JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD,

JUDICIAL DEPARTMENT

W.P No.1812-2022

Arshad Sharif and others
Vs.
Federation of Pakistan and others.

W.P No1872-2022

Muhammad Imran Riaz
Vs.
Federation of Pakistan and others

W.P No.2005-2022

Arshad Sharif
Vs.
Federation of Pakistan and others.

Crl. Misc. No.658-2022

Sami Ibrahim
Vs.
Federation of Pakistan and others.

Petitioners by:	Mr. Muhammad Faisal Malik, Barrister Muhammad Shoaib Razzaq, Mr. Muhammad Omar Farooq, Malik Muhammad Fiaz Kandwal, Advocates in their respective petitions alongwith petitioner Sami Ibrahim.
Respondents by:	Mr. Usman Rasool Ghumman, AAG. Ms. Saadia Shehzadi, State Counsel. Ms. Sumaira Khurshid, State Counsel. Tahir Kazim, Law Officer IG Office. Muhammad Akbar, S.I, P.S Kohsar, Islamabad.
Amici Curiae	Ms. Khadija Ali, Advocate, Mr. Muhammad Naseem Zia, District Public Prosecutor. Mr. Kamran Adil, D.I.G Police and Research Centre, Lahore High Court, Lahore. Mr. Nasir Zaidi, Secretary General, PFUJ.
Assisted by:	Research Centre, Lahore High Court, Lahore. Ms. Aymen Azeem, Law Clerk, IHC.
Date of Hearing:	27.06.2024.

MOHSIN AKHTAR KAYANI, J: By way of this common judgment, I intend to decide all the above captioned petitions and Crl. Misc. having common questions of law and facts.

2. Through W. P No.1812-2022, the petitioner Arshad Sharif and two others namely Sami Ibrahim and Dr. Moiz Pirzada Journalists by profession, who was associated with ARY News was aggrieved of registration of multiple F.I.Rs against Arshad Sharif nationwide to take political revenge from him based upon Vlog recorded by the Journalist Mati Ullah Jan within the vicinity of Islamabad High Court. Therefore, Arshad Sharif (late) requested to consolidate all the F.I.Rs to settle the issue through a single trial under the jurisdiction of Islamabad and further requested to quash those F.I.Rs.

3. Through W. P No.2005-2022, the petitioner Arshad Sharif has prayed for consolidation of F.I.Rs and transfer of the same to Police Station Ramna, Islamabad with direction to Secretary, Ministry of Interior to take necessary steps for the transfer of all F.I.Rs lodged against the petitioner in Balochistan, Sindh and anywhere else in Pakistan to Police Station, Ramna, Islamabad. The detail of the F.I.Rs is as under:-

i. *F.I.R No.26/2022, P.S and District Dadu of 20 May 2022 u/s 131, 153 & 505 PPC.*
ii. *FIR No.86/2022 PS B Section Latif Abad, District Hyderabad of 20 May 2022 u/s 131, 153 & 505 PPC.*
iii. *FIR No.207/2022 PS Aharafigoth, District Malir Karachi of 19 May 2022 u/s 131, 153 & 505 PPC.*
iv. *FIR No.7/2022 PS Levy Bostan & District Pishin of 19 May 2022 u/s 131, 153, 499 & 505 PPC.*
v. *FIR No.12/2022 PS Chaman, District Killa Saifullah of 20 May 2022 u/s 34, 131, 499 & 505 PPC.*

4. Through W.P No.1872-2022, the petitioner Muhammad Imran Riaz has prayed for provision of information and record pertaining to different F.I.Rs registered against him and his family members. As per stance of the petitioner, he has been victimized for expressing his distinct opinions and views as a

journalist, whereby he has highlighted the illegalities and misconduct of various Federal and Provincial officials due to which they were annoyed. Being displeased, they lodged two bogus and frivolous F.I.Rs against him i.e. F.IR No.80/2022 dated 21.05.2022, under Sections 131, 153A, 505A PPC, P.S City B Section, District Nawab Shah and F.I.R No.46/2022 dated 22.05.2022, under Sections 131, 153, 505 PPC, Police Station Dhabeji, District Thatha.

5. Through Crl. Misc. No.658-2022, the petitioner Sami Ibrahim claims that he has been victimized due to his professional working, in which he has highlighted views in terms of freedom of expression, therefore, he has been nominated as an accused in case F.I.R No.12/2022, dated 21.05.2022, under Sections 131, 499, 505/34 PPC, P.S Chaman, District Killa Abdullah Balochistan, F.I.R No.7/2022 dated 19.05.2022, u/s 131, 153, 499, 505 PPC, P.S Levies, District Pishin, Balochistan, and F.I.R No.30/22, dated 19.05.2022, under Sections 131, 153A, 499, 505 PPC, Bijli Road, District Quetta. Therefore, prayed for transitory bails in all FIRs to approach the relevant/concerned courts of law for the redressal of his lawful right of bail before arrest.

6. Notices were issued to the Federal Government on multiple dates and cases were kept pending for their reports and in the meanwhile, Arshad Sharif left Pakistan to protect himself and later on was assassinated in Kenya. Federal Government Institutions submitted different reports, but the scenario remained unclear as to how many F.I.Rs have been lodged. Therefore, this Court is of the view that multiple FIRs lodged concerning the same incident or cause of action, particularly against an individual for their political beliefs or freedom of expression, such as opinions expressed in a V-Log, TV program, or newspaper, whether the individual is a journalist or otherwise, appear to be politically motivated with the intent to settle scores. It appears that the registration of FIRs has been used as a tool to curtail liberty and to punish individuals for their

differing political ideologies and views. In such scenarios, these individuals are subjected to unjust harassment by various political authorities or public officials.

7. During the course of arguments, the registration of multiple F.I.Rs across the country qua the same cause of action against the same person, gave rise to a new dimension and unanswered question has surfaced as to how and under what circumstances protection could be given to the person under the constitutional framework against whom multiple F.I.Rs have been registered qua the same incident in different parts of country.

8. This Court has observed multiple facts vide order dated 19.03.2024, which are as under:-

> *Keeping in view the ubiquitous usage of technology, internet and social media platforms by journalists, vloggers, podcasters, live streamers, reviewers and critics, social media influencers and others of the like, a new trend in the cognizance of crime has been observed over the past few years.*
>
> *For instances, if someone from the above categories or any person publishes something on social media, gives a statement on social or mainstream media, passes a comment, criticizes a public official, display any visual (photo or video), plays an audio or shares his/her analysis, a third person who watches any of the above on social media or mainstream media or reads in newspaper, goes to the Police Station in his city and lodge an FIR against the said person because he felt aggrieved. In this way a chain of FIRs is formed and multiple FIRs are lodged against one person in several cities of all the four provinces and Islamabad Capital Territory without considering that at what place the said act/offence was committed.*
>
> *It is a settled position that FIR must be lodged within the territorial limits of the police station of which the offence was committed. But here the situation is different and Code of Criminal Procedure is coming short of assistance because the alleged offence is committed inside the studio of a TV channel or on a social media platform (which is broadcasted all over the country) and seen in every corner of the country. In this scenario, Code of Criminal Procedure, Pakistan Penal Code and Prevention of Electronic Crimes Act are facing limitations before new technology.*

Under such cases where multiple FIRs are lodged in multiple cities of different provinces against one person or more than one person and the offence is same or similar then what course of action that person is supposed to take? He/She cannot be taken into custody at a time in all those places. Moreover, it seems practically very difficult for the accused nominated in multiple FIRs to seek bail from ten or more different cities in different provinces.

To tackle the issue, the following questions, surfaced on record.

