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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Cr.M/QP No.87-P/2018

JUDGMENT

Date of hearing.....12.10-2018.....

Petitioner (Andaz Khan): By Mr. Fazal-e-Wahid,
Advocate.

The State/respondents: By In Motion.

QALANDAR ALI KHAN, J.- Andaz Khan,
petitioner, being SHO Police Station Toru, Mardan,
moved the instant petition under Section 561-A Cr.PC
for quashment of the judgment/order dated 28.09.2018
of the learned Ex-Officio Justice of Peace/Additional
Sessions Judge-VIII, Mardan, whereby, application of
respondent No.1, Salma Gul, was accepted and the
District Police Officer, Mardan, was directed to
proceed under Section 154 Cr.PC.



2. Respondent No.1 had moved application
under Section 22 (a) Cr.P.C to the learned Ex-Officio
Justice of Peace/Sessions Judge, Mardan, for legal
proceedings against the petitioner and his other
companions/police officials for trespassing her house
at midnight on 02.09.2018, and after inquiring about
her father, who was not present in the house,
subjecting women folk in the house, including her
sister-in-law, who had given birth to a son a couple of

days before, to severe beating, using abusive language and searching cupboards in the residential rooms and thus causing missing of three tola gold ornaments and cash amount of Rs.150,000/- and also Rs.52,000/- lying under foam of the bed. In her application/complaint, respondent No.1 alleged that no one in the house was required to the police as even in the case of her father, the High Court had suspended order of D.C Mardan, therefore, the midnight raid of the police was probably at the behest of their rivals who were confined in Police Station Toru, in order to pressurize them for compromise. Respondent No.1/complainant, as such, alleged excessive use of authority by the police.

3. After going through comments of the petitioner/SHO, wherein he had tried to justify the midnight raid for arrest of father and uncle of respondent No.1/complainant on the orders of D.C Mardan under Section 3 MPO, the learned Ex-Officio Justice of Peace/ASJ-VIII, Mardan, arrived at the conclusion that the allegations contained in the application constituted a cognizable offence under Section 156 of the Police Order, 2002; and further that veracity of the allegations regarding maltreatment and taking away of valuables and cash amount during the raid and also whether order of suspension of warrant of arrest had been conveyed to the petitioner/SHO, were the 'area of investigation' and could not be determined prior to setting of law into

motion. Consequently, the learned Ex-Officio Justice of Peace/ASJ-VIII, Mardan, accepted the petition and directed District Police Officer, Mardan, to proceed with the matter in accordance with law as provided under Section 154 Cr.P.C.

4. As would be seen from a bare perusal of the aforesaid impugned order of the learned Ex-Officio Justice of Peace/ASJ-VIII, Mardan, that the learned Court has properly appreciated not only facts of the case but also the law applicable thereto; and rightly directed the District Police Officer, Mardan, to proceed with the matter in accordance with law as provided under Section 154 Cr.P.C; which, though, meant for Incharge of the Police Station, was not expected to be invoked by the local police in view of the fact that the complaint was against SHO and other police officials of the local Police Station.

5. In short, the learned counsel for the petitioner could point out no illegality or legal infirmity in the impugned order dated 28.09.2018, calling for interference by this Court in a matter which is apparently another example of high handedness by the local police while demonstrating scant regard for order of highest Court in the Province and resorting to misuse of authority while taking undue advantage of the authority vested in the police department only for providing protection to the person, property, dignity and honour of citizens of the Country.

6. There is, as such, no merit in the petition for quashment of the impugned judgment/order dated 28.09.2018; hence the petition is dismissed in *limine*.

Announced
12-10-2018



JUDGE

Ayub

(SB) *Hon'ble Mr. Justice Qalandar Ali Khan.*