

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

Crl.Misc.No.549-T/2018

Mian Muhammad Nawaz Sharif

**Versus**

The State and another

**Date of Hearing:** 31.07.2018, 02.08.2018, 06.08.2018 &  
07.08.2018

**Applicant by:** M/s Khawaja Haris Ahmad, Saad M. Hashmi,  
Ayesha Hamid and Zaafer Khan, Advocates.

**Respondent No.1 by:** Sardar Muzaffar Ahmad Khan, Deputy  
Prosecutor-General, N.A.B. along with Mr.  
Jahanzeb Khan Bharwana, and Haider Ali  
Khan, Assistant Prosecutor-Generals,  
N.A.B.

M/s Muhammad Afzal Qureshi, Muhammad  
Ashar Awan, Irfan Ahmed Boola and Imran  
Shafique, Special Prosecutors, N.A.B.

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**MIANGUL HASSAN AURANGZEB, J:-** Through this judgment, we propose to decide transfer applications No.549-T/2018 and No.550-T/2018, both titled “Mian Muhammad Nawaz Sharif Vs. The State and another”, whereby the applicant seeks the transfer of Reference No.19/2017 and 18/2017, respectively, from Accountability Court No.I, Islamabad (“A.C. No.I”) to another Accountability Court.

2. Three Accountability References (i.e., References No.18, 19 and 20/2017) were filed on 08.09.2017 by the National Accountability Bureau (“N.A.B.”) against the applicant and other accused persons. The said References were entrusted to A.C. No.I. The allegation levelled against the applicant, in all these References, was that he had amassed assets beyond his known sources of income. The asset with respect to which Reference No.18/2017 was filed was Flagship Investments Limited, whereas Reference No.19/2017 related to Al-Azizia Steel Company Limited and Reference No.20/2017 related to four apartments in Avenfield House, London.

3. The said References were filed pursuant to the judgment dated 28.07.2017, passed by the Hon'ble Supreme Court in Constitution Petition No.29/2016. A review petition against the said

judgment was dismissed, vide order dated 15.09.2017. In the said judgment dated 28.07.2017, the Hon'ble Supreme Court, had directed the filing of three References against the applicant and other accused persons. Subsequently, the applicant filed petitions before the Hon'ble Supreme Court under Article 184(3) of the Constitution praying for a single consolidated Reference, instead of three, to be filed against him but the said petitions were held not to be maintainable.

4. The applicant's application for framing of a joint charge and for trying the applicant in one trial in all the three References was dismissed by A.C. No.I, vide order dated 19.10.2017. The said order was assailed by the applicant in writ petitions No.3663 to 3665/2017 before this Court. Vide judgment dated 02.11.2017, the said writ petitions were allowed and the said order dated 19.10.2017 was set-aside. The matter was remanded to A.C. No.I for a decision on the applicant's above-mentioned application keeping in view the mandate of section 17(d) of the National Accountability Ordinance, 1999 ("N.A.O.") as well as the relevant case law on the subject.

5. Thereafter, A.C. No.I, vide order dated 08.11.2017, dismissed the applicant's aforementioned application. In the said order, it was observed *inter-alia* as follows:-

*"In order to avoid conflicting judgments, or any likelihood of ignoring any defence that will be produced by the applicant/accused separately in each reference, all the three references shall be decided simultaneously".*

6. The said order was assailed by the applicant before this Court in writ petitions No.3883 to 3885/2017 which were dismissed, vide judgment dated 04.12.2017. In the said judgment, it was *inter-alia* observed as follows:-

*"...In this regard, sole reason advanced by learned counsels for the petitioner is that prejudice shall be caused to the petitioner in case of separate trials in three References, as the witnesses are common and the defence of the petitioner shall be disclosed to them. The apprehension of the petitioner, that the defence shall be disclosed to the witnesses, has been taken into account by respondent No.2. The learned trial court observed that the decision in three References shall be rendered simultaneously. Moreover, in order to overcome any prejudice, which the petitioner apprehends he may face regarding disclosure of defence, a request can be made to the learned trial court for*

