

IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Revision Application No. 197 of 2020

Applicant : Nouman son of Muhammad Akram
Through Mr. Muhammad Shahid Malik, learned
advocate

State : Mr. Sharafuddin Jamali, Asst; Attorney General

Date of hearing : 07.04.2025

Date of order : 15.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Criminal Revision Application is directed against the concurrent findings of conviction recorded by the learned Judicial Magistrate-I South, Karachi vide judgment dated 29.01.2020, and upheld by the learned Sessions Judge South, Karachi vide judgment dated 24.11.2020, whereby the applicant/accused Noman S/o Muhammad Akram was convicted for offence u/s 16, 20, and 21 of the Prevention of Electronic Crimes Act, 2016 (PECA), and sentenced to one year R.I. with a fine of Rs. 40,000/-, and in default of payment, to further undergo one month of simple imprisonment.

2. As per prosecution theory; an Enquiry No. 196/2018 dated 10.08.2018 was initiated at Police Station FIA, Cyber Crime Circle (NR3C), Karachi on the basis of a written complaint submitted by Ms. Rabia Younis. In her complaint, the complainant alleged that her ex-husband, Mr. Nouman Akram, had been uploading her obscene and objectionable pictures on Facebook, thereby violating her privacy and dignity. She further stated that he had created fake Facebook profiles impersonating her under the names "Rabia Khan" and used the following Facebook IDs and URLs viz. Facebook ID: 100022098964733 URL: <https://www.facebook.com/profile.php?id=100022098964733> FacebookID:100025138057958URL:<https://www.facebook.com/profile.php?id=100025138057958>, She further reported that Nouman Akram was sending her threatening and abusive messages via SMS from mobile number 0332-2927018, and that due to the continuous harassment, she had attempted to commit suicide. She asserted that the accused had destroyed her social reputation and continued to blackmail her. During the enquiry, the Inquiry Officer recorded the detailed statement of the complainant, affirming the allegations. Subsequently, a request was forwarded to Facebook's security team to obtain IP logs and related data

of the above-mentioned Facebook profiles. In response, on 19.07.2018, Facebook provided the relevant IP logs and associated data, which included the following:

- IP: 122.8.142.50 – Date/Time: 19:35 (unspecified date)
- IP: 196.194.138.44 – Date/Time: 02-05-2018, 00:49:00
- IP: 111.88.27.165 – Date/Time: 02-05-2018, 00:36:53
- IP: 202.5.157.48 – Date/Time: 24-04-2018, 00:05:11
- Verified Cell Number associated: 0337-9234922

3. The IP addresses were traced back to M/s Connect Communications, and the mobile number 0337-9234922 was verified to be registered with M/s Ufone, and in the name of Nouman, CNIC No. 42301-9424075. Details of the IP subscribers were ascertained from M/s Connect Communications. It was further revealed that Rizwan Khan is/was the brother of the accused Nouman Akram, and both reside at Flat No. 601, 6th Floor, Wali Garden, West Karachi. With approval from the competent authority, a raiding party of FIA, Cyber Crime Circle, NR3C, Karachi, headed by the I.O., conducted a raid after making a proper entry in Roznamcha at PS Garden City, Karachi. Upon arrival and knocking at the said flat, a person came to the door, he introduced himself as Nouman Akram and the FIA CCC Karachi technically analyzed his mobile phone and found the number of obscene/nude pictures of complainant in the recovered mobile phone. Facebook accessed and found the Login I.D in the name of Rabia Khan. Following the completion of investigation, a charge sheet was submitted for offence under Sections 16, 20, 21, and 24 of PECA, and trial was conducted.

4. To substantiate its case, the prosecution examined seven (07) witnesses, and after recording the statement of the accused under Section 342 Cr.P.C., the trial court convicted the applicant as noted above. The appellate court, upon hearing Cr. Appeal No. 07/2020, dismissed the same, maintaining the conviction and sentence. Hence, the applicant/accused has filed the instant revision application.

5. At the very outset, learned defense counsel argued, the applicant has been falsely implicated in this case due to personal vendetta and strained matrimonial relations. There is no direct or independent evidence proving that the applicant created or operated the fake Facebook accounts in question. He added, the complainant failed to produce cogent evidence demonstrating that the alleged Facebook accounts were indeed created or managed by the applicant. He put stance that in her cross-examination, the complainant admitted that she had no proof connecting the accused to the specific acts alleged. He argued that prosecution evidence suffers

