JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

W.P. NO. 478 OF 2025

MUHAMMAD AZAM

VS

THE FEDERAL INVESTIGATION AGENCY THROUGH DIRECTOR GENERAL, ISLAMABAD ETC

Petitioner by	**:**	**Syed Ammar Hussain Shah, Advocate.**
Respondents by	**:**	**Raja Zamir ud Din, AAG.** **Mr. Taimur Janjua, State counsel.** **Mr. Muhammad Azim, Advocate along with Respondent No. 6.** **Mr. Sajid Cheema, DSP Legal.** **Ms. Sarwat Durrani, Inspector F.I.A.**
Date of hearing	**:**	**17.03.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), the Petitioner [Muhammad Azam] has challenged the notice under Section 160 Cr.P.C, issued in January, 2024 **("Impugned Notice")** by Deputy Director, Federal Investigation Agency, Anti-Corruption Circle, Islamabad whereby The Petitioner has been directed to appear before the Respondent Agency in connection with Enquiry No. 214/2024.

2. The brief facts of the case as per the Memo of Petition are that the Petitioner alleges that local police falsely implicated him in multiple cases, from which in most of the cases he was exonerated. He filed complaints against delinquent officers, including Respondent No. 6, for abuse of power. In retaliation, Respondent No. 6 initiated a malicious prosecution, leading to FIR No. 767/2023 under various PPC sections, accusing the Petitioner of fraudulently obtaining 11 million rupees. The Petitioner contested the allegations and sought legal action against Respondent No. 6 for presenting forged evidence in Court. Despite complaints to police authorities and FIA, no action was taken. On 03.01.2025, the Petitioner received a late-night call from Police Station Golra

about an FIA notice under Section 160 Cr.P.C, summoning him for an anti-corruption Inquiry on 05.02.2025 regarding the alleged fraud. The Petitioner contends that Respondent No. 6 is abusing his official position to misuse investigative agencies, despite a pending trial on the same allegations, where the Petitioner has secured pre-arrest bail. When the Petitioner filed an application against Respondent No. 6 before the Inspector General of Police and FIA, the said Respondent succeeded to got issue the Impugned Notice against the Petitioner which is not only against the law but does not come under the domain of Federal Investigating Agency in any manner.

3. The learned counsel for the Petitioner argued that, as the Petitioner is neither a public office holder nor a Government employee, the Anti-Corruption Circle lacks jurisdiction to summon him, especially when an FIR has already been registered and the trial is pending. The counsel contended that the Respondents' actions violate Articles 4, 9, 10A, 13, 14 and 25 of the Constitution. It was emphasized that investigative authorities cannot conduct inquiries arbitrarily or beyond their jurisdiction, as affirmed in *Khawaja Salman Rafique and another versus National Accountability Bureau through chairman and others,* PLD 2020 SC 456. The Respondents are accused of abusing their powers to protect their associate, jeopardizing the Petitioner's liberty. With no other effective legal remedy available, the Petitioner seeks the Court's intervention to declare the Impugned Notice illegal and suspend its operation, restraining the Respondents from taking adverse action against the Petitioner until the instant Petition is decided.

4. On behalf of Respondents, it is argued that the subject inquiry was registered upon the written complaint of Respondent No.6 against the Petitioner, wherein he alleged that he is serving as Sub-Inspector Traffic Police Islamabad and the Petitioner defrauded and extorted huge amount of Rs.111,000,000/- in cash, by impersonating himself as CDA employee. In the last, it is prayed that the instant Writ Petition may be dismissed on the ground that notice for summoning an accused cannot be challenged as it will be seen during the investigation regarding the Petitioner's involvement in the alleged offence.

5. I have heard the learned counsel for the Parties and perused the record with their able assistance.

6. The Respondent No. 6 [Abdul Rasheed] who is Sub-Inspector in ICT Police in Traffic Branch, alleges fraud and extortion of a huge amount of Rs.111,000,000/- by the Petitioner and in this regard, an F.I.R No.767/23 under Sections 420/468/471/170/171/34, PPC in P.S Aabpara, Islamabad, has already been registered against the Petitioner and now on the same facts, Respondent No. 4 has summoned the Petitioner for joining him in the enquiry which is pending before the FIA Authority. Under the law, Federal Investigation Agency has got no jurisdiction to enquire or investigate under the Pakistan Penal Code until and unless, a Government Servant is not involved in the said offences. It is the local police which can investigate in offences pertaining to Pakistan Penal Code and not the FIA when the offenders are private persons.

7. For what has been discussed above, the instant Writ Petition is **allowed** and the Impugned Notice issued by the FIA Authorities is held to be illegal, void *ab-initio* and without jurisdiction.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on _____ day of April 2025.

JUDGE

//Sajid//