I. *Would that person can be tried simultaneously at several places under the jurisdiction of several courts? Wouldn't it be against the spirit of Section 235 Cr.P.C., where a person/accused of several offences is tried in a single trial?*

II. *If the FIR (prior in time) would be considered as basic first information (no matter wherever it was lodged) and would the rest of the FIRs(in other provinces and same province) be converted/treated as 161 statements by transferring the same to the place where initial FIR was registered or treated as supplementary to main case.*
    a) *Can it be done? If yes, under what procedure?*
    b) *If not, can a High Court quash those other FIRs lodged in different jurisdictions because the offence and accused are same?*
    c) *What is way forward keeping in view the celebrated judgment of Honorable Supreme Court i.e. PLD 2017 SC 595 (Sughran Bibi Versus the State).*

III. *In such circumstances, where an official/public office holder was criticized etc. whether the head of that department can lodge an FIR where the headquarter of the department is located?*
    a) *If the department or the official himself does not lodge an FIR, whether a private individual can lodge FIR based on official reverence/affinity only?*

IV. *Whether Inter-Provincial transfer or consolidation of FIRs is permissible when the accused and offence are same?*

V. *One or several offences arising out of one transaction (just for example, offences u/s 131, 153, 153A, 153B, 499, 505, 295, 298 of PPC when broadcasted online and under sections 11, 16, 20 and 22A PECA) multiple FIRs lodged in several provinces of Pakistan, can they be consolidated in one High Court in terms*

of Article 199 of the Constitution of Pakistan, 1973 and Section 561 Cr.P.C.

VI. *Does PECA permit to lodge an FIR wherever an allegedly blasphemous or disrespectful/insulting content is viewed, read or listened to irrespective of the specified place of occurrence?*

VII. *Do Police Rules, 1934 permit investigation of multiple FIRs containing same offence under one consolidated or Joint Investigation Team (JIT) under the law?*

9. In order to resolve above matter and to reach at conclusive solution under the law, this Court has appointed three amici i.e. Ms. Khadija Ali, Advocate, Mr. Naseem Zia, District Public Prosecutor, Islamabad and Mr. Kamran Aadil, DIG Punjab Police, Lahore in this case to assist this Court on the above mentioned issues.

10. The first two questions are taken together to answer. The assistance in this regard was taken from research conducted by Research Centre Lahore High Court, Lahore, which is as under:-

QUESTIONS NO.1 & II

At the very outset, it is pertinent to mention here that the matter of registration of multiple FIRs by different individuals regarding same occurrence has been settled by the Supreme Court of Pakistan ***Sughran Bibi Case (PLD 2018 Supreme Court 595).*** In this case, the Supreme Court after discussing all the case law developed on the subject, held that after entering the first information relating to commission of a cognizable offence in the prescribed book, i.e. after registration of an FIR **the matter became a "case"**, and thereafter every step taken in the ensuing investigation was a step taken in that case. The Court held that the perusal of **Rule 24.5 of the Police Rules, 1934** showed that commission of a cognizable offence, when reported to the police through the first information and registered in the FIR register, was treated as a "case" bearing an annual serial number and such "case"

carried the same number forever irrespective of any number of different versions received by the police regarding commission of the said offence or any number of different circumstances or sets of culprits brought to the notice of the investigating officer during the investigation of the "case".

The Court further held that during the investigation conducted after registration of an FIR, the investigating officer may record any number of versions of the same incident brought to his notice by different persons which versions were to be recorded by him under S. 161, Cr.P.C. in the same case. However no separate FIR was to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case and all subsequent or divergent versions of the same occurrence or the persons involved therein were to be received, recorded and investigated by the investigating officer in the same "case" which was based upon the one and only FIR registered in respect of the relevant "offence" in the prescribed book kept at the local police station.

The principle of law laid down by the Supreme Court of Pakistan in **Sughran Bibi** case is binding on all courts in Pakistan in terms of **Article 189** of the Constitution.

11. In a recent judgment of the Peshawar High Court titled ***Asad Qaiser vs. Government of Khyber Pakhtunkhwa*** (Writ Petition No.5281-P/2023), the matter of registration of multiple FIRs against same person and his arrest in such cases one after the other came for consideration before High Court. The High Court while relying upon ***Mst. Razia Pervez and another v. the Senior Superintendent of Police Multan and 05 others (1992 PCrLJ 131)*** held that where more than one FIRs are registered against a person and he is arrested in one of them and

remanded to physical custody then he should be interrogated about the allegations against him in all the cases.

The Court further held that the detention of the accused persons required in more than one case already registered against him, for more than fourteen (14) days would be illegal and such a person shall be deemed to have been arrested in all the cases registered against him.

The Court finally held that *"Arrest of an accused persons involved in so many criminal cases of the same province after his release on bail in another case amounts to colorful exercise of powers which cannot be countenanced at any cost."*

12. Similarly, in another recent case titled ***Muhammad Azam Khan Swati v. Inspector General of Police, Balochistan and 2 others*** (PLD 2023 Balochistan 85), the Petitioner **sought quashing of all FIRs** as they contained similar allegations **with reference to one occurrence** against which one case had already been **pending in another province**.

In this case the petitioner was facing multiple FIRs on the allegations of condemnation of creation of State and advocacy of abolition of its sovereignty, sedition, abetting mutiny, attempting to seduce a soldier or airman from his duty, wantonly giving provision with intent to cause riot, defamation, intentional insult with intent to provoke breach of peace and criminal intimidation. Some of the FIR's were registered for offences under Prevention of Electronic Crimes Act (PECA) 2016.

One of the main allegations against the petitioner was that he with *malafide* intention and ulterior motives had started highly obnoxious campaign of intimidating **tweets through his personal account against state institutions and senior functionaries, including Chief of Army Staff** of Pakistan Army and such mischievous act of subversion created a rift between personnel of armed forces to harm the State of Pakistan.

The Court held as follows:

"Though a strait Jacket formula cannot be laid down, yet the only test whether multiple FIRs can be permitted to exist. In such case, the Court has to examine the facts and circumstances giving rise to all the FIRs and the test of sameness is to be applied to find out whether all the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents, which are two or more parts of the same transaction. If the answer is in affirmative, the second or the remaining FIRs are liable to be quashed. However, in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/crimes, the second FIR is permissible."

The Court further observed that:

"*Admittedly, all the aforementioned FIRs have been registered for the same incident under the same provisions of law against the same accused and in such state of affairs, taking cognizance by multiple Courts, having different territorial jurisdiction simultaneously, seems to be in violation of Articles 4 and 13 of the Constitution, Section 403 of the Cr.P.C. and Section 26 of the General Clauses Act 1897. Similarly, Part VI-Chapter XV Sections 177, 179, 180, 181 and Section 235 of the Cr.P.C. also envisage a single trial."*

The Court observed that:

"The petitioner has been charge-sheeted in a number of cases and he shall either be convicted or acquitted on the basis of facts and evidence. In such view of the matter the simultaneous and continuous trials in presence of same facts and on the same set of evidence and allegations, would patently result in a duplicate punishment or at least a duplicate trial in violation of the doctrine of ***double jeopardy****"*

The Court further held that:

"It is true that the disputed tweets contain highly obnoxious and intimidating language but it is equally true that multiple registration of FIRs cannot be allowed that too respect of one and the same offence in view of the dictum laid down by the Honourable Supreme in case of "Mst. Sughran Bibi v. The State" (PLD 2018 Supreme Court 595)."

