

**SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

**Present :**

**Mr. Justice Gulzar Ahmed  
Mr. Justice Sardar Tariq Masood  
Mr. Justice Faisal Arab**

**Criminal Original Petition No.09 of 2018**

{Suo Moto Contempt Proceedings initiated against Mr. Talal Chaudhry, State Minister on account of derogatory and contemptuous speeches/statements at public gathering in respect of this Hon'ble Court telecasted by different T.V. Channels}

For the alleged Contemnor : Mr. Kamran Murtaza, Sr. ASC  
Syed Rifaqat Hussain Shah, AOR  
:  
For the State Ch. Aamir Rehman, Additional A.G. assisted by  
Barrister Asad Rahim Khan  
  
Date of hearing : 11.07.2018.

**ORDER**

**Gulzar Ahmed, J.:-** On 01.02.2018, the Registrar of this Court had put up a note to the Hon'ble Chief Justice of Pakistan, the contents of the note are as follows:-

*“PUC are press clippings dated 13.09.2017, 14.01.2018, 20.01.2018 whereby statements were reported and transcripts of speeches at public gathering dated 24.01.2018 & 27.01.2018 telecast by different TV channels pertaining to Mr. Talal Chaudhry, State Minister. The statements are contemptuous and derogatory in respect of this Hon'ble Court with special reference to the decision of this Court dated 28.07.2017 passed in Constitution Petition 29/2016 etc. The words used constitute interference with and obstruction of the process of the Court as well as aimed at belittling the stature of the Apex Court. It is prima facie Contempt of Court in terms of Article 204 of the Constitution of Islamic Republic of Pakistan read with Section 3 of the Contempt of Court Ordinance, 2003. Note is submitted to the Hon'ble Chief Justice of Pakistan for appropriate orders please.”*

On the same day, the Hon'ble Chief Justice of Pakistan passed the following order on this note:

*“Besides the above referred statements and material on account of many other statements, speeches of the above named, which should be collected by the Registrar of this Court in due course. Suo Moto Proceeding in Contempt of the Court on account of the noted Article of the Constitution and Section 3 of the Contempt of Court Ordinance 2003 are initiated against Mr. Talal Ch and the matter be listed for hearing on 6<sup>th</sup> Feb 2018 before a Bench headed by my brother Ejaz Afzal Khan. After notice to the Mr. Talal ch.”*

2. Subsequently, notice dated 01.02.2018, under Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 read with Section 3 of Contempt of Court Ordinance, 2003 was issued to the alleged contemnor namely Talal Chaudhry for his appearance on 06.02.2018. He appeared in Court on 06.02.2018, when the Court examined the transcript of speeches made by the alleged contemnor on 24.01.2018 and 27.01.2018 and *prima facie* found the case to be the one of initiation of criminal proceedings under Article 204 of the Constitution of Islamic Republic of Pakistan 1973 read with section 5 of the Contempt of Court Ordinance, 2003 and it was ordered that show cause notice be issued to the alleged contemnor for proceedings as such and case was posted on 13.02.2018. Pursuant to this order, show cause notice dated 10.02.2018 was issued to the alleged contemnor. On 13.02.2018, the alleged contemnor himself appeared before the Court and requested for time to engage a counsel. The matter was adjourned to 19.02.2018. On 19.02.2018, Mr. Kamran Murtaza, Sr. ASC appeared for alleged contemnor and requested for time to furnish reply to show cause notice. The case was adjourned to 26.02.2018. On 22.02.2018, the alleged contemnor filed his preliminary reply, which was registered as Crl. M.A.No.265 of 2018. On 26.02.2018 the alleged contemnor himself appeared before the Court when the Court passed the order that the transcript containing contemptuous remarks has already been annexed with the paper book and allowed the alleged

