

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl.Org.No.33 of 2021

The State v. Ch. Ehsaan Majeed Gujjar, Advocate and others.

Crl.Org.No.34 of 2021

The State v. Kulsoom Rafique and another.

Crl.Org.No.35 of 2021

The State v. Hafiz Malik Mazhar Javed.

Crl.Org.No.36 of 2021

The State v. Khalid Mehmood, Advocate.

Crl.Org.No.37 of 2021

The State v. Raja Amjad, Advocate and others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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12.03.2025

M/s. Babar Awan, Adil Aziz Qazi Abdul Rehman Hur Bajwa, Wajid Hussain Gilani, , Hafeez Ullah Yaqoob, Asif Chouhdary, Barrister Qasim, Afsheen Manzoor, Faisal Iqbal, Khursheed Ahmad, Muhammad Bilal, Nargis Fatima, Muhammad Sohail Khurshid, Amir Abdullah Abbasi, Shahid Kamal, Mehraj Tareen, Ali Ammar, Umair Mehmood, Fazal Muala, Ghulam Murtaza and Imran Ishfaq on behalf of respondents/contemnors.

Malik Abdul Rehman and Absar Saliheen, State counsels.

Mr. Arshid Mehmood Kiani, Deputy Attorney General.

The respondents/contemnors Ahsan Majeed Gujjar, Ch. Muhammad Ayub Arbab, Faiser Jadoon, Farzana Mughal, Hammad Saeed Dar, Naseer Ahmed Kayani, Nazia Abbasi, Zahid Mehmood Raja, Shaista Tabbasum, Yasmin Rashid Sindhu, Akhtar Hussain, Asad Ullah Khan, Khalid Mehmood Khan, Muhammad Asif Gujjar, Muhammad Rustam Malik, Muhammad Shoaib Chaudhry, Muhammad Umar, Naveed Hayat Malik, Nusrat Parveen, Saiful Islam Sindhu, Shehla Shan Abbasi, Muhammad Zafar Khokhar, Bushra Raja Chishti, Mudassar Rizwan, Zill-e-Huma Khan, Ch. Zafar Ali Warraich, Kulsoom Rafique, Kamran Yousafzai, Hafiz Malik Mazhar Javed, Khalid Mehmood, Raja Amjad, Raja Khurram Farrukh and Tasadduq Hanif, Advocates in person.

Through this single order, I shall dispose of the above noted petitions.

2. Briefly, on 08.02.2021, Additional Registrar (Judicial) of this Court submitted the following office report:-

OFFICE REPORT

Today at around 10 A.M. a mob comprising 250 to 300 lawyers during the Court proceedings stormed in the premises of this Court, chanting slogans and hurling abuses against the Hon'ble Chief Justice and converge towards the Chief Justice Block.

The lawyers forcefully entered in the Block of the Chief Justice and broke doors, windows of the Court and offices.

ii. They kept the Hon'ble Chief Justice and staff hostage for about four hours and manhandled some of the staff members.

iii. They prevented litigant(s) access to justice while proceedings were underway in all the Courts.

iv. The lower Courts proceedings were also halted upon receiving the news resulting in further obstruction in justice.

v. The lawyers also tried to forcefully enter the judicial branches to attempt arson but the branches were promptly closed.

vi. They damaged the public property and confined the Court staff.

These actions resulted in fear and terror in the Court for the public litigant(s) and the staff.

Besides being an act of terror, the lawyers conduct is also warranted action under Contempt of Court Ordinance, 2003 as they tarnished the dignity, sanctity and decorum of the Court.

2. Of these 250 to 300 lawyers, a list of those who have been identified is place as "**Annex-A**".

3. The overall attitude of the lawyers was obnoxious, abusive, insulting, contemptuous and unlike of a professional advocate which attract an action under Contempt of Court Ordinance, 2003, therefore, if approved, may convert the instant office report into a Contempt Petition and issue notices to the accused lawyers as to why they may not be proceeded under the Contempt of Court Ordinance, 2003.

4. The above proposal is submitted to be respectfully placed before the Hon'ble Chief Justice for his lordship kind perusal, consideration and soliciting appropriate orders in terms of para-03/n, please."

3. Pursuant to above report, proceedings in the above noted criminal original were initiated and show-cause notices were issued to the contemnors, who submitted their respective replies. The contemnors, initially denied their involvement in the occurrence, however, at latter stage of the proceedings, they submitted their affidavits wherein they expressed their regret on the incident with assurance of not repeating the same. The contemnors placed themselves at the mercy and magnanimity of the Court. Following is the sketch of the affidavit.

AFFIDAVIT OF THE RESPONDENT

I, _____ S/o _____ R/o _____,
Member of Islamabad Bar Association, do hereby state
on oath as under:

1. That the deponent is a Lawyer by profession and has always upheld the law and has great respect for the judiciary of Pakistan.
2. That the deponent regrets the incident that happened in the Honourable Islamabad High Court, Islamabad, on the 8th of February 2021 and is sincerely apologetic and remorseful for it.
3. That the deponent wants to assure this Honourable Court that he/she would never ever do anything in future that would hurt or undermine the dignity of this Court or any other Court.
4. That the deponent is willing to take any further steps that this Honourable Court deems necessary and appropriate for the satisfaction of this Honourable Court.
5. That the deponent will hold true to whatever has been stated above and reiterates his/her resolve to abide by what has been stated hereinafter.
6. That the deponent leaves himself/herself at the mercy and magnanimity of this Honourable Court for its gracious consideration.

