

Form No: HCJD/C-121.

**ORDER SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

**W.P. No. 499 of 2018**

MIAN MUHAMMAD NAWAZ SHARIF

***Vs***

THE STATE AND ANOTHER.

**PETITIONERS BY:** M/s. Saad M. Hashmi and Muhammad Amjad  
Pervaiz, Advocates.

**RESPONDENTS BY:** Sardar Muzaffar Ali Khan, ADPG, NAB.  
Mr. Muhammad Afzal Qureshi, Special Prosecutor,  
NAB.

**DATE OF HEARING:** **08-02-2018.**

**ATHAR MINALLAH, J.-** Through this consolidated order, we shall decide the instant petition alongwith W.P.No.489 of 2018. The instant petition has been filed by Mian Muhammad Nawaz Sharif while the connected petition by Ms. Maryam Nawaz Sharif and Capt (Retd) Muhammad Safdar (hereinafter referred to as the "***Petitioners***").


2. The facts, in brief, are that the Petitioners have been arrayed as accused in Reference no.20/2017, filed by the National Accountability Bureau (hereinafter referred to as the "***Bureau***"). The latter has also filed a Supplementary Reference. The trial in the said References is pending before the learned Judge, Accountability Court No.1, Islamabad. The Supplementary References was filed on 23.01.2018 and the Bureau, vide application dated 30-01-2018, requested the learned Accountability Court to allow the examination

and recording of statements of two witnesses, namely Robert W. Radley and Akhtar Raja, through video link/Skype etc. The said application was allowed by the learned Accountability Court vide the impugned order, dated 02-02-2018. The relevant portion for the adjudication of the instant petition is reproduced as follows:-

*"Statements of above said two witnesses shall be recorded through that video link. Witnesses shall remain present in office of High Commission London. High Commissioner of Pakistan there shall ensure that the witnesses are not under any pressure, coercion or influence at relevant time, and their identity shall also be verified by him."*

3. The learned counsels appearing on behalf of the petitioners were asked at the very outset as to how the latter were aggrieved by the impugned order. The learned counsels have argued at length. They have unambiguously stated that the only relief which the petitioners are seeking through the instant petitions is to the effect that the aforementioned two witnesses be examined and their statements recorded via video link in the presence of an authorized attorney/counsel or representative at the High Commission of Pakistan in London.

4. The learned Additional Prosecutor General of the Bureau Sardar Muzaffar Ali Khan was present in the Court and, therefore, he was asked as to why the instant petitions may not be allowed to the



extent of the prayer which was being urged by the learned counsels. The learned Additional Prosecutor General of the Bureau has argued that the petitioners are merely attempting to delay the conclusion of the trial. He has further contended that the learned trial Court has explicitly directed the High Commissioner of Pakistan to ensure that the witnesses are not influenced and that their respective identities are verified at the time of recording of their statements and, therefore, absence of a representative of the petitioners will not prejudice the proceedings. He, however, was not able to give a plausible explanation for refusing the prayer sought in the instant petitions.

5. The learned counsels for the petitioners and the learned Additional Prosecutor General of the Bureau have been heard and the record perused with their able assistance.

6. The learned Accountability Court, vide the impugned order dated 02-02-2018, accepted the application, wherein the Bureau had prayed that the above mentioned two witnesses who reside in the United Kingdom be examined and their evidence recorded through video link/Skype etc. To this extent the petitioners have not challenged the impugned order. The only grievance of the petitioners is to the effect that their right to a fair trial would be compromised if the witnesses are examined in the absence of their authorized attorney/counsel. The prayer sought is indeed fair and reasonable. Every accused has a right to a fair trial and the same cannot be denied. In the instant case, it would be in consonance with the right to a fair trial to allow access to an authorized attorney/counsel or

representative of the petitioners so that the aforementioned persons are examined as witnesses and their testimonies are recorded in the presence of the latter.

7. For what has been discussed above, we allow both these petitions. The High Commissioner of Pakistan is directed to allow an authorized attorney/counsel or representative of the petitioners to attend the proceedings as an observer when the above named witnesses are examined via video link/skype etc pursuant to order dated 02-02-2018 passed by the learned Accountability Court. The petitioners are also directed to ensure that they make arrangements in this regard in advance so that an authorized representative/counsel could be facilitated by the High Commissioner of Pakistan to attend the proceedings at the time and on the date either fixed or which may be fixed by the learned Accountability Court. However, it is noted that an adjournment shall not be sought by the petitioners on the ground that they were not able to make arrangements pursuant to this order.

8. We, therefore, allow and dispose of both the petitions in the above terms.

(MIANGUL HASSAN AURANGZEB)  
JUDGE

(ATHAR MINALLAH)  
JUDGE

Asif Mughal\*

*Approved for repasting.*