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Judgment Sheet

IN THE LAHORE HIGH COURT LAHORE

(JUDICIAL DEPARTMENT)

Criminal Revision No.39439 of 2024

Sanam Javed	versus	Special Judge, Anti Terrorism Court, Gujranwala, etc.
Date of hearing		**10.07.2024**
The Petitioner by		M/S Barrister Mian Ali Ashfaq, Rana Abdul Maroof Khan, Tahir Abbas Bhatti, Ali Raza Kanjan and Muhammad Khizar Saeed, Advocates,
The State by		M/S Moeen Ali and Hafiz Asghar, Deputy Prosecutors General with Shahid S.P. and Tahir Inspector. Rana Umair Abrar Khan, A.A.G.

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Asjad Javaid Ghural-J. Through this criminal revision petition under Sections 435 & 439 Cr.P.C. the petitioner being accused in case FIR No.823/23 dated 10.05.2023, in respect of offence under Sections 302, 324, 353, 427, 431, 186,148,149,505,188 & 109 PPC read with Section 16 of the Punjab Maintenance of Public Order Ordinance, 1960 and Section 7 of Anti Terrorism Act, 1997, registered at police station Cantt. Gujranwala, has prayed as under:-

> "It is therefore, most respectfully prayed that in the supreme interest of justice, by accepting the instant criminal revision petition; this Honorable court may be pleased to set-aside the order dated 14.06.2024 passed by the learned Special Judge, Anti Terrorism Court, Gujranwala (Respondent No.1) being void, illegal, unconstitutional, without merits and the petitioner may kindly be discharged forthwith from this case in the supreme interest of justice.
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> Any other relief which this Honourable Court deems fit and proper may also be granted."

2. Admitted facts necessary for disposal of instant petition are that the petitioner is not named in the aforesaid criminal case and was subsequently implicated in the said case on the basis of disclosure of co-accused/approver

Karim Hasan, which was recorded on 30.05.2024 i.e. after more than one year of the registration of the case. The petitioner was produced before the Judge, Anti Terrorism Court, Gujranwala (ATC), who initially granted her four days physical remand vide order dated 10.06.2024. After exhausting the said period, the Investigating Officer made a request for further physical remand which was acceded to by the ATC and eleven days physical remand was granted vide impugned order dated 14.06.2024, which is subject matter of this criminal revision.

3. Heard. First of all, we would like to dilate upon the objection of the learned Law Officer that since the period of physical remand granted by way of impugned order has already been elapsed, the petitioner was ordered to be sent on judicial remand and report U/S 173 Cr.P.C. has been submitted in the Trial Court, as such instant petition has become infructuous. We are not in agreement with this submission for more than one reasons. *Firstly*, in the prayer clause the petitioner sought her discharge from the said case while her learned counsel also addressed arguments on the plea of discharge. *Secondly*, Section 439 Cr.P.C. conferred a very vide jurisdiction upon this Court to examine the vires of any order/proceedings for which the record of the lower court was requisitioned or which otherwise comes to its knowledge. While exercising such jurisdiction, it is the duty of the Court to correct manifest illegality or to prevent gross miscarriage of justice. In the case reported as "*Mushtaq Ahmad .Vs. The State (PLD 1966 Supreme Court 126)"*, the Apex Court observed as under:-

> *"*Under section 439 of the Criminal Procedure Code the High Court has a power to interfere upon information in whatever way received, as the section clearly says that it may do so in any case in which it has itself called for the record or which has been reported for orders or "which otherwise comes to its knowledge". These are words of wide import. In the present case the record of the case was placed before the learned Judge in the course of his inspection and the facts of the case thus came to his knowledge. Under this section the High Court has also the right to exercise its power on its own initiative and there can be no warrant for the proposition that the High Court is debarred from examining the record *suo moto."*

Similarly, in case reported as "*Dr. Waqar Hussain Vs. The State (2000 SCMR 735)*" it has been laid down as under:-

> "So far as the power of the High Court under section 439, Cr.P.C. are concerned, it may be stated that it is not a power only but a duty whenever facts for its jurisdiction are brought to the notice of the Court, or otherwise come to its knowledge because the revisional jurisdiction is in the nature of corrective jurisdiction."