*cross-examination of joint witnesses i.e. witnesses which are common in three References on the same date or on the following day so that they have little or no chance for thinking and improving upon what is to be said. Even otherwise, as was observed by the august Apex Court in case reported as 1980 SCMR 402 supra that the learned trial court, during the course of trial, after recording evidence, if is of the opinion that one trial is convenient, can alter the charges and pass an appropriate order in this behalf, however, joinder of charges cannot be claimed as of right”*

7. Having considered his interests to have been adequately safeguarded by the aforementioned judgment of this Court, the applicant did not assail the same any further.

8. The prosecution’s star witness, in all the three References, is Mr. Wajid Zia, Head of the Joint Investigation Team (“J.I.T.”) constituted pursuant to the order dated 20.04.2017, passed by the Hon’ble Supreme Court. The applicant’s application praying for Mr. Wajid Zia’s examination-in-chief to be recorded in all the three References and thereafter he be cross-examined on the same or successive dates so that he has no opportunity to improve his statements, was dismissed by A.C. No.I, vide order dated 02.03.2018. In the said order, it was held *inter-alia* that all the three References shall be decided simultaneously. The said order was not challenged by the applicant.

9. After the completion of Mr. Wajid Zia’s cross-examination in Reference 20/2017, his evidence could not be recorded in the other two References since the prosecution’s application for summoning Mr. Zahir Shah, Director General (Operations), N.A.B. Headquarters, for recording of additional evidence in References No.18 and 19/2017, was allowed, by A.C. No.I. Additionally, the statement of the investigation officer in Reference No.20/2017 was recorded prior to Mr. Wajid Zia’s deposition in References No.18 and 19/2017. After these statements were recorded, the prosecution requested for the applicant’s statement under section 342 Cr.P.C. to be recorded in Reference No.20/2017. While Mr. Wajid Zia’s statement was being recorded in Reference No.19/2017, A.C. No.I adjourned the matter for the recording of the applicant’s statement under section 342 Cr.P.C. in Reference No.20/2017. The applicant’s application dated 21.05.2018, to bring on record his plea that the recording of his statement under section

342 Cr.P.C. prior to the recording of Mr. Wajid Zia's deposition in References No.18 and 19/2017 would prejudice his right to a fair trial, was dismissed by A.C. No.I. Learned A.C. No.I also dismissed the applicant's application dated 23.05.2018 praying for the postponement of the recording of the remaining portion of his statement under section 342 Cr.P.C. in Reference No.20/2017.

10. The recording of the applicant's statement under section 342 Cr.P.C. was completed on 23.05.2018 and after the recording of the statements of co-accused, the matter was adjourned to 05.06.2018 for final arguments in Reference No.20/2017. Mr. Wajid Zia's cross-examination in Reference No.19/2017 resumed with effect from 31.05.2018.

11. On 05.06.2018, the applicant filed an application praying for the postponement of the final arguments in Reference No.20/2017 till such time that the recording of evidence and the applicant's statements under section 342 Cr.P.C. in References No.18/2017 and 19/2017, are completed. The plea taken by the applicant in the said application was that if one of the three References is decided separately and independently of the other two, A.C. No.I would have already disclosed its mind with respect to the accused as well as the facts common in all the three References. It was also pleaded that all the References had at least 60% of the propositions of fact and 90% of the propositions of law common to them. Vide order dated 05.06.2018, the said application was dismissed by A.C. No.I.

12. The said order dated 05.06.2018 was assailed by the applicant in writ petition No.2275/2018 before this Court. Since arguments on the applicant's behalf had already commenced before A.C. No.I in Reference No.20/2017, this Court, vide order dated 21.06.2018, disposed of the said writ petition as having become infructuous.