13. The wisdom laid down in both the above judgments of the High Court although held it in clear terms that a person arrested in one of the many cases of

the same nature registered against him, would be deemed arrested in all cases and that the subsequent FIR's on same or similar facts are liable to be quashed **but said ruling was restricted to the FIR's registered within the territorial limits of the said provinces,** therefore, further deliberation on the question is required, which is as follows:-

The basic section of Code of Criminal Procedure dealing with territorial jurisdiction of investigation agency and criminal courts is section 177 which is reproduced as under:

> *"177. Ordinary place of inquiry and trial: Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed."*

Mr. Naseem Zia, District Public Prosecutor has lead his argument on this question and assisted that the jurisdiction in criminal matters/proceedings initiated in different courts in two or more High Court is dealt with under Section 185 which is as under:

> ***"185. High Court to decide, in case of doubt, district where inquiry or trial shall take place.*** *(1) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court."*
> (2) *Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any Court subordinate to it, and if so decides,* ***all other proceedings; against such person in, respect of such offence shall be discontinued.*** *If Such High Court, upon the matter, having been brought to its notice, does not so decide, any other High Court/within the local limits of whose appellate criminal jurisdiction such proceedings are pending may give a like direction, and upon its so doing all other such proceedings shall be discontinued."*

The law mentioned in sub-section (2) of Section 185 of the Code is in line with the wisdom laid down in the **Sughran Bibi Case** because both provide that

the subsequent proceedings/FIRs are liable to be discontinued/quashed. Consequently first part of the question under consideration in the manner that if multiple FIRs have been registered against one person on same offence, the information lodged prior in time will prevail and as far as the question of jurisdiction of trial is concerned, if the offence has taken place within jurisdiction of single High Court, the Court is competent to order for trial before any district, and whereas if the offences have taken place in the jurisdiction of two High Court then jurisdiction of the Court will be of the Court, where proceedings were first concerned, and all other proceedings against such person in respect of such offence shall be discontinued.

14. As far as the matter of single trial under Section 235 of the Code is concerned, before discussing its essential ingredients/pre-conditions, it is appropriate to reproduce the said section as under:

> *"**235. Trial for more than one offence:** (1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence-*
>
> *(2) Offence falling within two definitions: If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for; each of such offences.*

This section has been interpreted by superior Courts and the landmark judgment in this regard is ***Azam Shah v. the State (1990 SCMR 1360)*** where the Supreme Court held as follows:

> *This section is enabling and, therefore, it is not obligatory that all the charges should be specified. The other requirement is that there must be one continuous thread of a common purpose running through the acts to support a joinder of charges in respect thereof, and `transaction' means a group of facts so connected together as to involve certain ideas namely, **unity, continuity and connection**. In order to determine whether a group of facts constitute one transaction it is necessary to ascertain*

> *whether they are so connected together as to constitute a whole which can be properly described as a transaction. It is not possible to enunciate any comprehensive formula of universal applicability for the purpose of determining whether two or more acts constitute the same transaction, but circumstances which bear on the determination of the question in any individual case can be indicated by saying that* ***proximity of time, unity or proximity of place, continuity of action and community of purpose or design are the principal criteria*** *for deciding whether certain acts form parts of same transaction or not.*

Earlier in ***Muhammad Mosaddar Haque and another v. The State*** **(*PLD 1958 SC 131)***, The Supreme Court observed as under:

> *In dealing with the question as to what constitutes "the same transaction" Courts, while indicating that the tests to be employed are* ***proximity of time and place, community of purpose or design and, continuity of action****, have also pointed out that the two latter are the essential elements which are necessary in order to link together different acts into the same transaction."*

Similarly, in ***Noor Khan v. The State*** (PLD 1958 Lahore 1052), the Lahore High Court held as:-

> *It is, however, now well settled that the real and substantial test for determining whether several offences are so connected together as to form one transaction is* ***whether the offences are so related to one another in point of purpose, or as cause and effect, or as principal and subsidiary acts, as to constitute one continuous action****. Therefore the question whether distinct offences form part of the same trans action is one, the answer to which must depend on the facts of each particular case.*

In ***The State v. Pirak*** **(1997 PCrLJ 1900)**, the Balochistan High Court held as under:

> *"It is well-settled by now that expression 'same transaction' has not been defined in the Code of Criminal Procedure, from its very nature the word 'transaction' is incapable of exact definition and appears to have been purposely used because it has this quality. PLD 1958 Lah. 1052, AIR 1950 Lah. 199. The expression should be interpreted, not in any special or technical way, but in its ordinary etymological meaning of "an affair" or a*

"carrying through" AIR 1965 Mys. 128, AIR 1994 Born. 306 (D.B.). It must, however, to be noted that in order that series of fact be regarded as the "same transaction", they must be connected together in some way as for instance by proximity of time, unity of place, unity or community of purpose or design and continuity of action. Proximity of time and unity of place are essential though they furnish good evidence of what unites several act" AIR 1965 Mys. 128. "The real and substantial test for determining whether several offences are connected together so as to form one transaction depends upon whether they are so related to one another in point of purpose, or as cause and effect, or as principle and subsidiary acts, as to constitute one continuous section"

In ***Abdul Qadir v. Special Judge (Customs and Taxation) at Karachi 2 others*** **(2022 YLR Note 170)**, the Sindh High Court held as under:-

"Nonetheless, the circumstances of every individual case are important for the determination of the question or the principal criteria for determining whether they form the same transaction or not? In this respect, the proximity of time, unity or proximity of places, continuity of action, unity or contiguity of sufferers, purpose, and design of the acts and the unanimity of beneficiaries are the important indicators for deciding that certain acts form the 'same transaction."

Although all these judgments provide for single trial in case certain offences falls under the term 'same transaction' as discussed above but this section does not envisage single trial of offences falling in territorial jurisdiction of two or more provinces except as provided under Section 185(2) of the Code.

In order to determine the concept of same transaction, same subject matter in more than one FIR, test to be applied to determine whether two or more FIRs relate to same or different incident, the High Court of Hyderabad (India) in *Akbar Uddin Owaisi vs. The Government of AP*, W.P No.824/2013 highlighted multiple factors for consideration, which are as under:-

i. *The distinction between two FIRs relating to same incident, and two FIRs relating to different incident or occurrences of the same incident should be carefully examined;*

ii. *The merit of each case must be considered to determine whether subsequently registered FIR is second FIR relating to same incident or offence or is based upon distinct and different facts and whether its scope of inquiry is entirely different or not;*

iii. *In order to examine the impact of one or more FIRs, the Court has to rationalize the facts and circumstances of each case and then apply the "test of sameness" to find out whether both FIRs relate to same incident and to same occurrence;*

iv. *Whether both FIRs are in regard to incident which are two or more parts of same transaction or relate completely to two distinct occurrence;*

v. *If the second FIR relates to the same cause of action, the same incident, there is sameness of occurrence and an attempt has been made to improvise the case;*

vi. *Concept of sameness or same transaction in any matter may be gathered from the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action, commonality of purpose or design;*

vii. *For Several offences to be part of same transaction, the test to be applied is whether they are so related to one another in point of purpose or of cause and effect or as principal and subsidiary so as to result in one continuous action;*

15. Now adverting to other part of the question under consideration i.e. quashing of F.I.Rs of other jurisdiction.

16. In view of the above, it can be concluded that firstly, in view of the ratio of ***Sughran Bibi Case*** all subsequent FIRs are liable to be quashed but that cannot be

done by filing a petition in the High Court of any one province, whereas the subsequent criminal proceedings were initiated in other provinces, as this is only possible under the authority of some law which is missing in this case. Secondly, based on the same reasoning, when such FIRs are liable to be quashed and are treated as nullity in the eyes of law, it cannot be treated as statement under Section 161 Cr.P.C. Nevertheless, there is no legal hurdle for any person who got recorded such subsequent FIRs to join investigation of the first registered FIR of the occurrence and get recorded his version as statement under Section 161 Cr.P.C. Lastly, keeping in view the ratio of ***Taufiq Asif's case supra*** the Supreme Court clarified that the main grievance and the ultimate relief sought in the petition dictate which High Court has territorial jurisdiction. If the primary relief pertains to actions or proceedings within the jurisdiction of one High Court, another High Court cannot assume jurisdiction, thus one High Court cannot outrightly quash the FIRs lodged within the territorial limits of other High Courts and the dominant object falls within the territorial limits of those High Courts.

