

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH
(Judicial Department)

CrMQ No. 13-D of 2017

JUDGMENT

Date of hearing 11.07.2017

Appellant-petitioner Azad Khan by Gul Tiaz Khan Marwat
advocate.

Respondent State by Mr. Adnan Ali Khan AAG and Mr.
Shaukat Ullah Bhittani Advocate for complainant

MUHAMMAD AYUB KHAN, J.- Through the instant
petition under section 561-A Cr.P.C, the petitioner Azad
Khan seeks quashment of order dated 19.4.2017 rendered
by learned Additional Sessions Judge-I, D.I.Khan,
whereby an amount of Rs.5000/- as cost was imposed
upon him.

2. The petitioner was facing trial before learned
Judicial Magistrate-II, D.I.Khan in case FIR No.322 dated
21.5.2011 registered under section 381-A PPC at police
station Cantt: D.I.Khan when non-bailable warrant of
arrest was issued against him, against which he filed
criminal revision before learned Sessions Judge, D.I.Khan.
This revision petition was accepted by learned Additional
Sessions Judge-I, D.I.Khan vide judgment dated
19.4.2017 on cost of Rs.5,000/- to be paid to the

complainant within the meaning of section 344-A Cr.P.C read with chapter I.D Para-15 of High Court rules and orders which has been assailed through the instant petition.

3. I have heard the arguments of learned counsel for the petitioner, learned Assistant Advocate General representing the State and learned counsel for respondent No.2 and have gone through the available record.

4. Perusal of impugned order reveals that revision petition of the petitioner was accepted on cost of Rs.5000/- to be paid to complainant within the meaning of section 344-A Cr.P.C read with chapter I.D Para-15 of High Court Rules and orders as, according to learned Additional Sessions Judge, conduct of the petitioner before the trial Court was not gentle. In order to understand the spirit of above provisions, I deem it appropriate to reproduce section 344-A Cr.P.C and chapter I.D Para-15 of High Court Rules and Orders which are as follow:-

“344A. Conclusion of trial....The Court shall, upon taking cognizance of a case under sections 354-A, 376, 377 and 377B of the Pakistan Penal Code, 1860 (Act XLV of 1860), decide the case within three months failing which the matter shall be brought by the Court to the notice of the Chief Justice of the High Court concerned for appropriate directions.”

“15. Cost of adjournment---The attention of Criminal Courts is drawn to 20 P.R.1904 (Cr.) in which it was held that the expression ‘on such terms as it thinks fit’ in section 344 of the Code gives the Court power to award costs for an adjournment to the party to whom loss is caused by such adjournment.”

Perusal of section 344-A Cr.P.C reveals that it has been wrongly misinterpreted by learned Additional Sessions Judge-I, D.I.Khan as it does not relate to cost as imposed, but deals with disposal of cases under sections 354-A, 376, 377 and 377B PPC. Similarly, chapter I.D Para-15 of High Court Rules and orders relates to the cost to be imposed on adjournment of the case. In the instant case, it was not imposed because of any adjournment but due to conduct of petitioner and that too before the trial Court. In my opinion, the learned Additional Sessions Judge-I, D.I.Khan failed to comprehend the meaning and spirit of above reproduced provisions of law and wrongly imposed cost of Rs.5000/-. Thus the impugned order to the extent of imposition of cost is not sustainable.

5. For the reasons mentioned above, the instant petition is accepted and the impugned judgment dated 19.4.2017 to the extent of imposition of cost is set aside.

Announced.
Dt:11.7.2017.
Habib/*

JUDGE