

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
(JUDICIAL DEPARTMENT)

Criminal Revision No.28/2019

Muhammad Bilal
Versus
The Sate etc

Petitioner By: Raja Abid Mahmood, Advocate
Respondent By: Ch. Abdul Jabbar, A.A.G. along with
Iftikhar Alam, Sub-Inspector, FIA

Date of Hearing: 19.02.2020.

Ghulam Azam Qambrani, J.:- Through this Criminal Revision Petition, the petitioner namely Muhammad Bilal feeling aggrieved from the order dated 18.02.2019, passed by the learned Sessions Judge, Prevention of Electronic Crime, Islamabad, whereby the application under Section 265-K Cr.P.C filed by the petitioner, was dismissed.

2. Briefly stated, Malik Ahsan Javaid DAD/S.H.O CTW F.I.A, Islamabad, got registered F.I.R No.2, dated 15.10.2018 under Section 9, 10 & 11 PECA, 2016, read with section 109 P.P.C at Police Station CTW, F.I.A, Islamabad, against the petitioner with the allegation that during the course of inquiry No.E-29/2018 dated 02.06.2017 of Police Station CTW, F.I.A, Islamabad, it transpired that the petitioner created, managed and operated Facebook group URL "www.facebook.com/groups/349756858759738" of proscribed organization "Sipa-e-Sehabah Pakistan (SSP/Lashkar-e-Jhangvi) (lej)" through his facebook account URL "www.facebook.com/100008515570012 (Raja Billal Umer)" associated with his email I.D: mb4170232@gmail.com cell Nos. +923115778987; +923125160790 & +923139790882 from Pakistan. It has further been mentioned that the above said SSP/LEJ has been proscribed by Government of Pakistan vide SRO 584(1) /2001 dated 15.08.2001, hence

the petitioner Muhammad Bilal was found involved in disseminating, glorifying and advancing the objectives of proscribed organization in contravention of the provisions of Section 9, 10 & 11 of Prevention of Electronic Crime Act, 2016.

3. The petitioner was arrested on 15.10.2018 and after usual investigation, he was sent to judicial lockup. Challan under Section 173 Cr.P.C was submitted before the learned Court of Sessions Judge, Prevention of Electronic Crime, Islamabad (hereinafter be called as “**Trial Court**”).

4. The petitioner filed an application under Section 265-K Cr.P.C before the learned trial Court on the ground that there is no evidence on record to connect him with the commission of the alleged offence and there is no chance of conviction if the statements of prosecution witnesses are recorded. The learned trial Court after hearing the parties, dismissed the said application vide order dated 18.02.2019. Hence, the instant petition.

5. The learned counsel for the petitioner contended that the allegations levelled against the petitioner are that the material collected during the investigation and the alleged posts were placed on account in the year 2014 whereas, the Prevention of Electronic Crime Act, 2016 was promulgated on 22.08.2016 without any retrospective effect. Further contended that there is no evidence against the petitioner to connect him with the commission of the alleged offences and further trial will be a futile exercise and wastage of the time of the learned trial Court. Further contended that while dismissing the application filed by the petitioner, the learned trial Court misappreciated the evidence available on record, which resulted into grave miscarriage of justice, as such, the impugned order is liable to be set-aside.

6. Conversely, the learned Assistant Attorney General (A.A.G) opposed the contentions raised by the learned counsel for the petitioner

contending that cell phone and devices have been recovered from the possession of petitioner; that there is sufficient evidence on record to connect him with the commission of offence; that the charge has been framed against the petitioner and requested for dismissal of the instant petition.

7. I have heard learned counsel for the parties and have perused the available record with their able assistance.

8. Perusal of the record reveals that the petitioner has raised only one question before the learned trial Court in the application under Section 265-K Cr.P.C that there is no evidence to connect him with the commission of the alleged offence. In this revision petition, the petitioner has raised another ground that the allegations against the petitioner are that the alleged posts were uploaded from the account of the petitioner in the year 2014 whereas, the Prevention of Electronic Crime Act was promulgated on 22.08.2016 without any retrospective effect. It is pertinent to mention here that this question was never raised before the learned trial Court in the application under Section 265-K Cr.P.C.

9. I have minutely perused the available record. The contents of F.I.R No.2/2018 dated 15.10.2018 shows that though the occurrence is stated to have happened in the year 2014 but during the course of inquiry No.E-28/2018 dated 02.06.2017 it transpired that the petitioner operated Facebook group of proscribed organization Sipah-e-Sahaba and Lashkr-e-Jhangvi. The allegation has been leveled against the petitioner on 02.06.2017 and the charge has also been framed against the petitioner on 28.02.2019, wherein the allegation of commission of offence has been put to the accused on 15.10.2018. The accused is nominated in the F.I.R with a specific role. The organization "Sipa-e-Sehabah Pakistan (SSP/Lashkar-e-Jhangvi) (lej)" has been proscribed by the Government of Pakistan but the petitioner has been found involved in disseminating, glorifying and advancing the said organization. Further, the petitioner has created a

Facebook group URL "www.facebook.com/groups/349756858759738" of proscribed organization "Sipa-e-Sehabah Pakistan (SSP/Lashkar-e-Jhangvi) (lej)" through his Facebook account URL "www.facebook.com/100008515570012, which is associated with his email I.D: mb4170232@gmail.com and Cell Nos. +923115778987; +923125160790 & +923139790882 from Pakistan. Prima facie, sufficient material is available against the petitioner to connect him with the commission of the alleged offence. Veracity of all these allegations would be determined only after recording of evidence, which exercise can only be done by the learned trial Court. Therefore, the learned trial Court was justified in rejecting the application under Section 265-K Cr.P.C. holding the same to have been filed at premature stage.

10. In view of what has been discussed above, learned counsel for the petitioner has failed to point out any irregularity or illegality or jurisdictional infirmity in the impugned order dated 18.02.2019, calling for interference by this Court. This petition having no force is dismissed. However, the learned Trial Court is directed to conclude the Trial expeditiously.

(GHULAM AZAM QAMBRANI)
JUDGE

ANNOUNCED IN OPEN COURT ON 28/2/2020

JUDGE

"Rana.M.Ift"