Thus we can safely say that the powers conferred upon this Court under Section 439 Cr.P.C. are not merely a "toothless paper tiger" rather a duty to satisfy itself regarding the correctness, legality or propriety of any order passed by the lower court. The facts discussed below would clear the dust why this Court constrained to exercise its revisional jurisdiction .

4. Admittedly, trial in the aforesaid criminal case to the extent of some of the accused has been concluded, whereas, one of the nominated accused namely Karim Hassan, who was declared proclaimed offender, was subsequently arrested on 08.05.2024 and thereafter on 30.05.2024, he got recorded his statement U/S 337(1) of Cr.P.C. before the Area Magistrate, whereby he involved the petitioner alongwith certain other persons to the extent of abetment. It was categorically stated at bar by the head of the Joint Investigation Team (JIT) as well as Investigating Officer that except the aforesaid statement of the accomplice, there was no other incriminating material to connect the petitioner with the aforesaid case. It is a matter of record that accomplice remained on physical remand for twenty two days before recording of such statement, therefore, it cannot be said that he got recorded the statement voluntarily and without any coercion. In case reported as "*Mian Muhammad Nawaz Sharif Vs. The State (PLD 2009 SC 814)*", the Apex Court discarded the statement of accomplice while observing that:-

> " It is understandable that an accused becomes an approver on motivation of self-interest to save his own skin. The circumstances in the present case that led P.W. to become an approver indicate that he was not a free agent. He was taken into custody by the Army soon after the incident and remained there for about one month and was then in police custody for about 10 days, during which he was tortured to the extent that he feared that 'he would die of shock'. Notwithstanding such complaint made to the Trial Court, he was again sent to police remand for further 3 days which ended a day before he became approver."

Moreso, in the instant occurrence one person namely Rashid Maqbool was allegedly murdered whereas multiple police officials sustained injuries. Proviso to Section 337(1) of Cr.P.C. reads as under:-

> "[Provided that no person shall be tendered pardon who is involved in an offence relating to hurt or *qatl* without permission of the victim or as the case may be of the heirs of the victim]"

It is thus manifestly clear from the above proviso that an accused could not tender pardon in hurt or *qatl* cases without the permission of victim or the legal heirs of the deceased, the case may be. In the instant case, Rashid Maqbool was the deceased and according to the list furnished by the SHO P.S. Cantt. Gujranwala, the deceased survived by his father, mother and sister, whereas, he has divorced his wife 1 ½ years before but no document in the shape of divorce deed or divorce effectiveness certificate in support of this version was made part of the record. Furthermore, no report from the revenue authorities or the concerned Councilor or Lumberdar was secured for the confirmation of the legal heirs of the deceased. Moreover, bare perusal of the affidavits of the legal heirs it came on surface that the same were not attested by the Oath Commissioner to certify that contents of said documents were stated on oath or solemn affirmation was made before him. In the absence of such certificate, value of so called affidavits of the purported legal heirs of the deceased is nothing more than a piece of paper. Since the statement of the accomplice was recorded in derogation of the proviso to Section 337(1) of Cr.P.C. as such the same was not admissible piece of evidence.

