

NOT FOR REPORTING
Ref. Uged due to Sindh Amend Act.
Dismissed in limine

1248

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-1811 of 2018.

DATE	ORDER WITH SIGNATURE OF JUDGE
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FRESH CASE.

1. For orders on Misc. No. 7834/18. (U/App).
2. For orders on Misc. No. 7835/18. (Exp/App).
3. For hearing of main case.

20.03.2018

Mr. Zaheeruddin Babar, Advocate for Petitioner.

1. Granted.
2. Exemption granted subject to all just exceptions.
3. The petitioner is a nominated accused in National Accountability Bureau (NAB) Reference No.50 of 2016 State v Sharjeel Inam Memon and others which has been filed against him and other co-accused for acts of corruption and corrupt practices under S.9 of the National Accountability Ordinance 1999 (NAO) which is proceeding before the concerned accountability Court in Karachi.
4. In essence the petitioner has prayed that the inquiry/investigation and reference filed against him by the NAB is without jurisdiction because his case should have been dealt with under NAO, 1999 Sindh Repeal Bill 2017 (the Bill) instead of the NAO and as such the reference filed against him should be held as having no legal effect.
5. Learned counsel for the petitioner submitted that the Bill was holding the field in the province of Sindh and as such the NAO was no longer applicable in Sindh; that it is not possible for there to be two co-existing laws on the same subject at the same time namely the Bill and the NAO and that under such circumstances the provincial law i.e. the Bill would prevail over the federal law i.e.

NAO; that allowing the reference to proceed against the petitioner in the face of the Bill was violative of Articles 2(A), 4, 8, 10 (A), 13 and 25 of the Constitution and under the Bill his case ought to have been dealt with by the ACE Sindh. In support of his contentions learned counsel placed reliance on PLD 2018 Lahore 160, PLD 2017 Sindh 347, PLD 2012 S.C. 649, and SCMR 2015 1739.

6. We have considered the submissions of learned counsel for the petitioner and scanned the record and considered the authorities relied on by him.

7. We are of the considered view at this point in time that the NAO is currently holding the field and is fully applicable to the province of Sindh. With regard to the Bill we note that in other petitions concerning the constitutionality of the Bill filed before this court, the learned Advocate General Sindh on instructions from Chief Minister Sindh has informed this court that the government of Sindh was intending to revisit the Bill and requested that the matter may be adjourned. Under these circumstances we do not find any merit in the aforesaid petition, which is hereby dismissed in limini. The petitioner, however, if so advised, may apply to join the proceedings in CP No.D-5343/2017, 5347/2017, 5388/2017, 5398/2017, 5400/2017 and 5904/2017, which have challenged the aforesaid Bill which the Government of Sindh is now reconsidering.