

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**

**Crl. Org. No. 150 / 2022**

**The STATE** through Advocate General Islamabad

v.

**Imran Ahmed Khan Niazi**

**SUPPLEMENTARY REPLY ON BEHALF OF THE  
RESPONDENT (ALLEGED CONTEMNOR) TO THE SHOW  
CAUSE NOTICE.**

**Respectfully Sheweth:**

1. That the above-titled proceedings are pending before this Hon'ble Court and the matter is now fixed for 8 September 2022.
2. That at the very outset, the Respondent deeply appreciates and gratefully acknowledges the indulgence shown by this Hon'ble Court in providing him an opportunity to reflect upon the whole issue and its significance in the scheme of our Constitution and its effect on judicial, political and social norms and to submit a supplementary reply. The Respondent highly appreciates and values the observations made by this Hon'ble Court regarding the standard and level of conduct of a political leader who sways the course of public opinion in order to enhance respect for the institutions. The Respondent was deeply moved by those observations which were meant to promote social and political good and the Respondent assures this Hon'ble Court that the Respondent would always stand for such common causes. Indeed the

observations made have given a great opportunity to reflect on the important aspects of the matter that have a great bearing upon the rule of law and fair dispensation of justice in Pakistan. The Respondent humbly assures this Honourable Court that he has a profound regard and respect for this Hon'ble Court and its subordinate Courts and judges, who are dispensing justice to the common man in the severe difficult times. The Respondent takes this opportunity to express his deep regrets over his unintentional utterances during the course of his speech at a rally which was taken out in response to shocking news of physical torture of Mr. Shahbaz Gill. It is stated with respect that those utterances were unintentional and not meant to be directed towards the lady judge for whom he has a lot of respect. The Respondent never meant to hurt her feelings and if her feelings have been hurt, it is deeply regretted. The Respondent neither meant to threaten the lady judge nor could he think of doing so. The Respondent has respect for the judiciary including the Subordinate judiciary and he believes that judges of the Subordinate/ District judiciary should be strong and independent in order to dispense justice to the common man. The Respondent believes that judges of the Subordinate / District judiciary are performing vital functions for dispensation of justice for which the Respondent has enormous respect for them all. The Respondent stands firmly for the rights of women in Pakistan and strongly supports the idea of greater induction and representation of lady judges, both in the Superior as well as the Subordinate Courts.

The Respondent also assures this Hon'ble Court that he would not shy away from expressing his remorse to her. Those utterances were never meant to interfere with or in any way influence the course of administration of justice. The Respondent believes that Courts all over Pakistan are adhering to the rule of law and the Constitution. The

Respondent firmly believes that a strong and truly democratic Pakistan has to be based on strict adherence to the Constitution. This Hon'ble Court, following high traditions of justice, gave an opportunity to the Respondent to file a supplementary reply. However unfortunately, in order to gain political advantage, it has been bitterly criticized out of all proportions by those who see an opportunity for political point scoring and to oust the Respondent from the political arena. On the same issue, in order to political persecute the Respondent, an FIR was registered against the Respondent under the provisions of Anti-Terrorism Act, 1997.

3. That it is also pertinent to submit and clarify that the Respondent was not aware of the fact that any appeal or other legal proceedings in respect of the same subject matter were *sub-judice* before this Honourable Court. The Respondent believed that after the grant of physical remand of Mr. Gill, by the Courts below, the matter had ended there. As submitted previously, the alleged news of torture was widely reported in social, print and electronic media which were very disturbing for the Respondent. These visuals, where Mr. Gill was seen badly struggling with his breath and begged for his oxygen mask, would have affected every heart and mind. But as stated heretofore had the Respondent been briefed about the legal effect and consequences of the pendency of the case before this Honourable Court, the Respondent would have avoided any comment during the course of his speech which was extempore.
4. That the Respondent had very busy schedule because of which he could not be informed about the pending proceedings before this Hon'ble Court. The Respondent however was generally aware that legal

proceedings against the orders of the subordinate judge would be filed, but due to his busy schedule he could not be informed about its pendency before this Hon'ble Court at that time. It is further submitted that now that the Respondent has been briefed about the technical rule of '*subjudice* matter' and its effect on freedom of speech as laid down by this Hon'ble Court in the case of *Firdous Ashiq Awan* (PLD 2019 Islamabad 109), the Respondent assures this Hon'ble Court that he will be very careful about such matters in future. It is further submitted that neither the Respondent did anything or made any statement, nor he intends to ever make any statement, which tends to prejudice the determination of any matter pending before this Hon'ble Court or any other court.

