

**IN THE HIGH COURT OF SINDH AT KARACHI**

Present:

**Mr. Justice Amjad Ali Sahito**

**Criminal Revision Application No.214 of 2022**

Applicant : Salman Iqbal  
through M/s. Ravi Pinjani & Hamza  
Hidayatullah, Advocates

Respondents : Independent Newspapers Corporation  
(Private) Limited and others  
  
through Mr. Atta Hussain, Advocate  
Mr. Zafar Ahmed Awan, DPG

Date of hearing : 05.03.2025

Date of order : 21.03.2025

**ORDER**

**AMJAD ALI SAHITO, J** – Through the instant revision application, the Applicants seek to set aside the impugned orders dated 06.08.2022 passed by the learned Additional Sessions Judge-X1, Karachi South in Direct Complaint No. 1979/2022. By way of the said order, cognizance was taken against the Applicant/Accused for an offence punishable under Sections 500, 501, and 502 R/W Section 499 of the Pakistan Penal Code (PPC), directing that the complaint be placed on the regular file of the Court, and bailable warrant was issued against the Applicant. Being aggrieved, the Applicant has preferred the present revision application.

**2.** Brief facts of the case are that Respondent No.1 &2 /Complainants filed complaints under Section 200 Cr.P.C. R/W Section 500, 501, 502, & 502-A PPC against the applicant/accused praying for taking cognizance against them for defaming the complainants through media campaign by using written and spoken defamatory language etc. on different dates and different programs/news channels.

**3.** To ascertain the factual position, the statement of the authorized person of the complainants was recorded U/s 200

Cr.P.C. wherein he has almost reiterated the same instances as stated in the memo of the complaint. Thereafter, the matter was assigned to the learned XI1 Judicial Magistrate, Karachi South for holding preliminary enquiry, who after having recorded the statements of witness namely Wajid Ali returned the same to this Court for further proceedings. After hearing the learned counsel for the complainant and perusing the record the learned trial court took cognizance of the offence.

**4.** Per learned counsel for the applicant, while passing the impugned orders the learned Judge did not consider question of maintainability of private complaint in terms of Section 198 Cr.P.C. and PEMRA Ordinance, 2002; that defamation complaint is not maintainable under the PEMRA Ordinance 2002; that the private complaint is not maintainable by the respondents in terms of the mandatory bar prescribed under section 198 Cr.P.C; that the Respondent is not an aggrieved party to file a complaint against the applicants, as such, the same is liable to be dismissed; that if any complaint is against the applicants, the Respondent should have filed the same before the PEMRA instead of Court of law which is beyond its jurisdiction.

**5.** He further argued that jurisdiction to try media persons under sections 500, 501, 502, and 499 PPC is ousted by the PEMRA Ordinance, 2002 and Council of Complaints Rules and Code of Conduct; that Respondents No.1 & 2 (complainants) are incorporated companies and separate legal entities having their own independent existence, hence, they could not file a complaint; that Section 26 of PEMRA Ordinance provides that if any complaint against any aspect of programmes being broadcasted is to be made before the PEMRA Council of Complaints; that Respondents No 1 & 2 already approached PEMRA and under Article 13 of the constitution and the doctrine of election, the applicants cannot be vexed twice for the same allegations. Lastly prayed that the impugned order may be set aside and the instant application may be allowed. In support of his contentions, he has relied upon the cases as follows:

- i. *PLD 2001 Lahore 98 (Shabana Mustafa vs. Dr. Muhammad Khalid and others)*
- ii. *PLD 2023 Supreme Court 431 (PEMRA through Chairman and another vs. Messrs ARY Communication Private Limited (ARY Digital) through Chief Executive Officer and another)*

- iii. *PLD 2018 Supreme Court 828 (Trading Corporation of Pakistan vs. Devan Sugar Mills Limited and others)*
- iv. *2024 SCMR 518 (Chief Executive Officer NPGCL GENCO-III TPS Muzafargarrah vs. Khalid Umar Tariq Imran and others)*
- v. *PLD 1996 Karachi 306 (Haleem Shah vs. The State)*

**6.** Learned counsel for the respondents/complainant mainly contended that instant application was filed through attorney; that a power of attorney holder has no locus standi in criminal proceeding; that an accused in a criminal cases cannot delegate his personal liability to a non-advocate; that it is well-settled law that personal presence of an accused before the Court is mandatory and the attendance cannot be substituted through a power of attorney holder, hence this case cannot be proceeded further; that Section 540 Cr.P.C. states that Court may dispense with attendance of the accused in exceptional circumstances but not in ordinary cases; that defamatory statements in the television show were not limited to Mir Shakeel-ul-Rehman but targeted the credibility of Geo News Group and Jang Group as the applicant attempted to discredit their reputation; the assertion of the applicant that only Mir Shakeel-ul-Rehman is the only aggrieved party and Respondent has no right to file any complaint is factually incorrect; that if a crime is committed by means of electronic media then aggrieved party can seek criminal prosecution under Cr.P.C.; that PEMRA Ordinance, 2002 does not bar filing of a complaint under Section 200 Cr.P.C. Lastly submitted that the instant application may be dismissed.

