

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Irfan Saadat Khan
Justice Naeem Akhtar Afghan

Suo Motu Case No.4/2021

In Re order dated 20.08.2021 in SMC No.4/2021

And

Suo Motu Case No.5/2021

Suo Motu action regarding highhandedness by FIA action pursuant to FIR No.127/2021 and FIR No. 128/2021 lodged at FIA Cyber Crime Wing, Lahore

And

Constitution Petitions No.27/2022, 4/2024 and 22/2024

Syed Ibn-e-Hussain and others (in Const. P. 27/2022)

Press Association of the Supreme Court through its President Mian Aqeel Afzal, Islamabad and another (in Const. P. 4/2024)

Farieha Aziz (in Const. P. 22/2024)
...Petitioners

Federation of Pakistan through its Ministry of Information, Islamabad and others (in all cases)
...Respondents

For the Petitioner: Mr. Salahuddin Ahmed, ASC
(through video link, Karachi)
Mr. Absar Alam
Mr. Matiullah Jan
Mr. Asad Toor
(in Const. Ps. 4 & 5/2021 and 4 of 2024)

For PFUJ: Mr. Shah Khawar, ASC

For the Petitioner: Mr. Haider Waheed, ASC
(via video link, Karachi)
Mr. Anis M. Shahzad, AOR
Syed Rifaqat Hussain Shah, AOR
Raja Sher Bilal, In person
Mr. Ibrar Ahmed, In person
Mr. M. Asif, In person
(in Const. P. 27/2022)

Ms. Farieha Aziz, In person
(in Const. P. 22/2022)

For Federation: Ch. Aamir Rehman, Addl. AGP

For ICI Islamabad: Mr. Ayyaz Shoukat, AG, ISI a/w
Syed Ali Nasir Rizvi, IGP, Islamabad

Mr. Masood Bangash, SSP, Investigation
Mr. Raza Muhammad, SI/IO
Mr. Ghulam Murtaza, SI/IO

For FIA: Mr. Waqar-ud-Din, Addl. DG (Ops.) FIA
Cyber Crime

For M/o Information & Mr. Abid Mehmood, Ch., S.O (Legal)
Broad casting :

Date of Hearing: 13.05.2024

ORDER

Investigation reports with regard to the cases of three journalists, who were attacked/abducted, namely, Mr. Absar Alam, Mr. Matiullah Jan and Mr. Asad Ali Toor have been submitted by the learned Additional Attorney-General for Pakistan ('AAG') through CMAs. No. 2490, 4042 and 3051 of 2024.

2. **Re. Mr. Matiullah Jan**: Learned Mr. Salahuddin Ahmed represents Mr. Matiullah Jan, who is also in attendance. They state that a proper investigation did not take place and the Police has moved to close the investigation without justification and without having explored all avenues of investigation.

(1) It is pointed out by Mr. Matiullah Jan that when he was abducted on 21 July 2020 at about 11 am from in front of the Islamabad Model School for Girls (Junior Section), situated on Street No.40, G 6-1/3, Islamabad he had thrown his mobile phone, 0345-8555919 of which the service provider is Telenor, inside the compound of the said school. The investigation officer states that the phone was not retrieved by the Police but by the abductors. We are surprised that the location of the said phone, on the said date and time, was not sought which may also have helped in tracing the said abductors.

(2) Learned Mr. Salahuddin Ahmed further states that the video recording which was sent for forensic determination apparently did not

reveal actionable information, such as the vehicle registration numbers of the vehicles in which the abductors came and their features. It is further stated that only a portion of the said video recording was sent for forensic determination. We direct that the entire video recording be sent to the Punjab Forensic Science Agency for their analysis and report.

(3) Learned Mr. Salahuddin Ahmed states that no effort was made to obtain recordings from a number of sensitive buildings situated in the area and from the cameras of the Safe City Project. Mr. Matiullah Jan states that Street No. 40, from where he was abducted is situated opposite the NAB office, and the said street had been cordoned off by the Police and there was also a Police picket, but requisite enquiries were not even made from the policemen who were deputed on duty there.

(4) Mr. Matiullah Jan states that he was dropped off by the abductors after crossing the Fateh Jang Toll Plaza, where the National Highway Authority ('NHA') has their cameras installed, but this aspect, that is his drop off on 21 July 2020 at around 9 pm, was not investigated by checking the recordings from the NHA installed cameras, and this should be done now.

3. **Re. Mr. Absar Alam:** Learned AAG states that those who may be involved in the case are abroad and the Government/Police has completed the requisite procedure and sent notices to Interpol for their arrest. He further states that the Government will be pursuing the matter.

4. **Re. Asad Ali Toor:** The learned AAG states that sketches of the persons who had intruded into his residence and manhandled him have been prepared.

(1) Mr. Toor is present and says that the sketch of the person on page 88 is a fair resemblance but the sketch prepared on page 87 is not. Therefore, a fresh sketch of the perpetrator whose sketch is on page 87 be prepared afresh with the help of Mr. Toor. Mr. Toor also points out that there were three perpetrators but the sketch of the third was not prepared. The Police with Mr. Toor's help should sketch the features of the third intruder immediately.