5. That a limitation / regulation of freedom of speech in relation to a pending matter called the 'sub-judice rule' as elaborated by this Hon'ble Court in *Dr. Firdous Ashiq Awan's* case (PLD 2020 Islamabad 119) and prior thereto by the Hon'ble Supreme Court, in the matter of *suo motu* case No.28 of 2018 reported as PLD 2019 SC 1, the ratio of these judgments seems to be to protect a valuable right of a fair trial of an accused person. As stated heretofore, the Respondent addressed a rally taken out on 20 August 2022 after horrific news of physical torture of Mr. Shebaz Gill during the police custody after a remand under section 168 Cr PC spread like wild fire on the social, electronic and print media. At the same time the Islamabad Police and some journalists were also circulating video clips, secretly made by the Police officials at PIMS to deny the allegations of torture and to influence the judicial magistrate for obtaining physical remand of the said accused. It is submitted that the unintentional remarks about the Police officials and the lady judge in no way affected the right to a fair trial of the accused Shebaz Gill because, in the first instance the matter

was still at the investigation stage and no trial had begun so far. Moreover, the circulation of secretly made videos seriously prejudiced the process of grant of remand. It is also submitted that this Hon'ble Court has held in the afore-referred case *“There must be some degree of intent to prejudice, or obstruct the administration of justice. Each case is to be decided on its own merits. The acts committed during the pendency of a matter are the most serious form of contempt because it has likely effect on one of the most important rights i.e. the right to fair trial...”*.

6. That this Honourable Court in its order of 31-08-2022, was pleased to refer to two judgements of the Hon'ble Supreme Court reported as PLD 2018 S.C. 738 and PLD 2018 S.C. 773. With utmost respect it is submitted that these precedents are not applicable to the facts and circumstances of the present case. It is most humbly submitted that facts in the precedent cases, as appear from the transcript of the speeches made / interviews given by the contemnors, there can be no comparison at all with the present case because those speeches / interviews were part of malicious, calculated and well-rehearsed campaign on the advice of party leadership who had launched a massive attack on the Supreme Court by scandalizing the judges and the Courts and was directed towards the entire institution of judiciary as a reaction / revenge to Panama case. They included vicious personal attacks on the judges. The Respondent, on the other hand, during the course of a speech, not knowing that the said matter was pending before this Honourable Court, unintentionally uttered few words relating to a lady judge and other state officials, which he has already regretted and offered to take back at the first available opportunity in his last provisional reply.

7. The Respondent would not justify any such act relies upon the observation by the Hon'ble Court in the case of *Firdous Ashiq Awan* (PLD 2019 Islamabad 109) at page 129 “....because during the course of these proceedings it appeared to this Court that there was probably not sufficient awareness in the society regarding its importance in the society”.

The Respondent verily states that he was not aware of the implications of such statement. It is submitted that both the above referred judgements, with utmost respect, are totally different on facts and the specie of contempt involved therein. In those cases, there were repeated speeches made targeting the Judiciary and Hon'ble Judges and neither any remorse or regret was shown nor was any explanation given by the persons concerned. As stated heretofore, the Respondent's reference to the lady judge and other officers during his speech was spontaneous and in the spur of the moment and was not calculated to personally attack any judicial officer or the judiciary in any manner whatsoever. As submitted earlier, any reference to any 'action' was meant to be lawful action. The contemnors in those two cases showed no regrets and expressed no remorse.

Moreover, it is apparent from the record that despite several opportunities given to the contemnors in those cases they expressed no remorse or regrets. Their statements, one after another, were part of a smear and calculated campaign to undermine the Supreme Court and to scandalize the Supreme Court judges in the aftermath of Panama Case. They were praised by the leadership of their party for their 'heroic' sacrifices and now they are the faces of the party. They continue to

attack the judicial institutions and only few days back some more allegations have been made by them.

On the legal side, it may be noted that in the case of *Tallal Chaudhary* (PLD 2018 SC 773), it was specifically held that it was a case of scandalization of Court. Reference is made to some of the observations of the Hon'ble Supreme Court as under:-

**PLD 2018 SC 773 @ 787 at paragraph 21** “*We have closely looked and examined the two transcripts of the speeches made by the alleged contemnor and apparently find that such utterances of the alleged contemnor, amounted to abuse of the Court and to scandalize the Court or to tends to bring the Court or a judge of the Court into hatred, ridicule or contempt*”

Then in paragraph 22 it was observed that “*The alleged contemnor in his two speeches, as have been reproduced above, in order to show his unfaltering allegiance to Mian Nawaz Sharif, who was the Prime Minister of Pakistan and was ousted from office by the judgement rendered by this Court in PANAMA case has uttered words seriously prejudicing the office of Chief Justice of Pakistan and the judges of this Court and ultimately the whole Court as an institution and his utterances were not at all within the ambit of decency, morality and decorum but showed utter venom for which he himself has no cause of his own*”.

