

JUDGMENT SHEET.
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD.

Intra Court Appeal No.145 of 2018

Sh. Ahsanuddin, Taufeeq Asif and Syed Azmat Ali

Versus

Federation of Pakistan through Secretary of Ministry of Interior, Government of
Pakistan, Secretariat, Islamabad and 07 others.

Intra Court Appeal No.165 of 2018

Riaz Hanif Rahi

Versus

Federation of Pakistan through Secretary, Cabinet Division, Cabinet Secretariat
Islamabad and 04 others.

Intra Court Appeal No.509 of 2018

Riaz Hanif Rahi

Versus

Iftikhar Muhammad Chaudhry, Former Chief Justice of Pakistan and 04 others.

Writ Petition No.4993 of 2018

Riaz Hanif Rahi

Versus

Learned Additional Sessions Judge/Justice of Peace, Islamabad and another.

Appellants By : Appellants No.1 & 2 in person
alongwith Mr. Mohiuddin Aamir
Mughal, Advocate.
Mr. Riaz Hanif Rahi, Advocate in
person in ICAs No.165, 509 of 2018
and W.P No.4993 of 2018.

Respondents By : Mr. Sarfraz Rauf, learned Assistant
Attorney General.

Date of hearing : 08.07.2024.

TARIQ MEHMOOD JAHANGIRI, J. Through this common
judgment we intend to decide the above captioned ICAs as well as writ

petition as common questions of law and facts are involved in all the captioned appeals and petition.

02. In ICA No.145 of 2018 and ICA No.165 of 2018, the appellants have challenged Judgment dated 09.03.2018, passed by learned Single Judge in Chambers, whereby writ petition Nos.4761 of 2013, 2228 of 2016, 1979 of 2017, and 1055 of 2017 were dismissed by common Judgment.

03. In ICA No.509 of 2018, the appellant has impugned order dated 31.10.2018, passed by learned Single Judge-in-Chambers in Criminal Original No.96/w/2018.

04. In Writ Petition No.4933 of 2018, the petitioner has challenged order dated 15.12.2018, passed by learned Additional Sessions Judge, Ex-officio Justice of Peace, West-Islamabad, whereby petition filed u/s 22-A/B Cr.PC. was dismissed.

05. Brief facts of the case are that the appellants in ICA No.145 of 2018, filed a writ petition No.4761 of 2013, being former presidents of High Court Bar Association, Rawalpindi and District Bar Association, Attock with the following prayer:

*"It is therefore, humbly prayed that this writ petition may very kindly be accepted and respondents be directed to provide full security to Mr. Iftikhar Muhammad Chaudhry, former Chief Justice of Pakistan by providing "**bullet proof**" and "**jammer vehicle**" alongwith elite force and squad of rangers. It is further prayed that any other suitable, just and proper relief, which this Hon'ble Court may deem fit and necessary in the circumstances may also be granted."*

06. Writ petition which was disposed of on 15.01.2014, by learned single Judge-in-chambers and following relief was granted:

"Therefore, it is hereby ordered that the Former Chief Justice shall be provided foolproof security along with possession of the aforementioned bulletproof car for his and his family's use without putting embargo of any time specification. As per the maintenance and expenses of the bullet proof car is concerned, the same shall as per Section 24(2) (a) of the Rules for the Use of Staff Cars, 1980 be borne by the Ministry of Law as being the 'the respective Ministry / Division / Department concerned'. Moreover, as far as the directions to the I.G of Police (ICT), are concerned, order dated 09.01.2014, (reproduced in para 5(v) hereinabove) suffices."

07. Being aggrieved, Federation of Pakistan challenged Judgment dated 15.01.2014, passed in writ petition No.4761 of 2013 in ICA No.65 of 2014. Learned Division Bench of this Court allowed the appeal and set aside the judgment dated 15.01.2014, remanded back the matter for deciding afresh after considering the legal and factual aspects mentioned in para-06 of the writ petition.

08. In second round of litigation learned single Judge-in-Chambers dismissed writ petitions, being aggrieved instant ICAs have been filed by the appellants.

09. The petitioner, Riaz Hanif Rahi, of Writ petition No.4933 of 2018, filed an application under Section 22-A/B Cr.PC. for seeking direction to the respondents for registration of FIR as per contents of application. Learned Additional Sessions Judge / Ex-officio Justice of Peace, West-Islamabad after hearing both the parties dismissed the application vide order dated 15.12.2018, on the ground that former Chief Justice of Pakistan Mr. Iftikhar Muhammad Chaudhry has himself not claimed any privilege, protection or

security by filing any petition, so learned Justice of peace is not bound to issue direction for registration of FIR.