5. It is now in the above context, we have to see as to whether the Judge, ATC was justified in granting physical remand of the petitioner. The Apex Court as well as this Court time and again cautioned the courts below for granting physical remand of an accused in a routine or perfunctory manner. Unfortunately, it seems that with the passage of time the remand granting Courts went into deep slumber and need to be shaken again. The purpose of granting physical remand is to dig out the truth and collect further evidence which is not possible without the presence of an accused. A duty is bestowed upon a Court dealing with such request of remand to maintain balance between the personal liberty of the accused and the investigational right of the police. Article 9 of the Constitution of Islamic Republic of Pakistan, 1973 (Constitution) guarantees that no person would be deprived of life or liberty save in accordance with law, whereas, Article 10 of the Constitution provides safeguards as to the arrest and detention. It is, therefore, in the

above context that in Part B, Chapter11-B, Volume-3 of Rules and Orders of Lahore High Court, Lahore following principles are laid down for the guidance of all the concerned for granting physical remand:-

> "(i) Under no circumstances should an accused person be remanded to Police custody unless it is made clear that his presence is actually needed in order to serve some important and specific purpose connected with the completion of the inquiry. A general statement by the officer applying for the remand that the accused may be able to give further information should not be accepted.
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> (ii) When an accused person is remanded to Police custody the period of the remand should be as short as possible.
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> (iii) In all ordinary cases in which time is required by the Police to complete the inquiry, the accused person should be detained in magisterial custody.
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> (iv) Where the object of the remand is merely the verification of the prisoner's statement, he should be remanded to magisterial custody.
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> (v) An accused person who has made a confession before a Magistrate should be sent to the Judicial lock-up and not made over to the Police after the confession has been recorded. If the Police subsequently require the accused person for the investigation, a written application should be made giving reasons in detail why he is required and an order obtained from the Magistrate for his delivery to them for the specific purposes named in the application. If an accused person, who has been produced for the purpose of making a confession, has declined to make a confession or has made a statement which is unsatisfactory from the point of view of the prosecution he should not be remanded to Police custody."

Here in the instant case, even if the statement of the accomplice is given weightage even then at the most it is a case of abetment against the petitioner and we are unable to understand, for what purpose in the charge of abetment, physical remand of an accused was required. The conclusion is inescapable that the only purpose of seeking remand of the petitioner was to prolong her custody. Unfortunately, this aspect has been overlooked by the learned Judge, ATC while dealing with the request of physical remand of the petitioner and granted the physical remand in a mechanical manner, while ignoring binding pronouncements of the Apex Court[1].

6. Learned Law Officer laid much emphasis that during the period of physical remand, the Investigating Officer showed progress and the

[1] PLD 2005 SC 86 & 2009 SCMR 181

petitioner got recovered a USB containing her videos and one mobile phone of her husband and from the transcripts of the videos available in the USB, it is manifestly vivid that the petitioner instigated the co-accused to commit the occurrence. First of all, it is to be noted that the petitioner was behind the bars since 10.05.2023 and admittedly her mobile phone was already taken into possession in case FIR No.96/23, registered at P.S. Sarwar Road, Lahore. The mobile phone which was allegedly recovered at the instance of the petitioner undisputedly belongs to her husband. Investigating Officer, in attendance, confirmed that the same was active when taken into possession, when confronted how the same can be connected with the petitioner, learned DPG submitted that during investigation she admitted that she occasionally used the said mobile phone. Merely on that basis that the petitioner occasionally used mobile phone of her husband, such mobile or the data contained therein cannot be used against her. Even otherwise, from the said mobile phone no incriminating material connecting the petitioner with the alleged crime was recovered. Second piece of evidence procured by the Investigating Officer was the USB. As has been discussed supra the petitioner was continuously in custody of police on the basis of different criminal cases/ detention orders since 10.05.2023 and the FIR of the aforesaid case was also registered on the same date. It is beyond comprehension that how the petitioner transferred the data of her social media accounts in the USB, when she was already in police custody. Even otherwise, transcript of the USB has been placed before us and bare perusal of the same shows that it was downloaded from the Youtube and her other purported social media accounts, which were active since the day of the occurrence, therefore, it can safely be said that the USB was planted upon the petitioner just to create evidence against her in this case. No date and time of the purported videos of the petitioner was mentioned as such it cannot be said with any degree of certainty that the same were prior or after the protest. Besides above, JIT Head, in categorical terms admitted that mobile phone of any of the co-accused was not taken into possession, so as to confirm that on account of the instigation of the petitioner at social media forum, he/they committed the said occurrence. In the above backdrop, we are of the view that on the basis of evidence created/procured against the

petitioner, she cannot be connected with the alleged occurrence in any eventuality.

