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741

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

Before:-

Mr. Justice Ahmed Ali M. Shaikh, C.J.

Mr. Justice Mohammed Karim Khan Agha, J.

**Petition No. and name of petitioner along with counsel.**

C.P. No.D-542 of 2018 Ali Ahmed Lund V. National Accountability Bureau through its Chairman and others.

Ali Ahmed Lund s/o Noor Muhammad Lund, petitioner through Mr. Shaukat Hayat, Advocate.

Date of Hearing: 23.02.2018

Date of Order: 01.03.2018

**ORDER**

**Mohammed Karim Khan Agha, J.** By this order we propose to dispose of the above mentioned petition filed by the petitioner Ali Ahmed Lund against the order dated 20.11.2017 (impugned order) passed by learned Judge, Accountability Court No.III, Karachi.

2. Brief facts of the case are that Reference No. 47 of 2015 (The State V. Ali Ahmed Lund) was filed against the petitioner by the National Accountability Bureau (NAB) on account of corruption, and corrupt practices under the National Accountability Ordinance, 1999 (NAO). The allegation against the petitioner is that being a government servant it was found that he had accumulated assets disproportionate to his known sources of income which he could not reasonably account for. Thereafter the charge was framed and the prosecution led a number of witnesses in support of its case.

At that juncture, the NAB filed an application under Section 344 Cr.P.C for grant of time to file a supplementary reference. This application was opposed by the learned counsel for the petitioner. However, NAB was allowed to file a supplementary reference through the impugned order.

3. Learned counsel for the petitioner submitted that there was no provision under the NAO, which allows the NAB to further authorize an inquiry and investigation after a reference has been filed; that there was no provision under the NAO, which allows the NAB to file a supplementary reference and even otherwise there were no fresh discovery of assets which would justify the filing of a supplementary reference which in fact was similar to the reference which had already been filed.

4. We have considered the arguments of learned counsel for the petitioner; perused the record as well as relevant case laws.

5. In our view, it is quite clear that NAB has power to file a supplementary reference if it discovers any new material after filing of the reference which shows that the petitioner had even more assets / hidden assets prior to the filing of reference. In the case of **Imran Ahmed Khan V. Mian Mohammad Nawaz Sharif** (PLD 2017 SC 713) the Hon'ble Supreme Court of Pakistan at paragraph 'f' of its final order held as under:-

"f) NAB may file supplementary Reference(s) if and when any other asset, which is not prima facie reasonably accounted for, is discovered;"

6. In this case at para-III of the grounds of the petition it is specifically stated:

III) ..... All the transactions shown in supplementary reference are already in the accounts of the first reference, **except** the joining of the other co-accused being a benamidar, aiders or abettors in commission of offence of corruption and corrupt practice, u/s. 19(a)(vi) of NAO 1999, without change of the alleged disproportionate amount from lawful sources of the petitioner, therefore no ground of entrustment of further enquiry / investigation and filing of the supplementary reference against the petitioner.

7. In our view, the above extract from para-III, referred to above, is a direct admission by the petitioner that co-accused have been joined as benamidar or aider/abettors in the commission of offence which has been charged in the reference and Benamidars have been used in order to conceal the assets of the petitioner and as such the benamidar and any new asset needs to form a part of the reference.

8. Based on the above facts and circumstances, we find no legal infirmity in the impugned order and accordingly the instant petition is hereby dismissed in limine.