13. After hearing the arguments advanced by the prosecution as well as on behalf of the applicant etc. in Reference No.20/2017, A.C. No.I, vide judgment dated 06.07.2018, convicted the applicant under section 9(a)(v) of the N.A.O. read with Serial.No.2 of the Schedule to the N.A.O. and sentenced him to rigorous

imprisonment for a term of ten years, fine of 8 million pounds and forfeiture of the flats in Avenfield House under section 10 of the N.A.O. He was also convicted and sentenced to one year imprisonment for the offence mentioned in Serial No.2 of the Schedule to the N.A.O. Both the sentences were to run concurrently. The said judgment has been challenged by the applicant before this Court in an appeal under section 32 of the N.A.O.

14. On 12.07.2018, the applicant filed applications before A.C. No.I praying for the learned Presiding Officer of A.C. No.I to recuse from continuing holding the trial in References No.18 and 19/2017. The essential ground taken in the said applications was that A.C. No.I had already disclosed its mind on the evidence and documents produced by the prosecution in Reference No.20/2017, most of which were said to be common to References No.18 and 19/2017. Vide orders dated 12.07.2018, A.C. No.I, disposed of the said applications holding that the Accountability Court had no power to transfer a Reference to another Court and that the applicant may file an application for the transfer of the said References before a competent forum. It was in these circumstances that the instant applications under disposal were filed before this Court.

**CONTENTIONS OF THE LEARNED COUNSEL FOR THE APPLICANT:-**

15. Learned counsel for the applicant, after narrating the facts leading to the filing of the instant applications, submitted that through written orders learned A.C. No.I had represented that all the three References would be decided together; that when the trial of the three References neared completion, the proceedings in Reference No.20/2017 were expedited, whereas the proceedings in References No.18 and 19/2017, were initially slowed down and thereafter, virtually put on hold; that even at the initial stage, the learned Presiding Officer of A.C. No.I was apprised that in the event, any one of the References was decided first, it would not be appropriate for him to thereafter proceed and decide the other two References as he would have already disclosed his mind and given conclusive findings with respect to the questions of law and fact,

which were common to all the References and essential for the determination of the applicant's guilt or innocence; that by convicting the applicant in Reference No.20/2017, the learned Presiding Officer of A.C. No.I, has not just disclosed his mind, but has returned conclusive findings on a number of disputed questions of law and fact which are common in all the three References; that unless the transfer applications were allowed, the learned Presiding Officer of A.C. No.I would be sitting in an adjudicating capacity over References No.18 and 19/2017 with a pre-determined and pre-disposed mind.

16. Learned counsel for the applicant further submitted that as regards Reference No.20/2017, learned A.C. No.I had already given conclusive findings on (i) the admissibility of the contents of the J.I.T. report; (ii) the admissibility, mode of proof and evidentiary value of the contents of various civil miscellaneous applications, including application No.432/2017, filed by the co-accused of the applicant before the Hon'ble Supreme Court in Constitution Petition No.29/2016 as well as the impact of the stance taken by the applicant's co-accused in these applications upon the applicant's defence; (iii) the veracity of the stance taken by the applicant's co-accused regarding the money generated by Gulf Steel Mills, including the factum of sale of remaining its 25% shares and the cash receipt of 12 million UAE Dirhams and its utilization; (iv) the veracity of the claim that 12 million Dirhams were invested with Mr. Jassim bin Jaber and as to the generating of sufficient income so as to provide not only for the purchase of the flats in Avenfield House as well as Al-Azizia Steel Mills and funding of companies in U.K.; (v) the authenticity, veracity and evidentiary value of the response to the Mutual Legal Assistance ("M.L.A.") received from the Justice Department of U.A.E.; (vi) the veracity of the defence claim that Mr. Hammad bin Jassim had not avoided the recording of his statement before the J.I.T. so as to confirm the contents of the two letters submitted by him to the Hon'ble Supreme Court during the hearing of Constitution Petition No.29/2016 but it was the members of the J.I.T. who avoided recording his statement; (vii) and the admissibility, relevance and evidentiary values and impact

in law regarding the applicant's address to the nation and speech made in the National Assembly. He submitted that these findings would adversely affect the applicant in the pending References.