7. Malafide of the Investigating Officer is also apparent from the fact that in the so-called statement of the accomplice he named a number of persons who instigated him and other party members to commit the crime but he only caused the arrest of the petitioner and one Alia Hamza and for the rest of the accused he did not give any weightage to the statement of the accomplice. In this view of the matter, we can safely say that the statement of the accomplice was procured with the sole purpose to confine the petitioner as she has been released on bail in all other cases registered against her.

8. We have noted with great concern that it is a pattern of the Executive/Police to involve the petitioner in a series of cases one after the other on the basis of same allegation. It is an admitted fact that the petitioner was resident of Lahore and whatever she had said on her social media account, was being run at Lahore. Part VI, Chapter XV of the Cr.P.C deals with the jurisdiction of the criminal Courts in inquiries and trials. Section 177 of the Cr.P.C. reads as under:

> "***177. Ordinary place of inquiry and trial.*** Every offence shall ordinary be inquired in and tried by a Court within the local limits of whose jurisdiction it was committed."

Bare reading of the aforesaid section makes it abundantly clear that a trial or inquiry of an offence shall ordinarily be conducted in a Court within the local limits of whose jurisdiction such an offence was committed. In view of above any cognizable offence committed in Lahore shall be tried at Lahore and accordingly the petitioner had been involved in seven criminal cases regarding the same allegations at Lahore. When confronted with, how the petitioner could be involved in a case at Gujranwala regarding an act which was committed at Lahore, learned Law Officer while referring to Section 179 Cr.P.C. laid much emphasis that the petitioner can be involved in cases when consequence of an occurrence follow in the jurisdiction of some other police station. Before proceeding further it is appropriate to go through the referred provision which for ease of reference is reproduced as under:-

> ***"179. Accused triable in, district where act is done or where consequence ensues.*** When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried

> by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued."
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> **Illustrations**
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> "(a) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence o f the culpable homicide of A may be inquired into or tried by X or Z."
>
> (b) ----
>
> (c) ---
>
> "(d) A is wounded in the State of Junagadh, and dies of his wounds in Karachi. The offence of causing A's death may be inquired into and tried in Karachi."

The word "or" used in the aforesaid section and the illustration is of much significance which means that either the accused can be tried at a place where the act was committed or the place where its consequences ensued. In nowhere it can be defined in the manner as argued by the learned Law Officer. This section would come into play where an accused committed an act in one jurisdiction and consequence of such offence ensued in another jurisdiction but on that basis due to one and the same allegation, an accused cannot be involved in multiple cases falling into different jurisdictions. In case reported as "Muhammad Sultan versus Muhammad Raza and others (**2020 SCMR 1200**)" the Apex Court has interpreted sections 177 and 179 of the Cr.P.C in the following manner:

> "7. A legal question has been raised qua the jurisdiction of the court and venue of trial as per law. Chapter XV Part VI of the Criminal Procedure Code deals with "Jurisdiction of the Criminal Courts in Inquiry and Trials". Section 177 of the Code of Criminal Procedure relates to general principle of jurisdiction and venue of trial which is reproduced as under: -
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> > "177. Ordinary place of inquiry and trial. Every offence shall ordinary be inquired in and tried by a Court within the local limits of whose jurisdiction it was committed".
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> The language of the said provision is explicit in its context hardly leaving any ambiguity qua the interpretation with reference to jurisdiction and venue of the trial in ordinary circumstances however this principle has certain exceptions which are established from the bare reading of provision of sections 179 and 180, Cr.P.C. To evaluate the exceptions of the general principle qua jurisdiction and venue of trial, provision of section 179, Cr.P.C. is reproduced as under:-