**7.** Learned DPG supported the impugned order.

**8.** I have heard the learned counsel for the respective parties and have gone through the material available on the record.

**9.** The case presented by the Complainants/Respondents No.1 and 2 is that the Board of Directors of both companies, namely, M/s Independent Newspapers Corporation (Pvt.) Ltd. and M/s Independent Media Corporation (Pvt.) Ltd. (hereinafter referred to as "Both Companies"), separately authorized Muhammad Saleem, through distinct board resolutions dated 15.04.2020, to initiate legal proceedings against the accused individuals, namely, Salman Iqbal (Accused No.1), Anchor and Chief Executive Officer of M/s ARY Communication (Pvt.) Ltd., and Arshad Sharif (Accused No.2, now deceased), who was the anchor of the program "Power Play" telecast on ARY News.

**10.** The Complainants/Respondents asserted that the aforementioned accused individuals, through their actions, have caused substantial damage to the reputation and integrity of their prestigious companies and media group. The Complainants/Respondents No.1 and 2 maintain a longstanding, hard-earned reputation and credibility as independent, impartial, objective, and pragmatic sources of information, education, and entertainment for millions of viewers in Pakistan and globally.

**11.** Furthermore, in their statement/complaint, the Complainants/Respondents alleged that Accused No.1, Salman Iqbal, broadcasted and telecasted the program “Power Play” on the ARY News channel on 01.02.2022 and 02.02.2022, during which they misrepresented the judgment dated 31.01.2022, passed by the Accountability Court No.1, Lahore. In the said judgment, the accused in the referenced accountability case, namely, Mir Shakeel-ur-Rehman, was acquitted by the court upon allowing an application under Section 265-K of the Code of Criminal Procedure (Cr.P.C.) on merit and based on the available material in the case. However, in the said program, Accused No.2 alleged that Mir Shakeel-ur-Rehman was acquitted as a result of amendments made to the National Accountability Bureau (NAB) Ordinance in the year 2021. Conversely, the Jang and Geo Group reported that Mir Shakeel-ur-Rehman’s acquittal was on merit and due to a lack of evidence against him.

**12.** The Complainants contend that these false allegations, propagated by the accused persons, have caused severe damage to the honor, respect, and credibility of the Jang Group, Geo Group, and Mir Shakeel-ur-Rehman. As a result of these misleading statements, public perception has been influenced, leading to discussions suggesting that Mir Shakeel-ur-Rehman benefited from the said amendments to the NAB Ordinance and thereby obtained an 'NRO.'

**13.** The allegations put forth by the Complainants are reportedly corroborated by witness Wajid Ali, son of Ali Hassan, and further substantiated by the footage of the said program, which has been provided in a USB by the Complainants. In the said broadcast, Accused No.2, while displaying the first page of the judgment dated 31.01.2022, passed by the Accountability Court No.1, Lahore, alleged that the court acquitted Mir Shakeel-ur-Rehman

under Section 265-K Cr.P.C. due to the amendments made to the NAB Ordinance in 2021. However, a perusal of the said judgment dated 31.01.2022 reveals that the Accountability Court No.1, Lahore, while rendering its decision, did not rely upon the NAB amendments introduced in 2021 but instead provided its conclusive findings in Paragraph No. 24 of the judgment which reads as under:

*"There is no supportive material with the prosecution to prove involvement of Mir Shakeel-ur-Rehman and his co accused in this case and there is no probability of the petitioner/ accused and his co accused being convicted, hence further proceedings in the case would be nothing but a futile exercise which must be curbed under section 265-K Cr.P.C. The court is competent to exercise its power under section 265-K Cr.P.C. where, taking available material as true, yet there is no probability of conviction or where charge appears to be groundless and further process would be nothing but an abuse of process of law."*

**14.** The statements of the Complainant and the witness prima facie corroborate the allegations set forth in the private complaint, to the extent that the Accused persons misrepresented the judgment dated 31.01.2022 of the Accountability Court No.1, Lahore, in their program *Power Play*, which was broadcast/telecast on the ARY News channel on 01.02.2022 and 02.02.2022. In the said program, the Accused persons disseminated an imputation that Mir Shakeel-ur-Rehman was acquitted by taking advantage of the amendments made to the NAB Ordinance in the year 2021. The said imputation was made with the intent to harm, or with the knowledge or reasonable belief that such imputation would harm, the reputation of the Complainants, thereby defaming them.