contemnor and his Sr. ASC to go through the same and matter was adjourned to 06.03.2018. On 06.03.2018, learned Sr. ASC for the alleged contemnor stated that he has gone through the transcript but has not been provided copy of Compact Disc (CD). Learned Additional Attorney General for Pakistan was directed to provide a copy of requisite CD to the learned Sr. ASC for alleged contemnor and matter was adjourned to 08.03.2018. On 08.03.2018, the Court examined the reply submitted by the alleged contemnor and ordered further proceedings under the Contempt of Court Ordinance 2003 read with Article 204 of the Constitution of Pakistan (herein after the Constitution) and listed the case for framing of charge on 14.03.2018. On request of counsel for alleged contemnor, the case was adjourned from 14<sup>th</sup> March 2018 to 15<sup>th</sup> March, 2018. On 15<sup>th</sup> March, 2018 charge was framed, which is as follows:-

#### C H A R G E

*That you Mr. Talal Chaudhry made speeches on 24.01.2018 and 27.01.2018 wherein you by your words, gestures and tone not only defamed and scandalized the Court and its Judges but also tended to bring the Court and its Judges into hatred, ridicule and contempt, and thereby committed Contempt of Court within the meaning of Article 204(2) of the Constitution of the Islamic Republic of Pakistan read with Section 3 of the Contempt of Court Ordinance, 2003 (Ordinance V of 2003) punishable under Section 5 of the Ordinance of 2003 within the cognizance of this Court. We hereby direct that you be tried by this Court on the above said charge.*

3. The alleged contemnor pleaded not guilty to the charge and both the Deputy Attorney General so also alleged contemnor were directed to submit list of witnesses within seven days and case was posted for 27.03.2018 for evidence of prosecution.

4. On 06.04.2018 prosecution examined PW-Haji Adam son of Haji Sahib Khan, Director General (Monitoring) Pakistan Electronic Media Regulatory Authority (PEMRA). In his examination-in-chief, this prosecution witness produced a letter, transcript and CD containing video clips as Exhs: P-1, P-2 and

P-3. On the same date this prosecution witness was cross-examined by Mr. Kamran Murtaza, learned Sr. ASC for alleged contemnor and thereafter case was posted for recording the statement of alleged contemnor. On 21.05.2018 statement under section 342 Cr.P.C. of the alleged contemnor was recorded and he was also allowed time of one day to file list of defence witnesses. In his statement under section 342 Cr.P.C. the alleged contemnor denied to record his statement under section 340(2) Cr.P.C. The alleged contemnor on 24.05.2018 produced two defence witnesses. DW-I Asrar Ahmed Khan recorded his examination-in-chief and he was cross-examined by the learned Additional Attorney General for Pakistan. DW-2 Musaddiq Malik recorded his examination-in-chief and he was cross-examined by the learned Additional Attorney General for Pakistan. Muhammad Tahir, General Manager PEMRA was produced as DW-3 and he recorded his examination-in-chief on 21.06.2018. He was cross-examined by learned Additional Attorney General for Pakistan. On 28.06.2018 evidence of DW-4 Atta Muhammad and DW-5 Imtiaz Khan were recorded. Both these witnesses were cross-examined by learned Additional Attorney General for Pakistan.

5. After completion of evidence of the parties, the matter was posted for hearing of final arguments, which were heard on 11.07.2018 and judgment was reserved.

6. We have heard the submissions of learned counsel for the parties and have also gone through the record of the case.

7. Mr. Kamran Murtaza, learned Sr. ASC for the alleged contemnor has commenced the arguments in the first instance. In his very first submission, he has contended that the very proceeding of contempt was not initiated in terms of Article 204 of the Constitution. Elaborating on this argument, learned ASC has urged that Article 204 of the Constitution confers power on Supreme Court and High Court to punish for contempt of Court and that such power being vested in Court, the Hon'ble Chief Justice who has passed order dated 01.2.2018 on the

note of the Registrar for initiating the contempt proceeding was not an order of Court which has to be of a bench of the Court and not of the Hon'ble Chief Justice alone. He also referred to Article 184(3) of the Constitution to show that even the suo moto jurisdiction cannot be exercised by the Hon'ble Chief Justice for that such power is also conferred on a bench of the Court. To support his above submission, learned Sr. ASC for the alleged contemnor has referred to the order passed by Justice Qazi Faez Essa, an Hon'ble Judge of this Court while sitting at Peshawar.

