow such practice. Needless to observe that, as stated above, Article 13 of the Constitution prescribes that "no person shall be prosecuted or punished for the same offence more than once". The word 'liberty' under Article 9 of the Constitution is of the widest amplitude covering variety of rights, which goes to constitute personal liberty of a citizen. Similarly, Article*

4 of the Constitution enshrines that it is inalienable right of every citizen to enjoy the protection of law and to be treated in accordance with law. Likewise, Article 10-A of the Constitution guarantees a fair trial and due process. Thus, deprivation of any citizen shall only be as per procedure prescribed in the code conformable to the mandate of the Constitution."

"13. It is true that the disputed tweets contain highly obnoxious and intimidating language but ***it is equally true that multiple registration of FIRs cannot be allowed that too in respect of one and the same offence in view of the dictum laid down by the honourable Supreme Court in the case of "Mst. Sughran Bibi v. The State****" (PLD 2018 Supreme Court 595)."*

19. Lastly, the point which requires consideration is that whether this Court is empowered under Article 199 of the Constitution to quash an FIR whose subject matter had admittedly occurred within its own territorial jurisdiction, but the said FIR has been registered by the police officials in the province of Sindh. The Supreme Court, in a recent case titled as *F.I.A. through Director General, FIA and others* ***versus*** *Syed Hamid Ali Shah & others* (**PLD 2023 SC 265**), held that an aggrieved person can invoke the constitutional jurisdiction of a High Court under Article 199, before the submission of a police report under section 173 of the Cr.P.C, when an FIR is registered without any lawful authority. It further held that the High Courts under Article 199 (1)(a)(ii) of the Constitution are fully equipped with constitutional power to review acts of police officials, for instance, the registration of an FIR or police investigation. The relevant portion of the abovementioned case is reproduced below for ease of reference:

"6. ***Article 199(1)(a)(ii) of the Constitution empowers the High Courts to judicially review the acts done or proceedings taken by the persons performing functions in connection with the affairs of the Federation, a Province or a local authority and if find such acts or proceedings to have been done or taken without lawful authority,***

to declare them to be so and of no legal effect. The registration of an FIR and the doing of an investigation are the acts of officers of the police department (a provincial law enforcement agency) who perform functions in connection with the affairs of a Province and are thus amenable to the jurisdiction of the High Courts under Article 199(1)(a)(ii) of the Constitution. The High Courts can declare such acts of the police officers, to have been made without lawful authority and of no legal effect if they are found to be so and can also make any appropriate incidental or consequential order to effectuate its decision[3], such as quashing the FIR and investigation proceeding. *The acts of registering the FIR and conducting investigation by the officers of the FIA, in the present case, are also subject to said jurisdiction of the High Court, as they have been done by the officers performing functions in connection with the affairs of the Federation."*

"8. Under Section 154 of the Cr.P.C, a first information report (FIR) can be registered only with regard to the commission of a cognizable offence. Similarly, an investigation can be made by a police officer, without the order of a Magistrate, under Section 156 of the Cr.P.C only in respect of a cognizable offence. ***Needless to say that it is the contents of an FIR which are to be seen to ascertain whether a cognizable offence is made out of the allegations contained therein, and mere mentioning of a particular Section of the PPC or any other offence under the law in the FIR is not determinative in this regard***[4]*. However, the falsity or truthfulness of those allegations is not under examination for the purpose of determining the legal authority of the police officer to register the FIR. The precise question is:* ***whether the allegations as contained in the FIR make out the commission of a cognizable offence****; if so, what is that?"*

Hence, this Court is empowered under Article 199 (1)(a)(ii) of the Constitution to quash an FIR. Since the alleged occurrence, as mentioned in the impugned **FIR**, was admittedly committed within the territorial jurisdiction of the ICT, thus, this Court can assume jurisdiction in the impugned matter. If the

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[3]Reliance placed *R. SIM & Co v. District Magistrate*, **PLD 1966 SC 650 (5-M.B.).**

[4]State v. Sultan Ahmed, **PLD 2007 SC 48**.

impugned matter had not wholly occurred within the territorial jurisdiction of this Court, the situation could have been different.

