JUDGMENT SHEET.

ISLAMABAD HIGH COURT, ISLAMABAD, JUDICIAL DEPARTMENT.

W.P No.61 of 2025

Mehr Rehman

Versus

The Justice of Peace (West), Islamabad, etc

Petitioner by:	Sardar Muhammad Tariq Fareed Gopang, Advocate.
Respondents No.2 & 3 by:	Mr. Muhammad Asif Javed, State Counsel.
Proposed Accused by:	Mr. Muzammil Din Chaudhry, Advocate.
Date of Decision:	**28.01.2025.**

UNCERTIFIED

INAAM AMEEN MINHAS, J:- Through this writ petition, the petitioner has assailed the order dated 06.11.2024, passed by respondent No.1/Justice of Peace (West) Islamabad, whereby petition under sections 22-A & 22-B, Cr.P.C filed by the petitioner was dismissed.

2. Brief facts are that the petitioner submitted an application for registration of the FIR before respondent No.2/SSP, Islamabad with the allegations that he purchased share of his brother Ahmed Yar from the shop situated at plot No.12J, Sector G-8 Markaz, Islamabad against the sale consideration of Rs.6,500,000/- (sixty five lac). The sale consideration was received by the brother of the petitioner through different modes and he acknowledged receiving of the sale

consideration in the agreements dated 02.08.2022 and 29.09.2022. On 13.09.2024 the petitioner came to know that his brother Ahmed Yar has further sold his share from the suit shop to his another brother Nigar Khan as such both the brothers of the petitioner have committed fraud and criminal breach of trust. The application was marked to respondent No.3/SHO, P.S Margala, Islamabad but he refused to register the FIR. Thereafter the petitioner filed a petition under section 22-A & 22-B, Cr.P.C before the learned Justice of Peace, which was dismissed through the impugned order, hence, the instant petition.

3. Learned counsel for the petitioner contended that the impugned order is against the law and facts of the case; that application for registration of FIR discloses cognizable offence and the police is duty bound to register the FIR; that pendency of civil litigation does not bar registration of FIR; that learned Justice of Peace has failed to apply its judicial mind while passing the impugned order as the police cannot investigate the case prior to registration of FIR. In support of his contentions learned counsel has relied upon *Syed Qamber Ali Shah vs. Province of Sindh* (2024 SCMR 1123), *Haji Sardar Khalid Saleem vs. Muhammad Ashraf and others* (2006 SCMR 1192), *Iftikhar Hussain and others vs. The State* (2004 SCMR 1185) and *Arsalan Raza vs. Justice of Peace and others* (2024 P Cr. L J 351 Lahore).

4. Conversely, learned counsel for the proposed accused contended that the petitioner and the proposed accused are real brothers and they all are co-sharer in the suit shop; that two civil suits and one eviction

UNCERTIFIED

petition are pending before the Courts of competent jurisdiction; that direction for registration of FIR cannot be issued where the dispute between the parties is of civil nature; that learned Justice of Peace has passed the impugned order in accordance with law. In support of his contentions learned counsel has relied upon *Jamal Khan vs. Secretary Home Department* (2021 SCMR 468.

5. I have heard the arguments advanced by learned counsel for the parties and perused the record.

6. Perusal of the record reveals that through the impugned order learned Justice of Peace has declined the request of the petitioner for issuance of direction for registration of FIR. When the police refuses to register FIR, then other following remedies are available with the aggrieved person:-

(i) Application under sections 22-A & 22-B, Cr.P.C before Ex-Officio Justice of Peace

(ii) Approaching the Magistrate under section 156(3), Cr.P.C

(iii) Filing of direct complaint under section 200 Cr.P.C

In the present case in the first instance the petitioner approached the concerned SHO for registration of FIR but his application was not entertained, thereafter the petitioner availed first remedy under sections 22-A & 22-B, Cr.P.C before the Ex-Officio Justice of Peace, where his application was dismissed. The Petitioner did not avail the other two remedies available to him for redressal of his grievance. In such

UNCERTIFIED

circumstances in presence of adequate and efficacious remedies invoking of writ jurisdiction is not the mandate of the law.

7. In case in hand, it is admitted by the petitioner that there are three agreements to sell dated 02.08.2022, 29.09.2022 and 23.01.2023 in respect of the suit shop, which were executed between the parties and civil litigation is also pending in respect of the same. It is established from the record that both sides are locked in a dispute of civil nature, which does not warrant a direction for registration of FIR. Reliance is placed upon *Jamal Khan vs. Secretary Home Department* (2021 SCMR 468.

8. In view of above discussion, no illegality or infirmity has been found in the impugned order. This petition bears no merit, therefore, the same is hereby ***dismissed***. The petitioner is at liberty to avail alternate remedies available to him under the law, if so, desires.

(INAAM AMEEN MINHAS)
JUDGE

R.Anjam

UNCERTIFIED