8. On the other hand, learned Additional Attorney General has opposed this submission and contended that not only Article 204 of the Constitution confers power on the Hon'ble Chief Justice to initiate contempt proceeding but such power is also available and specifically provided for in the contempt of Court Ordinance 2003 and so also under the Supreme Court Rules, 1980. So far this submission of the learned counsel for the parties is concerned, the same may not detain us for long. In this regard reference is made to the provision of Section 7 of the Contempt of Court Ordinance, 2003, where it provides for taking of Suo Motu action by the Court in the matter of Criminal Contempt. Similarly in case of personalize criticism a Judge has been empowered to take notice of the same and in the judicial contempt a Judge of a Court is competent to initiate proceeding relating to him and refer it to the Chief Justice who may hear the same personally or refer it to some other Judge. Similarly proceeding of civil contempt could also be initiated Suo Motu. Part-V Order XXVII of the Supreme Court Rules, 1980 deals with proceeding in relation to contempt of Court, Rule 7 of which provides that where the Contempt consists of words or acts of visible signs which tend to prejudice a party to a proceeding before the Court or tend to scandalize the Court or any Judge or otherwise tend to bring the Court or a Judge in relation to his office into hatred, ridicule or contempt, the matter shall, in the first instance, be placed before the Chief Justice

and such Judges as the Chief Justice may nominate to consider the expediency or propriety of taking of action in the matter.

9. In the Suo Motu Case No.1 of 2007 (Manhandling of Hon'ble Mr. Justice Iftikhar Muhammad Chaudhry by Police) reported in PLD 2007 Supreme Court 688, the contempt proceedings were initiated on the basis of a note put up before the Acting Chief Justice. Further in the case of Azam Jan Zarkoon vs. The State (2000 P.Cr.L.J 1621), a judgment of the Division Bench of the Balochistan High Court, wherein also cognizance of commission of contempt was initially taken by the Chief Justice and it was held that after taking of such cognizance, the Chief Justice was required to place the matter before a Bench of the Court in terms of Section 8(5) of Contempt of Court Act, 1976. Similarly the Contempt proceedings before this Court were initiated on taking of Suo Motu action by this Court in the case of Mr. Daniyal Aziz (Criminal Original Petition No.10/2018) decided by judgment dated 28.06.2018 and further Contempt proceedings against Senator Nihal Hashmi (2018 SCMR 556) was also initiated on the note of the Registrar of this Court made to the Hon'ble Chief Justice. There are scores of other precedents on this very aspect of the matter and it seems unnecessary for us to delve upon them as it will unnecessary prolong the judgment. Relying upon the order of Hon'ble Judge passed at Peshawar neither is relevant nor appropriate. It did not deal with the case of Contempt so on this very score alone it is distinguishable.

10. Learned Sr.ASC for the alleged contemnor next contended that the speeches which are subject matter of the present contempt proceedings against the alleged contemnor are protected under the right of freedom of speech as conferred by the Article 19 of the Constitution and thus alleged contemnor cannot be made liable on such speeches for contempt of this Court. To understand this very submission of the learned Sr.ASC, it is essential here to narrate the origin of this case. The Registrar in his note has made reference to the public speeches made by the alleged contemnor on 24.01.2018 and 27.01.2018, which became the subject

matter of publication of press and telecasted by different TV channels upon which the Hon'ble Chief Justice has taken cognizance and initiated contempt proceedings. The speech of the alleged contemnor dated 24.01.2018 appeared on Express TV is as follows:-

ایکسپریس ٹی وی: 24.01.2018

طلال چوہدری:

یہاں پر آمروں کو legitimacy دی گئی فیصلوں کے ساتھ وہ باہر جہت نہیں دے سکتا وہ باب زحمت نے دی ہے۔ باہر جہت کیلئے ہم آنکھیں بھی بچھائے گئے عزت بھی کریں گیں لیکن پاکستان کی تاریخ میں باہر جہت نہیں رہ سکتا۔ بابا جب بھی ملا باہر جہت ہی ملا ہے۔