20. The constitutional Courts are duty-bound to protect the fundamental rights of citizens as guaranteed under the Constitution. The clause 1 of the Article 4 of the Constitution confer an inalienable right on every citizen or any other person residing in Pakistan, to have the protection of law and to be dealt with in accordance with law. It is reproduced below for ready reference:

> *"**4. Right of individuals to be dealt with in accordance with law, etc.***
>
> *(1) **To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen**. Wherever he may be, and of every other person for the time being within Pakistan.*
>
> *(2) In particular—*
>
> > *(a) **no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law**;*
> >
> > *(b) **no person shall be prevented from or be hindered in doing that which is not prohibited by law**; and*
> >
> > *(c) **no person shall be compelled to do that which the law does not required him to do**."*

It is patently evident from the paragraph (a) of clause 2 of Article 4 that no detrimental action can be taken against the life, liberty, body, reputation or property of any person except in accordance with law. Its paragraph (c), further, imposes a vital and unconditional restriction on the power of state that when an act is not prohibited by law a person cannot be prevented or hindered from doing such act. It also places another crucial yet unconditional obligation on the power of state to not compel a person to do an act which is not required by law. Hence, it is unambiguously clear that every action taken by any authority against any person within the territories of Pakistan must be

sanctioned/supported by a law. The Supreme Court in the matter of *Government of Pakistan through Director-General, Ministry of Interior, Islamabad and others* ***versus*** *Farheen Rashid* (**2011 SCMR 1**) held that:

> *"10.* ***It is the inalienable right of every citizen to be treated in accordance with law as envisaged by Article 4 of the Constitution. It is the duty and obligation of the public functionaries to act within the four corners of the mandate of the Constitution and Law.*** *Even the Chief Executive of the Country is not above the Constitution and is bound to obey the command of the Constitution as envisaged under Article 5(2) of the Constitution and law laid down by the Court in various pronouncements. See Ch. Zahur Ilahi's case PLD 1975 SC 383 and Zahid Akhtar's case PLD 1955 SC 530.* ***The word law used in the Constitution has been interpreted to include all such principles as having the binding force on account of moral, customary or other sociological reasons****. Late* ***Hamood-ur-Rehman, J., defined the word law while interpreting Article 4 of the Constitution and the dictum laid down in Begum Agha Abdul Karim Shorish Kashmiri's case PLD 1969 SC 14*** *as under:-*
>
> > *"****Law is here not confined to statute law alone but is used in its generic sense as connoting all that is treated as law in this country including even the judicial principles laid down from time to time by the superior Courts****."'*

Further, the Supreme Court in the case titled as *National Commission on Status of Women through Chairperson and others* ***versus*** *Government Of Pakistan through Secretary Law and Justice and others* (**PLD 2019 SC 218**) elaborated on the Article 4 of the Constitution which reads as under:

> *"8....****Article 4(1) of the Constitution*** *goes further than Article 2 of the ICCPR by extending* ***the right to enjoy the protection of law to every citizen regardless of where he is****. Furthermore, persons who are not citizens are also given this right while they are in Pakistan.* ***The value placed by the Constitution on the inalienability of this right to protection of the law for all can be gauged from the fact that this right is further extended to every other person for the time being within Pakistan. Article 4(2)(a) to (c) of the Constitution provides***

> ***for the specific right to protection from any detrimental action with regards to life, liberty, body, reputation or property and ensures that no person is compelled to do anything or forbidden from any action unless the law specifically provides for the same****…."*

In another case titled as *Justice Qazi Faez Isa and others* ***versus*** *President of Pakistan and others* (**PLD 2022 SC 119**) the Supreme Court very aptly noted that:

> *"34....The main reason for our reaching this conclusion is that as per Article 4 of the Constitution, to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every person, and no action detrimental to the life, liberty, body, reputation or property of any person can be taken except in accordance with law.* ***The right to be dealt with in accordance with law assured by Article 4 of the Constitution stands at a high pedestal and even outshines fundamental rights guaranteed by Articles 9 to 28 of the Constitution, as this right cannot be suspended during the proclamation and imposition of Emergency under Article 233 of the Constitution.[5] Article 4 of the Constitution is the bedrock of the rule of law, and antithesis to the rule of men, in our country. It is a restraint on the executive and judicial organs of the State to abide by the rule of law.[6]"***

Similarly, Article 10A of the Constitution stipulates that every person is entitled to a fair trial and due process when his civil rights and obligations or any criminal charges against him are to be determined. It reads as under:

> *"****10A. Right to fair trial****.*
>
> ***For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process****."[7]*

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[5]Federation v. Manzoor Elahi, PLD 1976 SC 430; Federation v. Shaukat Ali, PLD 1999 SC 1026.
[6]Federation v. Nawaz Sharif, PLD 2009 SC 644.
[7]The Article 10A was inserted through the Constitution (Eighteenth Amendment) Act, 2010 (10 of 2010), section 5.