from material contradictions and inconsistencies. For instance, the complainant admitted she had not disclosed the names of those who informed her of the fake accounts, nor had she presented any of the individuals to whom the objectionable content was allegedly forwarded. He further argued that no independent witness was associated with the raid or recovery, despite the requirement under Section 103 Cr.P.C. The entire case rests on the testimony of interested and partisan witnesses. He argued that the alleged recovery of objectionable material from the mobile phone of the applicant was made in violation of legal safeguards and without proper digital forensics protocols or independent verification. The chain of custody is also questionable. He argued that the so-called confession made by the accused at the time of arrest was not recorded under any provision of law and is hit by Article 38 of the Qanun-e-Shahadat Order, 1984, being a statement before a police officer and hence inadmissible. He argued that no qualified digital forensics expert was produced to establish that the accused had accessed or operated the alleged fake accounts. The logs provided by Facebook are insufficient without technical corroboration. He argued that both the trial court and appellate court have misread and/or ignored significant parts of the record, including the lack of direct attribution of the offense to the applicant, thereby rendering the findings of conviction unsustainable in law. He argued that even if part of the prosecution story is believed, the benefit of doubt must go to the applicant in accordance with the settled principles of criminal jurisprudence. The courts below failed to apply this cardinal principle. He argued that the FIR was lodged after the applicant had already been taken into custody by Military Police on a separate complaint, raising serious doubt about the bona fide nature of this case. The present FIR appears to be an afterthought and a means of harassment. He argued that prosecution has failed to prove that the applicant “transmitted” or “publically exhibited” the content in question to any third party, a necessary element under Sections 20 and 21 PECA. He argued that the prosecution has not established any motive or mens rea, nor any intent to cause harm or blackmail, which are essential ingredients under PECA for establishing criminal liability. He argued that The concurrent findings are based on conjectures and assumptions rather than solid legal evidence and are therefore liable to be set aside in exercise of revisional jurisdiction.

6. On the other hand Mr. Jamali, the learned APG for the State vehemently opposed the revision by stating that prosecution successfully discharged its burden through reliable and cogent digital evidence. The

Facebook accounts in question were traced to an IP address and mobile number registered in the name of the accused, with this connection independently confirmed by PTCL and mobile service providers. This established a clear and unbroken link between the accused and the commission of the offence. He argued that the accused, at the time of his arrest during the raid, voluntarily admitted to creating the fake Facebook profiles and uploading the obscene material. Although not recorded under Section 164 Cr.P.C., such a spontaneous admission is admissible as part of the *res gestae* under Article 19 of the Qanun-e-Shahadat Order, 1984. The forensic examination of the accused's mobile phone further substantiated the prosecution's case. He argued that obscene images identical to those posted on the fake Facebook accounts were recovered from the device, alongside screenshots and login credentials, all of which aligned with the content of the impugned profiles. Notably, the defense did not produce any rebuttal to the forensic expert's report, nor did it allege any bias or *mala fide* on the part of the FIA officials or the forensic examiner. The APG emphasized that offences under PECA are inherently digital and do not require eyewitnesses account; instead, verified technical evidence is both sufficient and conclusive. He argued that there are different case laws which recognizes that properly collected digital evidence, corroborated by expert opinion, can sustain a conviction even in the absence of ocular support. The APG concluded by highlighting that both the trial court and appellate court concurrently upheld the conviction after appreciating the evidence in accordance with law, and no misreading or non-reading has been shown by the applicant to justify interference in revisional jurisdiction. Therefore, the conviction merits affirmation and the revision application deserves to be dismissed.

7. Upon careful appraisal of the material available on record, it is established that the appellant Nouman Akram, created and operated two fake Facebook profiles impersonating the complainant under the display name "Rabia Khan." These accounts were accessible through the following URLs:

- <https://www.facebook.com/profile.php?id=100022098964733>
- <https://www.facebook.com/profile.php?id=100025138057958>

8. During the enquiry conducted by the FIA Cyber Crime Circle, the accused was specifically confronted with the above Facebook accounts, and he voluntarily admitted to have created both profiles. He further confessed that he had uploaded, circulated, and transmitted obscene and nude photographs of the complainant, Ms. Rabia Younis, through these platforms without her consent. The technical analysis team of NR3C,

Karachi, obtained and examined IP logs and device usage data shared by Facebook, which showed consistent logins to the impugned Facebook IDs from IP addresses associated with an internet connection registered in the name of Rizwan Khan, the brother of the applicant, at their shared residence, i.e., Flat No. 601, 6th Floor, Wali Garden, West Karachi. Moreover, forensic analysis of the mobile device recovered during the raid confirmed that the handset remained in the continuous use of the applicant Nouman Akram. The forensic data extracted from the said device included access logs, media files, and saved credentials directly correlating with the impugned Facebook accounts and objectionable content. It further substantiated that the Ufone mobile number 0337-9234922, which was used for verification and recovery of said Facebook IDs, was registered in the name of Nouman Akram and remained in his active use during the relevant period.