> "179. Accused triable in district where act is done or where consequences ensues. When a person is accused of the commission of any offence by reason of anything which had been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the limits of whose jurisdiction any such thing has been done, or any such consequence has ensued."
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> 8. Bare perusal of the language of the aforesaid provision depicts that if there is any departure from the general principle qua jurisdiction and venue of trial, two aspects are to be evaluated for the proper determination such as:-
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> i. Commission of an offence.
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> ii. Commission of an act and other consequences ensued.
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> From the careful perusal of the language of the aforesaid provision, it is crystal clear that this provision has extended the limits of venue while classifying the principles to assume jurisdiction to take cognizance of an offence for the purpose of trial."

9. We are of the considered view that if the petitioner had committed any act at Lahore for which she had already been involved in a criminal case at the said place, she cannot be involved regarding the same act/offence in some other case on the basis of term "any consequence which has ensued" used in Section 179 Cr.P.C. as it would offend Article 13 of the Constitution which provides that "*no person shall be prosecuted or punished for the same offence more than once.*" Similarly, the word 'liberty' in Article 9 is of widest amplitude covering variety of rights including personal liberty of a citizen. Likewise, Article 4 of the Constitution enshrines inalienable right of every citizen to enjoy the protection of law and be treated in accordance with law. Therefore, involving the petitioner in series of criminal cases regarding a single act amounts to usurp her fundamental rights guaranteed in the Constitution. Moreso, if this practice of involving an accused in multiple cases regarding one act is allowed then there can be no end of litigation, which is a basis of every judicial system.

10. Act of the Executive/Police to confine the petitioner in the jail for an indefinite period is a matter of record. Initially, the petitioner was detained on 10.05.2023 under sub-section (1) of Section 3 of the Punjab Maintenance of Public Order Ordinance, 1960 (MPO) for a period of thirty days. When the petitioner questioned the validity of said order issued under MPO by way of filing Writ Petition No.31429/23 in this Court, she was booked in case

FIR No.96/23, registered at P.S. Sarwar Road, Lahore, on 17.05.2023 on the basis of suspicion. She was granted post arrest bail in the said case by the Trial Court, Lahaore on 23.09.2023 but on 25.09.2023 she was again arrested in case FIR No.109/23 of the same police station U/S 54 Cr.P.C., on the disclosure of the statement of co-accused. She was granted post arrest bail in the said case on 11.10.2023 by the Trial Court, Lahore. Keeping in view the tendency of the police for involving the petitioner one after the other in blind cases, she finally approached this Court by way of filing Writ Petition No.68444/23, *inter-alia*, seeking details of the cases in which she was required to the police. In the said petition, AIG Legal, on behalf of the I.G. Punjab, submitted a report that she was required only in two cases, in which she was already enlarged on bail/discharged and in the light of said report aforesaid writ petition was disposed of vide order dated 19.10.2023. However, in sheer disregard to the report submitted before this Court, after one day of the disposal of the writ petition, the petitioner was booked in case FIR No.1271/23, registered at P.S. Gulberg, Lahore on 20.10.2023 on the basis of suspicion but on the following day she was discharged by the ATC Judge. Thereafter, on the next day i.e. 21.10.2023, she was involved in case FIR No.366/23, registered at P.S. Model Town, Lahore on the basis of supplementary statement. She was granted post arrest bail in the said case on 07.11.2023 by the Trial Court and astonishingly on the following day i.e. 08.11.2023 she was booked in case FIR No.410/23, P.S. Race Course, Lahore on the basis of supplementary statement. She was enlarged on bail in the said case on 02.12.2023 by the Trial Court but the Deputy Commissioner, Lahore, issued her detention order under the MPO for a period of thirty days vide order dated 02.12.2023. Petitioner challenged the MPO order by way of filing Writ Petition No.81620/23, upon which MPO order was withdrawn vide order dated 29.12.2023 but she could not bear the fruits of said withdrawal order, as she was booked in FIR No.367/23, P.S. Model Town, Lahore, on 30.12.2023 on the basis of supplementary statement. She secured post arrest bail in the said case from the Trial Court vide order dated 29.01.2024 and on the same day, she was booked in case FIR No.768/23, P.S. Shadman, on the confessional statement of the co-accused. She was enlarged on bail in the said case on 27.03.2024 by the Trial Court. Till that time she had been involved in all cases relating to the

