Form No: HCJD/C-121

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

JUDICIAL DEPARTMENT.

Writ Petition No. 2275 of 2018

Mian Muhammad Nawaz Sharif

VS

The National Accountability Bureau through its Chairman and 05 others.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	21.06.2018.	**Mr. Azam Nazeer Tarar and Mr. Saad M. Hashmi, Advocates for the Petitioner.** **Mr. Muhammad Amjad Pervaiz, Advocate for Respondents No.3 and 4.** **Sardar Muzaffar Ahmed Khan, DPGA (NAB).** **Mr. Muhammad Afzal Qureshi, Special Prosecutor (NAB).** **Mr. Irfan Ahmed Boola, Special Prosecutor (NAB).** **Barrister Rizwan Ahmed, Special Prosecutor (NAB).**

AAMER FAROOQ, J. - This petition is directed against order dated 05.06.2018, passed by learned Judge Accountability Court No.1, Islamabad/ Respondent No.2, on application filed by the Petitioner, in Reference No.20 of 2017 pending before it.

2. The facts, in brief, are that on the directions of Hon'ble Supreme Court of Pakistan, Respondent No.1 filed three (03)

References against the Petitioner and *inter-alia* Respondents No.3 to 6 before Respondent No.2. During the course of proceedings, an application was filed for joinder of charges and/or consolidation of the References, which was dismissed by Respondent No.2. The matter was agitated before this Court in a petition under Article 199 of the Constitution which was allowed and the order was set-aside with direction to Respondent No.2 to decide the matter afresh. The learned Trial Court/ Respondent No.2 decided the application vide order dated 08.11.2017 and the matter was again agitated before this Court through a petition under Article 199 of the Constitution (Writ Petition No.3883 of 2017), which was decided by this Court vide judgment dated 04.12.2017 and the same was dismissed alongwith two other petitions filed by the co-accused (Writ Petition No.3884 of 2017 and Writ Petition No.3885 of 2017). It is pertinent to mention that the august Apex Court directed Respondent No.2 initially to decide the pending references within a period of six months, since the same could

not be done, therefore, extension was sought which was granted. The extension was again sought after lapse of period directed by the august Apex Court and the same was granted again. Respondent No.2 again requested the august Apex Court to grant extension in time for deciding all References pending before it against the Petitioner and his family as well as Muhammad Ishaq Dar, which were filed on the directions of the Hon'ble Supreme Court of Pakistan. The august Apex Court allowed the request made through Civil Misc. Application No.5075 of 2018 vide order dated 10.06.2018. In this regard, since the trial of References is being conducted separately the evidence in Reference No.20 of 2017, stood concluded, therefore, the learned Trial Court adjourned the case for arguments, which was duly addressed by the prosecution. The Petitioner on conclusion of the arguments by the prosecution filed an application for postponement of arguments on behalf of the defence in Reference No.20 of 2017 till conclusion of Petitioner's statement under Section 342

Cr.P.C. in References No. 18 and 19 of 2017. The referred application was dismissed by Respondent No.2 vide the impugned order.

3. Learned counsel for the Petitioner, *inter-alia*, contended that earlier vide order dated 08.11.2017, the learned Trial Court had observed that in order to avoid conflicting judgments and if it is felt that any prejudice is being caused to the accused, the References shall be decided simultaneously; that in petition under Article 199 of the Constitution this Court made a specific observation regarding recording of the said finding of the learned Trial Court. It was submitted that at this juncture asking the Petitioner to address the arguments in order to decide the case separately from other References tantamount to review of order dated 08.11.2017, which is not permissible in criminal cases. It was further contended that decision of one reference separately shall prejudice the defence of the Petitioner.

4. Learned counsel for Respondent No.1 at the very outset contended that the instant petition has become infructuous inasmuch as the prayer made in the application by the Petitioner was to the effect that the addressing of the final arguments should be postponed till the conclusion of evidence by the parties in References No.18 and 19 of 2017. It was submitted that the Petitioner's counsel is already making his final submissions in the references, therefore, the prayer sought and the order impugned on the application has become immaterial. It was further contended that the Petitioner has failed to point out any prejudice, which shall be caused to him, if any one Reference is decided separately. It was further contended that in Writ Petition No.3883 of 2017 filed by the Petitioner, it was specifically prayed that References No.18 and 19 may be decided together and Reference No.20 of 2017 be separated. It was also contended that the learned Trial Court while deciding the application filed by the Petitioner has observed that since no evidence has been

presented by the Petitioner, therefore, no prejudice shall be caused to him. It was also submitted that in the instant petition during the course of arguments it has been requested that the learned Trial Court be restrained from deciding Reference No.20 of 2017 separately, which is beyond the prayer made in the application.

5. The facts, leading to the filing of the instant petition, have been mentioned in detail herein above.

6. The Petitioner is aggrieved of order dated 05.06.2018, whereby, his application requesting postponement of addressing the final arguments on his behalf was dismissed. During the course of proceedings before learned Trial Court in Reference No.20 of 2017, the above-mentioned application was filed by the Petitioner with the following prayer:-

> ***"It is, therefore, humbly prayed that this learned Court may be pleased to postpone the final arguments in the titled Reference till such time that the recording of evidence in References No.18 and 19 of 2017 is completed, and Applicant's statement under Section 342 of Cr.P.C. in References No.18 and 19 of 2017 is recorded."***

This specific prayer was turned down by the learned Trial Court vide the impugned order, however, this Court was informed by the learned Additional Deputy Prosecutor General, National Accountability Bureau (NAB) that the arguments on behalf of the Petitioner are already underway and the same are being addressed for the last two to three days and are likely to be concluded soon. The referred fact was not denied by the learned counsels for the Petitioner as well as Respondents No.3 and 4. Moreover, the Hon'ble Supreme Court of Pakistan in Civil Misc. Application No.5075 of 2018 in Constitution Petition No.29 of 2016 vide order dated 10.06.2018, directed the learned Trial Court to decide the pending Reference/ References within a period of four weeks time from the date of the order. Since the postponement sought by the Petitioner in the application before the learned Trial Court has been acted upon as final arguments are being addressed, therefore, the prayer made and order passed on it has become immaterial.

7. In view of above, the instant petition has become infructuous and is disposed off accordingly.

(AAMER FAROOQ)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

M. Zaheer Janjua

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