QUESTION NO.III

17. This question primarily revolves around the law of cognizance of offences, when the state machinery gets triggered consequent to commission of an offence. In other words, a criminal process can be initiated by way of information of an offence to police and such information may be regarding occurrence of an offence which may prima facie be either cognizable or non-cognizable in nature, though the head of Institution and personally by official himself.

There are plethora of judgments on the point that a SHO has no authority to refuse the recording of information regarding commission of an offence whether it is cognizable or non-cognizable. Police Officer cannot refuse to enter such information in the relevant Book/Register because it is his statutory duty. However, it is also a matter of routine that such initial information to police may

be deficient or partly wrong or misconceived and in some cases it may be even totally baseless. Nevertheless, the SHO is required to follow the law and record any such information in the relevant register and then proceed as per law in the matter i.e. investigation with or without the permission of the concerned Magistrate as the case may be while considering the *prima facie* nature of the offence revealed out of such information to police. It has also been held by the Supreme Court of Pakistan in ***Muhammad Bashir Case*** (PLD 2007 Supreme Court 539) that:

> *"No authority vested with an Officer Incharge of a Police Station or with anyone else to refuse to record an F.I.R. where the information conveyed, disclosed the commission of a cognizable offence---No authority vested with an Officer Incharge of a Police Station or with anyone else to hold any inquiry into the correctness or otherwise of the information which was conveyed to the S.H.O. for the purposes of recording of an F.I.R."*

18. Mr. Kamran, D.I.G, Punjab Police appointed as amicus has assisted that after initial registration a case under Section 154 or 155 Cr.P.C., police starts investigation by following the relevant procedure in either case and after collection of certain evidence during such information, police investigate real facts or new facts, then it can even add or delete an offence.

In ***M. Anawar, Barrister-at-Law v. The Station House Officer, Civil Lines, Police Station, Lahore and another*** (PLD 1972 Lahore 493), the Lahore High Court discussed the necessary conditions for registration of FIR as under:

> *"The condition precedent is simply two-fold; first, it must be an information and secondly, it must relate to a cognizable offence on the face of it and not mere in the light of subsequent events."*

In ***Raja Khurram Ali Khan and another vs. Tayyaba Bibi and another*** (2019 YLR 98), the Islamabad High Court held that FIR can be registered regardless of how information of cognizable offence has been received. The Court held as under:

> *"There is no force in the argument raised by the learned counsel for the Appellants that since the written complaint was not signed by Tayyaba Bibi, therefore a case could not have been registered pursuant thereto. It is settled law that a first information report under section 154 of the Cr.P.C. can be registered by the Incharge of a Police Station regardless of how and in*

> *what manner the information has been received. The First Information Report is neither substantive evidence nor an exhaustive document. It is merely a first information report regarding the commission of a cognizable offence."*

Similarly, in ***Umer Bilal v. The State and another*** (2022 PCrLJ 1373), the Islamabad High Court held as under:

> *The alleged occurrence took place on 18.11.2020, admittedly the matter has not been reported to the police by victims. According to law everyone is bound to report the commission of cognizable offence to the police immediately, so that the FIR should be registered and accused should be punished."*

Therefore, based on the legal framework and jurisprudence established in Pakistan to date, it is concluded that any person, whether an official or a private individual or head of an Institution can lodge FIR if he/she has information about the commission of a cognizable offence. It is statutory duty of the police/FIA to record such information and initiate the investigative process. However, this Court is *prima facie* of the view that if any insulting remarks, words constituting an offence are passed against an Institution or its head, it is obligatory upon the said institution or that individual person, who have been insulted or targeted in an offensive manner, to register the F.I.R, at the place, where headquarter of that department is situated.

QUESTIONS NO. IV & V

19. These questions relating to inter-provincial consolidation of F.I.Rs having several offences will also be taken together being connected with each other. As discussed above the principle of law settled in Sughran Bibi Case does not permit registration of more than one/multiple FIRs regarding one occurrence/offence in different jurisdiction/provinces/cities of the country.

While dealing with matter of 12 FIRs registered all over Pakistan and 08 FIRs registered in different cities falling in territorial jurisdiction of Hon'ble High Court of Balochistan with regard to some alleged occurrence/incident/offence and whilst relying upon above referred judgment of August Supreme Court of

Pakistan, only one FIR recorded in territorial jurisdiction of Hon'ble High Court of Balochistan was kept and rest recorded in same territorial jurisdiction were directed to be quashed in case titled ***Independent Media Corporation (Pvt.) Ltd. through Muhammad Azhar and 4 others Vs. Government of Balochistan through Chief Secretary and Secretary Law, Quetta and 9 others*** (PLD 2019 Balochistan 27) and held that:

> "10. …*A safeguard provided by the Constitution and also by the law that a person might not face prosecution and punishment for same offence more than once, thus in view of the principle, as there is nothing before us from which it could be determined that trial had been commenced in any case, thus the report which was filed prior in time will hold the field and the subsequent reports for the same incident may be treated as statement recorded under Section 161 Cr.P.C, a piece of evidence in support of the initial report. The Constitution guaranteed fair trial, while fair investigation of a case also a right assured. In view the subsequent reports always treated in furtherance of FIR reported prior in time. It is by now an established principle that for one incident there might be only one FIR, while during investigation, after the registration, the Investigating Officer is duty bound to record the different version of same incident brought into his notice by different persons, but not as a report, rather as statements recorded under Section 161 Cr.P.C. in the same case. No separate FIR has to be recorded when any different version of the same incident brought into the notice of the Investigating Officer. …*
>
> *11. …*
> *12. As discussed above in view of the determined principle out of eight FIRs the FIR lodged prior in time i.e. FIR No.3 of 2017 Police Station Thaal Khuzdar shall remain intact and shall proceed. While the remaining are to be quashed. It is for the reasons that co-existence of the remaining FIRs not only amount to abuse of process of law, but also contrary to the spirit of Article 13 of the Constitution. It further affects the rights as guaranteed by the Articles 4, 9 and 10A of the Constitution, thus not sustainable. Resultantly the petitioners have to face the trial in FIR No.3 of 2017 Police Station Thaal Khuzdar in accordance with the Law. …"*

In another case titled ***Independent Media Corporation (Pvt.) Ltd. through Attorney and another v. Prosecutor General, Quetta and 7 others*** (PLD 2015 Balochistan 54) it has been held that:

> *"10. So far as the prayer of the learned counsel for the petitioners regarding trial of the petitioners by a single Court is concerned, we have noticed that almost 75 FIRs across the country have been got registered against the management of petitioner No.1 and petitioner No.2. The moot question for consideration arises as to whether investigation and further proceedings on the basis of all the FIRs is permissible? Though a straitjacket formula cannot be laid down, yet the only test whether 75 FIRs can be permitted to exist. In such case, the Court has to examine the facts and circumstances giving rise to all the FIRs and the test of sameness is to be applied to find out whether all the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents, which are two or*

more parts of the same transaction. If the answer is in the affirmative, the second or the remaining FIRs are liable to be quashed. However, in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/crimes, the second FIR is permissible.

