

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE FAISAL ARAB  
MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL PETITION NO.860 OF 2019**  
**AND CMA NO.1760 OF 2019**

(Against the judgment of the Lahore High Court,  
Lahore dated 13.06.2019 passed in Criminal Appeal  
No. 111841/2017)

Tariq Saeed ... **Petitioner**

**Versus**

The State ... **Respondent**

For the Petitioner : Mr. Tanveer Iqbal, ASC  
Syed Rifaqat Hussain Shah, AOR

For the Respondent : Haider Ali, Addl: Prosecutor General for  
(State) NAB

Date of Hearing : 12.06.2020

**JUDGMENT**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J:-**

**Crl. M. A No.1760 of 2019.** For the reasons mentioned therein, the documents appended with this petition are allowed to be integral part of the record.

**Criminal Petition No.860 of 2019:** The petitioner has sought leave to appeal under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, against the judgment dated 13.06.2019 passed by learned Division Bench of Lahore High Court, Lahore in Criminal Appeal No. 111841 of 2017.

2.           The facts necessitated to disclose the prosecution case are that petitioner being a public servant in the capacity as XEN (BPS-18) remained posted in Zila Council for a considerable period at Lahore. During the subsistence of his service a source report was generated wherein serious allegations were levelled against the petitioner that he in the capacity as a public servant while misusing of authority is involved in corruption and corrupt practices. As a consequence an enquiry was ordered to be initiated against the petitioner dated 12.09.2006. During inquiry proceedings, the inquiry officer scrutinized the allegation at length and submitted a comprehensive report to the quarter concerned. As the enquiry officer concurred the details of the source report, the competent authority while examining the details of the report, ordered for upgradation of enquiry into investigation with the approval of Chairman, National Accountability Bureau vide dated 19.10.2010. The gist of the allegation against the petitioner surfaced during the investigation conducted by various investigating officers, it was unanimously concluded that he being a public servant while holding a public office indulged into corruption and corrupt practices. As a result of same, he acquired massive immovable properties and was also holding a number of bank accounts maintained by him which were squarely disproportionate to known source of his income. The prosecution further alleged that the petitioner purchased the properties against the name of his wife Mst. Surayya Tariq as "Benamidar". She was also holding bank accounts against her name although she had no other known source of income.

3.           *Soon after completion of investigation proceedings, reference was chalked out against the petitioner while in terms of section 18(g) read with Section 24(b) of National Accountability Ordinance, 1999. Requisite sanction from Chairman, National Accountability Bureau was obtained, hence, a reference No. 7/2015 dated 12.02.2015 under section 9 (a) (v) (vi) (xii) of National Accountability Ordinance 1999 was filed before Accountability Court No.1, Lahore. The learned trial court took the cognizance of the offences and on the basis of accusation charge was framed against the petitioner on 07.05.2015. During the course of proceedings before the learned trial court, prosecution to substantiate the accusation levelled in the reference produced as many as 14 witnesses. A number of documents were also tendered in evidence. The learned trial court recorded the statement of petitioner under section 342 Cr.P.C, however, co-accused Mst. Surayya Tariq died soon after recording of her statement under section 342 Cr.P.C. as such the proceedings against her stood abated. The petitioner also produced Syed Obaid-ur-Rehman, Assistant Commissioner (Inland Revenue) who appeared as DW-1 in defence of the petitioner, however, the petitioner himself not opted to appear in his own defence in terms of section 340 Cr.P.C. Besides this, the petitioner also tendered in evidence certain documents on 03.03.2017 and 19.05.2017.*

4.           *The learned trial court after completion of trial found the allegation levelled against the petitioner stands proved, hence, sentenced the petitioner under section 10 of National Accountability Ordinance, 1999 for imprisonment of seven years R.I. He was*

*further awarded fine of Rs.1,63,00,000/- The farm house belonging to the petitioner was also ordered to be confiscated in favour of the State. Being aggrieved by the judgment of the learned trial court dated 15.11.2017; the petitioner filed criminal appeal No.111841/2017 before the Lahore High Court, Lahore. The learned Division Bench of Lahore High Court, Lahore vide judgment dated 13.06.2019 dismissed the appeal of the petitioner and the judgment of the learned trial court was maintained in toto, hence, instant petition.*