Further on 27.01.2018, the alleged contemnor made a speech at Jaranwala, which was telecasted by New TV channel, the alleged contemnor stated as follows: -

نیو ٹی وی: 27.01.2018

جزا نوالہ میں لیگ کے جلسہ میں تلال چوہدری کا خطاب:

میاں صاحب یہ ہے عوامی عدالت۔ یہ نہیں مانتی۔ دو نوٹس اس کو۔ اس کی تو جین کی گئی ہے یہ عوامی عدالت کے فیصلے کی تو جین ہوئی ہے۔ میاں صاحب ایک دور تھا جب کبھی میں بت بنے ہوئے تھے آج عدالت جو سب سے بڑی اونچی ادارہ ہے وہاں بھی جین ہی آئی اور کے بت پڑے ہوئے ہیں، میاں نواز شریف ان کو نکالو اس کو عدالت سے نکال کر باہر کرو۔ یہ انصاف نہیں دیں گیں، یہ اس طرح بد انصافی کریں گیں؛ موٹروے نواز شریف بنائے ہی بیک نواز شریف بنائے دہشتگردی کی جنگ نواز شریف لڑے اور اس کے بعد وزیراعظم کہتے کوئی اور بنے کوئی بنے گا۔۔۔۔۔

11. These two statements of the alleged contemnor in terms of charge framed against him, are the subject matter of the present contempt proceedings against him. Article 19 of the Constitution provides as follows:

*“Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court, [commission of] or incitement to an offence.”*

12. It is undeniable that every citizen has been conferred right of freedom of speech and expression and such right has been conferred in Article 19 of the Constitution, which is one of the fundamental right provided in Para-II of

the Constitution. However, such freedom of speech and expression given to every citizen has been made subject to reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with the foreign States, public order, decency or morality, or in relation to contempt of Court, [commission of] or incitement of an offence. Thus it is apparent that contempt of Court is one of the law to which the fundamental right of every citizen to freedom of speech and expression has been subjected to. In exercising the fundamental right of freedom of speech and freedom of expression, if a citizen impinges upon and transgresses the reasonable restrictions of law of contempt of Court, he will make himself culpable and liable to be proceeded against under the contempt of Court Law. The rationale of imposition of conditions on freedom of speech and expression as underlined by the Constitution itself is that the citizens while exercising such right have to maintain decency and decorum and not in a manner, which will infringe upon the rights of other citizens or transgress the mandate of law in relation to the working of State Institutions. Further the rationale of making of law of contempt by the Constitution itself and by promulgation of the Ordinance is as a matter of public policy to secure the law of the land which it is the duty of the Court to uphold and to secure the judges and the Court from being scandalized into hatred or ridicule. The contempt law thus is meant basically to maintain the efficacy of the Courts of justice and to secure public confidence in the administration of justice.

13. The next submission of the learned Sr.ASC for the alleged contemnor was that the show cause notice and the charge both are defective and no punishment on such defective show cause notice and charge can be imposed upon the alleged contemnor. To substantiate this submission, the learned Sr.ASC for the alleged contemnor has urged that in the show cause notice the contents of the speeches dated 24.01.2018 and 27.01.2018 were not reproduced and similarly also in the charge, the contents of the two speeches made the subject matter against the alleged contemnor were not reproduced and thus the alleged