**15.** The learned counsel for the applicants initially raised an objection regarding the **maintainability** of the private complaint filed by the Attorney under the provisions of **Section 198 of the Code of Criminal Procedure (Cr.P.C.)**. So also rise by learned counsel for the respondents about filing of revision application through attorney.

**16.** There is no dispute regarding the legal principle that any person may invoke the criminal law machinery by either lodging a report under Section 154 of the Code of Criminal Procedure (Cr.P.C.) or by filing a complaint under Section 200 Cr.P.C. However, Section 198 of the Cr.P.C. prescribes certain exceptions

wherein a complaint may be instituted by an individual other than the **aggrieved person**.

- A. **If the Aggrieved Person is a Woman Restricted by Customs (Pardanashin)** – A legal representative or close relative may file a complaint with the court's permission.
- B. **If the Aggrieved Person is a Minor (Under 18 Years Old)** – A guardian, parent, or legal representative may file the complaint.
- C. **If the Aggrieved Person is Mentally Incapacitated (Idiot or Lunatic)** – A guardian or close relative can file the complaint.
- D. **If the Aggrieved Person is Unable to Complain Due to Sickness or Infirmary** – A family member or interested person may file the complaint with the court's permission.
- E. **If the Aggrieved Person is a Husband Serving in the Armed Forces (Section 494 PPC - Bigamy)** – He may authorize another person under **Section 199-B Cr.P.C** to file the complaint.

**17.** The term "**attorney**", in its broadest legal sense, refers to an individual who does not speak or act on their own behalf but rather represents their **principal**. According to **Black's Law Dictionary (Fourth Edition)**, the term *attorney* is defined as:

*"In the most general sense, this term denotes an agent or substitute, or one who is appointed and authorized to act in the place or stead of another."*

Similarly, as per **Merriam-Webster Dictionary**, an *attorney* is defined as:

*"One who is legally appointed to transact business on another's behalf."*

**18.** Since the "**Criminal administration of justice**" recognizes only those as a witness or complainant who either have seen; heard or at least perceived any fact towards the offence hence an "**attorney**" being not speaking of his own knowledge, would not fall within the meaning of witness/complainant. Thus, an attorney cannot legally, under such status of attorney, file the FIR or a criminal complaint.

**19.** Thus, while an attorney cannot generally file a criminal complaint, only the exceptions mentioned above allow specific individuals to file complaints on behalf of aggrieved persons in restricted circumstances as per Section 198 Cr.P.C.

**20.** The present case, the complaint was filed by Muhammad Suleman, who was duly authorized by the Board of Directors of both companies through separate board resolutions dated April 15, 2020, to initiate legal proceedings against the proposed accused, namely, Salman Iqbal, Chief Executive Officer of M/s ARY Communication (Pvt.) Ltd., and Arshad Sharif, Anchor of the program *Power Play*.

**21.** With regard to the contention raised by the learned counsel for the Applicants, asserting that the alleged statements were directed solely against Mir Shakeel-ur-Rehman, thereby making him the only aggrieved person entitled to file a complaint under Section 200 of the Code of Criminal Procedure (Cr.P.C.), such an argument is devoid of merit. The complaint was duly instituted by Muhammad Suleman, who was expressly authorized by M/s Independent Newspaper Corporation (Pvt.) Ltd. (Jang Group) and M/s Independent Media Corporation (Pvt.) Ltd. (Geo Group).

**22.** A careful examination of the program's script, as available on record, reveals that the Applicants/Accused made multiple statements against Jang Group and Geo Group. In such circumstances, where defamatory remarks are directed toward a corporate entity or media organization, Section 198 of the Code of Criminal Procedure provides specific exceptions, allowing an authorized representative to file a complaint on behalf of the entity.

**23.** With respect to the objection raised by the learned counsel for the Respondents, contending that the present application, having been filed through a Power of Attorney, is not maintainable, I have carefully examined the record. The record indicates that the Applicant/Accused, Salman Iqbal, has filed the instant Criminal Revision Application through his duly authorized attorney, Zain-ul-Abideen Shah.