Deponent

4. It is pertinent to mention here that, on the basis of same occurrence, case FIR No.99/2021, dated 08.02.2021 was also registered for the offences under sections 142, 147, 149, 186, 228, 341, 342, 353, 395, 422, 427, 440, 452, 506-PPC read with Section 7 of Anti-Terrorism Act, 1997 at the Police Station Ramna, Islamabad.

5. The representatives of the contemnors, while reiterating the remorsefulness of the contemnors, submitted that all the respondents/contemnors have already been acquitted in the above said FIR registered against them.

6. The Section 3 of the Contempt of Court Ordinance, 2003 describes the acts amounting to contempt. Subsection (1) of section 5 prescribed the punishment for committing contempt. Subsection (2) of section 5 provides an opportunity to the person accused of having committed contempt to **submit an apology at any stage** and its acceptance has been made subject to the satisfaction of the court. The court, therefore, has to be satisfied that the apology submitted at any stage is bona fide. The explanation clarifies the fact that an accused person genuinely believes that he has not committed the contempt

and enters a defence shall not detract from the bona fides of an apology.

7. The proceedings in the contempt are *sui generis* and this principle was enunciated in the case titled as "Saadat Khialy, Staff Reporter ("Kohistan" Daily) and others v. The State and another" [PLD 1962 SC 457]. In the above noted case law, it was further observed that there is no fixed formula for contempt proceedings and that technical accuracies are neither required, nor the Courts are bound by the provisions of the Code of Criminal Procedure or by the technicalities of ordinary criminal proceedings. Further, the Apex Court emphasized in several cases that courts of justice would normally follow the fundamental rules for the ascertainment of the truth by giving the absolute opportunity to the person accused of defending him/her and of putting forward his/her case with as much, if not more fairness as is expected in an ordinary trial. These principles were later reaffirmed by the Apex Court in the cases titled "Syed Masroor Ahsan and others v. Ardeshir Cowasjee and others" [PLD 1998 SC 823], "Shahid Orakzai v. Pakistan Muslim League (Nawaz Group) and 8 others" [2000 SCMR 1969]. The august Supreme Court has explicitly observed that contempt proceedings would not be allowed to be used for settling private scores or vendetta and much less for granting political advantages. It is well settled that in contempt proceedings the matter of placing the onus is totally different from a case under criminal law which presumes the innocence of the accused and places the burden on the prosecution to establish the charge against the latter beyond a reasonable doubt. However, in a contempt case, the onus is entirely upon the person charged to prove his innocence. Reliance is placed on the cases "Syed Masroor Ahsan and others v. Ardeshir Cowasjee and others" [PLD 1998 SC 823] and "Shahid Orakzai v.

Pakistan Muslim League (Nawaz Group) and 8 others"
[2000 SCMR 1969].

8. The matter of contempt is essentially between the Court and the contemnor. It is, therefore, settled law that taking action against a contemnor or accepting an apology is entirely a matter between the alleged contemnor and the court and thus subject to the latter's satisfaction. A larger Bench of the august Supreme Court, in the case titled "Syed Masroor Ahsan and others v. Ardeshir Cowasjee and others" [PLD 1998 SC 823], has observed and held that a mere apology cannot wipe off the gravity of contempt. However, jurisdiction in this behalf is required to be cautiously exercised because the ultimate object sought to be achieved is curative not punitive and, invariably, is to be used to uphold the majesty of law and the dignity of the institution. The august Supreme Court, in the case of "Syed Masroor Ahsan" supra has enumerated the fundamental principles for accepting an apology. In the case titled "Syed Ahmad Shah and Feroze Din v. The State and another" [PLD 1967 SC 42] the august Supreme Court has described the contempt of Court proceedings as a short-handed method and has emphasized that the jurisdiction should be exercised with circumspection and that too upon real proof.

9. To accept the unconditional apology is the discretion and entire satisfaction of the Court. The Court has to satisfy itself that the contemnor remorsefully acknowledges having committed contempt and such acknowledgment must appear to be bona-fide as has already been held by five member Bench of this Court in case titled "The State through Advocate General v. Imran Ahmad Khan Niazi" (PLD 2023 Islamabad 145). The contemnors have been appearing before this Court. They have also been attending the proceedings of the trial court in the FIR case no.98 of 2021 and were subsequently acquitted therefrom. It is also noteworthy that the alleged unfortunate incident took place

way back on 08.02.2021 and thereafter, none of the contemnors has been found involved in such like activity. All these aspects of the matter cumulatively suggest the bona-fide of the contemnors in filing the affidavit, therefore, this Court is satisfied that the contemnors are regretful/remorseful on their part, which has also been shown through their conduct and executing their respective affidavits.

10. In view of above, there is no reason to further proceed with these contempt petitions, therefore, I discharge the respondents. Consequently, the show-cause notices served upon them are withdrawn.

(Acting Chief Justice)

Shamroz Ali*