incidents of 9th May, 2023 registered at Lahore. Thereafter, a very strange strategy was adopted by the Executive in order to frustrate the judicial orders and she was booked in case FIR No.179/23, registered at P.S. Kamar Mashani, District Mianwali on 01.04.2024 on the basis of supplementary statement. She was finally discharged in the said case on 17.04.2024 by the ATC Judge, Sargodha and on the same day, she was booked in case FIR No.180/23, registered at the same police station, wherein, she was granted post arrest bail on 29.05.2024 by the Trial Court. She was then booked in case FIR No.72/23, P.S. Musa Khel, Mianwali but the learned Judge, ATC, Sargodha granted her pre-arrest bail in the said case vide order dated 05.06.2024. It is noteworthy that when the learned Judge, ATC, Sargodha, foiled the efforts of the police to further detain the petitioner in cases registered at Mianwali by granting her pre-arrest bail, on the same day, she was booked in case FIR No.823/23 registered at P.S Cantt. Gujranwala on the basis of confessional statement of co-accused (subject matter of this petition). Eager of the Executive to detain her in custody indefinitely is evident from the fact that besides involving her in the said case, as a precaution, Deputy Commissioner, Gujranwala issued her detention order under the MPO, vide order dated 06.06.2024. Apparently, this had been done that in case the learned Judge, ATC at Gujranwala discharges the petitioner as had been done by the Judge, ATC, Sargodha, then there remained a justification to retain her in jail. But thanks to the learned Judge, ATC Gujranwala that he neither perused the material connecting the petitioner in the said case nor took into the consideration the tendency of the prosecution to involve the petitioner one after the other case seriously and granted her physical remand blindly. Apparently, on achieving the desired result, subsequently the Deputy Commissioner, Gujranwala withdrew his detention order.

11. The purpose of giving the detail of the treatment meted out by the petitioner for the last one year is to show highhandedness and disregard to the judicial orders by the Executive Authorities just to curtail her liberty. It is a matter of great concern that on behalf of Inspector General of Police, Punjab a report was submitted before this Court in W.P.No.68444/23 that the petitioner was required only in two cases, but after submission of said report, she was booked in nine other cases on the same charge/allegation.

Neither the police authorities enjoy unfettered powers to curtail the liberty of a person for an indefinite period nor their actions are immune to judicial scrutiny. In case reported as "*Muhammad Bashir ..Vs.. SHO, Okara Cantt. and others (PLD 2007 SC 539)*", the Apex Court has observed as under:-

> " It may be added that the Police force was not a creation of the Code of Criminal Procedure but was a force initially established by the Police Act of 1861. The Code of Criminal Procedure only borrowed some, from amongst this force, and asked them to perform some of its functions. They had, therefore, no powers to go around doing things according to their whims and desires in the matter of administration of justice in the field of crimes. The powers enjoyed by the members of the police force were limited to the authority conferred on them by law. And it may be added that every step which the Cr.P.C. permitted a police officer to take, was subject to scrutiny and control of some court or Magistrate."

12. One may disagree with the political views of the petitioner and if she committed any crime she has to face the music but the way and manner she is being involved in criminal cases one after the other, in least words can be said a malicious persecution and this Court being jealous guardian of the fundamental rights of the citizens cannot tolerate the same. In "*Ammad Yousaf Vs. The State and another (PLD 2024 SC 273)*", the Apex Court observed as under:-

> "The exercise of inherent powers assigned to the Courts to preserve and protect the rights of the citizens is a mandate of the Constitutions, whereas, non-exercise of such powers is a violation of the Constitution and law, hence is an illegality. The Courts instead of becoming an apparatus for malicious and purposeless judicial prosecution by entertaining baseless and frivolous complaints must exercise their powers in accordance with law, without fear and favour. If the Courts overlook such constitutional mandate and fail to exercise their inherent powers, it will harm the integrity, impartiality and independence of our criminal justice system. It will undermine and erode the public trust and confidence in our Courts."