contemnor was not aware of what actually was the allegation against him in the show cause notice as well as in the charge. Learned Additional Attorney General in this respect referred to the order of this Court dated 06.03.2018 in which it is specifically noted that learned Sr.ASC for the alleged contemnor stated at the bar that he has gone through the transcripts but complained of not providing of Compact Disc (CD) which too were provided to him before framing of the charge and thus the alleged contemnor feigned denial of knowledge of contents of his speeches is not established from the record. Although in the show cause notice reference to the transcripts of two speeches of the alleged contemnor dated 24.01.2018 and 27.01.2018 was made but it was not shown by the learned Sr.ASC for the alleged contemnor that the non-reproduction of the contents of said two speeches in anyway has prejudiced the alleged contemnor from defending the contempt proceedings in that the alleged contemnor has filed reply to the show cause notice in which he also pleaded that he is not aware of the contents or material on the basis of which contempt proceeding has been initiated against him, which he has requested to be supplied to him for furnishing of further reply. As noted in the order of this Court dated 06.03.2018 not only the contents of the two speeches were read by the learned Sr.ASC for the alleged contemnor but he was also supplied Compact Disc (CD) of such transcripts of speeches. The charge against the alleged contemnor was framed on 15.03.2018, which has already been reproduced above. No law was cited by the learned Sr.ASC for the alleged contemnor to show that either the show cause notice in the manner it was issued to the alleged contemnor or the charge framed against him was defective or at all has prejudiced the alleged contemnor in defending this contempt proceeding against him. Further we note that on 26.02.2018, this Court has passed the order in the presence of the alleged contemnor which is in the following terms:-

*“The transcript containing contemptuous remarks has already been annexed with the paper-book. Let the alleged contemnor and his counsel go through the same. Since learned ASC for the alleged contemnor is on General*

*Adjournment till 5<sup>th</sup> March, 2018, let this case be adjourned for 6<sup>th</sup> March, 2018”*

Thus the alleged contemnor also was aware of the fact that the transcripts containing contemptuous remarks has already been annexed with the paper-book and formed part of the record of the contempt proceeding against him.

14. Further the submission of the learned Sr.ASC for the alleged contemnor is that in the list of witnesses filed by the prosecution no gist of evidence was mentioned. For considering this submission of the learned Sr.ASC, we have gone through the list of witnesses filed on behalf of the prosecution by way of Criminal Miscellaneous Application No.454 of 2018 and find that it mentioned the name of Haji Adam, Director General (Monitoring), Pakistan Electronic Media Regulatory Authority (PEMRA), PEMRA Headquarter, Islamabad. Though such a submission was made by the learned Sr.ASC for the alleged contemnor that in the list of witnesses' gist of evidence is not mentioned but he failed to point out any provision of law which require the prosecution side to file list of witnesses along gist of evidence. The procedure provided in Section 17 of the Contempt of Court Ordinance, 2003, *inter alia* is that after giving the alleged contemnor an opportunity of a preliminary hearing, the Court is *prima facie* satisfied that the interest of justice so requires, it shall fix a date for framing a charge in open Court and proceed to decide the matter either on that date, or on a subsequent date or dates, on the basis of affidavits, or after recording of evidence. As such the Ordinance itself does not lay down the procedure of filing of list of witnesses by the prosecution or of mentioning of gist of evidence in it rather the law provides that on framing of charge the Court can proceed either to take affidavit or to record evidence as the case may be. Even if the gist of evidence was not mentioned in the list of witnesses filed by the prosecution, the learned Sr.ASC for the alleged contemnor was unable to demonstrate before us that any prejudice in this regard was at all caused to the alleged contemnor in defending himself in the contempt proceeding.

15. Coming to the merit of the case, we note that to prove the allegation against the alleged contemnor the prosecution produced PW-Haji Adam as its witness who produced transcript of speeches of the alleged contemnor and Compact Disc (CD) as Exh.P-2 and P-3. In his examination in chief he has stated that he has compared the transcripts with the Video Clips and it was his duty and responsibility to monitor all the licensee channels round the clock. He was cross-examined by the learned Sr.ASC for the alleged contemnor. The only main feature of this cross-examination was that the transcript of speeches are not authenticated one in that possibility of editing and doubling, in the video clips, cannot be ruled out. Both these two aspects of the cross-examination of the learned Sr.ASC of the alleged contemnor were sufficiently dealt with and answered by this witness and clarified that the transcript and the Compact Disc (CD) were obtained from the programme aired by the TV channels and that so for the question of editing and doubling is concerned, the witness replied that he has provided what was recorded and heard live. The statement under Section 342 Cr.P.C. of the alleged contemnor was recorded which is as follows: -

