ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No.3942 of 2026

Muhammad Salman Baig

Versus

The State, etc.

S. No. of order/ proceedings	Date of hearing/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	08-09-2026	**Syed Nazar Hussain Shah, Advocate for the petitioner.**

The petitioner, Muhammad Salman Baig, has filed the instant writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, read with Section 561-A, Cr.P.C., seeking quashment of FIR No.93/2026 dated 07.07.2026 **("Impugned FIR")** registered for offences under Sections 354, PPC, at Police Station Women, Islamabad.

2. Necessary facts of the case, as per the contents of FIR, are that respondent No.3/complainant [Mst. Mariyam Shabbir] alleged that she is a Government Officer serving in Grade-18 and was married to accused Muhammad Suleman Baig, son of Mirza Asim Baig, on 02.01.2026. She alleged that since the marriage, the accused had been subjecting her to mental and physical torture; however, she tolerated his conduct with patience and forbearance in order to save her matrimonial home. She further alleged that on 06.05.2026 at about 5:00 p.m., the accused started abusing and insulting her without any reason and made derogatory remarks regarding her and her parents. When she asked him to refrain from doing so, the accused allegedly started beating her and subjected her to physical torture inside the house. She further alleged that the accused attempted to kill her by pressing her neck/throat. On hearing her cries, the accused

allegedly left her, whereafter she managed to save herself and went downstairs to the portion occupied by her in-laws. The complainant alleged that, instead of coming to her assistance, the family members of the accused sided with him, abused her and her parents, and forcibly took away the keys of her car. She thereafter left the house and went to her parents' residence and subsequently attended PIMS Hospital, where she was medically examined. The medical certificate was stated to have been attached with the application. The complainant further alleged that, as she was apprehensive for her life, she did not approach the police immediately after the occurrence. She stated that during her stay at the matrimonial home, the accused neither provided her with food nor paid her any expenses. Rather, he allegedly borrowed an amount of Rs.500,000/- from her as a loan, which he failed to return. She also alleged that the accused forcibly took away her gold ornaments, including 5 tolas of gold, 8 tolas of gold and another 5 tolas of gold ornaments, including a gold chain. It was lastly alleged that the accused continued to threaten the complainant and threatened to come to her office and kill her. She expressed apprehension for her life as well as the safety of her family members and requested the police to take legal action against the accused. Hence, this FIR.

3. Learned counsel for the petitioner contended that the impugned FIR No.93/2026 dated 07.07.2026, registered under Section 354 PPC at Police Station Women, Islamabad, is liable to be quashed as the same has been lodged by respondent No.3 with mala fide intention merely to harass, humiliate and pressurize the petitioner. He submitted that the alleged occurrence took place on 06.05.2026, whereas the complainant initially approached Police Station Sumbal on 18.06.2026 regarding the same occurrence and, on her application, proceedings under Sections 107/151 PPC were initiated against

the petitioner. The petitioner was arrested, produced before the competent authority, and was subsequently admitted to bail. The proceedings were thereafter consigned to the record on 16.07.2026. Learned counsel argued that, despite the earlier proceedings arising out of the very same occurrence, the complainant subsequently lodged the impugned FIR on the basis of substantially the same allegations, which amounts to an abuse of the process of law and cannot legally be permitted. He placed reliance upon the judgment of the Hon'ble Supreme Court in *Mst. Sughran Bibi v. The State* **(PLD 2018 SC 595)** and submitted that a second FIR in respect of the same occurrence is not permissible in law. He further contended that the registration and continuation of the impugned FIR, in the circumstances of the case, also attracts the protection guaranteed under Article 13(a) of the Constitution, as well as the principle embodied in Section 403 Cr.P.C. He submitted that the complainant had deliberately withheld the fact that she had earlier set the criminal law into motion against the petitioner concerning the same occurrence and had thereafter resorted to registration of the present FIR after an unexplained delay. Learned counsel further argued that there is an unexplained delay of approximately two months between the alleged occurrence and registration of the FIR, which, according to him, casts serious doubt upon the genuineness of the allegations and prima facie indicates mala fide and ulterior motives. He submitted that even a bare reading of the FIR does not disclose the essential ingredients of an offence under Section 354 PPC against the petitioner and that the allegations, when examined in the backdrop of the admitted matrimonial dispute between the parties, are inherently doubtful and require interference by this Court in its constitutional jurisdiction. It was further submitted that the petitioner and respondent No.3 are husband and wife and that the petitioner had

made efforts through his family and relatives to reconcile the matrimonial dispute, but the complainant declined such efforts. Learned counsel maintained that continuation of the criminal proceedings would cause serious prejudice, harassment and irreparable loss to the petitioner and would amount to misuse of the criminal process. In support of his submissions, learned counsel also relied upon *Mariaj Khar v. Gul Ahmed and others* **(2000 SCMR 122)** to contend that the High Court possesses jurisdiction to quash an FIR where the continuation of criminal proceedings would amount to abuse of the process of law or where the allegations, even if taken at their face value, do not constitute an offence. He therefore prayed that the impugned FIR be quashed in the interest of justice.

