

JUDGMENT SHEET

PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)

COC No. 684-P/2023

JUDGMENT

Date of hearing: **11.01.2024**

Petitioner: (Fazal Muhammad Khan) by
Barrister Sarwar Muzaffar Shah.

Respondents: (The State) by Mr. Aamir Javed,
Advocate General and (Aimal Wali Khan) by
Barrister Amir Ullah Chamkani, M/s. Ahmad
Farooq Khattak and Sangeen Khan Advocates
alongwith respondent Aimal Wali Khan.

Nanawatey members (Pushto word)
Mr. Ghulam Ahmad Bilour, Mr. Muhammad
Saleem Khan, Advocate, Mr. Khushdil Khan,
Advocate, Syed Aqil Shah, Mr. Zar Badshah,
Advocate, Babar Khan Yousafzai, Advocate,
Mian Iftikhar Hussain, Ms. Samar Haroon
Bilour and almost hundred other notables.

MOHAMMAD IBRAHIM KHAN, CJ.- This

is an application under Contempt of Court Ordinance, 2003 for initiating contempt of court proceedings against the respondent No. 1 (Aimal Wali Khan) for obstructing and prejudicing the process of law and due course of pending judicial proceedings.

2. Pursuant to the Court's notice, respondent No. 1 Mr. Aimal Wali Khan,

Provincial President of the Awami National Party (ANP) put up his appearance before the Court, who was also flanked by senior party leadership, and also a host of lawyers, mentioned in the heading, herein above.

3. In the very beginning of today's proceedings, first Barrister Amir Ullah Chamkani and later Mr. Sangeen Khan and Mr. Ahmad Farooq Khattak, Advocates came to the rostrum and submitted that respondent Mr. Aimal Wali Khan has complied with Court's order and is ready to make a wholehearted apology subsequent to the situation developed after his public speech of 21st December, 2023.

4. It goes without saying that proceedings are conducted in open court. The respondent Aimal Wali Khan was let to come to the rostrum. The Court wanted to confront the respondent with his speech which had attracted wide coverage of print and electronic media including social media and whereby he made unprovoked malicious speech against the Chief Justice of this Court and hurled him life threats also. But respondent side didn't want to play the video clip of his speech and pressed on

submitting that Mr. Aimal Wali Khan feels remorseful and is ready to make public apology. It was, however, made profusely clear that respondent's utterances patently appear to undermine the dignity and authority of the judiciary and are in violation of spirit of the Contempt of Court Ordinance 2003 which explicitly prohibits any act or statement that scandalizes the court or tends to bring the administration of justice into disrepute. Besides, the threats to life of the Head of the Provincial Judicature obviously attract provision of section 6, punishable under section 7 of the Anti-Terrorism Act 1997 in addition to entailing disqualification from any public office under section 70 Sub Section (G) of the Election Act 2017. While the respondent could neither deny the entailing consequences of his speech, nor did he want to play the clip of his speech either; manifestly to avoid embarrassment of the unprovoked spiteful tirade against the provincial head of the judiciary.

5. It needs no reiteration that society in general and legal fraternity in particular

✓ expects magnanimity from a judge in cases where a condemner seeks unconditional apology and admittedly courts have been generous in such cases. In the instant case, it wasn't only a matter of scornful statement ridiculing the Chief Justice of the High Court and bringing him to disrepute but the respondent had threatened the Chief Justice with dire consequences notwithstanding that this Court has always strived to uphold the ends of justice without discrimination. But, as the respondent and his lawyers assured that respondent hadn't consciously made the utterances and that he will make public apology in a manner that respect and honour of the Chief Justice and the judiciary will be emphasized, the Court advised that solemnity of respondent will be only believed if he submitted written apology and also expressed to regret publicly through press conference for wide publicity. The respondent side readily agreed to the notion and requested the Court to wait till the written apology of the respondent is furnished and clip of his public appearance sharing his contrition is also transmitted

12/2

whereafter he may be relieved and the petition be disposed of accordingly.

6. The petition, having been held back for the stated proceedings, later the written apology of the respondent Mr. Aimal Wali Khan "Mark-A" was submitted on his party letterhead and similarly a video clip was also transmitted whereby the respondent has talked straight and made apology in clear words, which is:

AIMAL WALI KHAN
President Khyber Pakhtunkhwa



ایمل ولی خان
صدر خیبر پختونخوا

آج پشاور ہائیکورٹ میں میری چیف جسٹس صاحب کی عدالت میں پیشی کے بعد جو صورتحال پیدا ہوئی اور بد مزگی ہوئی وہ قابلِ توثیق ہے۔ میں اپنی طرف سے اور اپنی جماعت کی جانب سے اس پر معذرت کرتا ہوں۔ ہمیں چاہیے کہ سیاست کو سیاست کی حد تک محدود رکھیں اور باہمی عزت کا رویہ رواد رکھیں۔ میں یہ ضروری سمجھتا ہوں کہ سوشل میڈیا پر جو تاثر پھیلا یا جا رہا ہے اسکی نفی کر دوں۔ چیف جسٹس ابراہیم خان صاحب میرے لئے اور میری پارٹی کیلئے نہایت قابلِ عزت و احترام ہے اور ہمارا کوئی ذاتی اختلاف نہیں۔ ہم سمجھتے ہیں کہ عدلیہ کو آزاد اور خود مختار ہونا چاہیے اور اس سلسلے میں ہماری پارٹی نے قربانیاں دی ہیں۔ میں نے سیاسی تناظر میں بات کی اور اس کا بر ملا اظہار کیا کہ اگر میرے الفاظ سخت ہیں تو مجھے کوئی ہچکچاہٹ نہیں کہ میں اس پر معذرت کر دوں۔ چیف جسٹس ابراہیم خان صاحب ہمارے لئے قابلِ احترام ہیں اور الفاظ کے چناؤ سے اگر انکی دل آزادی ہوئی ہے تو اس تنازعہ سے قطع نظر، بحیثیت ایک پختون، صوبے کے چیف جسٹس اور ایک بزرگ کی حیثیت سے میں معزز چیف جسٹس صاحب سے معذرت کرتا ہوں اور ان کا شکریہ ادا کرتا ہوں کہ انہوں نے آج فراخ دلی کا مظاہرہ کرتے ہوئے نہ صرف ہمیں سنا بلکہ اپنے موقف کا بھی کھل کر اظہار کیا اور اس معاملے کو نمٹا دیا۔


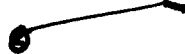
بیر سٹر عامر اللہ خان چنگی
ایڈووکیٹ سپریم کورٹ آف پاکستان
وکیل ایمل ولی خان

ایمل ولی خان
صدر عوامی پیشکش پارٹی خیبر پختونخوا

7. This being the situation, the Court, which though could robustly proceed against the respondent Aimal Wali Khan, would prefer to consider and accept his heartfelt apology and in consideration of extending obeisance/mark of respect to the *nanawatey* members as a corollary, relieve him of the matter.

8. The petition stands disposed of in the above manner.

Announced.
Dt: 11.01.2024



Chief Justice