**“Statement under Section of 342 Cr.P.C (without oath) of respondent/alleged contemnor (Talal Chaudhry S/o Muhammad Ashraf Chaudhry), aged about 43 years, occupation Agricultural and Business, R/o 65-GB, Tehsil Jaranwala, District Faisalabad.**

**Q.No.1** Have you heard and understood the evidence recorded in your presence?

**Ans.** Yes.

**Q.No.2** Is it fact that you made speeches at public gathering on 24.1.2018 and 27.1.2018, telecasted by different TV channels and the DVDs and their transcripts are Exbs. as P3 and P2, respectively?

**Ans.** It is incorrect. On 24.1.2018 it was not a speech but a press talk at Faisalabad. Such press talk was edited, manipulated and many of the sentences from the press talk have been omitted.

2. The speech Telecasted on TV channels on 27.1.2018 is also incorrect. Such telecast speech was also a manipulated one, in that various portion from it was also omitted. The speech was telecasted without reference to the context. In the speech of 27.01.2018, I did not quote anything about Judges or Court.

**Q.No.3** It is in the evidence that PW Haji Adam, DG Monitoring (PEMRA) produced video clips P3 of your above mentioned speeches alongwith its transcripts P2 after verifying and comparing the transcripts with the video clips. What do you say about it?

**Ans.** Exh.P3 & P2, which are DVDs do not contain full speeches which were made during press gathering on 24.01.2018. It is correct that the videos Exh.P3 are mine but these are edited and manipulated. The video clips so also its transcription Exh.P2 do not match with each other.

**Q.No.4** It is in the evidence that the transcripts of DVD containing your speech dated 24.01.2018 on express TV was as follows :-

یہاں پر آمروں کو legitimacy دی گئی فیصلوں کے ساتھ وہ باہرمت نہیں دے سکتا وہ باہرمت نے دی ہے۔ باہرمت کیلئے ہم آنکھیں بھی بچھائیں گیں، عزت بھی کریں گیں لیکن پاکستان کی تاریخ میں باہرمت نہیں رہ سکتا۔ باہرمت بھی ملا باہرمت ہی ملا ہے۔

and your speech dated 27.1.2018 at Jaranwala was as follows :-

اس کی توہین کی گئی ہے یہ عوامی عدالت کے فیصلے کی توہین ہوئی ہے۔ میاں صاحب! ایک دور تھا جب کعبے میں بت بنے ہوئے تھے آج عدالت جو سب سے بڑی اونچی ادارہ ہے وہاں بھی پی سی او کے بت پڑے ہوئے ہیں۔ میاں نواز شریف ان کو نکالو۔ اس کو عدالت سے نکال کر باہر کرو۔ یہ انصاف نہیں دیں گیں۔ یہ اس طرح بے انصافی کریں گیں۔ موٹروے نواز شریف بنائے سی پیک نواز شریف بنائے دہشتگردی کی جنگ نواز شریف لڑے اور اس کے بعد وزیراعظم کہتے کوئی اور بنے کوئی بنے گا۔

what do you say about it?

**Ans.** Yes. I made these statements in my speech as well as in my press talk, but they have been edited and reference to context was not made in fact different parts of my statements have been tagged together.

**Q.No.5** It is in the evidence that words used in your speeches and your tone not only defame and scandalize the Court and its Judges but also tend to bring hatred in the minds of general public against Supreme Court of Pakistan and its Judges and your above said words, gesture and tone while making speeches mentioned above, aired on different channels, constitute contempt of this Court.

**Ans** This is incorrect. I have all the respect to this Hon'ble Court.

**Q.No.6** Will you make statement on oath under Section 340(2) Cr.P.C. in disproving the charge against you?

**Ans** --- No. ---

**Q.No.7** Will you produce evidence in your defence?

Ans. --- Yes. ---

**Q.No.8** Do you want to say anything else?

**Ans.** I am a young man and a law graduate. I am also a political worker and also belong to a democratic party. I am an elected representative and belong to a middle class family. I have not committed any contempt of court and have used the word PCO in my speech as a part of history in Pakistan upon which judgments have been passed by this Court. The reference of PCO was mainly symbolic and it has been mentioned in previous speeches while the lawyer movement was going on and such aspect of the matter was also dealt with in the COD (Charter of Democracy). I have already requested for cancellation of notice on the ground that my intention should not be doubted, which is not of contempt as I do respect the Court. I have made thousands of speeches but uptill now no institution or opponent has issued me legal notice. I am not a habitual offender. I am innocent.

