

P L D 2007 Supreme Court 31

Present: Khalil-ur-Rehman Ramday and Raja Fayyaz Ahmed, JJ

MUHAMMAD NASIR CHEEMA---Petitioner

Versus

MAZHAR JAVAID and others---Respondents

Civil Petition No.1202-L of 2006, decided on 25th July, 2006.

(On appeal from the order dated 29-5-2006 of the Lahore High Court, Lahore passed in Writ Petition No.17961/Q of 2005).

(a) Criminal Procedure Code (V of 1898)---

---Ss. 173 & 190---Constitution of Pakistan (1973), Art. 199---Investigation report (challan)---Direction to police---Jurisdiction of High Court---Investigation report (challan) against accused had been filed in Trial Court, when accused sought quashing of F.I.R. from High Court under its constitutional jurisdiction---High Court disposed of the petition with a direction to Station House Officer, to file final report only against one accused and under only one offence---Validity---Only provision relating to the subject which was available in Criminal Procedure Code, 1898, was S.173, which commanded expeditious conclusion of investigations and further ordained that on conclusion of every investigation, the concerned Station House Officer would submit a report of the result thereof in the prescribed manner to Magistrate competent to take cognizance under S.190, Cr.P.C.---No power vested with any Court, including High Court to override the legal command and to direct Station House Officer either not to submit investigation report (challan) or to submit the report in a particular manner i.e. against only such persons as the Court desired or only with respect to such offences as the Court wished---Order passed by High Court could not be sustained as investigation report (challan) had already been submitted in Trial Court and was thus beyond the reach of concerned Station House Officer---Supreme Court converted petition for leave to appeal into appeal and set aside the order passed under constitutional jurisdiction by High Court---Appeal was allowed.

(b) Criminal Procedure Code (V of 1898)---

---S. 173---Investigation report (challan)---Further investigation---Investigation report (challan) already filed in Trial Court---Validity---As investigation report (challan) had already reached Trial Court, where trial had already commenced, changing of investigation or ordering further investigation in the matter thereafter was an exercise unsustainable in law.

Sh. Najam-ul-Hassan, Advocate Supreme Court with Haji Muhammad Rafi Siddiqui, Advocate-on-Record for Petitioner.

Ch. Arshad Mahmood, Advocate Supreme Court for Respondent No.1 (with respondent in person).

Shahram Sarwar, Advocate Supreme Court with Mehmudul Islam, Advocate-on-Record for Respondents Nos. 4 to 6 (with respondent in person).

M. Akbar Tarar, Addl. A.-G. with Muhammad Ramzan, S.H.O. Civil Lines, Gujranwala for the State.