**24.** The pertinent legal question that arises is whether criminal proceedings can be initiated through a holder of a Power of Attorney. It is a well-established principle of criminal jurisprudence that the personal presence of the accused before the Court is mandatory, and such attendance cannot be substituted by a power of attorney holder. The Code of Criminal Procedure, 1898 (Cr.P.C.), provides limited exceptions where the personal appearance of the accused may be dispensed with; however, it does

not confer any general right upon an attorney to represent the accused in his absence.

**25.** Under Section 540-A Cr.P.C. the Court, in exceptional circumstances, may exercise its discretion to exempt the personal attendance of the accused. However, such an exemption does not grant an accused the right to be represented by a power of attorney holder. Even where an exemption from personal appearance is granted, representation must be undertaken by a legally recognized pleader, i.e., an Advocate duly enrolled under the relevant legal framework, and not by an attorney acting under a power of attorney.

**26.** In the present case, the accused has sought to be represented through a power of attorney holder, which is not permissible under the law. Criminal proceedings involve penal consequences and personal liability, necessitating the direct participation of the accused unless expressly provided otherwise by law. Unlike civil matters, where representation through a power of attorney may be permissible in limited circumstances, criminal law does not afford such a privilege to the accused.

**27.** Section 4(1)(r) Cr.P.C. defines a "**pleader**" as a person legally authorized to act on behalf of a party, explicitly referring to an Advocate enrolled under the relevant laws. The Code of Criminal Procedure, 1898, and the laws governing criminal trials explicitly recognize only a pleader (i.e., an Advocate) for representation in court proceedings. A power of attorney holder does not fall within this statutory definition and therefore lacks the legal standing to act on behalf of an accused in criminal proceedings. The law mandates that representation in criminal matters must be through a duly appointed Advocate to ensure that legal arguments are properly presented in accordance with procedural safeguards.

**28.** In view of the foregoing, a power of attorney holder has no *locus standi* in criminal proceedings. An accused in a criminal case cannot delegate their personal liability to a non-Advocate. A pleader, as recognized under criminal law, must be a duly licensed Advocate, and no third party has the right of audience unless expressly permitted by the Court. Furthermore, Section 540-A Cr.P.C. does not provide for representation through a power of attorney. **In the instant case, as the application has been filed**



**by the Applicant through his authorized attorney, it is not maintainable in law.**

**29.** The learned counsel for the Applicants contends that the jurisdiction to adjudicate matters concerning media personnel under Sections 499, 500, 501, and 502 of the Pakistan Penal Code is ousted by the provisions of the Pakistan Electronic Media Regulatory Authority (**PEMRA**) Ordinance, 2002.

**30.** The **Pakistan Electronic Media Regulatory Authority Ordinance, 2002** ("PEMRA Ordinance") may contain penal provisions and provide a forum for lodging complaints against electronic media; however, it does not supersede the general penal laws. **Sections 26 and 27** of the PEMRA Ordinance, 2002, pertain exclusively to violations or infringements, if any, related to the terms and conditions of a license issued under the ordinance. Under **Section 27**, PEMRA is empowered to prohibit any broadcast media or distribution service, while **Section 28** allows for the suspension of a license, and **Section 29-A** provides for the imposition of fines. In order to establish criminal liability for offences specified in the PEMRA Ordinance, a complaint must be lodged under **Section 34** of the said Ordinance. Furthermore, general provisions of law are not expressly barred. Therefore, an **FIR** or a complaint under Section 200 of the Code of Criminal Procedure (Cr.P.C.) may be registered for offences falling under the Pakistan Penal Code (P.P.C.), alongside proceedings under the PEMRA Ordinance where applicable. If the same set of facts constitutes offences under multiple legal provisions or different statutes, resulting in distinct offences, the principle of **double jeopardy** would not be applicable. Consequently, separate prosecutions and punishments for such distinct offences would not be legally precluded. In the case of **Muhammad Nadeem Anwar v. Securities and Exchange Commission of Pakistan through NBFCs Deptt; Islamabad (2014 SCMR 1376)** Honable Supreme Court of Pakistan has held that;-

*"9..... Bare reading of afore-quoted provision of law is clearly suggestive of the fact that both are under different enactments of law having different procedure and forum for initiating proceedings thereunder although both the sets of offences have been committed by the accused in one go that is to say that the accused-petitioner acted in such a manner which*

constituted offences punishable under two separate and distinct laws i.e. one under the NAB Ordinance and the other under the Companies Ordinance. Both are different and distinct pieces of legislation, therefore, acts and omissions of the petitioner committed by him cannot be said to be same offences."Reference may be made to a decision of this court in the case of *Adam v. Collector of Customs, Karachi (PLD 1969 SC 446)* in which this court has held that;-