R.O. & A.C”

16. In question No.4 the alleged contemnor was confronted with the transcripts of his two speeches dated 24.01.2018 and 27.01.2018 and his answer was yes I made these statements in my speeches as well as in my press talks but stated that they have been edited and reference to context was not made and that different parts of the statements have been tagged together.

17. The alleged contemnor produced DW-1 Asrar Ahmed Khan, who admitted that he was present in the public meeting at Jaranwala on 27.01.2018. In his cross-examination he stated as follows: -

“ It is correct that I have been read over the transcripts of the speech made by the alleged contemnor in the public meeting on 27.01.2018 at Jaranwala and it is correct that the words uttered and used by the alleged contemnor in the public meeting were

اس کی توہین کی گئی ہے یہ عوامی عدالت کے فیصلے کی توہین ہوئی ہے۔ میاں صاحب! ایک دور تھا جب کچے میں بُت بنے ہوئے تھے آج عدالت جو سب سے بڑی اونچی ادارہ ہے وہاں بھی پی سی او کے بُت پڑے ہوئے ہیں۔ میاں نواز شریف ان کو نکالو۔ اس کو عدالت سے نکال کر باہر کرو۔ یہ انصاف نہیں دیں گیں۔ یہ اس طرح بے انصافی کریں گیں۔ موٹروے نواز شریف بنائے سی پیک نواز شریف بنائے دہشتگردی کی جنگ نواز شریف لڑے اور اس کے بعد وزیراعظم کہتے کوئی اور بنے کوئی بنے گا۔

18. DW-2 Musaddaq Malik, who was also present in the public meeting at Jaranwala on 27.01.2018, in his cross-examination he stated as follows: -

“I have been shown the transcripts of speech of the alleged contemnor which reads as follows: -

اس کی توہین کی گئی ہے یہ عوامی عدالت کے فیصلے کی توہین ہوئی ہے۔ میاں صاحب! ایک دور تھا جب کچھ میں بُت بنے ہوئے تھے آج عدالت جو سب سے بڑی اونچی ادارہ ہے وہاں بھی پی سی او کے بُت پڑے ہوئے ہیں۔ میاں نواز شریف ان کو نکالو۔ اس کو عدالت سے نکال کر باہر کرو۔ یہ انصاف نہیں دیں گیں۔ یہ اس طرح بے انصافی کریں گیں۔ موٹروے نواز شریف بنائے سی پیک نواز شریف بنائے دہشتگردی کی جنگ نواز شریف لڑے اور اس کے بعد وزیر اعظم کہتے کوئی اور بنے کوئی بنے گا۔

It is correct to suggest that such words were used by the alleged contemnor but were interjected by other things said by him and this was not his continuous speech.”

19. The alleged contemnor also produced DW-3 Muhammad Tahir, General Manager, PEMRA. In his examination in chief he referred to his letter dated 22.05.2018 filed at page No.3 of Criminal Miscellaneous Application 868/2018 and admitted that this letter was issued by him on the direction of Executive Member, PEMRA. The alleged contemnor did not get this letter produced as exhibit.

20. Anyhow, we have gone through this letter and it simply mentions that no show cause notice was issued to any Satellite channel regarding airing of speeches made by the alleged contemnor on 24.01.2018 and 27.01.2018. In our view non-issuing of show cause notice by PEMRA to the Satellite TV channels could not furnish ground of defence to the alleged contemnor for that to issue show cause notice to the Satellite channels was a matter between PEMRA and Satellite TV channels with which the Court is not much concerned. Though as a matter of law or policy PEMRA was required to issue show cause notice to the Satellite TV channels by not doing so the same does not have any reflection or connection with the contempt proceeding initiated by the Court against the alleged

contemnor. The remaining two witnesses produced by the alleged contemnor apparently were stock witnesses and not much turns on their evidence.