9. The convergence of testimonial admission, corroborated technical evidence, and verified forensic findings leaves no room for doubt regarding the identity of the perpetrator. The digital trail meticulously traced and authenticated by the forensic team unequivocally confirms that the applicant, Nouman Akram, was the creator and operator of the Facebook IDs in question and the originator of the illicit online transmission of private and explicit material targeting the complainant being his ex-wife.

10. The complainant is the pivotal witness in this case, and her evidence has been thoroughly scrutinized by this Court in juxtaposition with the concurrent findings of the learned courts below. It emerges from the evidence that SIM No. 0337-9234922 was registered in the name of applicant Noman, and it was this very number that was utilized in the creation of the fake Facebook ID on which objectionable photographs of the complainant were uploaded. The report produced by the investigating officer from M/s Connect Communication Authority further confirms that the internet connection used for uploading the said images was registered in the name of one Rizwan, the real brother of the applicant. This Wi-Fi connection was installed at the premises where the applicant resided along with other family members. The applicant also admitted the same address as his place of residence, corresponding with the IP address used in the commission of the offence. Although the applicant took the plea that the SIM card, albeit registered in his name, was being used by his wife, the complainant in this case was, in fact, his ex-wife, with their marriage having been dissolved through a decree of Khula dated 09.09.2017.

11. The Facebook account in question was created on 14.09.2017, merely five days after the dissolution of marriage, which clearly demonstrates the existence of motive and a vindictive mens rea on the part of the applicant. The objectionable material was subsequently posted during the year 2018. There is no denial on record from the complainant that the applicant was in possession of her photographs. Rather, it is an admitted position that they were married from 2011 to 2017 and during that period, as a serving officer in the Pakistan Army, the complainant used to send personal images to the applicant. This lends further credence to the prosecution's case that the applicant was the only person in possession of such images.

12. Furthermore, the learned trial court recorded the testimony of Muhammad Kamran, the real brother of applicant, he unequivocally deposed in his examination-in-chief that the SIM bearing No. 0332-2927018 was registered in his name and had been handed over to his brother, Muhammad Noman (the applicant), in the year 2012, who had been using it since then. Despite being subjected to cross-examination, the defense failed to elicit anything beneficial or contradictory from his testimony. Similarly, P.W-04 Muhammad Rizwan deposed that the Wi-Fi device in question was registered in his name, but was used by all family members owing to their joint family setup. His cross-examination too did not result in any material inconsistency. The testimonies of both witnesses, being close related of the applicant, not only remained unshaken but also stood in consonance with the prosecution case and the investigative findings, lending corroboration to the fact that the digital devices and associated accounts were operated from within the household of the applicant.

13. On evaluation of the material brought on record and in light of the admissions of the accused during inquiry and the digital forensic evidence, it has been conclusively established that the accused Nouman was the creator and operator of two fake Facebook profiles bearing the URLs:

- <https://www.facebook.com/profile.php?id=100022098964733>
- <https://www.facebook.com/profile.php?id=100025138057958>

14. These profiles were used to upload, disseminate, and transmit objectionable, nude, and vulgar images of the complainant, Ms. Rabia Younis, without her consent, with the intent to harm her reputation, disgrace her modesty, and blackmail her. During interrogation, when specifically questioned, Nouman voluntarily admitted to have created

these Facebook IDs using the Ufone SIM number **0337-9234922**, which stands registered in his own name and was actively used in the commission of the offence.

15. The Forensic Analysis Report submitted by the FIA Cyber Crime Wing further corroborates this admission. The forensic examination of the mobile phone recovered from the possession of the applicant, confirmed to have remained in his continuous use, revealed login credentials, chat histories, and media files directly linking him to the aforementioned Facebook accounts and the objectionable transmissions in question. The technical report explicitly confirmed that the images were uploaded through devices used exclusively by the applicant and that the Facebook IDs were accessed from IP addresses corresponding to the locations frequented by him. These findings were supported by the Digital Forensics Expert, who, while observing the prescribed protocols and standard operating procedures for cyber investigation, validated the extraction and preservation of evidence from the device. The integrity of the digital chain of custody, the technical evidence retrieved from the mobile phone, and the explicit forensic linkages between the fake Facebook accounts and the accused establish his culpability beyond any shadow of doubt. The facts of the present case bear substantial resemblance to the facts of that matter, wherein the applicant had created fake Facebook IDs and uploaded obscene material with vindictive intent. In the present case, the digital trail unmistakably leads back to accused Nouman, whose deliberate actions amount to offences under Sections 21 and 24 of the Prevention of Electronic Crimes Act, 2016, read with Sections 109 and 500 PPC.