(2) Mr. Toor states that during the incident one of the perpetrators received a phone call, probably between 10.50 to 11 pm. If proper Geo-fencing was done the particulars of the phone of the perpetrator who had received the call and that of the phone used to call him could have been ascertained. We expect that the needful will be done now.

(3) Mr. Toor states that his two cell phones, 0333-5119547, service provider Ufone, and 0300-9772445, service provider Mobilink, were taken away by the perpetrators. These could have been traced through IMEI tracking, but, unfortunately, this too the investigators failed to do, and should be done now

(4) Mr. Toor states that the perpetrators had identified themselves as members of the Inter Service Intelligence ('**ISI**'), therefore, we enquired whether ISI was contacted and were told that a letter was written to the Ministry of Defence, and that a response is awaited. This depicts incompetence in pursuing the investigation. It is inexplicable why the investigators did not contact the ISI, in respect of the crime which took place on 25 May 2021 and continue to await for a response to their letter.

5. We are dismayed with the manner in which the Police has been investigating these crimes against journalists, the crimes were well orchestrated and presumably carried out on instructions, but this aspect

appears not to have even been considered. The investigators by their apparent incompetence have undermined their own credibility. The Inspector General of Police is in attendance and states that he too is not satisfied and will be substituting the investigation team with competent officers. We also expect that once discernible photograph(s) of the abductors of Mr. Matiullah Jan and sketches of all the three intruders into the residence of Mr. Toor have been prepared they will be published in one Urdu and one English newspapers published from Islamabad having wide circulation and a reward offered for information and for identifying the culprits.

6. Constitution Petition No.27/2022: Notices were issued on 2 April 2024 to the six petitioners because discrepancies were noted and they were directed to be in attendance. Three of the petitioners are present, namely, Raja Sher Bilal, Professor Ibrar Ahmad and Mr. M. Asif, Advocate and state that their names have been misused as they did not instruct the filing of the petition, nor had filed it. Therefore, they were shown their purported signatures on the power of attorney of the Advocate-on-Record ('**AOR**'), namely, the late Mr. Ahmed Nawaz Ch., and they state that they did not sign it nor are the same their signatures. After the passing of late Mr. Ahmed Nawaz Ch., the petitioners statedly engaged the services of Syed Rifaqat Hussain Shah as their AOR but the said petitioners also deny engaging him. We have seen their original CNICs to compare their signatures thereon with the said powers and the same do not match.

7. Learned Syed Rifaqat Hussain Shah states that the office of Mr. Haider Waheed had engaged him on behalf of the said petitioners. However, learned Mr. Haider Waheed denies this, and states that he was engaged by the late Mr. Ahmed Nawaz Ch. He further states that he never met any of the petitioners and had only communicated with one of

them namely, Mr. Qausain Faisal, Advocate. The filing of CP No.27 of 2022 has become a very serious matter, three of the six petitioners therein have completely dissociated themselves from it. And, the learned AOR and the learned ASC have contradicted each other. We accordingly direct the learned AOR and the learned ASC to file their respective affidavits, which should also attend to the following:

- (1) Who had instructed them to file the petition;
- (2) Who had engaged them;
- (3) Who drafted the petition, and where;
- (4) Who printed it for filing;
- (5) Who issued the requisite notices;
- (6) Who paid their fees, and how;
- (7) Proof of dispatch of drafts, that is, through email, WhatsApp, Courier, or by other means;
- (8) Proof of communication with any of the petitioners, including with Mr. Qausain Faisal, and
- (9) Costs, including travel and board, incurred and who paid the same.

8. The Process Server's reports states that when he went to serve Mr. Qausain Faisal, Advocate a lady came out of the residence and took the notice but refused to sign the receipt thereof. Therefore, we repeat notice to Mr. Qausain Faisal which should also be sent to him through the District Bar Association, Rawalpindi, and since he is an ASC the office of this Court shall also inform him. He is directed to be in attendance on the next date of hearing. The address of Mr. Hassan Mahmood, another petitioner, was noted by the Process Server to be incorrect. Since Mr. Hassan Mahmood is shown to be a former Joint Secretary of the Cabinet Division he be served through the Government of Pakistan. Syed Ibn-e-Hussain, the petitioner No.1, is shown to be a former Inspector General of Police, and had received the notice, but he is not in attendance. Let notice be issued to him to show cause why despite service he is not in attendance and to state whether he had instructed the filing of

Constitution Petition No.27 of 2022, and if he did so, who did he instruct. He is directed to be in attendance personally at Islamabad or through video-link from the Lahore Registry of this Court. Copy of the order passed today to accompany the notices.

9. Mr. Salahuddin Ahmed points out that the Government has set up a National Cyber Crime Investigation Agency. We enquired from the learned AAG whether this is so and the learned AAG confirms this and states that it has been done pursuant to S.R.O 626(I)/2024 which has enacted the National Cyber Crime Investigation Agency (Establishment, Powers and Functions) Rules, 2024 pursuant to section 51 read with section 29 of the Prevention of Electronic Crime Act, 2016. Learned Mr. Salahuddin Ahmed seeks time to examine the same and consider whether it will require amending his petition. Needful be done before the next date of hearing.

10. To come up after thirty days.

Chief Justice

Judge

Judge

ISLAMABAD
13.05.2024
Naseer

