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## **Scenario 219**

### **PAN-LEAKS JUDGMENT: ANALYSIS**

The 3-members Implementation Bench of the Supreme Court of Pakistan, headed by Ejaz Afzal Khan, in its original jurisdiction, finally CONCLUDED its part of verdict thus completing the earlier judgment dated 20<sup>th</sup> April 2017 in **Panama Case**. The judges present were:

- MR. JUSTICE EJAZ AFZAL KHAN
- MR. JUSTICE SH. AZMAT SAEED
- MR. JUSTICE IJAZUL AHSAN

**On 28<sup>th</sup> July 2017;** in the open court the **FINAL ORDER OF THE COURT** [*placed in the previous scenario*] was read over by J Ejaz Afzal Khan which contained **paragraphs 14 to 16** of the above detailed judgment. For this announcement, the full bench comprising of the following judges was present:

- MR. JUSTICE ASIF SAEED KHOSA
- MR. JUSTICE EJAZ AFZAL KHAN
- MR. JUSTICE GULZAR AHMED
- MR. JUSTICE SH AZMAT SAEED
- MR. JUSTICE IJAZUL AHSAN

The above judgment was declared '**Approved For Reporting**'.

### **LOCAL MEDIA ANALYSIS:**

**On 29<sup>th</sup> July 2017;** the PML[N] nominated Punjab Chief Minister Shahbaz Sharif as the prime minister after his election as MNA, while Shahid Khaqan Abbasi would be the interim prime minister before electing Nawaz Sharif's younger brother as member of the National Assembly.

The decision was taken at a consultative meeting of the PML[N] which was endorsed by its parliamentary committee; the Party meeting was held at

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the Punjab House where former prime minister Nawaz Sharif was in the key chair. It was resolved that:

*"An interim prime minister will be brought in for 45 days to facilitate Shahbaz Sharif's election as member of the National Assembly from NA-120, Lahore that has fallen vacant due to the disqualification of Nawaz Sharif by the Supreme Court."*

Shahid Khaqan Abbasi, a close ally of Nawaz Sharif, was considered an undisputed leader within the party. He remained the PIA Chairman starting from 1997 till the 12<sup>th</sup> October 1999, coup; when he was arrested and kept in jail for about two years. Abbasi for the first time was elected as MNA in 1988 after the death of his father Khaqan Abbasi.

It remains a fact that most PML[N] leaders and members of the Sharif family had agreed on former defence minister Kh Asif's name as the interim prime minister but his name was not finalised following opposition from Ch Nisar Ali Khan, the former Interior Minister.

Nawaz Sharif had stepped down on the same day [28<sup>th</sup> July 2017] as prime minister after the Supreme Court's final judgment announced - his ouster added to a grim and long list of civilian governments cut short in the country — including two of his own previous terms as prime minister.

When Nawaz Sharif stepped in prime minister's office after sweeping victory in general elections of May 2013, he was a widely popular party leader but with a deep grudge against the country's powerful military establishment. He thus moved quickly to establish civilian authority in specific security areas which were being handled by the Generals in a better way; on going tensions with India and maxims of nuclear safety on American wish were the main issues.

Nawaz Sharif's own political legacy was gutted with long stories of corruption and rift within his own family being triggered by his younger brother Shahbaz Sharif, the Chief Minister of Punjab. PML[N] had to choose another National Assembly member to be the new leader of the house and Prime Minister to work until the next general elections.

The Supreme Court's verdict capped more than a year of high political drama in Pakistan; the judges disqualified a Member of Parliament who was found to be dishonest and concealed his assets. The court also ordered the opening of criminal investigations into the Sharifs affairs.

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Nawaz Sharif stepped down immediately; his life-long disqualification cut short the third tenure of a man who has been a leading figure in Pakistani politics for nearly three decades since his first term from 1990 to 1993. It was the most serious political ramifications yet of the Panama Leaks.

The papers linked Sharif's children to the purchase of London property through offshore companies in the British Virgin Islands in early 1990s. At that time the children were minors, and the purchase was assumed to have been made by Nawaz Sharif.

Dozens of senior government figures worldwide were among those identified in the leaked files as the beneficiaries of offshore interests. The UK's HMRC placed 22 people under investigation.

The case against the Sharif family took a turn in July [2017] when forensic experts cast doubt on documents central to the defence of the PM's daughter, Maryam, who claimed she was only a trustee of the companies that bought the London flats.