10. Riaz Hanif Rahi, the appellant in ICA No.509 of 2018, filed a criminal original for initiating contempt of court proceedings against respondents for defiance of Judgment dated 09.03.2018, passed in writ petition No. 2228 of 2016, on the ground that respondents have not recovered loss caused to public exchequer by using Mercedes Benz bullet proof car by Mr. Iftikhar Muhammad Chaudhry, former Chief Justice of Pakistan which was dismissed by learned Single Judge-in-Chambers on 31.10.2018, on the ground that the petitioner has no *locus standi* and the Court has not passed any direction for recovery of amount as claimed by the petitioner.

11. The appellants and petitioner in person states that impugned judgment is contrary to the constitutional provisions, law as well as facts; the appellants being members of legal fraternity and former elected representatives of the Bar to ensure, independence of judiciary by protecting fundamental rights of honorable Judges, filed writ petitions.

12. Security of former Chief Justice of Pakistan cannot be compromised nor he can be left without remedy in view of the law laid down by the superior Courts of the country; learned Single Judge-in-Chamber has not properly interpreted Article 207(3) of the Constitution of Islamic Republic of Pakistan, 1973; an important question of independence of judiciary was involved in the writ petition which was ignored by learned single Judge in Chamber while dismissing the same; observations with regard to writ petition No.1979 of 2017 are not sustainable under the law; learned Justice

of peace while passing the impugned order has not followed the dictums laid down by the superior Courts of the country and was bound to pass an order for registration of FIR. It is evident from the record that respondents have committed contempt of court and wrongly dismissed the petition of Mr. Riaz Hanif Rahi vide order dated 31.10.2018; all the impugned orders are erroneous, not tenable under the law and liable to be set aside.

13. Learned Assistant Attorney General has controverted the arguments advanced by the appellants / petitioner in person by stating that being retired Judge of the Hon'ble Supreme Court of Pakistan Mr. Iftikhar Muhammad Chaudhry is only entitled for the privileges allowed to him under the relevant provisions of law; no cognizable offence was found to be committed by Mr. Iftikhar Muhammad Chaudhry, former Chief Justice of Pakistan; no contempt of court has ever been committed by him; impugned judgment / orders have been passed strictly in accordance with law and has prayed for dismissal of instant appeals / petitions.

14. We have heard the arguments advanced by both the parties and perused the record with their able assistance.

15. During the pendency of the petitions, report was called from Ministry of Interior regarding life threat / security situation of Mr. Iftikhar Muhammad Chaudhry, former Chief Justice of Pakistan. Ministry of Interior has submitted report which is reproduced as under:

*"It is submitted that Clause 25(1)(e) of the **"Supreme Court Judges (Leave, Pension and Privileges) Order, 1997"** deals with provision of security to a retired Judge, which states that:*

“at the residence of a retired Judge during his lifetime deployment of **one security guard** by concerned police **round the clock** so that after every eight hours a new security guard replaces the former security guard.”

However, presently 13 personnel of ICT Police alongwith two vehicles have been deployed with the former Chief Justice (Mr. Iftikhar Muhammad Chaudhry) which is well above his authorization under the law / police.

Latest threat assessment report in respect of the former Chief Justice (Mr. Iftikhar Muhammad Chaudhry) has also been obtained from the security agencies. The Security agencies have informed that there is no specific threat to the former Chief Justice.

Further, Threat Assessment Committees of ICT and Punjab recently have been requested to share their input / feedback in the matter. Accordingly the Threat Assessment Committee of ICT has considered the case of former Chief Justice (Mr. Iftikhar Muhammad Chaudhry) in its meeting and informed that : there is no imminent threat on record and the security already provided to him is more than his entitlement as mentioned in Supreme Court Judges (Leave, Pension and Privileges Order, 1977) (Third Amendment) Order 2018. The relevant amended paragraph No.25, P.O (2) of said order is reproduced as under:-

“(e) at the residence of a retired judge during his lifetime deployment of one security guard by concerned police round the clock so that after every eight hours a new security guard replaces the former security guard. Provided that widow of the retired Judge shall not be entitled to such security under this clause:)

It is further submitted that the Ex-Chief Justice (Mr. Iftikhar Muhammad Chaudhry) is now head of a political party "Justice and Democratic Party" and there is no rule / sop for providing security to private individuals / political party heads.

Provision of Bullet proof vehicle on official basis is a subject of Cabinet Division. "

16. As it is evident from the report that Mr. Iftikhar Muhammad Chaudhry, former Chief Justice of Pakistan is entitled for one security guard at his residence round the clock under the **"Supreme Court Judges (Leave, Pension and Privileges) Order, 1997"**. However, due to restraining order passed by this Court, presently 13 personnel of ICT Police alongwith two vehicles have been deployed.