13. The principle of trichotomy of power is widely recognized in our Constitution. It means the Legislature, the Judiciary and the Executive form the fundamental pillars of the State and that each of these are responsible for exercising legitimate authority in their respective sphere. Legislature is tasked with making new laws and amending existing one to meet the needs of the people. The Judiciary is, *inter-alia*, responsible for interpreting the

law and to protect fundamental rights which include the life and liberty, whereas, Executive is responsible for enforcing laws and court orders to establish the writ of the State and uphold rule of law. It is the duty of the Executive to implement/ comply with the orders whether it likes it or not. Neither any country can flourish without giving due regard to the orders of the Courts nor the writ of the State can be established. If the orders of the Courts are flouted in the way and manner as has been done in the instant case then anarchy would prevail. Executive is reminded the well-entrenched principle of law that their actions are not immune from the judicial scrutiny, therefore, while exercising such authority, they should not intrude into the constitutionally guaranteed fundamental rights of the citizens. Similarly, the Judicial Officers are expected to perform their duty with dignity, pride, dedication and by keeping in mind the fact that a sacred obligation to deliver justice has been bestowed upon them beyond any temptation, fear or favour. They must perform their functions with their eyes and ears open as required under the law and their action should not caste even a bleak doubt in the minds of the litigants, who are the ultimate stakeholders, that the same was result of any enticement or panic.

14. For what has been discussed above, we are of the considered view that no incriminating material is available on the record to connect the petitioner in FIR No.823/23 dated 10.05.2023, in respect of offence under Sections 302, 324, 353, 427, 431, 186,148,149,505,188 & 109 PPC read with Section 16 of the Punjab Maintenance of Public Order Ordinance, 1960 and Section 7 of Anti Terrorism Act, 1997, registered at police station Cantt. Gujranwala and the investigation launched in the said case against the petitioner is a result of malafide and ulterior motive. As such, while accepting this criminal revision, she is discharged from the aforesaid case. Learned Deputy Prosecutor General, on instructions, states that the petitioner is not required in any other case, as such she shall be released from the jail forthwith.

15. Before parting with this order it is observed that act of the Investigating Officer for involving the petitioner in series of cases on the same charge after making her arrest in case FIR No.96/23, registered at P.S. Sarwar Road, Lahore is colored with malafide intention and ulterior motive and the sole purpose of the same was to defeat the judicial system. Unfortunately, the Deputy Commissioners, Lahore and Gujranwala also

played active role while issuing detention orders under the MPO, when the petitioner was already in jail. Their acts call for strict action but while showing grace this Court is not issuing any adverse order against them with the expectation that in future they shall not frustrate the judicial orders. At the same time, remand granting Courts are cautioned that while dealing with request of remand, they should keep in mind the binding pronouncements of the Apex Court and fundamental rights of an accused enshrined in the Constitution, in particular Articles 4,9,10, 10-A and 13. We will conclude with a quote from 'On Liberty' a epoch-making book by the famous utilitarian English philosopher John Staurt Mill (d.1873):-

> "…a State which dwarfs its men, in order they may be more docile instruments in its hands even for beneficial purposes – will find that with small men no great thing can really be accomplished;..."

16. Copy of this judgment be circulated amongst all the Judicial Officers, Deputy Commissioners and Inspector General of Police, Punjab through the Registrar of this Court for guidance and strict compliance.

(Ali Zia Bajwa)
Judge

(Asjad Javaid Ghural)
Judge

Approved for Reporting

Judge

*Azam**