21. We have closely looked and examined the two transcripts of speeches made by the alleged contemnor and apparently find that such utterances of the alleged contemnor, amounted to abuse of Court and to scandalize the Court or tends to bring the Court or a Judge of the Court into hatred, ridicule or contempt within the meaning of Article 204 of the Constitution and further such contempt in terms of Section 18 of the Contempt of Court Ordinance, 2003 was substantially detrimental to the administration of justice in that it scandalized the Court and tend to bring the Court or a Judge of the Court into a hatred or ridicule. Learned Sr.ASC for the alleged contemnor during the course of his arguments has contended that even if this Court comes to the conclusion that the two speeches of the alleged contemnor do make out a case of contempt of Court against him, the Court will not act in vengeance rather the Court will exercise judicial restraint. In this regard learned Sr.ASC for the alleged contemnor has relied upon the cases of Habibul Wahhab Elkheiri vs. Khan Abdul Wali Khan and 4 others (PLD 1978 Supreme Court 85), Re-Contempt of Court Proceedings against General (Retd) Mirza Aslam Baig (PLD 1993 Supreme Court 310), Riaz Hanif Rahi vs. Saeed-uz-Zaman Siddiqui and 4 others (2011 SCMR 948) and also referred to the statements made by Faisal Raza Abdi and the statements made by Khadim Hussain Rizvi, President, Tehreek-i-Labbaik Pakistan at Faizabad Dharna in respect of which the Court took no action against the above two persons. He further contended that the two speeches of the alleged contemnor have been quoted out of contexts and that it could not be used against the alleged contemnor. We may note that though the alleged contemnor has taken this line of defence in this contempt proceeding against him but burden to prove the fact that these two speeches have been referred out of context, was upon him. He produced as many as five witnesses and even the General Manager from PEMRA but he never bothered to produce before the Court the whole text of his two speeches to show

that they are out of context. Once the alleged contemnor has taken up the defence on a point that his two speeches have been referred to out of context, the burden was upon him to show and establish that such was the case, which he failed to do.

22. As regard the submission of the learned Sr.ASC for the alleged contemnor that the Court ought to show judicial restraint. We have gone through the judgment cited by him and are of the view that these are not of much help to the alleged contemnor as the principle of judicial restraint is not a universal principle to be applied in each and every case as each and every case is based upon its own different facts, which in law are required to be dealt with in the peculiar facts and circumstances at their own case. The alleged contemnor in his two speeches as have been reproduced above in order to show his unfaltering allegiance to Mian Muhammad Nawaz Sharif, who as Prime Minister of Pakistan and was ousted from office by the judgment rendered by this Court in PANAMA case has uttered words seriously prejudicing the office of the Hon'ble 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 or within the ambit of the decency, morality and decorum but showed utter venom for which he himself has no cause of his own. The alleged contemnor in his two speeches has not only abused the judges of this Court but has scandalized the Court and did everything to bring the Court into hatred, ridicule and contempt, which is substantially detrimental to the administration of justice and scandalizes the Court and tends to bring the Court and judges of the Court into hatred and ridicule.

23. For all the above reasons, we are satisfied that the alleged contemnor has committed contempt of Court within the meaning of Article 204 of the Constitution read with Section 3 of the Contempt of Court Ordinance, 2003 and made himself liable for punishment. Thus he is convicted and sentenced under Sections 3 & 5 of the Ordinance, 2003 and punished with imprisonment till the rising of the Court with fine of Rs.100,000/-.



24. The Contempt proceeding in the above terms stand disposed of.

**JUDGE**

**JUDGE**

Islamabad  
Special Bench  
Rabbani/PS

**JUDGE**

Announced in open Court on \_\_\_\_\_.

**JUDGE**

*Approved for reporting.*