

Form No:HCJD/C-121

**ORDER SHEET**  
**IN THE LAHORE HIGH COURT,**  
**BAHAWALPUR BENCH BAHALWALPUR**  
**JUDICIAL DEPARTMENT**

Case No      **W.P. No.8067 of 2017**

Saeed Ahmad                                      **Vs.**                      A.S.J. etc.

S.No. of order/ proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties or counsel, where necessary
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03.09.2018      Mr. Muhammad Aslam Khan Dhukkar, Advocate for petitioner.  
Mr. M. Imran Pasha, Advocate for respondent.  
Mr. Saeed Ahmad Choudhry, A.A.G. with Altaf, ASI.

Impugned herein is order dated 28-9-2017 by a Justice of Peace whereby he directed the Station House Officer to receive version advanced by Zubaida Bibi respondent “*in accordance with provision of section 154 Cr.P.C.*”. It is being construed as a step preparatory to registration of a criminal case.

Respondent alleged that on the eventful day i.e. 8-9-2017 at 10:00 p.m, accused 10 in number, differently armed, mounted assault after criminal trespass in the backdrop of a motive revolving around a dispute over property; besides respondent, her son Sikandar was thrashed by the assailants, however, only the latter was medically examined same day; he came up with complaint of pain before the Medical Officer on different parts of his body with no apparent mark of violence, except tenderness and swelling on dorsal aspect of right hand. The Medical Officer suspected the nature of injuries and as such did not rule out possibility of fabrication. Respondent’s claim is structured upon this suspicious foundation.

Learned counsel for the petitioner contends that 10 persons are likely to be dragged in the quagmire of criminal prosecution on the basis of a medical certificate suggesting no apparent infliction of violence, an assertion, fake on the face of it and as such there was no occasion for the Justice of Peace to issue the impugned direction which if implemented, according to him, would be abuse of process of law. Contrarily, learned counsel for the respondent defended the impugned order on the ground that anticipated failure of the prosecution case cannot be made basis to scuttle investigative process; he has referred to the previous enmity and maintained that there was no justification for the Medical Officer to view violence endured by Sikandar PW as being result of a friendly hand.

2. Heard. Record perused.

3. Exposing a person to investigative process and face rigors of criminal prosecution is a no small measure; there must exist reasonable and tangible material, with evidential basis to set the law into motion so as to bring about an indictment. In the present case, the number likely to face the consequences is no less than ten as against solitary tenderness and swelling, viewed by the Medical Officer with suspicion and, thus, argument that registration of criminal case and investigation consequent thereupon would be abuse of process of law, casting hardship on the proposed accused, cannot be dismissed out of hand. Prosecution of offences is a State attribute and it must remain so despite transient legislative digressions; it is important to maintain credibility in the process of law and to prevent its abuse by the unscrupulous in pursuits to quench personal vendettas. Authority to be exercised by the Justice of Peace is to advance the ends of justice and for the sake of a person, wronged in the face of administrative injustice/inaction; it cannot be invoked for purposes incompatible therewith.

Exaggerated accusations, casting wider net upon the opponents need to be quashed in the bud instead of taxing upon public time and resource. Justice of Peace lost sight of these aspects in the present case and, thus, intervention in equity is most conscionable. W.P. No.8067 of 2017 is allowed. Impugned order dated 28-9-2017 is set aside.

*(Qazi Muhammad Amin Ahmed)*  
*Judge*

**APPROVED FOR REPORTING**

*Azmat*