4. I have heard learned counsel for the petitioner and have gone through the contents of the impugned FIR as well as the material placed on record. The principal contention of learned counsel is that the impugned FIR constitutes a second criminal proceeding in respect of the same occurrence for which proceedings under Sections 107/151 PPC had earlier been initiated against the petitioner at Police Station Sumbal and, therefore, its registration is hit by the law laid down by the Hon'ble Supreme Court in *Mst. Sughran Bibi v. The State* **(PLD 2018 SC 595),** besides being violative of Article 13 of the Constitution and Section 403 Cr.P.C.

5. The contention, however, is misconceived. In *Mst. Sughran Bibi v. The State* **(PLD 2018 SC 595),** the Hon'ble Supreme Court examined the question of registration of a second FIR in respect of the same occurrence after an FIR under Section 154 Cr.P.C. had already been registered. The Court held that the Code of Criminal Procedure contemplates one FIR in respect of one occurrence and that subsequent or divergent versions of the

same occurrence are to be incorporated and investigated in the same case rather than by registration of separate FIRs.

6. The factual position in the present case is materially different. The earlier proceedings relied upon by the petitioner were admittedly initiated under Sections 107/151 PPC. Such proceedings are preventive in nature and do not constitute an FIR registered under Section 154 Cr.P.C. in respect of a cognizable offence. The fact that the petitioner was arrested in those proceedings and subsequently released on bail does not convert such preventive proceedings into a criminal prosecution or an FIR for the offence subsequently alleged in the impugned FIR. Consequently, the ratio of *Mst. Sughran Bibi* (supra), which concerns successive FIRs arising out of the same occurrence, cannot be mechanically extended to a case where the earlier proceedings were preventive proceedings under Sections 107/151 PPC.

7. The plea founded upon Article 13(a) of the Constitution also does not advance the case of the petitioner, as the constitutional protection against double jeopardy is attracted only where a person has already been prosecuted and punished, in accordance with law, for the same offence. Mere exposure to proceedings of a different nature, even if arising out of the same occurrence, does not, by itself, constitute double jeopardy within the meaning of Article 13(a) of the Constitution. *Raja Tanveer Safdar v. Mrs. Tehmina Yasmeen and others* **(PLD 2024 SC 795).**

8. Likewise, Section 403 Cr.P.C. has no application at this stage. The said provision embodies the principle of autrefois acquit/convict and presupposes a previous trial resulting in conviction or acquittal in accordance with law. The petitioner has not shown that he was previously tried or

acquitted/convicted for the offence presently alleged under Section 354 PPC. His having been proceeded against under Sections 107/151 PPC, therefore, does not attract the bar contemplated by Section 403 Cr.P.C.

9. The next question is whether the allegations contained in the impugned FIR, if taken at their face value, disclose the commission of a cognizable offence. The complainant has specifically alleged that on 06.05.2026 the petitioner abused her, assaulted and physically tortured her and attempted to strangulate/press her neck. She further alleged that she raised cries for help and subsequently went to PIMS Hospital for medical examination. At the stage of examining the validity of an FIR, this Court is not required to determine whether the allegations are ultimately true or false, nor can disputed questions of fact requiring evidence be conclusively adjudicated in constitutional jurisdiction.

10. The Supreme Court in *FIA through Director General, FIA, HQ, Islamabad v. Syed Hamid Ali Shah and others* **(PLD 2023 SC 265)** has clarified the scope of the High Court's constitutional jurisdiction in relation to an FIR. Although Section 561-A Cr.P.C. does not confer upon the High Court jurisdiction to quash an FIR or police investigation as such, the registration of an FIR and the investigation conducted by the police are executive acts which can be examined under Article 199 of the Constitution. Such jurisdiction, however, is to be exercised in appropriate cases where the registration of the case is without lawful authority, the allegations do not disclose any cognizable offence, or the criminal process is demonstrably being abused.