Reference can be made to the case titled as *Federation of Pakistan through Secretary Finance, Islamabad and another* ***versus*** *E-Movers (Pvt.) Limited and another* (**2022 SCMR 1021**).

Moreover, the Article 13 of the Constitution, *inter alia*, unconditionally provides that a person shall not be prosecuted for the same offence more than once. Thus, an accused cannot be prosecuted twice for the same offence and to prosecute him in more than one jurisdiction for the same offence also attracts the bar as stipulated in the Article 13 which is reproduced below for ease of reference:

> *"**13. Protection against double punishment and self incrimination.***
>
> ***No person—***
>
> ***(a) shall be prosecuted** or punished **for the same offence more than once; or***
>
> *(b) shall, when accused of an offence, be compelled to be a witness against himself."*

Further, the Article 14 of the Constitution safeguards the dignity of man, and no exception is provided to regulate the said right. Its violation is not permissible under any circumstances for whatsoever reason. Therefore, when an action/proceeding is done/undertaken by any authority in contravention of the Article 14 then such an action must invariably yield to the said right. The provisions of the said Article read as under:

> *"**14. Inviolability of dignity of man, etc.***
>
> *(1) **The dignity of man** and, subject to law, the privacy of home, **shall be inviolable**.*
>
> *(2) No person shall be subjected to torture for the purpose of extracting evidence."*

The Supreme Court in a case titled as *Uzma Naveed Chaudhry & others* ***versus*** *Federation of Pakistan thr. its Secretary M/o Information, Broadcasting and National Heritage, Islamabad & others* (**PLD 2022 SC 783**) expounded on the Article 14 as follows:

> *"14. It is underlined that* ***dignity is an inherent and inseparable right of a human being and has thus been guaranteed by our Constitution as an absolute, non-negotiable and inviolable fundamental right that is not subject to any qualification, restriction or regulation****. Dignity values the worth of each person and requires the recognition of each person's worth to be held in equal measure for all. It is harmed when individuals are marginalized, ignored or devalued, and is enhanced when the full place of all individuals within the society is recognized...."*

Further, in another case titled as *Mubarik Ali Babar* ***versus*** *Punjab Public Service Commission thr. its Secretary, Lahore & others* (**2023 SCMR 518**) the Supreme Court underscored the importance of the right to dignity in the following terms:

> *"4....****Amongst fundamental rights, the right to dignity stands at the top, like a jewel in the crown of fundamental rights. This unique place is because the right to dignity is an absolute right, is non-negotiable and is not subject to any law****...."*

Similarly, the right to freedom of speech and expression of citizens is guaranteed under Article 19 of the Constitution. Every citizen is free to express and talk about his thoughts, ideas and visions. However, such freedom is not absolute. Reasonable restrictions can be imposed by law on account of various interests as envisaged under Article 19. When a speech and expression of a citizen do not attract any reasonable restrictions imposed by law then such speech and expression are unconditionally safeguarded under the said Article. Therefore, the authorities cannot curtail a citizen's right

to freedom of speech and expression when reasonable restrictions are not imposed by any law. For ready reference it is reproduced below:

> *"**19. Freedom of speech, etc.***
>
> ***Every citizen shall have the right to freedom of speech and expression**, and there shall be freedom of the press, **subject to any reasonable restrictions imposed by law** in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [commission of] or incitement to an offence."*

The Supreme Court, in the case of *Pakistan Electronic Media Regulatory Authority (PEMRA) through its Chairman, Islamabad and another versus M/s ARY Communication Private Limited (ARY Digital) through its Chief Executive Officer, Karachi and another* (**PLD 2023 SC 431**), among other things, explained the scope of freedom of expression, its relevant excerpts read as under:

> *"25. **It is also important to underline that freedom of expression is an effective and a powerful fundamental rights as it gives voice to other freedoms and rights i.e. freedom of thought, right to life, liberty and dignity**. **Freedom of expression helps actualize other fundamental rights, hence its prominence and importance is easily distinguished in the cluster of fundamental rights**. However, while freedom of expression is a fundamental human right, **it is not absolute and can be subject to certain limitations. These limitations are usually put in place to balance the rights of individuals with the broader interests of society, public order, and national security.** Some common limitations on freedom of expression include: (i) laws against defamation (libel and slander), which are in place to protect individuals' reputations from false and damaging statements; (ii) laws against hate speech, which is a speech that incites violence, discrimination or hostility towards a particular individual or group based on attributes such as race, religion, ethnicity, gender or sexual orientation. Such laws aim to protect*

targeted groups from harm and promote social harmony; (iii) laws against obscenity and pornography to protect public morality and decency; (iv) laws to protect national security, public order or public safety. In times of emergency or crisis, governments may impose temporary limitations on freedom of expression to maintain public order, protect national security or prevent the spread of misinformation; and (v) laws to protect personal privacy. Such laws may restrict the disclosure of certain information, such as medical records or personal correspondence, to protect individuals' right to privacy. ***It is important to note that these limitations should be necessary, proportionate and clearly defined by law to avoid abuse or infringement on fundamental freedoms. In democratic societies, the courts often play a crucial role in interpreting and determining the appropriate balance between freedom of expression and these limitations****."*

*"26....**Freedom of expression is so fundamental a human right that one can have no other right unless one has this right and can ask for his rights**. Freedom of expression thus begets all other freedoms, and the right to freedom of expression guarantees all other rights. **It is because of the paramount importance of this right that it has been included in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR)**."*

*"27. Crucial though freedom of expression and right to information are to an open and democratic society, these rights are not absolute. **Some reasonable restrictions can be imposed on these right by law** in the interest of any of the objectives mentioned in Articles 19 and 19A of the Constitution. **However, such restrictions must be "reasonable" and any ambiguity as to the reasonableness of a restriction must be resolved in favour of protecting the exercise of the fundamental right rather than enforcing the restriction**. To ensure that they are not unnecessarily used to suppress the right, the clawback provisions of a law containing the restrictions on the right should be interpreted strictly and narrowly. **The courts are to be conscious that in a fledgling democracy like ours, there is all the more need to jealously guard the right to freedom of expression** and right to information...."*

Likewise, the Supreme Court, in a recent case titled as *Ammad Yousaf* ***versus*** *The State and another* (**PLD 2024 SC 273**), reaffirmed the foundational significance of the Constitution and the rights of citizens in the following manner:

> *"7.* ***Our Constitution is a sacred document and a social contract. The Constitution makers incorporated in it the principle of freedom, equality and justice.*** *The preamble to the Constitution communicates the intention of its framers and purpose of the highest law of the land as under:*
>
> > *Whereas sovereignty over the entire Universe belongs to Almighty Allah alone, and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust;*
> >
> > *And whereas it is the will of the people of Pakistan to establish an order;*
> >
> > *Wherein the State shall exercise its powers and authority through the chosen representatives of the people;*
> >
> > *Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed;*
>
> ***The above portion of the preamble enshrines that the State shall exercise its powers and authority through the chosen representatives of the people, who represent them in parliament and the assemblies. Every citizen has a right of political and social justice, freedom of speech and thought, subject to a reasonable restriction imposed by law. In order to protect and promote such rights, the State must exercise its power and authority in accordance with the Constitution.*** *Print and electronic media are the means of receiving and providing such information to and from the people. We have observed that upon exercise of such right, politically motivated FIRs are being registered for offences mentioned in section 196 of the Code, mostly against politicians, political workers, media persons, and human rights activists, and in some cases against their family members as well. It is hard to believe that the chosen representatives of the people, political activists, right activists and media persons can indulge themselves in anti-State activities. The act of indulging its citizens in malicious and frivolous*