17. Furthermore, it was submitted that if the learned Presiding Officer of A.C. No.I is to proceed with the hearing and decide References No18 and 19/2017, it would be a travesty of justice and a violation of the applicant's right to a fair trial guaranteed under Article 10-A of the Constitution; and that since the learned Presiding Officer of A.C. No.I had disclosed his mind and formed opinion regarding the applicant's defence, he ought not to be permitted to sit with a pre-disclosed mind while deciding References No.18 and 19/2017. Learned counsel for the applicant prayed for the transfer applications to be allowed.

18. While making his submissions, learned counsel for the applicant referred to Article 10 of the Universal Declaration of Human Rights; Article 14 of the International Covenant on Civil and Political Rights; Article 6(1) of the European Convention on Human Rights; Article 8 of the American Convention on Human Rights; Article 47 of the Charter of the Fundamental Rights of the European Union; Article 7(1)(v) of the African Charter on Human and People's Rights; and Article 11 of the Canadian Charter of Rights and Freedom, all of which lay emphasis on the right of an individual to a fair trial by an independent and impartial tribunal established by law. Learned counsel for the applicant also read out from the 2<sup>nd</sup> Edition of the Fair Trial Manual of Amnesty International in support of his contention that right to an impartial tribunal requires that Judges should not have pre-formed opinions about a particular case and that the Judges must conduct trials without having previously formed an opinion on the guilt or innocence of the accused. Reliance was also placed on the treatise, "Judicial Recusal – Principles, Processes and Problems" by Grant Hammond.

19. Learned counsel for the applicant also placed reliance on the law laid down in the cases of Terrance Williams Vs. Pennsylvania (2016 SCMR 1561), Sher Afzal Vs. Mst. Pervez Jan (2016 YLR 267), Ahmad Yar Vs. The State (2014 P.Cr. L.J. 407), Suo Moto Case

No.4/2010 (PLD 2012 SC 553), Aftab Shaban Mirani Vs. President of Pakistan (1998 SCMR 1863), Muhammad Shafi Vs. The State (1987 P.Cr.L.J. 598), Muhammad Nawaz Vs. Ghulam Kadir (PLD 1973 SC 327), Mohabat Vs. The State (PLD 1960 Lahore 1187), Union of India Vs. Sanjay Jethi ((2013) 16 SCC 116), Mt. Paro Vs. Chhaja Singh (AIR 1934 Lahore 539), Sita Ram Vs. Balak Ram (AIR 1933 Oudh 154), Ali Vs. Crown (1969 P.Cr.L.J. 963), Ghulam Rasul Vs. Crown (PLD 1951 FC 62), Hallyday Vs. United States (380 F.2d 270), Keating Vs. Superior Court of San Francisco (45 Cal. 2d 440) Murchison's case (349 US 133) and Hugh M. Caperton Vs. A. T. Massey Coal Company (556 US 1).

20. On the other hand, learned Deputy Prosecutor-General ("D.P.G.") N.A.B., opposed the transfer applications with much vehemence. He submitted that the transfer applications had been filed with the ulterior motive to delay the adjudication of References No18 and 19/2017 which are nearing conclusion; that in Reference No.18/2017, the evidence of two witnesses is to be recorded, whereas in Reference No.19/2017, the evidence of one witness is to be recorded; that learned A.C. No.I has been hearing the said References since the past ten months; that Hon'ble Supreme Court, in its order dated 28.07.2017, had directed N.A.B. to file three separate References against the applicant etc.; that all the accused in the three References are not common; that the References pertain to different properties; that References No.18 and 19/2017 have nothing to do with the apartments in Avenfield House; that in References No.18 and 19/2017, Mrs. Maryam Safdar and Capt. (Retd.) Muhammad Safdar, have not been arraigned as accused; that in Reference No.20/2017, Mrs. Maryam Safdar was accused as being the ostensible owner of the said apartments, whereas in References No.18 and 19/2017, Hassan Nawaz Sharif and Hussain Nawaz Sharif, respectively, have been accused of being the ostensible owners of the properties in question in the said References; that the applicant's application dated 19.10.2017 for the joinder of the References was dismissed by learned A.C. No.I; and that this Court did not interfere with the order of the learned Accountability Court turning down the applicant's



