JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

WRIT PETITION NO. 427/2025

CHAUDHARY KHURSHID AHMED

Vs

EX-OFFICIO JUSTICE OF PEACE/ADDITIONAL SESSIONS JUDGE, ISLAMABAD-EAST

Petitioner by	**:**	**Ch. Zaheer Ahmed Advocate.**
Respondents by	**:**	**Mr. Muhammad Taimoor Janjua, State Counsel.** **Imam Ali, ASI, P.S Shahzad Town**
Date of hearing	**:**	**25.02.2025**

MUHAMMAD AZAM KHAN, J.

1. The Petitioner has filed the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, **("Constitution")** against the Order dated 19.11.2024 **("Impugned Order")** passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Islamabad (East) **("Justice of Peace")** whereby the petition under Section 22-A of the Code of Criminal Procedure, 1898 **("Cr.P.C")** filed by the Petitioner has been dismissed.

2. The brief facts giving rise to the filing of instant Writ Petition are that on 18/19.09.2024 at about 01:15 am, when Petitioner was going to his house at Ghauri Town, Islamabad from his office Jhangi Syedan and when he reached near Paracha Chowk Tarlai, he heard gunshots upon which he became frightened assuming the same as an inimical attack by his rivals. The Petitioner immediately parked his vehicle in Street No. 6 and went in his room. At about 02:00 am, the police officials accompanied with Station House Officer, Police Station Shahzad Town, Islamabad **("S.H.O")** trespassed the Petitioner's house by breaking the door of Mumty, they got hold of him and started torturing him. The police officials torn his clothes and S.H.O thrown him in vehicle in presence of the inhabitants and took him to the Police Station. On the directions of S.H.O, the police officials also took the Petitioner's vehicle bearing Registration No.FB-077 to the Police Station Shahzad Town, Islamabad. In the morning at about 05:00 am, the Petitioner was released by the police due to the intervention of his family and friends. During the occurrence, police seized Rs.1,500,000/- kept in the dashboard of the Petitioner's

vehicle. Upon his release, when the Petitioner demanded the return of his money, only Rs. 700,000/- was returned to him. When he insisted on the return of the full amount, S.H.O, Azeem Minhas, informed him that the police officials who had brought the vehicle had only handed over that amount. The S.H.O further stated that the officials had gone home and would be inquired upon their return in the morning. The Petitioner kept on waiting whole day and finally at about 02:00 pm, SHO refused to return the remaining amount. The Petitioner submitted a written application to the Inspector General of Police for registration of F.I.R against the said S.H.O along with his accompanying police officials for trespassing the Petitioner's house, breaking the door, extending threats to book the Petitioner in frivolous criminal cases, illegally grabbing the hard-earned money of the Petitioner and misusing their official powers. On Petitioner's application an inquiry was conducted by the order of the Inspector General of Police. The statements of the parties were recorded. Later on, the said inquiry was abandoned and neither any action was taken against the SHO along with accompanying officials nor any F.I.R was registered against them. Thereafter, the Petitioner filed an application under Section 22-A, Cr.P.C for registration of F.I.R against S.H.O P.S Shahzad Town which was dismissed by the learned Justice of Peace vide the Impugned Order. Being aggrieved of the Impugned Order, the Petitioner has filed the instant Writ Petition.

3. The learned counsel for the Petitioner argued that the learned Justice of Peace failed to appreciate that the aggression of the police officials was witnessed by the inhabitants of the locality; that police officials trespassed the Petitioner's house, broke the door, maltreated the Petitioner, forcibly took him along with his vehicle to the Police Station, stole the Petitioner's hard-earned money from his vehicle and subsequently refused to return the full amount; that Photographs of the entire occurrence are available, and there are also witnesses to the occurrence, however, no effort was made to collect the evidence, and no one visited the scene; that learned Justice of Peace relied upon the concocted story narrated by the police, which is great injustice with the Petitioner; that the learned Justice of Peace failed to appreciate that it was the accused person himself who submitted the police comments, which, under no circumstances, can be relied upon; that the Impugned Order 19.11.2024 is not a speaking order, the same is absolutely unlawful, arbitrary and against the facts and law; that learned Justice of Peace failed to

appreciate the contents of the complaint which, *prima facie*, constitute a cognizable offence; that while dismissing the Petitioner's petition, the learned Justice of Peace was to confine himself only to the extent of its powers being Justice of Peace and not to assume the authority of a trial court to discuss technicalities, authenticity or truthfulness of the complaint; that learned Justice of Peace failed to appreciate that in the scheme of Cr.P.C, the S.H.O is bound to register the complaint in the F.I.R register if it discloses the commission of a cognizable offence; that the learned Justice of Peace overlooked that, under the provisions of the Cr.P.C, there is no concept of an inquiry conducted by the S.H.O or Investigating Officer (I.O) to determine the truth or falsity of the information regarding the commission of a cognizable offence before the registration of the case under Section 154, Cr.P.C; and that the Petitioner is having no other efficacious, alternative and speedy remedy available except to invoke the jurisdiction of this Court by filing this petition. Lastly, the learned counsel prayed that the Impugned Order may be set-aside and the Respondent No. 3 be directed to register F.I.R on the Petitioner's complaint.