prosecution by the Government without any substance on the plea that the thoughts are anti-State, amounts to undermining the constitutional command and as such, depriving citizens from their fundamental rights of freedom of movement, assembly, speech, and right to information. Such misuse of authority creates a sense of fear and insecurity in the society, which result into hatred against the State's institutions. ***When citizens are put in fear, they cannot perform their functions freely, which amounts to preventing them from contributing towards the society in accordance with the Constitution, law and as per their conscience. In such a hostile atmosphere, the media cannot also perform its functions freely, rather it will undermine the freedom of speech, expression, and access to information of the citizens, as guaranteed by the Constitution, resulting into mistrust in the institutions.*** *A democratic Government is considered to be by the people, of the people and for the people. It must, therefore, develop an atmosphere of tolerance, to promote political and social justice; to create a habit of listening to healthy criticism, which is the beauty of democracy.* ***Thus, the Government must accept the will of the people, instead of considering its critics and political opponents as enemy of the State, to avert hatred and mistrust of citizens upon the institutions, by refraining itself from misusing the power and authority and to avoid malicious, baseless and frivolous prosecution against its citizens****."*

21. Furthermore, the police officials are legally obligated to perform their functions and duties in accordance with the Constitution and law. It is also settled that the police authorities do not have inherent powers. They only have those powers which are specifically conferred on them by any law or rules. In this regard the Supreme Court in the case titled as *Muhammad Bashir* ***versus*** *Station House Officer, Okara Cantt. and others* (**PLD 2007 SC 539**) categorically observed that:

"15. It may be added that the ***Police force was not a creation of the Code of Criminal Procedure*** *but was a force initially established by the Police Act of 1861. The Code of Criminal Procedure only borrowed some, from amongst this force, and asked them to perform some of its functions.*

> ***They had, therefore, no powers to go around doing things according to their whims or desires in the matter of administration of justice in the field of crimes. The powers enjoyed by the members of the police force were limited to the authority conferred on them by law.*** *And it may be added that every step which the Cr.P.C. permitted a police officer to take, was subject to scrutiny and control of some court or Magistrate...."*

Thus, any action/proceeding taken by such officials in breach of any relevant law shall be strictly scrutinized to address the impugned injustices/illegalities committed by them and they must always adhere to the prescribed procedures of law. It is the foundational requirement of rule of law that the state officials must follow the law and rules and their blatant disregard thereof must be curtailed through effective judicial review. To carve out an exception for such infractions, especially in favor of those who wield state power in one form or the other, could effectively deteriorate the rule of law in the long run. It is also imperative to note that the means through which objectives are obtained are as pivotal as the objectives themselves to a functioning democracy based on rule of law. The superior Courts of our country in numerous cases placed immense emphasis on the following principle that when a law mandates that a particular thing ought to be done in a particular manner then it must be done in that manner, doing the contrary would be a negation of the legislative intent. Reference can be made to the following precedents:

i. *Ammad Yousaf* ***versus*** *The State and another* (**PLD 2024 SC 273**)

> *"6.* ***It is a well settled principle of law that when a law stipulates that something has to be done in a prescribed manner, it must be done in that manner and should not be done otherwise****...."*

ii. *Federation of Pakistan through Secretary Finance, Islamabad and another* ***versus*** *E-Movers (Pvt.) Limited and another* (**2022 SCMR 1021**)

> *"24. The Constitution of the Islamic Republic of Pakistan ('Constitution') is the fountainhead of the rule of law in Pakistan. 'To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen.*[8] ***The rule of law constitutes the bedrock of governance. When the law stipulates that something has to be done in a particular manner that is how it should be done. And any person who exercises authority must do so in accordance with law.*** *The right to be treated in accordance with law was invigorated and bolstered when the Constitution was amended to provide an additional Fundamental Right by adding Article 10A to the Constitution stipulating that, 'For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.*[9] ***The due process requirement must be met in the determination of rights and obligations****. The Constitution does not define due process. Therefore, it would not be appropriate to limit its scope by defining it. But this does not mean that the due process requirement is a meaningless concept.* ***Rather due process incorporates universally accepted standards of justice and is not dependent upon any law or laws. It is an all encompassing expression which may not be curtailed with reference to particular laws. Due process is to be understood holistically by keeping in mind the entire Constitution, which excludes arbitrary power, authoritarianism and autocratic rule****."*

iii. *Muhammad Hanif Abbasi* ***versus*** *Imran Khan Niazi and others* (**PLD 2018 SC 189**)

> *"55.* ***It is settled law that where the law requires something to be done in a particular manner, it must be done in that***