5. *At the very outset, learned counsel for the petitioner argued that prosecution has miserably failed to substantiate the accusation against the petitioner. Contends that conviction and sentence has been recorded on the basis of photocopies and even the documents are not exhibited as per spirit of law. The learned counsel especially referred the statement of Mahboob-ul-Hassan (PW-7), therefore, the sentence and conviction recorded against petitioner is uncalled for. Learned counsel further states that the petitioner is an old man of 72 years facing incarceration and has already undergone substantial part of the sentence. Lastly it has been argued by learned counsel that even if at all it is assumed that prosecution has succeeded to establish the case, the sentence of the petitioner is harsh, hence, he prayed for reduction of sentence on the ground of poor health and old age of the petitioner.*

6. *Learned Law Officer appearing on behalf of NAB has argued that he being involved in white-collar crime cannot seek exception. It is further argued that being a public office holder he has crossed all limits and amassed huge properties disproportionate to*

his known source of income; hence, he is not entitled for any leniency. The learned Law Officer contended that the contentions raised by the learned counsel for the petitioner is not sustainable in the eye of law as Mahboob-ul-Hassan (PW-7) clerk of Motor Registration Authority, Excise and Taxation Department at the time of his statement on 28.10.2015 was in possession of record of the vehicles registered against the name of the petitioner and his (late) wife. During the course of proceedings he produced before the court the attested photocopies whereas the record was also available, hence, this contention is without any legal justification and is based upon misconception. Contends that two courts below had given concurrent findings qua the guilt of the petitioner and he was earlier involved in such like activities. In this regard, he entered into plea-bargain in reference No.07/2001 on 08.07.2001. Reference No. 94/2004 and reference No. 48/2016 are still pending adjudication before Accountability Court, hence, no exception can be taken by this Court at this stage, however, learned Law Officer could not controvert the factum of the old age & sickness of the petitioner.

7. We have heard the learned counsel for the parties at preliminary stage and gone through the record.

8. There is no denial to this fact that both the courts below had attended the contentions raised by learned counsel for the petitioner minutely and found that accusation against the petitioner was fully proved. There is no second thought about the involvement of the petitioner in corruption and corrupt practices, even the petitioner himself tendered in evidence the record of previous reference No.07/2001 wherein he entered into plea-bargain

*whereupon the application was allowed by competent authority dated 12.06.2001. The petitioner is also involved in other references, the detail of which has also been mentioned above which reflects the antecedent of the petitioner qua his involvement. We are reluctant to make any observation as it might prejudice his case but facts remain that reference No. 94/2004 and reference No. 48/2016 are still pending adjudication before the court of competent jurisdiction. We have scrutinized the evidence available on the record with due care and caution. The main stay of the arguments of learned counsel regarding production of photocopies is not substantiated from the record rather the record clearly reflected that these were attested copies when the record of the vehicles under the name of petitioner and his wife was also available in the court. Even during the course of cross examination the learned counsel appearing on behalf of the petitioner has not confronted the examination-in-chief of Mahboob-ul-Hassan (PW-7) which is assumed that same is an admitted fact. Any unrebutted piece of evidence during the course of cross examination leaves only one conclusion that the same is an admitted by the defence. Otherwise the petitioner was at liberty to agitate this aspect before the learned trial court as an objection but the same has not been raised. Even the same could have been agitated during the proceedings before the learned High Court. We have perused the record but could not find an iota of evidence available on the record to substantiate the contention ever raised by learned counsel for the petitioner before two forums below, hence, at this juncture of time raising of such plea without substance seems to be nothing but an afterthought.*

9. As far as the merits of the case are concerned, we do not find any reason for interference into the findings given by both the courts below. As far as the contention of the learned counsel appearing on behalf of petitioner qua the old age and indisposition of the petitioner is concerned, it is observed that very genesis of white-collar crime has engulfed the educated-cum-privileged class while intruding its contours into the society which has almost become epidemic leaving miserable repercussions individually as well as collectively. It is detrimental to the very fabric of the society. However, while relying on case titled " MUHAMMAD ASHRAF alias Chaudhry versus THE STATE" (**1994 SCMR 667**) and while taking into consideration that the petitioner is an old man with poor health condition, whereas he has already undergone substantial part of sentence recorded by both the courts, we deem it appropriate to meet the ends of justice reduce the sentence already inflicted upon the petitioner from seven years to five years while maintaining the sentence of fine of Rs.1,63,00,000/- and confiscation of farm-house belonging to petitioner in favour of the State. In the above said terms, this petition is converted into appeal and partly allowed

Judge

Judge

Judge

Islamabad,  
12.06.2020  
Approved for reporting.  
Athar