

**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
JUDICIAL DEPARTMENT

**Eh.Cr.A.No.09-P/2016**

**“Faisal Qazafi Vs. Chairman, NAB etc”**

**JUDGMENT**

Date of hearing **10.05.2018.**

Petitioner(s) by: \_\_\_\_\_.

Respondent(s) by: \_\_\_\_\_.

**IKRAMULLAH KHAN, J.-** Through the instant criminal appeal, filed under Section 13(c) of the NAB Ordinance, 1999, the appellant namely Faisal Qazafi has challenged the validity and legality of impugned Judgment dated 28.03.2016, rendered by the learned Judge, Accountability Court-III, Peshawar whereby the Objection Petition, filed by the appellant was dismissed.

**02.** In essence, during course of investigation by the NAB authorities against the accused Abdul Waheed Qureshi, his property was freezed in view of Section 12(a) of the NAB Ordinance. The same freezing order was confirmed by the learned Judge, Accountability Court, Peshawar on 28.07.2015.

**03.** The present appellant filed Objection Petition against the order of the learned Accountability Court, Peshawar dated 28.07.2015 under Section 13 of the NAB Ordinance. However, after filing Objection Petition, the appellant was also arrayed an accused by filing supplementary reference against the appellant but the appellant did not appear before the Accountability Court, even remained absent during course of investigation before the NAB authorities. The appellant was proceeded under Section 512 Cr.PC. and the Prosecution was allowed to lead his evidence in absence of the appellant.

**04.** The appellant instead of filing the Objection Petition through himself, in order to appear at-least before the Court, being declared as an accused by the NAB authorities, he had filed Objection Petition through attorney Bilal Mustafa and as such on the sole ground his Objection Petition was turned down by the learned Accountability Court-III, Peshawar, hence, the instant appeal.

**05.** The instant appeal has also been filed by the appellant through Bilal Mustafa,

special attorney of the appellant, copy of Power of Attorney is annexed herewith. The memorandum has been vested with the power by the appellant Faisal Qazafi, just to look-after the property situated in Gulbahar, Peshawar but no power has been conferred upon the said attorney by the appellant/accused, either to file Objection Petition under Section 13 of the NAB Ordinance or an appeal against the order of the learned Accountability Court before this Court.

**06.** Legal proposition is that whether in criminal proceeding, an accused could be represented by an attorney in order to perform same acts on his behalf, has not provided under the NAB Ordinance. The Objection Petition under Section 13 could only be filed by any person who feel himself aggrieved by any order, passed under Section 12 of the NAB Ordinance while in view of clause (c) of Section 13, the accused or any other aggrieved party who claims or objection against property has been dismissed by the Court may within 10 days file an appeal

against the order of the Court before High Court but in case in hand, the instant appeal has been filed by an un-authorized person, although holding special power of attorney in respect of looking after the property of the appellant. The person, who had filed instant appeal on behalf of the appellant/accused seem to be not maintainable, however, justice demand that the Objection Petition be decided on merit, therefore, the impugned judgment is set aside and the appellant is afforded last but absolute opportunity to appear before the learned Accountability Court in person, in order to place its insofar as his objection over the confirmation freezing order of the learned Accountability Court is concerned and the learned Accountability Court after affording an opportunity of hearing to the appellant through his duly nominated counsel, if he appears personally may re-decide the objection petition of the appellant in accordance with law keeping in view the provisions of Section 13 of the NAB Ordinance, 1999. With the above

observations, the case is remanded to the learned Accountability Court concerned.

**Announced.  
10.05.2018.**

**J U D G E**

**J U D G E**

DB  
Hon'ble Mr. Justice Ikramullah Khan  
Hon'ble Mr. Justice Ishtiaq Ibrahim

Himayat