4. On the other hand, the learned State counsel argued that as per contents of the complaint filed by the Petitioner to Inspector General of Police, no cognizable offence is made out against the Respondents; that the Impugned Order passed by learned Justice of Peace is a well-reasoned order which has been passed keeping in view the facts involved in the matter; that there is no illegality or irregularity in the Impugned Order; and that instant Writ Petition may kindly be dismissed.

5. I have heard the arguments of learned counsel for the Petitioner as well as the learned State Counsel and perused the available record with their able assistance.

6. The learned Justice of Peace sought report from the police, in which it is mentioned that on 19.09.2024 at about 01:15 am, information was received by the police through Wireless 15 that a vehicle bearing Registration No. FB-077, was being driven rashly and negligently on Lethrar Road. The Dolphin Police attempted to stop the vehicle, but the driver refused to stop and made a U-turn at Lethrar Road. The vehicle eventually stopped in front of Quetta Hotel, Ghouri Town, and taken to the Police Station, where F.I.R No. 1151/24 was registered under Section 279 of the Pakistan Penal Code, 1860. The accused, Khursheed

Ahmed (Petitioner), along with the mentioned vehicle, was released from the Police Station on surety. The report further indicates that no search of the vehicle was conducted by the police, and the Petitioner's allegations are false which are merely leveled in response to the registration of the aforementioned F.I.R against him.

7. Under Section 154, Cr.P.C, every information relating to the commission of cognizable offence, if given orally to an Officer Incharge of a Police Station, shall be reduced to writing by him or under his direction and be read over to the informant. If the Police fail to register such information regarding cognizable offence, then in that case the complainant has to approach through an application to the concerned S.H.O for the registration of a criminal case and on his refusal or reluctance, the Complainant can approach the high police officer i.e. DPO, RPO, etc. before invoking the powers of Ex-Officio Justice of Peace. In the present case, the Complainant has directly approached the Inspector General of Police and an inquiry was also conducted. During inquiry, the Petitioner and the local inhabitants appeared and their statements were recorded. Similarly, the statements of police officials including the Dolphin Police officials, were recorded and ultimately the said inquiry was abandoned.

8. An F.I.R No. 1151/24 under Section 279, PPC, for the alleged offense of rash and negligent driving was registered against the Petitioner at approximately 01:15 am on 19.09.2024. The trial of the case is still pending, and during the trial, the Petitioner will be provided with an opportunity to present any defense. If the Petitioner succeeds in proving that the F.I.R was false and can produce evidence supporting his version, he will have the legal remedy available to him. Currently, a case has been registered against the Petitioner, and the trial is still ongoing. Furthermore, the Petitioner has failed to disclose the registration of the F.I.R against him in the application submitted to the Inspector General of Police. This omission indicates that the Petitioner has concealed this fact while seeking redressal through the said application before the Inspector General of Police Islamabad.

9. Once the learned Justice of Peace has called for the police report/comments, it is not customary to disregard them. If the Petitioner intends to present an opinion contrary to the police report, he must provide valid and tangible reasons for not

relying on the police report/comments. The learned Justice of Peace has rightly observed that the Petitioner has failed to approach the concerned S.H.O and then the high police officer i.e. DPO, RPO. Reliance is placed upon *Younas Abbas Vs Additional Sessions Judge and others* **(PLD 2016 SC 581)**. Moreover, the learned Justice of Peace's reliance upon the police report/comments is quite justified as in case titled *Muhammad Ashar Halim Quraishi Vs. Ex-Office Justice of Peace/Additional Sessions Judge, East, Islamabad and 3 others,* **(2022 PCr.LJ 534)** it is held that: -

> *"Learned Ex-Officio Justice of Peace once called for the police report, cannot ordinarily brushed aside the same, in case he proposed to give his opinion contrary to the police report he was supposed to furnish tangible reason for not relying upon the police report".*

10. In the light of the above discussion, this Court is of the view that the Petitioner can produce defense (if so advised) during the trial in case F.I.R No.1151/24 in order to prove his version and not by registering another F.I.R which cannot be ordered in view of the dictum laid down in case of *Sughra Bibi Vs. The State* reported as (**PLD 2018 SC 595)**. Moreover, the learned counsel for the Petitioner has failed to point out any illegality or irregularity in the Impugned Order which as such is well-reasoned and calls for no interference by this Court. Hence, the instant Writ Petition is **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Sajid/--