application for the joinder of the three References; and that the three References were separate and independent of each other.

21. Furthermore, learned D.P.G. submitted that the learned Presiding Officer of A.C. No.I was not disqualified from hearing and deciding References No.18 and 19/2017 simply because the applicant had been convicted by him in Reference No.20/2017; that the integrity of the learned Presiding Officer of A.C. No.I has not been questioned by the applicant; that the learned Presiding Officer of A.C. No.I has no personal interest in the outcome of the cases; that the mere expression of an opinion by the learned Presiding Officer of A.C. No.I while deciding one of the References is not enough to disqualify him from hearing the other two References; that the possibility of References No.18 and 19/2017 being decided in a different way from Reference No.20/2017 cannot be ruled out; that the learned Presiding Officer of A.C. No.I did not recuse himself from hearing References No.18 and 19/2017 despite the fact that the applicant had filed an application for his recusal; that even if the three References were considered to be similar, the two remaining References could nonetheless not be transferred; that a party cannot insist on a case being heard by a Judge of his/her choice; that the principles of fair trial would not be violated if the learned Presiding Officer of A.C. No.I hears and decides References No.18 and 19/2017; and that the test for transferring a case on the ground of bias has not been satisfied in the instant case.

22. Furthermore, after touching briefly the merits of Reference No.20/2017, the learned D.P.G. submitted that the applicant's stance that his defence, in all the three References is common, is fallacious inasmuch as the applicant did not bother to take any defence in Reference No.20/2017; that the applicant's only case was that the prosecution had failed to prove his guilt; that the applicant's simple plea before the learned trial Court was that he was innocent; that the applicant did not produce any evidence, whatsoever, in his favour; that since the applicant did not take a defence, his plea that his defence is common in the three References evaporates; that the applicant had no vested right to

ask for the three References to be decided together; and that the applicant was trying to reopen a past and closed transaction inasmuch as his application for the joinder of the References had already been decided against him. Learned D.P.G. prayed for the transfer applications to be dismissed. In making his submissions, learned D.P.G. placed reliance on the law laid down in the cases of Syed Tahir Hussain Vs. Tayyab (PLD 2009 Karachi 176), Muhammad Asif Vs. The State (PLD 2014 Lahore 543), Independent Media Corporation Vs. Federation of Pakistan (PLD 2014 SC 650), Mehboob Ali Vs. The State (2002 SCJ 552), Ashiq Vs. The State (NLR 1991 Criminal 727), Gulzar Ahmad Vs. The State (1994 PCr.L.J. 634), Muhammad Moosa Vs. Ghulam Qadir (2009 MLD 16) and General (R) Parvez Musharraf Vs. Nadeem Ahmad (PLD 2015 SC 585).

23. We have heard the contentions of the learned counsel for the applicant as well as the learned D.P.G. N.A.B., at considerable length stretching over a number of days and have perused the record with their able assistance. The facts leading to the filing of these applications have been set out in sufficient detail in paragraphs 2 to 14 above and need not be recapitulated.