11. Considering the instant case on the touchstone of aforesaid settled legal propositions, we are of the view that it is neither possible nor convenient for the petitioners to obtain bail from various Courts in various cities joining various investigations and finally defending themselves before various Courts, that too, for one and the same offence. Admittedly, all the aforementioned FIRs have been registered for the same incident under the same provisions of law against the same accused and in such state of affairs, taking cognizance by multiple Courts, having different territorial jurisdiction, simultaneously, seems to be in violation of Articles 4 and 13 of the Constitution of Islamic Republic of Pakistan 1973 ("the Constitution"), section 403 of the Cr.P.C. and section 26 of the General Clauses Act 1897. Similarly, Part VI, Chapter XV, sections 177, 179, 180, 181 and section 235 of the Cr.P.C. also envisage a single trial.
12. ……
13. ….
14. The manner, in which a number of FIRs have been got registered, that too, in different parts of the country regarding one and the same offence and, subsequently, its investigation and submission of challans before the concerned Courts, having jurisdiction, clearly indicate that it is abuse of process of law. There has to be an end to litigation in every legal system. It would be shocking to the judicial conscience to try a man again and again for one and the same alleged offence and that is what would happen if we allow such practice. Needless to observe that, as stated above, Article 13 of the Constitution prescribes that "no person shall be prosecuted or punished for the same offence more than once". The word 'liberty' under Article 9 of the Constitution is of the widest amplitude covering variety .of rights, which goes to constitute personal liberty of a citizen. Similarly, Article 4 of the Constitution enshrines that it is inalienable right of every citizen to enjoy the protection of law and to be treated in accordance with law. Likewise, Article 10-A of the Constitution guarantees a fair trial and due process.

Thus, the deprivation of any citizen shall be only as per procedure prescribed in the Code conformable to the mandate of the Constitution.

Under the circumstances, we partly allow this constitutional petition and quash the proceedings in Crimes Nos.3 of 2014, 5 of 2014 and 35 of 2014, respectively lodged with Police Stations Sambaza, Zhob and Quetta up to the extent of the petitioners. However, this order will not affect trial of the petitioners by Sessions Judge, Quetta in Crime No.117 of 2014, dated 3rd June 2014, under section 295-A, read with section 109 of the Pakistan Penal Code.

Inter-Provincial Jurisdiction of High Courts:

20. Having discussed the legality of multiple FIRs of a same or similar occurrence as well as limitations of Section 235 of the Code, it would also be relevant to discuss the issue of the inter-provincial jurisdiction of High Courts in

the light of the available Constitutional provisions as well as the case law settled by the superior courts in Pakistan.

The Constitution of Pakistan under Article 175(2) envisages that ***"No court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law."***

The Constitutional jurisdiction of one High Court beyond the territorial limits of a Province has been discussed in many cases. The landmark cases in this regard are ***Sandalbar Enterprises Ltd. vs. Central Board of Revenue and others*** (PLD 1997 Supreme Court 334), ***Amin Textile Mills (PVT.) Ltd. v. Islamic Republic of Pakistan and 3 others*** (1998 SCMR 2389) and ***Messrs Sethi and Sethi Sons through Humayun Khan v. Federation of Pakistan through Secretary, Ministry of Finance, Islamabad and others*** (2012 PTD 1869).

It was held in **Sethi Case** supra that **Person performing functions in connection with the Province** or Local Authority had a clearly demarcated territorial jurisdiction and for the purposes of territorial jurisdiction under Art. 199 of the Constitution, **the corresponding High Court in the Province assumed territorial jurisdiction**.

In a most recent judgment reported as (2024 SCP 87) ***Taufiq Asif Vs. General (Retd.) Pervez Musharraf and others***, Supreme Court has discussed the Constitutional jurisdiction of the High Courts. One of the questions which came for consideration of the Supreme Court was that: whether any High Court can assume and exercise writ jurisdiction where **an act is done or Proceedings are taken** within the territorial jurisdiction of another High Court?

The Supreme Court held as follows:

> *The Lahore High Court assumed territorial jurisdiction in the matter, stating the reason that since the respondent also challenged, along with the acts and proceedings of the Special Court, the Federal Government's acts, i.e., the acts of filing of complaint and constituting the Special Court, it had the jurisdiction to adjudicate upon the matter. The reason is flawed and is also against the law declared by this Court in Sandalbar and Amin Textile*

> *as well as by the Lahore High Court in Sethi and Sethi. The ratio of these cases is that* ***it is the dominant object of the petition*** *i.e., the main grievance agitated and the ultimate relief sought in the petition, which determines the territorial jurisdiction of the High Courts.* ***If the ultimate relief sought relates to an act done or proceeding taken within the territorial jurisdiction of a particular High Court, no other High Court in the country can assume and exercise writ jurisdiction on the pretext that one of the reliefs sought relates to an act of a federal body."***

As far as the right of a person to transfer any case or proceedings from the territorial jurisdiction of one High Court to another High Court is concerned, such a right is provided under **Article 186A** of the Constitution of Pakistan whereby the power to transfer cases inter-provinces vests with the Supreme Court of Pakistan. The Article provides as follows:

> *"The Supreme Court may, if it considers it expedient to do so in the interest of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court."*

Similarly, under some laws like National Accountability Ordinance, 1999, a right to seek transfer of a case from one province to another has been given to an accused of offences under the National Accountability Ordinance, 1999. Section 16A (c) of the Ordinance provides as under:-

> ***"16A. Transfer of cases.__***
>
> *(c) The accused may also make an application to the Supreme Court for the transfer of a case from a Court in one Province to a Court in another Province and to the High Court for transfer of a case from one Court in a Province to another Court in the same Province and the Supreme Court or the High Court, as the case may be, if it is in the interest of justice, transfer the case from one Court to another Court, and the case so transferred shall be tried under this Ordinance without recalling any witness whose evidence may have been recorded.]*

21. So far as the question whether High Court in terms of Article 199 of the Constitution and Section 561-A Cr.P.C. may pass an order/judgment for consolidation of such FIRs is concerned, where multiple FIRs regarding one

occurrence have been registered outside its territorial jurisdiction, the High Court is refrained to assume jurisdiction.

In ***Independent Media Corporation (Pvt.) Ltd. through Muhammad Azhar and 4 others Vs. Government of Balochistan through Chief Secretary and Secretary Law, Quetta and 09 others*** (PLD 2019 Balochistan 27), it was held that:

> *"9. The only question before this Court is that which of the FIR would hold the field and the petitioners have to face the trial therein. …..First Information Report No.24 of 2017 Police Station Steel Town Maleer Karachi was registered on 28th January, 2017, though prior in time, but this Court lacks territorial jurisdiction to this extent. …."*

In ***Independent media corporation (Pvt.) Ltd. through Attorney and another Vs. Prosecutor General, Quetta and 7 others*** (PLD 2015 Balochistan 54) it has been further held that:

> *8. It is also worth mentioning that* ***section 185 of the Cr.P.C. does not enable a High Court to make an order transferring a case pending on the file of a criminal Court whether within or outside its jurisdiction to the file of another criminal Court whether such other criminal Court be within its own jurisdiction or without its jurisdiction****. Section 185 of the Cr.P.C. has absolutely nothing to do with transfer or with a High Court's power of transfer.* ***The power to transfer vested in the High Court, insofar as the Criminal Procedure Code is concerned, is dealt with solely by section 526 of the Cr.P.C.*** *Similarly, section 527(1) of the Cr.P.C. implies that it is only the Provincial Government that has the power to transfer a case pending in a Court subordinate to one High Court to be tried by a Court subordinate to another High Court. Section 185(1) of the Cr.P.C. only implies that whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire or try any offence, shall be decided by that High Court.*
>
> *9. …Thus, it would be appropriate for the petitioners to approach the relevant High Courts for redressal of their grievances regarding consolidation of FIRs and trial by a single Court, if advised.*

It is held in ***Ch. Abdul Razzaq vs. Federation of Pakistan and others*** (PLD 1998 Lahore 394) reading as follows:

