

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa, CJ
Mr. Justice Gulzar Ahmed
Mr. Justice Sh. Azmat Saeed

**Criminal Appeals No. 386, 387, 388, 389 and 390 of 2018 and
Criminal Miscellaneous Application No. 487 of 2018**

(Against the judgment dated 12.12.2017 passed by the High Court of Balochistan, Quetta in Criminal Ehtesab Appeals No. 18,19, 20, 21 and 22 of 2017)

***Chairman, National Accountability Bureau through
Prosecutor-General, National Accountability Bureau,
Islamabad***

(in all cases)

...Appellant

versus

Mir Faiq Ali Jamali

(in all cases)

...Respondents

For the appellant:

Mr. Haider Ali, Special Prosecutor-
General, Accountability
(in all cases)

For the respondents:

Mr. Safdar Hussain Tarar, ASC
Syed Rifaqat Hussain Shah, AOR
(in all cases)

Date of hearing:

08.07.2019

JUDGMENT

Asif Saeed Khan Khosa, C.J.: The respondent namely Mir Faiq Ali Jamali was tried in connection with various References and ultimately he was convicted by the Accountability Court-I, Balochistan, Quetta for an offence under section 9 read with section 10 of the National Accountability Ordinance, 1999 and was variously sentenced. His appeals filed against his convictions and sentences were subsequently dismissed not only by the High Court

but also by this Court. Later on an application was submitted by the National Accountability Bureau before the trial court under section 33-E of the National Accountability Ordinance, 1999 seeking an order regarding recovery of fine from the respondent and the said application was disposed of by the trial court with an observation that the respondent's disqualification started from the date the respondent paid the fine imposed upon him. The said observation of the trial court was set aside by the High Court through the impugned judgments passed by it and it was held by the High Court that the trial court was not justified in making the above mentioned observation. The impugned judgments passed by the High Court show that the controversy regarding commencement of the period of disqualification of the respondent under section 15(a) of the National Accountability Ordinance, 1999 was not resolved by the High Court. Hence, the present appeals by leave of this Court granted on 28.06.2018.

2. We have heard the learned counsel for the parties and have gone through the record of these cases with their assistance.

3. The issue raised through the present appeals is regarding the time of commencement of the respondent's disqualification under section 15(a) of the National Accountability Ordinance, 1999. The trial court had observed that the respondent's disqualification was to start from the date when he paid the requisite fine but the High Court had set aside that observation of the trial court without resolving the said issue. The words used by the legislature in section 15(a) of the National Accountability Ordinance, 1999 are that the period of disqualification is "to be reckoned from the date he is released after serving the sentence". In the cases in hand the respondent had served out his sentences of imprisonment on 22.10.2013 when he was released from the jail and according to the record he had deposited the requisite fine on 29.11.2016. According to section 53, PPC the punishments to be served by convicts include a sentence of imprisonment as well as a sentence of fine and, thus, in terms of section 15(a) of the National

Accountability Ordinance, 1999 the respondent could be said to have served his entire sentence when he was to have undergone the sentence of imprisonment as well as served the sentence of fine by depositing the same. In this view of the matter the time of commencement of the respondent's disqualification under section 15(a) of the National Accountability Ordinance, 1999 was to be the date on which he had completely served out all his sentences by undergoing the sentences of imprisonment as well as by payment of fine which was 29.11.2016. It is, therefore, clarified that the disqualification of the respondent was to be reckoned from 29.11.2016. With this clarification these appeals are allowed and disposed of.

Chief Justice

Judge

Judge

Islamabad
08.07.2019

Approved for reporting.

Arif