24. True, findings have been given by learned A.C. No.I while deciding Reference No.20/2017 on a number of allegations made against the applicant not just in References No.18 and 19/2017 but also in the investigation reports filed along with the said References. For instance, the plea taken by the applicant's sons before the Hon'ble Supreme Court in C.M.A. No.432/2017 was that 12 million U.A.E. Dirhams, which was a part of the sale consideration of the shares of Gulf Steel Mills in 1980, had been invested with Mr. Jassim bin Jaber and that properties which were the subject matter of the three References were acquired as or with the return on the said investment. Although the applicant had not produced any evidence in his defence in Reference No.20/2017, at pages 158 and 159 of its judgment, A.C. No.I spurned the said stance taken by the applicant's sons.

25. Similarly, in the supplementary investigation report filed along with supplementary Reference No.18/2017, the position

taken was that Hassan Nawaz Sharif in his capacity as *Benamidar* of the applicant aided, abetted and assisted in establishing and acquiring shareholdings in companies, including Flagship Investments Limited and that Hassan Nawaz Sharif being a *Benamidar* had injected Pounds 7,05,071/- in Flagship Investments Limited in 2001. It was also alleged that the accused in Reference No.18/2017 in connivance with each other extended loans to companies owned by them including Flagship Investments Limited, Que Holding, Quint Limited etc. At page 167 of the judgment in Reference No.20/2017, A.C. No.I found that the financial statements for the years 2007–2012 of Hassan Nawaz Sharif's companies, including Flagship Securities, Que Holding, and Quint Limited show that a loan was provided by a company called "*Coomber*" (to whom loan was provided by Deutsche Bank with a charge on the apartments in Avenfield House) to Que Holding which further provided funding to Quint Paddington in the year 2008. Quint Paddington was also found to have provided a loan of Pounds 6,14,000/- by Capital FZE, owned by the applicant. All this led A.C. No.I to conclude that the applicant, his sons and daughter are "*one and the same monolith*".

26. In the same way, Reference has been made in the said supplementary investigation report to the transcript of the address to the nation and the speech delivered by the applicant with the observation that the same are against the facts and the record and that there was a failure to provide any evidence to substantiate the stance taken in the said address and speech regarding the source of the investment and accumulation of assets in the name of the applicant's sons. At page 160 of A.C. No.I's judgment in Reference No.20/2017, the applicant's objection to the admissibility of the said speech was spurned.

27. Given that the applicant had been content with the observations made by A.C. No.I in its above mentioned order dated 08.11.2017, that "*all the three references shall be decided simultaneously*" and this Court, in its judgment dated 04.12.2017, held that "*[t]he apprehension of the petitioner, that the defence shall be disclosed to the witnesses, has been taken into account by*

*respondent No.2. The learned trial court observed that the decision in three References shall be rendered simultaneously”* and since the judgment in Reference No.20/2017 has been rendered while the hearing in References No.18 and 19/2017 is still ongoing, the applicant’s anxiety with respect to the learned Presiding Officer of A.C. No.I hearing References No.18 and 19/2017, is understandable. Heavens would not have fallen had A.C. No.I conducted the trial in the three References such that they were decided simultaneously. This would have been in conformity with the aforementioned order of the A.C. No.I and judgment passed by this Court.

28. Be that as it may, the pivotal question that needs to be answered is whether the findings given by A.C. No.I, in its judgment dated 06.07.2018, passed in Reference No.20/2017 on certain aspects which are also the subject matter of References No.18 and 19/2017, would disqualify the learned Presiding Officer of A.C. No.I to sit in an adjudicating capacity over the said References. Now it must be appreciated that the learned counsel for the applicant was not clear in his position as to whether the applicant would be taking a defence or producing evidence during the hearing of References No.18 and 19/2017. As mentioned above, the applicant did not take a defence or produce evidence during the hearing of Reference No.20/2017. It is clearly within the realm of possibilities for A.C. No.I to come to a conclusion different in References No.18 and 19/2017 from the one in Reference No.20/2017 in the event, the applicant decides to take a defence or produce evidence. There is no denying the fact that there are several dissimilarities in the facts in the three References. To hold that the learned Presiding Officer of A.C. No.I would come to the same very conclusion against the applicant and other accused as the one in Reference No.20/2017 would be presumptive and speculative. However, we do not feel the necessity to give a definitive finding either way on the predisposition, if any, of the learned Presiding Officer of A.C. No.I’s mind on the basis of the findings made by him in the judgment passed in Reference No.20/2017 with respect to certain facts which are also the subject matter of References No.18 and