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[8]Article 4(1) of the Constitution of the Islamic Republic of Pakistan.
[9]Section 5 of the Constitution (Eighteenth Amendment) Act, 2017 which added Article 10A to Chapter 1 of Part II of the Constitution of the Islamic Republic of Pakistan.

manner. Another important canon of law is that what cannot be done directly cannot be done indirectly*....”*

iv. *Muhammad Ismail* ***versus*** *The State* (**2017 SCMR 713**)

*“**13. It is a bedrock principle of law that, once a Statute or rule directs that a particular act must be performed and shall be construed in a particular way then, acting contrary to that is impliedly prohibited. That means, doing of something contrary to the requirements of law and rules, is impliedly prohibited.** Therefore, it is held that the admission of the appellant cannot be a substitute for a true and voluntary confession, recorded after adopting a due process of law and it cannot be made the sole basis of conviction on a capital charge.”*

v. *The Collector of Sales Tax, Gujranwala and others* ***versus*** *Messrs Super Asia Mohammad Din and Sons and others* (**2017 SCMR 1427**)

*“9. Another aspect of the matter is that **when a statute requires that a thing should be done in a particular manner or form, it has to be done in such manner.** But if such provision is directory, the act done in breach thereof would not be void, even though non-compliance may entail penal consequences. However, non-compliance of a mandatory provision would invalidate such act....”*

vi. *Shahida Bibi and others* ***versus*** *Habib Bank Limited and others* (**PLD 2016 SC 995**)

*“9....Therefore, the sale was not made as per the law and cannot be sustained even by virtue of the repealed 1984 Ordinance. **It is settled that where law requires an act to be done in a particular manner it has to be done in that manner alone and such dictate of law cannot be termed a mere technicality**.”*

vii. *Zia Ur Rehman* ***versus*** *Syed Ahmed Hussain and others* (**2014 SCMR 1015**)

*“10....**If the law requires a particular thing to be done in a particular manner it has to be done accordingly, otherwise it would not be in-compliance with the legislative intent**....”*

22. One of the distinguished jurists of Pakistan, Justice Fazal Karim (former judge of the Supreme Court), in his book[10] aptly noted the significance of procedural laws in the criminal justice system in the following manner:

> "*We have seen that* ***"criminal law" has two aspects: substantive and procedural****; and that the office of the substantive criminal law is to identify certain societal ends and to seek to achieve them by creating offences and providing punishments for them. The substantive criminal law declares, as a matter of social policy, what we can and cannot do in our relationship with the fellow individuals and in our relationship with the society—society as represented by the State. It identifies certain evils, which it is necessary, in the interest of the society, to eliminate. But it has been said—and rightly said—that* ***however good and just the substantive criminal law and the political and moral principles supporting them may be, they will fail in their purpose without suitable and effective procedural laws****. In short, the substantive criminal law and the procedural law complement each other;* ***failure of the procedural law means failure of the social goals set by the society by its substantive law. Therefore, criminal procedure may well be said to be criminal justice system in action****....This is equally true of the Constitution of Pakistan: of the total fundamental rights guaranteed by its provisions,—Articles 9 to 28—****almost 16 belong to criminal procedure****....****This recognition was grounded on the historical and potential abuses of the criminal prosecution and the need to erect elaborate procedural safeguards around them. Cases of abuse of criminal prosecutions are well-known. When the government demeans itself into abusing the law, for ulterior purposes, to harass and persecute its enemies, then as a legal act, the whole process, including the trial, becomes a travesty of justice, so that if the sentence is death and it is executed, it will be judicial murder****...."*

23. Generally, the High Courts refrain from invoking extraordinary constitutional jurisdiction under Article 199 when there is an adequate alternate remedy available in respect of an impugned matter, however, it

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[10]Justice Fazal Karim, *Change is the only Constant,* published, Chapter 2, Criminal Procedure, pp. 98-99 by Pakistan Law House, 2019.

exercises such jurisdiction in cases where an adequate or expeditious alternate remedy is not available to a petitioner. The Supreme Court in a recent case titled as *Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar and others* ***versus*** *Shah Faisal Wahab and others* (**2023 SCMR 1642**) held that:

> *"5.* ***The extraordinary jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 is intended to provide an expeditious remedy in a case where the illegality of an impugned action can be established without any elaborate enquiry or recording of evidence****, but if some complicated or disputed question of facts are involved, the adjudication of which could only possible to be resolved and decided by the Courts of plenary jurisdiction after recording evidence of the parties, then obviously the High Court should not embark on to decide convoluted issues of facts...."*

Further, in another case titled as *Special Secretary-II (Law & Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa. Peshawar and others* ***versus*** *Fayyaz Dawar* (**2023 SCMR 1442**), the Supreme Court, after perusing its earlier precedents, delineated on the phrase "adequate remedy" in the following manner:

> "*8....it is well settled by now that the words "****adequate remedy****" ****connote an efficacious, convenient, beneficial, effective and speedy remedy****.* ***It should be equally inexpensive and expeditious****. To effectively bar the jurisdiction of the High Court under this Article the remedy available under the law must be able to accomplish the same purpose which is sought to be achieved through a petition under Art. 199.* ***The other remedy in order to be adequate must be equally convenient, beneficial and effective and the relief afforded by the ordinary law must not be less efficacious, more expensive and cumbersome to achieve as compared to that provided under the Article***."

The facts and circumstances of the present case make it clear that the alternate remedy was neither convenient and expeditious nor inexpensive and speedy.

24. Moreover, this Court repeatedly asked learned counsel for the complainant, during the course of arguments, to point out any cognizable offence which the Petitioner allegedly committed by using "**انتہائی غلیظ**" and "**غیر اخلاقی**" words against a certain political figure, however, no satisfactory reply was given by him.

25. The SP Investigation and Investigating Officer of the impugned **FIR III** (40/23 P.S. Mochko, Karachi) were also confronted with the question as to which cognizable offence is made out from the bare reading of the contents of the impugned **FIR** i.e. "**انتہائی غلیظ**" and "**غیر اخلاقی**" words, they admitted that no such offence is attracted.

26. Similarly, all law officers, during the course of arguments, were confronted with the same question as mentioned in the preceding paragraph and they all conceded that no cognizable offence is made out from the bare reading of the contents of the impugned **FIR**.

27. As far as the argument regarding "consequences of offence" in terms of section 179 of Cr.P.C is concerned, it is not applicable in the instant case. For instance, when Benazir Bhutto (former Prime Minister) was assassinated in Rawalpindi, violent protests were held in many areas of the country, especially in the province of Sindh, as a result of which many people were killed, and properties were looted and damaged[11]. However, the FIR in

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[11] See *More than 30 dead in Bhutto protests in Pakistan By Reuters*, https://www.reuters.com/article/idUSISL307147/; *Benazir Bhutto: the aftermath of assassination*,

respect of her murder was not registered in the province of Sindh because the occurrence had taken place in Rawalpindi, Punjab, and no consequences of her murder ensued in the province of Sindh.

28. This Court, with great dismay, observes that the political parties in power often use their influence to implicate political opponents in frivolous criminal cases, through the registration of multiple FIRs on the basis of same allegations in far-flung/remote/other areas of the country, in order to cause harassment, humiliation, and torture to their opponents, in sheer violation of the law laid down by the Supreme Court of Pakistan. This vindictive practice of involving rival political persons in trivial cases without any substance through state machinery is highly deprecated. It also does not bode well for a democratic dispensation and rule of law. Therefore, all and sundry must think twice before embarking on such a pernicious path.

29. Though assuming of the jurisdiction for quashing of FIRs registered in other parts of the province is extraordinary but being custodian and protector of the fundamental rights, when the Court considers that by bare reading of the contents of FIR no case is made out. The alleged occurrence took place in Islamabad and the FIRs have been registered in other parts of the country in violation of the law laid down by the superior courts, Cr.P.C, Police Rules and the Constitution. When the Court is convinced that the FIR has been registered in far flung / remote areas of the country in order to politically victimize, humiliate and torture the opponents, even in one case the FIR was registered in KPK against most senior and respectable female Federal

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https://www.theguardian.com/news/blog/2007/dec/28/benazirbhuttotheaftermatho; *2008: Pakistan lost $2bn in violence following Benazir's death*, https://www.dawn.com/news/635365/2008-pakistan-lost-2bn-in-violence-following-benazir-s-death.

