

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Misc. No. 79 of 2020

Ammar Rashid, etc.

Vs

The State

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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17-02-2020.

M/s Asad Jamal, Zainab Janua, Nisar Ahmed Shah, Sikandar Naeem Qazi and Muhammad Haider Imtiaz, Advocates for the petitioners in respective petitions.

Syed Muhammad Tayyab, DAG.

Mr. Niazullah Khan Niazi, Advocate General, Islamabad Capital Territory.

Mr. Rabi Bin Tariq and Mr. Owais Haider Malik, State Counsels.

Mr. Hamza Shafqaat, Deputy Commissioner, Islamabad.

M/s Waqar ud Din Sayed, Deputy Inspector General of Police, Sarfaraz Virk, SP City, Azhar Hussain Shah, DSP Legal and Muhammad Athar Khan, Inspector/SHO, P.S. Kohsar, Islamabad.

Through this consolidated order, I shall decide the instant petition along with Criminal Misc. No. 81/2020 titled "Shah Rukn-e-Alam vs. The State", Criminal Misc. No. 82/2020 titled "Khurram Qureshi vs. The State", and W.P No. 479/2020 titled "Ammar Rashid, etc. vs. Ministry of Law and Justice through its Secretary, etc."

2. Mr. Hamza Shafqaat, Deputy
Commissioner, Islamabad Capital Territory

has appeared and has stated that the matter was reviewed and consequently the criminal case registered against the petitioners has been withdrawn. Though important questions of public importance have been raised in these petitions but in the light of the statement made by the Deputy Commissioner, the prayers sought are no more justiciable. The grievance of the petitioners to the extent of registration of the criminal case stands redressed. It is noted that liberty, freedoms of expression, assembly and association are constitutionally guaranteed rights and their importance cannot be overstated in a democracy. It is inevitable for the progress and development of a just society to jealously guard against intrusions in these crucial constitutionally guaranteed rights. They are the most precious and important rights for strengthening democracy and upholding the sanctity of the Constitution. It is obviously not expected from democratically elected executive authorities and constitutional forums to allow attempts, in any form, aimed at suppression of free speech. It is for the Majlis-e-Shoora (Parliament) to weed out from the statute books those draconian offences

and powers which have a colonial legacy and are inconsistent with the fundamental rights guaranteed under the Constitution. The offence of "sedition" under section 124-A of the Pakistan Penal Code, 1860 definitely requires to be considered by the Majlis-e-Shoora (Parliament) having regard to the constitutionally guaranteed fundamental rights of free speech and the freedom of assembly and association. Likewise the powers under section 144 of the Criminal Procedure Code, 1898 cannot be exercised in derogation to the fundamental rights guaranteed under the Constitution. This Court had observed in the last order, dated 11.02.2020 that every detention is a tort unless the authority directing it can adequately justify the actions and intrusions in the constitutionally guaranteed rights. If the authority fails to adequately justify deprivation of liberty strictly in accordance with law, then in such an eventuality the latter would be exposed to claims of damages on the ground of "false imprisonment".

3. These petitions are disposed of with the expectation that the authorities while exercising executive powers shall take utmost care in ensuring that the fundamental rights

guaranteed under the Constitution are not infringed. The learned Advocate General, Islamabad Capital Territory has stated that citizens should exercise restraint by avoiding criticism against the State and its institutions. It is noted that the State nor its institutions are so weak to fear dissent or criticism. Dissent or criticism is an integral part of democracy and its protection a constitutional obligation of the State. Stifling dissent and criticism is an attribute of a repressive society and unacceptable in a democracy governed under the Constitution. It is, therefore, expected that the principles of democracy and the fundamental rights guaranteed under the Constitution will be jealously guarded by the executive authorities while exercising powers vested under the law.

CHIEF JUSTICE

Saeed.