19/2017. This is because after the applicant filed applications before A.C. No.I praying for the learned Presiding Officer of the said Court to recuse himself from hearing References No.18 and 19/2017, the learned Presiding Officer submitted application dated 12.07.2018 to the Registrar of this Court requesting for the said References as well as Reference No.21/2017 to be transferred to Accountability Court No.II, Islamabad. Furthermore, the learned Presiding Officer of A.C. No.I also requested for someone else to be posted in his place as the Presiding Officer of A.C. No.I. For the purposes of clarity, the said letter dated 12.07.2018, is reproduced herein below in its entirety:-

*"From.*

*Judge,  
Accountability Court No.1,  
Islamabad.*

*To,*

*The Registrar,  
Hon'ble Islamabad High Court,  
Islamabad.*

*No.1(1)/2018/JAC/IBD/55 Dated 12.07.2018.*

***Subject: Transfer of Reference No.18, 19 & 21 of 2017.***

*Sir,*

*It is respectfully submitted that after decision made in reference No.20/2017, two applications are filed on behalf of convicted of Reference No.20/2017 namely Mian Muhammad Nawaz Sharif with a request that this court should recuse from continuing to hold trial in reference No.18/2017 and 19/2017. The applicant has been instructed to file application for transfer before a competent forum as charged has been framed and partial evidence has been recorded. After framing of charge this court being Administrative Court, has no power to transfer the reference to any other court.*

*In view of the fact that a period of six weeks is granted for disposal of references captioned above in the subject, by Hon'ble Supreme Court of Pakistan, and applications have been filed to recuse from holding further trial, it is respectfully submitted that these three references No.18/2017 titled State Vs. Mian Muhammad Nawaz Sharif and two others, 19/2017 titled State Vs. Mian Muhammad Nawaz Sharif and two others and 21/2017 titled State Vs. Muhammad Ishaq Dar, etc may kindly be transferred to Accountability Court No.II, Islamabad if deemed fit or any other appropriate order in this regard may be made, such as someone else may be got posted in my place here as Judge Accountability Court No.I, Islamabad.*

*Photocopies of applications stated above are annexed herewith.*

*Thanks.*

*Yours faithfully,*

*-Sd-*

*(Muhammad Bashir)*

*Judge*

*Accountability Court No.I,  
Islamabad"*

29. Although this Bench is not competent to take a decision on the administrative side over the said application, the request made in its penultimate paragraph is reflective of the learned Presiding Officer's discomfort in sitting in an adjudicating capacity over References No.18 and 19/2017. Since the said application has been brought to our notice, the same cannot be ignored while deciding the applicant's applications under disposal. A case cannot be thrust on a Judge unwilling to hear it. In such circumstances, it would not be just and appropriate for the said References to be heard by the learned Presiding Officer of A.C. No.I.

30. The foregoing are the reasons for our short order dated 07.08.2018, whereby the applicant's transfer applications were allowed and References No.18 and 19/2017 were transferred from A.C. No.I to Accountability Court No.II, Islamabad. It was directed that the trial in the said References was to proceed from the stage when the said application dated 12.07.2018 was moved by the learned Presiding Officer of A.C. No.I. It is expected that Accountability Court No.II would hear and decide References No.18 and 19/2017 with an independent application of mind and uninfluenced by the findings and observations contained in the said judgment dated 06.07.2018, passed by A.C. No.I in Reference No.20/2017.

**(AAMER FAROOQ)**  
**JUDGE**

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Qamar Khan\*

**APPROVED FOR REPORTING**

*Uploaded By: Engr. Umer Rasheed Dar*