Secretary / officer of Federal Government namely Mst. Shahira Shahid, and in other cases the FIRs were registered in remote areas of the provinces of Balochistan, Sindh and Punjab regarding the occurrence which allegedly took place in Islamabad, so this Court cannot tie its hands, directing the said female officer to approach the police / Court of the concerned province, when it is established that on the face of it the FIR is illegal and not sustainable, hence only in extraordinary and exceptional circumstances, this Court can assume the jurisdiction of quashing the FIRs, wherein the above-mentioned ingredients are fulfilled.

30. The principles of quashing of an FIR have been laid down by the Supreme Court in a case titled as *Miraj Khan* ***versus*** *Gul Ahmed and 3 others* (**2000 SCMR 122**) its relevant excerpt reads as under:

> *"4.* ***There is no absolute bar on the power of the High Court to quash an F.I.R. and it is not always necessary to direct the aggrieved person to first exhaust the remedy available to him under section 249-A, Cr.P.C. It is coordinal principle of law that every criminal case should be adjudged on its own facts. The facts of one case differ from the other and, therefore, no rule of universal application can be laid in a certain case so as to be made applicable to other cases.*** *Even in the case reported in PLD 1997 SC 275, relied on by the learned counsel for the petitioner this principle has been recognized that the High Court in exceptional cases can exercise jurisdiction under section 561-A, Cr.P.C without waiting for trial Court to pass orders under section 249-A or 265-K, Cr.P.C., if the facts of the case so warrant.* ***The main consideration to be kept in view would be whether the continuance of the proceedings before the trial forum would be futile exercise, wastage of time and abuse of process of Court or not. If on the basis of facts admitted and patent on record no offence can be made out then it would amount to abuse of process of law to allow the prosecution to continue with the trial****."*

In this regard, reliance is also placed on the following case laws, wherein the Supreme Court has held that a High Court can exercise the discretion to declare any act of police officials without any lawful authority.

i. *Raja Haq Nawaz* ***versus*** *Muhammad Afzal and others* &*Raja Haq Nawaz* ***versus*** *Subedar Sakhi Muhammad and others* (**1968 SCMR 1256**).

ii. *Rizwana Bibi* ***versus*** *The State and another* (**2012 SCMR 94**).

Guidance is also sought from the case titled as *Malik Zulfiqar Ahmed* ***versus*** *The State and 2 others* (**2024 YLR 185**).

31. To sum up the aforementioned discussion, the allegations as mentioned in the impugned **FIR III** do not attract any cognizable offence. Moreover, when the whole allegations pertaining to the Petitioner are considered in juxtaposition with the locus of occurrence i.e. Islamabad, it becomes evident that the police in Karachi had neither any substance nor the jurisdiction to register the **FIR III**. The place of purported reaction of some persons to an offence allegedly committed in another province and the abode of complainant/informant do not confer jurisdiction on the officials of a police station of another province to register an FIR against an accused. Similarly, multiple FIRs (more than one FIR) cannot be lodged for the same occurrence in different provinces, in light of the ***Mst. Sughran Bibi case*** (*Supra*), thus, the second FIR i.e. **Lasbella FIR**, was illegally registered on the basis of same allegations for which the **FIR III** already registered at P.S Mochko, Keamari Karachi. Further, the Petitioner is fully entitled to the constitutional rights as guaranteed under the Constitution by virtue of his citizenship and his residence in the territory of Pakistan. Any action taken by the authorities in contravention of the aforementioned rights is to be declared unconstitutional

and of no legal effect. Therefore, this Court is of the considered opinion that the police authorities have failed to furnish any legal justification for the registration of the impugned **FIR** and the said action is not tenable under the law as it was registered in violation of the aforenoted provisions of the Cr.P.C, Police Rules and constitutional rights of the Petitioner.

32. In view of the above legal position and discussion, instant writ petition is allowed and the acts of the police officials in respect of the registration of the impugned **FIR** are without lawful authority and of no legal effect. The FIR No. 40/2023, dated 02.02.2023, offences under sections 506, 504, 500 and 153 of PPC, registered at police station Mochko, Keamari, Karachi, is to be treated as abuse of process of law and the same is hereby **quashed**.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE

Announced in Open Court on 25.06.2024

JUDGE

Approved for Reporting
Blue Slip added.

*Bilal /**