JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 794 OF 2025

SAMI ULLAH KHAN & ANOTHER

VS

THE STATE & 3 OTHERS

Petitioners by : Muhammad Iqbal Khan and Waqar Abid, Advocates.

Respondents by : Mr. Muhammad Taimoor Janjua, State counsel.
Respondent No.4 in person.
Mr. Tariq Aziz ASI, P.S Shalimar, Islamabad.

Date of hearing : 05.03.2025

MUHAMMAD AZAM KHAN, J.

1. The Petitioners [Sami Ullah Khan and Muhammad Iqbal Khan] have challenged the Order dated 10.02.2025 **("Impugned Order")** passed by the learned Additional Sessions Judge (West)/Ex-officio Justice of Peace, Islamabad **("Justice of Peace")** through this instant Writ Petition. The Impugned Order disposed of an Application filed by the Respondent No. 4 [Muhammad Javed Khan] under Section 22-A and 22-B of the Code of Criminal Procedure, 1898 **("Cr.P.C")**. In the order, the learned Justice of Peace directed the Respondent No. 3 [SHO, Police Station Shalimar, Islamabad] to act on Respondent No. 4's Application in accordance with the law. The Petitioners also seek directions for the Respondent No. 3 to register a criminal case against Respondent No. 4, along with two other individuals, Sheraz and Mohsin, as well as some unidentified persons, for allegedly harassing and threatening a practicing lawyer. Additionally, the Petitioners request adequate protection under the Lawyers Welfare and Protection Act, 2023.

2. The brief facts of the case in hand are that the Respondent No.4 filed Application under Section 22-A Cr.P.C before the learned Justice of Peace for registration of criminal case against the Petitioners and others. The learned Justice of Peace called the comments from the Respondent No. 3, which were placed on record. Thereafter, the learned Justice of Peace heard the arguments of the

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Respondent No. 4 and vide the Impugned Order disposed off the above said Application with the direction to the Respondent No. 3 to proceed on the Application of the Respondent No. 4 according to law. The petitioners being aggrieved of the Impugned Order have filed the instant Writ Petition.

3. The learned counsel for the Petitioners argued that the Impugned Order flagrantly disregards the Assistant Commissioner's binding Order dated 19.08.2024, which clearly establishes the illegality of the Respondents' actions; that Sheraz & Mohsin along with fake manager and some unknown persons intentionally managed to hide all the previous pending proceedings, order of Assistant Commissioner Shalimar, FIR against co-accused and pending proceedings before the Court, where the DSP legal has already substantiated that Sheraz & Mohsin along with fake Manager and some unknown persons are committing illegal activities; that it is well-established principle that ex-parte orders must not interfere with pending judicial actions; that the Impugned Order is an abuse of process of law; and that the role of an Ex-officio Justice of Peace is not to mechanically process applications but to exercise discretion after ensuring that sufficient material is available on record and that all other avenues have been exhausted and in this regard, the learned counsel relied upon the case titled *Faisal Hayat…vs…Additional Sessions Judge/Ex-officio Justice of Peace, Islamabad* reported as **2024 YLR 1037**; that in the present case, the Impugned Order appears to be motivated by retaliatory intent rather than any substantiated legal violation; that the Impugned Order contravenes the Petitioners' right under the Lawyers Welfare and Protection Act, 2023 which specifically safeguards legal practitioners from harassment, intimidation and baseless litigation; that Sheraz and Mohsin along with fake Manager and some unknown persons have a well-documented history of criminal activities, including obstructing the petitioners' property rights, which further demonstrates that the Impugned Order is not only unjust but also an abuse of judicial process; that by virtue of Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973 **("Constitution")** it is the inalienable right of the Petitioners to be dealt with in accordance with law; that as per Article 10-A of the Constitution, the Petitioners are afforded the right to a fair trial and due process for the determination of any of their civil rights and in respect of any criminal charges against them; that the Petitioners have unfortunately been denied this right

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as the learned Justice of Peace has passed an order for the registration of FIR against the Petitioners without proper examining the complaint and complete facts provided by the Respondent No. 4. Lastly, the learned counsel prayed that the Impugned Order may kindly be set-aside on the ground that the same is illegal, void *ab-initio* and constitutes an abuse of process of law. The learned counsel further prayed that costs may kindly be imposed on the Respondent No. 4 and his alliance for filing frivolous litigation to obstruct the due course of justice.

4. On the other hand, the learned State counsel opposed the arguments of the learned counsel for the Petitioners. He fully supported the Impugned Order by contending that the learned Justice of Peace has rightly passed the Impugned Order in accordance with law. He prayed for dismissal of the instant Petition.

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

6. The Petitioners have assailed the Impugned Order passed by the learned Justice of Peace on the ground that without affording the opportunity of being heard, the said order was passed and directions were issued to the Respondent No. 3 to proceed strictly in terms of Section 154, Cr.P.C. The learned Justice of Peace after perusing the petition filed under Section 22-A/B, Cr.P.C and examining the report of the concerned Police Station/SP, Complaints has to see that a cognizable offence has been made out. The report of SP, Complaints dated 23.01.2025 reflects that the Police had called the proposed accused (Petitioners) but they did not attend, therefore, no further proceedings could be conducted. The application submitted by the Respondent No. 4 before the learned Justice of Peace and before the Respondent No. 3, reveals that the Petitioners namely Sami Ullah and Muhammad Iqbal Khan along with unknown persons started abusing the Respondent No. 4 and the other persons accompanying them started beating him. In the meanwhile, the Petitioner Muhammad Iqbal Khan pointed pistol towards him and threatened him that the Respondent No. 4 is ruining his business despite, Muhammad Sami Khan's previous warning that he should not ask the details from the clients which come to their apartment. The application further reveals that the Petitioner Muhammad Iqbal Khan told the Respondent No. 4 that on 29th December, he, while calling Police, harassed the Petitioner's clients. The Petitioner

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extended threats of dire consequences and stated that as he is a lawyer and even the Police cannot register FIR against him.

7. From the contents of the Application, a cognizable offence is made out and the learned Justice of Peace has rightly issued directions to the local Police to proceed strictly in accordance with law who shall also pay due attention to the grievance of the Respondent No. 4. Reliance is placed on the ruling of august Supreme Court in the case titled *Syed Qamber Ali Shah…vs…Province of Sindh & others* reported as 2024 SCMR 1123.

8. With these observations, the instant Writ Petition being misconceived and devoid of any merits, is hereby ***dismissed***.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in open court on _____.

JUDGE

--/Mehboob/--

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