Similarly, in the case of *Danyal Aziz* (PLD 2018 SC 738), as per the charge framed on three occasions, the alleged contemnor leveled

allegations against a judge of the Supreme Court and at no occasion denied nor did he even explain or justify statements. About the said contemnor it was held in paragraph 25 *“The utterances made by the alleged contemnor, cannot be treated as just and fair comment on the judgement of the Court or on the conduct of the Honourable judges of this Court, even otherwise no such plea or defense was raised in the instant case, alleged contemnor has repeated his contumacious behaviour and made repeated attempts and attacks on the judicial system, judiciary and one of thehonourable judges of this Court”*.

Unlike the repeated attacks on the Judiciary in those cases, it is submitted that in the present case on the contrary, the Respondent did not adamantly stick to those words uttered during the course of his speech but sincerely tried to explain and even offered to take them back. Now, in so far as the pendency of the same matter before this Hon’ble Court was concerned, as stated above the Respondent was not aware of the fact that same matter was pending before this Hon’ble Court. It is submitted with respect that the expression ‘physical remand; as generally being perceived, understood and believed in our society; means physical abuse and torture.

8. That the purpose of the contempt law is not to punish anyone but to uphold the majesty of law. The Respondent believes in the rule of law and supremacy of the Constitution. It is submitted that the Courts have always recognized and followed the Islamic principles of forgiveness and restraint. The Respondent beseeches that the said Islamic principles of *ufve* and forgiveness would also be followed in this case.



9. That it is submitted with respect that the facts and circumstances of the present case are similar to those of the case reported as PLD 2014 S.C.

367. The Honourable Supreme Court was pleased to lay down the law on the subject as under:-

“12. In our opinion, the submission of an unconditional apology by the alleged contemnor in every case is neither a condition precedent, nor a point of ego or prestige for the Courts, which practice is to be adhered to in each case as a rule of thumb before discharging the notice. Similarly, mere submission of unconditional apology is also no ground for further inaction in the proceedings or discharge of such notice without looking into the intent behind it. Rather, it would entirely depend upon the facts and circumstances of each case, particularly the stance taken by the alleged contemnor qua his overall conduct during such proceedings before the Court, which will enable the Court seized of the matter to form an opinion about strict adherence to such a practice or otherwise.”

“13. In the present proceedings, the alleged contemnor has promptly responded to the notice at the first instance and placed his appearance before the Court on both the dates of hearing fixed in this matter to show due respect, honour and regard for the Court. Besides, earlier also he has filed two statements before the Court for explaining the background of his remark, which has been misconstrued and agitated this Court for issuing notice under consideration. Subsequent to it, again he has filed a detailed reply to the said notice of contempt proceedings wherein, he has stated the relevant facts honestly and clarified his position in so many words.”

“14. The facts noted above reasonably and fairly demonstrate that the word (شرم ناک) used by the alleged contemnor was, *prima facie*, uttered by him in different sense and context, which was viewed as a derogatory and insulting remark for the judiciary as an institution. .... Moreso, when the contempt proceedings are in the nature of quasi criminal proceedings, the benefit of any such doubt in favour of contemnor is to be extended to him. Moreover, we have noticed the conduct of Mr. Imran Khan in Court and observed that throughout the proceedings it was evident from his body language that he holds full respect and regard for the court. Even, while addressing the Court, he has shown signs of encountering an unpleasant situation and remorse on his face with reference to these proceedings, which have expanded from his one word objectionable remark, as discussed above.”

It is therefore submitted with utmost respect that Respondent cannot even imagine undertaking or advising the undertaking of a contumacious and intentional malicious campaign against judiciary or to interfere or obstruct the course of justice in any manner whatsoever.

In view of the foregoing submissions it is most respectfully submitted that this Hon'ble Court may kindly be pleased to accept the explanation given by the Respondent and in the interest of justice be pleased to discharge the show-cause notice issued to the Respondent.

Any other relief to which the Respondent may be entitled to in the facts and circumstances of the case.

Dated: 07.09.2022.

**RESPONDENT**

through

**Hamid Khan, Sr. ASC**

**Barrister Salman Safdar, ASC**

**Muhammad Waqar Rana, ASC**

**NiazUllah Khan Niazi, ASC**

**Shoaib Shaheen, ASC**

**Advocate Ajmal Ghaffar Toor**