> *7. It is obvious from the plain reading of the above provisions that a twofold territorial limitation has been placed on the power of the High Court to issue writs. In the first place, the person to whom a High Court issues such a writ must be within the territorial jurisdiction of the Court. Secondly, the impugned act done or proceedings taken by a person must have been done or taken within the territorial jurisdiction of the Court. In either of the cases, the territorial nexus is required to be shown in order to attract the jurisdiction of a High Court. The provisions of Article 199 of 1973 Constitution are akin to Article 170 of 1956 Constitution and Article 226 of the Constitution of India as amended. However, it was by way of amendment in Article 98(2) of 1962 Constitution through the Constitution First Amendment Act, 1963, that a territorial restriction on the powers of a*

> *High Court was placed for a limited purpose of proceeding for the enforcement of fundamental rights. The provisions of Article 98 of 1962 Constitution were different from the present Article 199 of 1973 Constitution.*

22. In Indian jurisdiction, in case titled ***Arnab Ranjan Goswami v. Union of India and others (AIR 2020 SC 2386)***. The Supreme Court of India quashed multiple FIRs in several states on same cause of action except one under investigation in Mumbai on the ground of abuse of process of law and also observed that "*in such a situation to require the petitioner to approach the respective High Courts having jurisdiction for quashing would result into multiplicity of proceedings and unnecessary harassment to petitioner, who is a journalist.*"

So far as inter-provincial transfer or consolidation of FIRs is concerned, no Pakistani case law is found to this effect, however, in Indian jurisdiction, in case titled as ***Satinder Singh Bhasin vs The State of Uttar Pradesh*** decided on **12 May, 2022**, and ***Sanjay Verma vs The State of Madhya Pradesh*** decided on **13 July, 2022**, the Supreme Court permitted clubbing of FIRs state-wise and directed for proceedings to one trial as far as possible.

23. In nutshell, it has been clarified that under Article 199 of the Constitution of Pakistan and Section 561-A Cr.P.C., High Court lacks the authority to consolidate FIRs registered outside its territorial jurisdiction. The consolidation of FIRs is not permissible within a single High Court if the FIRs were lodged in different jurisdictions or different Provinces as Section 185 of the Cr.P.C. does not grant High Courts the power to transfer or consolidate cases across different High Courts or jurisdictions. Instead, the power to transfer cases between different High Courts is vested in the Provincial Government under Section 527(1) of the Cr.P.C. and with the Supreme Court. Thus, while Pakistani law does not currently facilitate the consolidation of FIRs lodged across different provinces within a single High Court, petitioners are advised to seek redressal from the relevant High Courts or approach the Provincial Government for inter-provincial transfers if necessary.

QUESTION NO. VI & VII

24. Before answering these questions, we need to determine a prior question that PPC offences are PECA offences or not? and what are the requirements and conditions that make an offence under PPC also an offence under PECA? No doubt in this digital era dispensing information and sharing content online is very simple and easy. The basic question before this court is criticizing/expressing opinions online through social media, TV channels or print media etc. regarding institutions, governmental/political officials/personnel respectively, personal views regarding a religious topic or a sect by text, voice, video or signs etc. Moreover, those views/opinions may or may not be for the purpose of disrupting violence, enticing emotions, creating disturbance against any religious sect or minorities, state institutions, officials, political figures or political parties etc. But would that make them a PECA offence?

To answer this question, we need to look into the provisions of PECA. Section 27(1) provides that,

> *"Notwithstanding anything contained in any other law for the time being in force, an offence under this Act or any other law shall not be denied legal recognition and enforcement for the sole reason of such offence being committed in relation to or through the use of an information system."*

It is evident from the language of Section 27, that an offence under any law for the time being in force **shall not stop being an offence** merely because it has been committed through use of an information system. In other words, any offence under PECA or any other law is not to be denied legal recognition due to the use or involvement of any information system in carrying such offence or due to such offence being carried out in relation to an information system. What it also means is that an offence, for example, which is defined as such under PPC, does not transform itself into a PECA offence merely because it has been committed through the use of an information system.

25. These questions have been taken, discussed at length and resolved by a three members bench's judgment of this Court in ***Crl. Misc. No. 1184-B-2023 (Muhammad Ayyaz Bin Tariq versus the State an another).*** the court held as follows; -

> *"4. The mere use of an information system to carry out an offence defined by PPC would not transform such offence into a PECA offence. In The mere use of an information system to carry out an offence defined by PPC would not transform such offence into a PECA offence."*

The larger bench **in Ayyaz bin Tariq** case further clarified that PPC and PECA offences will be jointly tried in one court only if it qualifies the test of section 235 Cr.P.C. This court further held that:-

> *"Section 10 of PECA defines the actus reus for cyber terrorism as committing any of the offences under sections 6, 7, 8 or 9 of PECA, and sub-clauses (a), (b) and (c) of section 10 then define the mens rea that must be associated with the proscribed actions to constitute the offence of cyber terrorism. Thus, the mere use of an information system to advance interfaith sectarian or ethnic hatred does not constitute the offence of cyber terrorism. Likewise, the preparation or dissemination of information through an information system or device that has the effect of advancing interfaith sectarian or racial hatred constitutes hate speech under section 11 of PECA. It is possible that an act that qualifies as hate speech under section 11 of PECA may also constitute an offence under section 295 or 295-A or 298 or 298-A of PPC. But the actus reus and mens rea for offences defined under section 295-B and 295-C are quite different. The mens rea for purposes of sections 295-B or 295-C has no correlation with the effect or motive of advancing interfaith sectarian or religious hatred, which constitutes a component of the offence of hate speech under section 11 of PECA. Thus, where the acts of a person constitute an offence under section 295-B or 295-C, the mere use of an information system or device to carry out such offence would not make such action an offence under section 11 of PECA."*

Thus, it is clarified that not all PECA offences are PPC offences and they shall be seen or tried within the ambit of PECA or cybercrimes. The test of section 235 Cr.P.C has to be met to be tried jointly and courts have to verify whether they occur from same transaction (which is also discussed above in this judgment) or not and whether it comes under the ambit of PECA or not.

26. Now coming towards our questions which are to be answered jointly and in this regard reliance is placed on assistance of *amicus curie* Ms. Khadija Ali, Advocate in terms of mechanisms available for registration and investigation of multiple FIRs, different legal frameworks exist for cybercrimes and other crimes. Firstly, in cases of cybercrimes, Criminal Laws (Amendment) Act 2023 amended the Prevention of Electronic Crimes Act 2016 by substituting section 30 of the Prevention of Electronic Crimes Act 2016 in the following terms:

> **30. Power and procedure to investigate**. **—**
> (1) In addition to the Federal Investigation Agency, the Police shall be authorized to take cognizance of the offences under this Act. In that case the Police shall be bound to refer the matter relating offence under this Act immediately to the Federal Investigation Agency, for technical opinion and investigation as per its mandate and rules:
> Provided that the Federal or Provincial Government, as the case may be, may constitute one or more joint investigation teams comprising of an authorized officer of the investigation agency and any other law enforcement agency for investigation of an offence under this Act and any other law for the time being in force.
> (2) An investigating officer under this Act shall be an officer or Police not below the rank of Inspector of Police or equivalent or, if the Federal Government or the Provincial Government, as the case may, deems necessary to constitute a Joint Investigation Team it shall be headed by an Investigating Officer not below the rank of BS- 18 and other officers of Joint Investigation Team may include equivalent rank from other agencies, as the case may be. The Joint Investigation Team shall comprise five members and for the meeting purposes the quorum shall consists of three members.
> (3) The investigating officer or the Joint Investigation Team, as case may be, shall complete the investigation in respect of cases triable by the court within forty-five working days.
> (4) The Court shall, on taking cognizance of a case under this Act, proceed with the trial on weekly basis and shall decide the case within three months, failing which the matter shall be brought, to the notice of the Chief Justice of the High Court concerned for appropriate directions, keeping in view the facts and circumstances of the case.

