

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

Present:-

**Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Aga Faisal**

C.P. No.D-6163 of 2021

Abid Iqbal

Versus

Province of Sindh & others

**For date of hearing
& order**

: 10.05.2022

Mr. Taimoor Ali Mirza, advocate for the petitioner
Chaudhry Waseem Akhtar, advocate for respondent No.5
Mr. Zeeshan Adhi, Addl: Advocate General Sindh
Mr. Ali Haider Saleem, Addl: Prosecutor General Sindh

ORDER

MUHAMMAD IQBAL KALHORO, J:- Petitioner, aggrieved by initiation of three enquires against him and others by respondents/Anti-Corruption Establishment, Sindh on a complaint bearing No.GO-39/2018, is seeking protection against any action including registration of FIR and arrest to be taken pursuant to such enquiries. The main ground to question the enquiries and its repercussions, if any, cited by him is that he is a private person and against a private person Anti-Corruption Establishment has no jurisdiction to conduct enquiries or register an FIR.

2. We have heard learned counsel for the petitioner, who has reiterated aforesaid ground and has relied upon the case laws reported in 2001 P Cr. LJ 1006, 2019 YLR 2911 and 2019 YLR Note 80. Learned counsel for respondent No.5 and learned Addl: AG and learned Addl: PG have however opposed this petition.

3. Section 3 of West Pakistan Anti-Corruption Establishment Ordinance, 1961 stipulates power of the Government to constitute an establishment to be known as the Anti-Corruption Establishment for investigation of the offences set forth in the appended Schedule, and for holding preliminary enquiries for determining whether such offences shall be investigated or departmental enquiries, into conduct of any public servant

concerned in such offences, shall be held. Sub-section (5) thereof lays down that any officer of the Establishment not below the rank of Sub-Inspector may in relation to the offences mentioned in the Schedule exercise any of the powers of the officer in-charge of police station within meaning of section 4(i) (p) of Code of Criminal Procedure, 1898 in the area in which he is posted.

4. The Schedule enacted in terms of section 3 of the said Ordinance provides for the list of offences which such officer is competent under sub-section (5) thereof to preliminary enquire for determining as to whether such offences shall be investigated or departmental enquires be conducted. In the Schedule along with a list of substantive offences, attempts, abetments and conspiracies in relation thereto or connected therewith have also been specifically embraced and made a part of domain of Enquiry Officer to determine. Further, clause (b) of the Schedule containing a mention of different offences including the ones in hand provides for specifically that any person along with a public servant who has acted jointly, abetted or attempted to abet or acted in any conspiracy with a public servant as such in commission of the offence would be equally subjected (along with public servant) to the enquiry and investigation. Section 8 of the Ordinance, further provides that provision of the Ordinance are in addition to and not in derogation of any other law for the time being in force. This essentially means that dispensation of this Ordinance is to be read in conjunction with whatever scheme is provided under the Prevention of Corruption Act, 1947.

5. Next, importantly, Province of the Sindh enacted Sindh Enquires and Anti-Corruption Act, 1991, in February, 1992 providing for constitution of a special agency for investigation of certain offences relating to corruption, or enquiry into misconduct by public servant and for holding preliminary enquires against such servants in Sindh. In the said law, entire scheme including the Schedule as is provided in the Ordinance, 1961 with necessary alterations and additions has been borrowed giving Anti-Corruption Establishment, Sindh not only a power to hold preliminary enquiry against a public servant but also against any person who has joined hands with such public servant in any

capacity for determining whether the reported offences shall be investigated or departmental enquiries be conducted. This position, extending domain of Anticorruption Establishment over a private person associated in any capacity with a public servant in commission of a scheduled offence, satisfactorily dissipates misgiving of the petitioner that enquiry against him cannot be initiated.

6. Subject enquires, in fact, have been launched against officials of Sindh Building Control Authority, Sub-Registrar, Jamshed Town and others including petitioner. No illegality, in view of above legal position, is found. And therefore no order as pleaded by petitioner restraining Anti-Corruption Establishment from carrying on the enquiries or registering FIR(s), if any, subsequently can be passed. This being the position, petition, in our opinion, meritless and is accordingly dismissed along with listed applications.

JUDGE

JUDGE

Rafiq/P.A.