JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD, JUDICIAL DEPARTMENT

Writ Petition No.1237 of 2025

Farooq Zaman and another

Versus

Additional Sessions Judge-III (East) Islamabad and others

Petitioners by:	Mian Muhammad Arshad Javed and Mr. Farooq Iqbal Khan, Advocates.
Respondent No.3 by:	Mr. Qandeel Ali Kazmi, Advocate.
Respondent No.4	In person.
Date of Hearing:	**15.05.2025.**

INAAM AMEEN MINHAS, J:- Through the instant writ petition, the petitioners have assailed the order dated 12.12.2024 **("Impugned Order")**, passed by the learned Additional Sessions Judge-III (East) Islamabad **("Revisional Court")**, whereby the criminal revision filed by respondent No.3 was allowed and the matter was remanded to the learned Judicial Magistrate.

2. Brief facts of the case are that the petitioners and respondent No.4 filed two suits against respondent No.3 on 27.10.2023. In both the suits the parties and the cause of action were the same. One suit was filed before the Civil Court, Rawalpindi, in which stay was not granted and the same was withdrawn on 28.10.2023, whereas the second suit was filed before the learned Civil Court, Islamabad, in which interim injunction was granted. That suit was also withdrawn on 22.01.2024, however, the learned Civil Court imposed cost of Rs.5000/-. In both the suits false certificates and verification on oath were given by the petitioners and respondent No.4, therefore, the respondent No.3 filed an

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application u/s 476 Cr.P.C read with section 195. 193, 198, 202, 209, PPC before the learned Judicial Magistrate with the prayer that proceeding may be initiated u/s 476, Cr.P.C read with section 195, PPC and direction may be passed for lodging of FIR. The said application was dismissed by the learned Judicial Magistrate vide order dated 29.07.2024, against which respondent No.3 filed a criminal revision before the learned Revisional Court, which was allowed vide the Impugned Order remanding the matter to the learned Judicial Magistrate for proper enquiry and to try the accused person/the petitioners and respondent No.4 for the offences in question according to law, if a *prima facie* case is made out against them, hence, this writ petition.

3. The learned counsel for the petitioner contended that the Impugned Order is against the law and without jurisdiction; that respondent No.3 was not competent to file criminal revision without board resolution from the Managing Committee of the Cooperative Housing Society; that the Impugned Order has been passed without hearing the petitioners, which is violation of Article 10-A of the Constitution; that at the time of withdrawing the suit, the petitioners were imposed costs of Rs.5000/- as such passing of the Impugned Order is double punishment, which is against Article 13 of the Constitution.

4. Conversely. the learned counsel for respondent No.3 has contended that the Impugned Order has been passed in accordance with law and that instant writ petition merits dismissal.

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

6. Section 476, Cr.P.C allows the Courts to take legal action against any person, who presents false evidence, forges documents or commits other offences that interfere with justice during the Court proceedings. The purpose of this section is to maintain dignity of the judicial system

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and prevent individuals from abusing the Court process. This section gives powers to civil, criminal and revenue Courts, if they conclude that someone has committed an offence under certain sections of PPC such as sections 193 to 196 (false evidence), sections 199 and 200 (false statements), sections 205 to 211 (false claims) or section 228 (insulting a public servant during Court proceedings), to file a written complaint with the concerned Magistrate, where-after the Magistrate will conduct a preliminary inquiry to decide if further action is justified and give the accused a chance to explain his side before moving forward.

7. Before initiating proceedings u/s 476, Cr.P.C the Courts must conduct a proper and fair preliminary inquiry providing the accused with an opportunity to be heard as required by the principles of natural justice. If no actual offence is found or if the act occurred outside the Court proceedings or appears to be an honest mistake, the Court may dismiss the matter. Also, if the offence is already under investigation or trial in another forum, the Court may choose not to proceed under this section.

8. In present case, the learned Judicial Magistrate in exercise of powers u/s 476, Cr.P.C did not conduct an inquiry into the alleged allegations. The Court must follow the correct procedure before admitting or dismissing the case u/s 476, Cr.P.C. The discretion to proceed must be exercised judiciously and the Courts cannot bypass the legal requirement of conducting a preliminary inquiry as clarified by the Honourable Supreme Court in various judgments including ***Qazi Naveed ul Islam vs. District Judge Gujrat and others***, **(PLD 2023 SC 298)** and *Abdul Hakeem vs. The State*, **(1994 SCMR 1103)**. Courts are not permitted to dismiss such matters without due consideration and inquiry. This power is significant and should be utilized to safeguard the integrity and reliability of the judicial process and should not be exercised arbitrarily. If Courts fails to follow these requirements, such as by not holding an inquiry or not providing the accused with a fair opportunity of hearing, it is a violation of the due process of law and an

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unlawful decision. Therefore, while section 476, Cr.P.C is a strong legal tool to uphold justice, it must always be exercised carefully, fairly and strictly in accordance with law.

9. The learned Revisional Court while passing the Impugned Order properly exercised its authority in line with the relevant legal provision. It acted within the limits of its lawful jurisdiction and followed the correct legal procedure and did not commit any legal error, violate any rule or misuse its powers. There is no justification or legal ground for interfering with the Impugned Order.

10. In view of above discussion, the instant writ petition bears no merits, therefore, the same is **dismissed**.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 26.06.2025

JUDGE

R.Anjam

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