27. In cases of crimes, Section 30 of the PECA provides necessary guidance to investigate an offence under this Act by authorize officer and provided the concept of joint investigation team. The insertion of this

provision in PECA is in line with the evolving jurisprudence after 18th constitutional amendment whereby trans-provincial matters have nexus to the jurisdiction of federal functionaries as held in ***(PLD 2019 Lahore 17) Imran Maqbool versus FoP*** **AND** ***(2018 SCMR 802) Sui Southern Gas Limited versus FoP.*** It is pertinent to note that Section 30 provides concurrent jurisdiction for the purposes of investigation to FIA as well as other investigating agencies. In **Ayyaz Bin Tariq** case the larger bench of this Court has held that FIA is vested with the authority to register an FIR for purposes of inquiring into and investigating the allegations. However, if in such cases Police registers an FIR, police is bound to refer the matter related to any offence under PECA to FIA. Therefore, for cybercrimes, all FIRs registered by the police anywhere in Pakistan are to be referred to FIA for the purposes of investigation in addition to constitution of **Joint Investigation Team (JIT) where needed**.

For the creation of JIT, the prior determination of offence is necessary that the offence falls within the purview of PECA. As discussed above that not all PECA offences are PPC offences and not in all cases FIA has the jurisdiction to file complaint and investigate the matter. Thus, PECA allows FIA (investigating agency) to register a complaint and investigate the same.

28. Thus, due to lack of legislative/legal framework, to deal with similar matters, for future, this Court has drawn following guiding principles/ recommendations/directions:-

PRINCIPLES

i. *In cases of multiple FIRs in different provinces, the accused can avail the remedy by invoking Constitutional jurisdiction of the Supreme Court of Pakistan under Article 184(3) read with Article 186A and Article 187 of the Constitution.*
ii. *After registration of first FIR, the accused can seek quashing of all subsequent FIRs within the jurisdiction of a particular province in view of the* ***Sughran Bibi Case****. However, he has to seek quashing separately in each province where subsequent FIRs were registered.*

iii. *The accused can avail the remedy provided under Section 185(2) of the Code of Criminal Procedure before the High Court if one of the Court has taken cognizance in that jurisdiction among the multiple FIRs.*

iv. *The accused if granted bail, whether pre-arrest or post arrest in one case from the same subject matter of multiple FIRs in one District or Province, he shall not be arrested in any other case/FIRs, rather his one bail order will be considered effective in all multiple FIRs, and Courts must respect the first bail order in other cases of same subject matter/ same transaction.*

v. *The High Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 may suspend the operation of all the FIRs of same subject matter, except one in which investigation is conducted and the said FIR if registered first in time within its jurisdiction.*

vi. *The mere use of an information system to carry out an offence defined by PPC would not transform such offence into a PECA offence. For an act to qualify as an offence under PPC as well as PECA, the requirements of actus reus and mens rea as provided in the relevant provisions of law creating such offence must be satisfied.*

vii. *The offence relating to allegation of hate speech, glorification of offence and cyber terrorism rendered in TV program, Vlog, social media platform or relating to incitement to public mischief against State or against the public tranquility, incitement to any class, community or alarming news intent to create or promote feelings of enmity etc., criminal conspiracy, wantonly giving provision with intent to cause riot, allegation of provocation with intent to create or promote enmity with different groups, the intentional insult with intent to provoke breach of peace shall only be dealt under PECA, 2016. However, in case, FIR has been registered under PPC in ordinary manner, the same should be referred to FIA and investigated by J.I.T subject to the condition or other requirements of PECA offence.*

viii. *On the basis of any Vlog, news item, social media platform, clip, statement or content, which is prima facie adverse to the State Institution or head of the State Institution like judiciary, Pakistan Army, the political Government i.e. Speaker National Assembly, Chairman Senate etc. FIR should only be registered on the instructions of Secretary, Ministry of Interior in Islamabad Capital Territory after seeking report from the concerned quarters including but not limited to multiple complaints filed by different individuals anywhere in Pakistan with the*

condition that no individual would register FIR anywhere in Pakistan, except with the permission of Secretary, Ministry of Interior.

ix. *If any of the news item, expression, statement of any individual broadcasted/published on the social platform, newspaper, TV Program etc. is against Provincial Institutions or the head of the Institutions in terms of their official working, the FIR should only be registered at Provincial headquarter on the complaint of an individual with permission of Home Secretary of the Provincial Government. However, it is important to note here that after registration of FIR, no other F.I.R would be registered.*

x. *If on the same allegation/subject matter, multiple FIRs have been registered, only first F.I.R, which has been registered earlier in time be proceeded and all subsequent FIRs shall be stayed till the final conclusion of the first FIR or cancelled.*

xi. *It is the duty and responsibility of investigation officer and SHO who are dealing with the case of multiple FIRs on same subject matter, whether under PECA offences or offences under PPC, to verify the fact that case under investigation is registered first in time otherwise I.O shall not further investigate the matter and shall submit report to concerned Magistrate for release of the accused forthwith if accused has already gone through the process in first FIR under the law.*

xii. *In cases of multiple FIRs on same subject matter, the I.O shall inform the concerned quarters including other SHOs, DPOs, CPOs, IGs/police stations of District or Provinces regarding investigation in first FIR, to avoid any abuse of process of law, otherwise it should be treated as misconduct on the part of concerned police official who shall be dealt under the law accordingly.*

xiii. *In case of dispute in territorial jurisdiction with reference to offence, question relating to electronic media, social platform, views expressed on any TV channel, the Interior Secretary is the only competent authority to pass direction for registration of FIR at Islamabad Capital Territory as well as Home Secretary in Provincial Headquarters subject to considering the allegations against Federal Institutions or Provincial Institutions or in case of both kind of allegations, the FIR should be registered at Islamabad Capital Territory.*

xiv. *The Secretary Interior or Home Secretary, as the case may be, are under duty to immediately verify the cases of multiple FIRs on same subject matter and may issue necessary directions to other territories by way of circular, notification or guidelines regarding the mode and*

manner of arrest, investigation of accused person in order to avoid any abuse of process.

xv. If the accused has been arrested in one case, the Magistrate shall not grant remand in other case of same subject matter as his arrest in one case is deemed to be considered as arrest in all other cases.

xvi. No Police/FIA office/official or law enforcement agencies are allowed to arrest any individual in cases of multiple FIRs of same nature after his arrest in one case, nor the person would be detained or transferred to any other territory for the purpose of investigation unless permission has been granted by the Secretary, Ministry of Interior with reasons.

xvii. In case of multiple FIRs on same subject matter, PECA, 2016 requires amendment as well as the Rules made their-under till such time, SOPs of investigation agencies are to be notified to avoid abuse of process of law by the Provincial and Federal Government.

xviii. If PECA offences are included in FIR along with offences of PPC in case of multiple FIRs against an accused on the same subject matter in different provinces or districts, rules in terms of Section 51 PECA, 2016 may be notified on the analogy of Police Rules 25.7 and 25.8 whereby the cases can be transferred to single police station or investigation can be conducted by single JIT.

xix. The government shall notify mechanism under the law to regulate digital media platforms, V-loggers after their registration, who shall also be bound by the Code of Ethics duly approved by after consultation with PFUJ to promote, protect and effectively ensure the independence, impartiality, safety and freedom of expression of journalists/media professionals.

xx. Protection of Journalists and Media Professionals Act, 2021 be implemented in letter & spirit and Federal Government shall notify its rules under the Act within three months.

xxi. In case multiple FIRs have been registered against an individual on same subject matter and he has been exposed to unjust harassment and suffered the abuse of process at the hands of State functionaries, every such person is entitled for compensation by the State including the Federal Government or the Provincial Government as the case may be.