17. It is established by the report filed by Ministry of Interior that there is no specific threat to the former Chief Justice of Pakistan; incase he feels any threat he can file an application before the relevant quarters who can take measures in accordance with law.

18. It has been held by the Hon'ble Supreme Court of Pakistan in a case titled as **Owais Shams Durrani and others Vs. Vice-Chancellor, Bacha Khan University, Charsadda and another (2020 SCMR 1041)** that:

"It is trite that where a citizen seeks relief in constitutional jurisdiction he must point to a right statutory or constitutional which vests in him and has been denied in violation of the law".

19. It has also been held by the Hon'ble Supreme Court of Pakistan in a case titled as "**N.W.F.P Public Service Commission and others Vs. Muhammad Arif and others**" (2011 SCMR 848), that:

"The right which is the foundation of an application under Article 199 of the Constitution is a personal and individual right. The legal right may be a statutory right or a right recognized by the law. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to perform relating to the right. There must not only be a right but a justiciable' right in existence, to give jurisdiction to the High Court in the matter. Unless whatever right personal or otherwise, on which the application is based is established, no order can be issued under Art.199".

20. Appellants have failed to point out that which constitutional right, law, rule and regulation available to the former Chief Justice of Pakistan has been violated.

21. The appellants have also not satisfied this Court that what was their *locus standi* to seek the facility of extra security for another person who himself has never agitated his grievance before any authority.

22. As far as dismissal of the petition filed under Section 22-A/B Cr.PC. by the learned Justice of peace is concerned, the petitioner in person has failed to point out that what criminal act was constituted by bare reading of contents of the proposed FIR.

23. The High Court while issuing a writ of certiorari acts in exercise of supervisory and not appellate jurisdiction. The High Court in exercise of its writ jurisdiction will not review the findings of facts reached by the inferior Court or a tribunal. Reliance in this regard is placed on following case laws:

- (i) **"Amjad Khan Vs. Muhammad Irshad (Deceased) through LRs" (2020 SCMR 2155)**
- (ii) **"President All Pakistan Women Association, Peshawar Cantt Vs. Muhammad Akbar Awan and others" (2020 SCMR 260)**
- (iii) **"Jurist Foundation through Chairman Vs. Federal Government through Secretary, Ministry of Defence and others" (PLD 2020 SC 1),**
- (iv) **"Chief Executive MEPCO and others Vs. Muhammad Fazil and others" (2019 SCMR 919)**
- (v) **"Chairman, NAB Vs. Muhammad Usman and others" (PLD 2018 SC 28)**
- (vi) **"Shajar Islam Vs. Muhammad Siddique and 2 others" (PLD 2007 SC 45).**
- (vii) **"Saeed ur Rehman vs. Secretary to Government of Pakistan, MORA and Interfaith Harmony" (2021 CLC 1979) [Islamabad]**
- (viii) **"Muslim Commercial Bank Ltd. Islamabad through Authorized Attorney vs. Rizwan Ali Khan and others" (2022 PLC 115) [Islamabad]**
- (ix) **"Mst. Bisma Noureen vs. FOP" (2023 CLC 110) [Islamabad]**
- (x) **"Jammu Kashmir Cooperative Housing Society vs. Gulraiz Mehmood and others" (2024 MLD 698) [Islamabad]**

24. As far as the dismissal of contempt proceedings is concerned, the appellant has not been able to convince this Court regarding contempt of court allegedly committed by Mr. Iftikhar Muhammad Chaudhary, former Chief Justice of Pakistan. No order passed by this Court has ever been violated by the respondent.

25. Intra Court Appeal can be filed when the impugned order of the learned Single Judge-in-Chambers is shown to have been delivered against

the provisions of law and is the result of conclusions, which are contrary to any specific provision of law or is the result of misreading, non-reading or is the consequence of miscarriage of justice, or of like nature, liable to be corrected by a Division Bench; otherwise, the order cannot be upset in the Intra Court appeal.

26. We have heard the learned counsel for the parties, gone through the record and carefully examined the impugned Judgment / orders and find that learned Single Judge-in-Chambers / learned Justice of Peace have assigned valid reasons for reaching the conclusion which is duly supported by the record. We find no reason, basis or justification to interfere in the matter, not persuaded to take a view different from the one taken by learned Single Judge-in-Chambers / learned Justice of Peace.

27. In view of foregoing discussion, appeals and petition are **dismissed** being meritless.

(CHIEF JUSTICE) (TARIQ MEHMOOD JAHANGIRI)
JUDGE

Announced in Open Court on this **10th** day of **February**, 2025.

(MUHAMMAD AZAM KHAN) (TARIQ MEHMOOD JAHANGIRI)
JUDGE JUDGE