*"Therefore, no question of double jeopardy arises when simultaneously or subsequently a trial is held to determine the guilt who has been concerned in the offence in respect of goods which are the subject-matter of the adjudication proceedings. And since the proceeding for adjudication by the custom authorities and the criminal prosecution of the offender in the court are not inter-dependent, they can proceed simultaneously and neither can remain under suspension for the sake of other.*

In another case ***Mian Haroon Riaz Lucky v. The State (2021 SCMR 56)*** Honable Supreme Court has held that "an FIR under section 462-C PPC can be lodged and investigation despite the presence of Gas (Theft Control and Recovery) Act"

**ABDUL BARI--Versus--AKHTAR RASHEED, STATION HOUSE OFFICER, POLICE STATION AIRPORT, QUETTA and 5 others. (2022 M L D 805 [Balochistan])**

8. The petitioner pressed that the act for which they have been nominated as accused have already been dealt under the provisions of PEMRA Ordinance 2002, thus no further proceedings could be held against them, not supported by any provision of law. The decision of the Authority dated 25th October 2017 on recommendations of Council for Complaints (Karachi and Lahore) imposed fine on Geo News in exercise of powers under Section 29 (6) PEMRA Ordinance 2002. It was for violation of terms and conditions of license. No criminal liability was dealt by the Authority.

**INDEPENDENT MEDIA CORPORATION (PVT.) LTD. Through Muhammad Azhar and 4 others. V. GOVERNMENT OF BALOCHISTAN through Chief Secretary and Secretary Law, Quetta and 9 others---Respondents (PLD 2019 Balochistan 27)**

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*and Lahore) imposed fine on Geo News in exercise of powers under Section 29 (6) PEMRA Ordinance 2002. It was for violation of terms and conditions of license. No criminal liability was dealt by the Authority.*

**31.** Based on the foregoing discussion and the judicial precedents cited supra, it is my considered view that no special law can declare a ***malum prohibitum*** as a non-offence unless it is expressly omitted from the statutory framework. As long as **Sections 499, 500, 501, 502, and 502-A** of the **Pakistan Penal Code, 1860** remain in force, an aggrieved person retains the right to seek redress through the courts of competent jurisdiction for the initiation of criminal proceedings in cases involving publication, broadcast, or telecast that allegedly cause harm.

**32.** Furthermore, a **complaint** merely constitutes a statement of allegations intended to set the legal process in motion. The proceedings under Sections 203 and 204 of the Code of Criminal Procedure (Cr.P.C.) are contingent upon the presence or absence of sufficient grounds, as determined by the court on the basis of a **prima facie** case. The prosecution or complainant is required to establish the case **beyond reasonable doubt**; however, at the preliminary stage, the complainant is not burdened with proving the allegations to such an extent.

**33.** The primary objective of **preliminary proceedings** is to ascertain the truthfulness or falsity of the accusations set forth in the complaint, which must be evaluated based on the evidence presented by the complainant. At this stage, the accused does not possess the right to participate, as the court is only required to take **cognizance** of the matter and issue a **summons**. The fundamental purpose of these proceedings remains the assessment of whether the allegations merit further legal action, subject to evidentiary scrutiny.

**34.** In the present case, the statement of the Complainant was recorded under Section 200 of the Code of Criminal Procedure (Cr.P.C.), wherein he substantially reiterated the

same facts as stated in the complaint. Subsequently, the matter was referred to the learned XIIth Judicial Magistrate, Karachi-South, for the conduct of a preliminary inquiry. Upon recording the statement of the witness, namely Wajid Ali, the learned Magistrate returned the matter to the trial court.

The learned trial court, upon perusal of the statement of the Complainant's representatives recorded under Section 200 Cr.P.C., as well as the statement of the witness recorded under Section 202 Cr.P.C., took cognizance of the offence and accordingly issuedailable warrants.

**35.** The learned counsel for the Applicants/Accused has failed to establish any illegality or procedural irregularity in the impugned orders passed by the learned trial court. Consequently, the instant application stands **dismissed**. However, if the Applicant believes that there is no material evidence against him, he is at liberty to file an application under Section 249-A or 265-K of the Code of Criminal Procedure (Cr.P.C.) before the learned trial court seeking premature acquittal, if he chooses to do so.

**JUDGE**