29. In the light of above principles/recommendations/directions, this Court is of the view that petitioner Arshad Sharif who has been nominated as accused in multiple FIRs on similar charges was exposed to unjust

harassment at the hands of those sitting at the helm of affairs, though at this point of time Arshad Sharif is no more alive and to his extent the issue of registration of multiple FIRs stands closed, but it is clear from above discussion that only one FIR could be considered valid for the purposes of investigation and even in such type of cases where some of the State institutions are behind the registration of FIR, protection should have been given to accused person to approach the court of competent jurisdiction and be given bail as a matter of right to explain those circumstances, therefore, the very registration of multiple FIRs is not maintainable in the eye of law. At this stage this Court is of the view that while adjudicating the matters in terms of Article 199 of Constitution of Islamic Republic of Pakistan, 1973, read with powers contained in Section 561-A Cr.P.C. the quashing of FIRs in different districts / provinces could not be ordered, however, in case of clear malafide, the police can proceed only in one/initial F.I.R and all subsequent FIRs should be stayed and no legal action should be taken unless the accused is allowed to approach the court of competent jurisdiction with protection orders, even in such type of cases the parameters are settled that all subsequent FIRs should be cancelled by the I.Os respectively, whereas, in case of non-observing these parameters the aggrieved persons may resort to the remedy of filing of complaint against the officials and may also file suit for damages and compensation, although there is no bar on supervising officers like CPOs, DPOs to take departmental action against the delinquent official for abuse of powers, however, the family of Arshad Sharif has suffered huge loss, which could not be compensated in ordinary manner. The concept of compensation in such type of extra-

ordinary scenarios/circumstances has not been appreciated though the Protection of Journalist and Media Professional Act, 2021 has been enacted on 01.12.2021 for protection of the journalists, freedom of expression as contained in Article 19 of the Constitution of Islamic Republic of Pakistan, 1973 as well as under International Covenant on civil and political rights (ICCPR) but till date journalists, media professionals, V-loggers and individuals have been exposed to unjust harassment, which requires investigation though Section 10 of the Act of 2021 empowers the Commission established under Section 12 of the Act to investigate and prosecute and penalize threats, coercion, acts of violence against the journalists and media professionals. The unique feature of this Act of 2021 is combating impunity and government is under legal obligation U/S 11(2) to do the following acts:-

> *(2) The Government shall develop and implement strategies for combating impunity for those engaging in conduct mentioned in section 11(1) of this Act, particularly with regard to the followings:-*
>
> *(i) Monitoring and conducting investigations into cases reported by journalists, media professionals, their families or civil society organizations working on journalists' protections;*
>
> *(ii) Coordinating policy and action between relevant government authorities;*
>
> *(iii) Ensuring the participation of journalists, and media professionals, and/or their families, in processes aimed at guaranteeing their protection and safety.*

Besides this concept of combatting impunity, the Act of 2021 also explains the concept of compensation as well as right to life and protection against ill

treatment. Similarly aspect has rightly been explained by the Supreme Court of Pakistan in (***PLD 2024 SC 1)*** ***Supreme Court Bar Association of Pakistan vs. Federation of Pakistan*** in the following manner:-

> *It is a unique and distinguishable feature of the Constitution because it expressly confers the right to claim public law remedies for tortuous acts of three categories of public authorities. It is a right which appears to have escaped the attention of the courts nor has it been invoked by a victim of wrongful exercise of public power. It can create a formidable deterrence for violations of the Constitution and constitutional rights if the victims are enabled to effectively exercise this right. It is regrettable that no initiative has been made since the promulgation of the Constitution to establish special courts as contemplated by the framers. Nonetheless, since this right has been created under the Constitution it cannot be denied nor made redundant on account of failure to establish the special courts to exercise exclusive jurisdiction as was intended by the framers. No right is without a remedy. When the Service Tribunal was not established or it becomes non-functional, the rights of the civil servants are not extinguished, rather they seek remedies from other forums including the High Courts. The right to claim remedies against the tortuous acts of the three categories of public authorities cannot be denied to the citizens or other persons merely because a special court has not been established to exercise exclusive jurisdiction. The jurisdiction of the courts of plenary civil jurisdiction and, in an appropriate case, the High Courts are not barred till such time that a special court conferred with exclusive jurisdiction has been established. The constitutional right conferred on a person to claim remedies against tortuous acts of public authorities is of profound importance. It is one of the most effective means for a victim to vindicate the infringed right, hold public authorities to account and ensure that the public powers are not abused or wrongfully exercised. The constitutionally created right empowers the people to police the misconduct of public authorities and the*

> *Government in addition to being compensated and vindicated for a wrong. If effectively used and enforced it is a right that would encourage public participation in putting an end to abuse of powers and the impunity for violation of the Constitution and constitutional rights. It is a right exercisable by the citizens and general public without being at the mercy of others such as the Federal Government for commencing criminal proceedings in case of the offence under Article 6. It will be the duty of and an onerous challenge for the courts to ensure that the citizens or other persons effectively enforce this valuable right. Imagine if this right had been exercised by the people of Pakistan against the usurpers and collaborators for abrogating, subverting or holding the Constitution in abeyance. The right has been expressly enshrined as a constitutional right and in such an eventuality the courts enjoy wide discretion to design or create a remedy to appropriately redress a constitutional right and to deter repetition of the tortuous acts in future. Besides compensatory damages the court can, in addition, award exemplary or vindicatory damages, as the case may be. The criterion for assessment of damages in the case of vindication of a constitutional right is presumed general damages.*

Hence, the family of Arshad Sharif (Late) may approach the Commission for investigation and redressal of their grievances under the Protection of Journalists and Media Professionals Act, 2021 whereby Commission is under lawful obligation to investigate, prosecute and penalize threat, act of violence, abuse suffered by Late Arshad Sharif and his family members including but not limited to grant of compensation as determined by the Commission itself.

30. In case of Muhammad Imran Riaz in W.P No.1872/2022, who is also seeking the provision of information / record regarding any pending complaint / FIRs against him or his family members, though which has been provided to him but the delayed action on the part of State Institution

exposed him to unnecessary harassment whereby he suffered the abuse of process, therefore, it is the responsibility of State to provide such information as early as possible, when such request is made to the High Court under Article-199 of Constitution of Islamic Republic of Pakistan, 1973, the Court should pass some protection order in favour of person and direction be issued to the State authorities to provide necessary and required information to such person regarding pending complaints/FIRs across the country forthwith. The protection order ensures that the petitioner cannot be arrested within the Court's jurisdiction until all necessary information from other cases is provided, allowing him to defend himself under Articles 4, 9 and 10-A of the Constitution of Islamic Republic of Pakistan, 1973. The State is legally obliged to extend equal protection of law with due process and fair trial. Hence, petitioner Imran Riaz may also file similar complaint under this Act of 2021 before the Commission for redressal of his grievance.

31. In case of Sami Ibrahim in Crl. Misc. No.658-2022, who is seeking the protective transit bail in all the FIRs mentioned in para No.05, whereas, FIR No.12/22 is registered in District Qilla Abdullah, Balochistan and FIR No.7/2022 is registered in District Pashin, Balochistan. This Court vide order dated 23.05.2022 had already passed protection order in which direction was issued to the Inspector General of Police, Islamabad Capital Territory and the Deputy Commissioner, Islamabad Capital Territory "*not to curtail the liberty of the petitioners nor hand them over to officials of other provinces without seeking permission from this Court*". Such order has been passed within the mandate of Articles 4, 9 and 10-A of the Constitution of

Islamic Republic of Pakistan, 1973, and fulfills the requirement in such exceptional and extraordinary circumstances to protect the individual's life and liberty, who is exposed to unjust harassment after registration of multiple FIRs, therefore, the constitutional court comes to rescue the individual for protection of his life and liberty under the law.

32. All the captioned petitions stand ***disposed of*** in above terms.

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in the open Court on _____

JUDGE

Approved for Reporting

RAMZAN