16. This Court is mindful that under Section 27 of PECA, 2016, offences committed through or in relation to information systems shall not be denied recognition solely due to the medium of their commission. As the evidence herein is entirely digital and unshaken in cross-examination, and since the mobile phone remained in the exclusive use of the accused and has been forensically linked to the impugned act, this Court finds the conviction of the accused to be based on unimpeachable evidence. The prosecution has fully discharged its burden and proved the case against the accused with confidence-inspiring evidence.

17. Minor discrepancies or technical infirmities in the prosecution case are not sufficient to discard such overwhelming evidence. The prosecution case is primarily anchored in authentic, consistent, and independently corroborated digital evidence. Facebook logs obtained through lawful

process revealed that the images were uploaded via IP addresses and a mobile number independently verified by PTCL and the mobile service provider to be registered in the name of the accused. This digital trail firmly establishes an unbroken and conclusive nexus between the applicant and the impugned Facebook profiles.

18. This chain of evidence, lawfully procured and analyzed, withstood scrutiny during the trial. The testimony of all prosecution witnesses was coherent, trustworthy, and confidence-inspiring. Moreover, the applicant voluntarily confessed during the raid to having created the fake Facebook accounts and uploading the objectionable images. Although not recorded under Section 164 Cr.P.C., such spontaneous admission qualifies as admissible evidence under article 19 of the Qanun-e-Shahadat Order, 1984, as a contemporaneous statement forming part of the *res gestae*. The absence of any allegation of coercion further enhances the evidentiary weight of such admission. The mobile phone of the accused was forensically examined by certified digital forensic experts of FIA, who recovered from it the same explicit images as those found on the fake profiles, as well as access credentials and screenshots corroborating operation of the accounts in question. The defense could not refute this forensic evidence nor could it establish any *mala fide* or animosity on the part of the investigating officer or forensic experts. Their testimonies remained unchallenged and unimpeached. It is a settled principle that in the absence of any enmity or ulterior motive, official witnesses cannot be disbelieved merely for holding official positions.

19. Given the nature of offences under the Prevention of Electronic Crimes Act, 2016, which are typically committed in virtual spaces, the requirement for traditional eyewitnesses does not apply. Such ocular version is supported by the electronic evidence available through the modern electronic devices and palpably not shaken by the defense in any manner. In this context, I feel it necessary to reproduce the relevant provision provided under the Prevention Electronic Crimes Act, 2016 as under:-

27. Legal recognition of offences committed in relation to information system. (1) Notwithstanding anything contained in any other law for the time being in force, an offence under this Act or any other law shall not be denied legal recognition and enforcement for the sole reason of such offence being committed in relation to or through the use of an information system.

(2) References to “property” in any law creating an offence in relation to or concerning property, shall include information system and data.

20. Electronic signature of a person is further recognized under the provisions of the Electronic Transaction Ordinance, 2002, particularly in Sections 3 and 7 *ibid*, also affirm the legal recognition and admissibility of electronic records and signatures in the eyes of law. The said provisions are reproduced hereinbelow for ready reference: –

3. Legal recognition of electronic forms. – No document, record, information, communication or transaction shall be denied legal recognition, admissibility, effect, validity, proof or enforceability on the ground that it is in electronic form and has not been attested by any witness.

7. Legal recognition of electronic signatures: – The requirement under any law for affixation of signatures shall be deemed satisfied where electronic signatures or advanced electronic signature are applied.

21. In the light of above, where such evidence is cogent, credible, and legally obtained, as in the present case, it is sufficient for sustaining a conviction. The absence of ocular evidence is not a ground to discard otherwise unimpeachable digital proof.

22. In view of the foregoing discussion, this Court is of the considered view that the learned trial court as well as the appellate court have correctly appreciated the evidence on record. The findings are based on sound reasoning and are fully supported by the material available. The digital forensic evidence, the spontaneous and voluntary admission of guilt by the applicant and thus discovery of numerous facts not in the knowledge of anyone comes within article 40 of Qanoon-e-Shahadat Order, 1984 and further the consistent testimony of official witnesses, and the failure of the defense to present any plausible rebuttal or defense collectively establish the guilt of the applicant beyond a reasonable doubt.

23. Accordingly, this criminal revision application, being devoid of merit, is dismissed. The conviction and sentence awarded to the accused by the learned Judicial Magistrate-I, Karachi South, vide judgment dated 29.01.2020, and upheld by the learned District and Sessions Judge, Karachi South, vide judgment dated 24.11.2020, are hereby maintained. Let the copy of this order be forwarded to the concerned courts for information.

J U D G E