ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

JUDICIAL DEPARTMENT.

Writ Petition No. 2936 of 2017

Shahid Habib

Versus

Federation of Pakistan, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	14.03.2022	Mr. Hamza Siddiqui, Advocate for petitioner. Ch. Muhammad Nasir & Barrister Atif Rahim, Advocates for respondents. Syed Nazar Hussain Shah, AAG. Mr. Shahbaz Shah, State Counsel along with Zulfiqar S.I, and Ifitkhar, ASI.

Through the instant Writ petition, the petitioner prays for quashing of FIR No. 337 dated 13.06.2014, under Section 498-F PPC, P.S. Kohsar, Islamabad and FIR No. 502 dated 28.09.2014 under Section 489-F PPC P.S Industrial Area, Islamabad, registered on the complaint of respondent No.5 *(Saleem Khan*). In addition, also prays for a direction to respondents 1, 2 to 4 to eradicate private money lending on the basis of Riba and the respondent No. 3 to investigate illegal concealment of wealth by the respondent No. 5 besides tax evasion.

2. Precisely, the subject FIRs stood registered on the complaint of respondent No. 5 *(Saleem Khan)* against the petitioner with the allegation of issuance of cheques wroth 80,000 US $ and Rs. 15000000/- with dishonest intention which on presentation stood dishonored by the concerned banks.

3. It is significant to note that the instant writ petition seeking quashing of FIRs has been filed through the special attorney while as per record made available on file, petitioner has been declared a Proclaimed Offender from the court of competent jurisdiction vide order dated 26.06.2015 by the concerned Judicial Magistrate. Although, an order dated 29.09.2017, passed by the Addl. Sessions Judge-V (West), Islamabad, whereby in Criminal Revision filed by the

petitioner assailing order dated 25.06.2015, by virtue of which he had been declared proclaimed offender, is available on record, whereby the operation of the impugned order was suspended till the next date of hearing yet petitioner has not produced any document to show the final outcome of said revision petition.

4. As per police report, once the petitioner was allowed ad-interim pre-arrest bail vide order dated 30.01.2017, by the Addl. Sessions Judge Islamabad which was subsequently dismissed for non-prosecution. In addition, petitioner is fugitive from law while his CNIC had also been blocked on 11.05.2020.

5. The power of attorney sworn by the petitioner in favour of Rana Ikram Rabbani, indicates that the same was registered in the Consulate General of Pakistan Manchester. In the case of ***Chan Shah V. The Crown (PLD 1956 Federal Court 43)***, it was held that where the petitioner, as a fugitive from justice, presented himself before an attorney and singed and power of attorney in his favour for the presentation before the Federal Court, a petition for special leave to appeal and the same was duly filed, in such an eventuality, the Court would not act in aid of a person who was fugitive from justice and the petition had to be dismissed. In the case of ***Awal Gul v. Zawar Khan and others (PLD 1985 SC 4020*** it was observed that fugitive from law loses some of normal right guaranteed by procedural and also substantive law. Reliance is also placed upon case of ***Ikram ullah & others v. The State 2015 SCMR 1002.***

6. The Hon'ble Peshawar High Court in the case of *'Karam Elahi v. The State and 2 others'* reported as (2013 P Cr. L J 1727) in identical situation where accused sought quashing of FIR registered under section 489-F PPC, dismissed the quashment petition on account of petitioner being fugitive from law. After surveying case law on the subject, it was held that:-

> *"11. Admittedly a competent Court of law has issued warrants of arrest against the petitioner for his appearance and it is also on record that the petitioner is avoiding his lawful arrest. In suchlike situation if the instant quashment petition is entertained for its decision on merit without the petitioner's surrender in obedience to the warrants under section 204, Cr.P.C. issued by a competent court of law then it would tantamount to abuse of the process of the court as a person who flees or escapes from law loses some of his normal rights available to him under the law."*

7. In view of above, since the petitioner is fugitive from law, hence cannot ask for to exercise discretionary relief in terms of Article of 199 of the constitution of Islamic republic of Pakistan, 1973, consequently instant writ petition is **dismissed.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

//Kamran//