11. Applying the above principle to the present case, the allegations in the FIR cannot, at this preliminary stage, be characterized as inherently absurd, inherently improbable or

incapable of constituting an offence. The complainant has attributed a specific occurrence, date, time and place to the petitioner and has alleged physical assault upon her. Whether the petitioner actually committed the alleged assault, whether the complainant was the aggressor, whether the medical evidence corroborates her version, and whether the allegations were subsequently improved or exaggerated are matters which require investigation and, if necessary, determination by the competent trial Court on the basis of evidence.

12. The argument that the alleged offence under Section 354 PPC is not attracted also cannot be accepted at this stage. Section 354 PPC concerns assault or use of criminal force against a woman with the requisite intention or knowledge as to outraging her modesty. The precise nature of the physical assault, the surrounding circumstances and the requisite mens rea are matters to be determined on the basis of the evidence collected during investigation. The Court, while exercising jurisdiction under Article 199, would not undertake a mini-trial or evaluate disputed evidence merely to determine whether the prosecution case will ultimately succeed.

13. The argument regarding delay in lodging the FIR also does not, by itself, furnish a ground for quashing the same. The alleged occurrence is dated 06.05.2026, whereas the impugned FIR was registered on 07.07.2026. The complainant has offered an explanation in the FIR/application that, being apprehensive for her safety, she initially went to her parents and obtained medical examination and did not immediately approach the police. Whether this explanation is truthful and whether the delay has resulted in embellishment or improvement are matters which can properly be assessed after investigation and on the basis of evidence. Delay may be relevant to the credibility of the

prosecution case, but it does not automatically extinguish the prosecution or render the FIR liable to be quashed.

14. The allegation of mala fide also cannot be accepted merely on the basis of the petitioner's assertion that the complainant has instituted the criminal case to harass or pressurize him. Mala fide, when alleged as a ground for constitutional interference, must be supported by circumstances sufficiently strong to demonstrate that the criminal process has been invoked for an ulterior purpose and not merely because the accused disputes the allegations. At present, the record does not furnish such incontrovertible material as would justify the conclusion that the FIR is manifestly without lawful authority.

15. The reliance placed upon *Miraj Khan v. Gul Ahmad and others* **(2000 SCMR 122)** does not advance the petitioner's case. There is no cavil with the proposition that the High Court possesses jurisdiction to prevent abuse of the process of law and may interfere in an appropriate case where the allegations do not constitute an offence or where continuation of the proceedings would amount to abuse of process. However, that jurisdiction is extraordinary and is not intended to substitute the High Court for the investigating agency or the trial Court in determining disputed questions of fact.

16. It is also significant that the parties are husband and wife and the dispute appears to have arisen in the backdrop of matrimonial discord. However, the mere existence of a matrimonial relationship does not, in law, immunize either spouse from criminal liability where the allegations prima facie disclose commission of a cognizable offence. Conversely, the matrimonial nature of the dispute does not establish the guilt of the petitioner either. The truth or falsity of the respective

versions must be determined through the legally prescribed process.

17. The Court is conscious that the petitioner has already been arrested in the impugned case and has been admitted to bail. The question before this Court, however, is not whether the petitioner is ultimately guilty or innocent but whether the impugned FIR, on its face, is so legally defective, inherently improbable or demonstrably mala fide that its continuation would amount to an abuse of the process of law. On the material presently available, that threshold has not been crossed.

18. For the foregoing reasons, the earlier proceedings under Sections 107/151 PPC cannot be equated with an earlier FIR or a previous prosecution for the offence under Section 354 PPC. Consequently, the bar against a second FIR enunciated in *Mst. Sughran Bibi* **(PLD 2018 SC 595),** the protection against double jeopardy under Article 13(a) of the Constitution, and the bar contained in Section 403 Cr.P.C. are not attracted to the facts of the present case. The allegations contained in the impugned FIR prima facie disclose a cognizable offence and require investigation in accordance with law.

19. Accordingly, the instant writ petition, being devoid of merit, is ***dismissed in limine***. It is, however, clarified that any observation made herein is tentative and shall not prejudice the petitioner or the complainant before the investigating agency or the competent trial Court. The investigating officer shall conduct the investigation fairly, independently and strictly in accordance with law, without being influenced by any observation contained in this judgment.

(SHAHRUKH ARJUMAND)
JUDGE

Approved for reporting

ASIF MUGHAL