**Another Opinion;** after the announcement of judgment, PML[N] ferociously criticized the judges and the top court, as was expected, while PTI supporters celebrated the verdict. Those criticized the Supreme Court's judgment primarily based their arguments on following grounds, as opined by Saad Rasool in daily the '**Nation**' dated **30<sup>th</sup> July 2017**:

- *that the judgment should have been on '**Panama**', and instead it focused on '**iqama**';*
- *a suggestion that the SC was acting on the directions of '**someone else**'; and*
- *that the SC had opened uncontrollable moral floodgates by invoking the '**sadiq & ameen**' clause of Article 62(1)(f).*

SC's judgment in the said Panama Case came in two separate and distinct parts. First, an 18-page note, authored by Justice Ejaz Afzal Khan, written on behalf of the three honourable judges [members of the implementation bench] who had not rendered their final judgment on the 20<sup>th</sup> April 2017. And the second, a 6-page note, signed by all five members of the SC's bench, which constituted the "**Final Order of the Court**".

This last part, the **Final Order of the Court**, was the operative portion of the SC's judgment, primarily consisted of directions issued in the unanimous judgment of J Ejaz Afzal, J Sheikh Azmat Saeed, and J Ijazul Ahsan. Importantly, Justice Asif Saeed Khosa and Justice Gulzar Ahmed, who had already rendered their final judgment, authored or added no new

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verses. As per constitutional principles, they had merely signed the order, standing by their earlier detailed judgment.

In fact, the opening lines of the J Ejaz Afzal's note declared that "**this judgment is in continuation of our judgments dated 20.04.2017 in Constitution Petitions No. 29, 30 of 2016 and Constitution Petition No. 03 of 2017**"; as such, that later part was read as the last 25 pages of the earlier order.

*Consequently, the observations made in the 20<sup>th</sup> April 2017 judgment – in regards to Qatari letter, Prime Minister's speeches, reverse-accounting spreadsheets, etc – held full strength by all means.*

*Thus the SC's judgment speaks that all five members of the bench agreed on the conclusion of disqualifying Nawaz Sharif.*

J Khosa and J Gulzar's judgments were rendered before the '**new material**' unearthed during the JIT process, making it the main file on record. As such, both they were convinced that [*even ignoring the material placed on record later from JIT*] there were enough contradictions within the defence raised by Sharif family to merit disqualification.

[*Explicitly, Justice Khosa had observed that the prime minister "...economized with the truth, provided no details of any bank account, any banking transaction or any money trail, instead presented the Qatari letter as nothing but an afterthought with absolutely nothing on the record to substantiate the same.*

*This unbelievable story of oscillating and vacillating explanations had no credibility, and made one wonder where truth and honesty stand in the list of priorities of the PM, thus meriting disqualification under Article 62 and 63 of the Constitution".*]

The remaining three judges, agreed with the conclusion arrived at by J Khosa and J Gulzar – that of disqualifying PM Nawaz Sharif – but on the narrowest possible grounds so as not to open the '**floodgates of morality under the sadiq & ameen**' clause, and concluded that '62(1)(f) disqualification is attracted against someone who lies on 'solemn oath''.

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Thus instead of focusing on PM's speeches, his statement before the JIT, or even [wrong & fake] submissions before the SC, the 3-members bench wrote about and focussed on the *assets from Capital FZE Jebel Ali, UAE..... "he is disqualified to be a Member of the Majlis-e-Shoora (Parliament).*" See text of the judgement for details.

The fact remained that this interpretation of the SC bench attracted **unwarranted criticism from countless quarters, including several eminent members of the legal fraternity;** but reality was that the parliament should have been blamed - which had consistently chosen to keep Article 62(1)(f) in the Constitution, despite having had ample opportunities to amend it.

The SC or the judiciary was not to be blamed. In fact, when the 18<sup>th</sup> Constitutional Amendment was being drafted, a suggestion was made by the PPP that Article 62 and 63 should be amended; and this suggestion was most vociferously opposed by none other than PML[N]; so it suffered.

The intelligentsia, however, wondered when Asma Jahangir, the champion of human rights and former president of Supreme Court Bar Association apparently tried to shield corruption and corrupt politicians of Pakistan, while saying that:

*"The judgment has caused cracks in the walls of supreme court because it is so unique. It will create doubts about whether it is a political judgment."*

The intelligentsia endorsed Asma's plea and suspicion that the ruling was unique because it was against the corruption of those **rulers who were caught and proved through their own fake documents but simply let off by the SC's Implementation bench without due punishment;** disqualification was not enough.

The PML[N] as the top political party in Pakistan held that in the political, democratic and historic perspective of Pakistan, it was a distressing judgment. They had strong opinion that:

*"Nawaz Sharif has stepped down immediately, despite serious reservations about the judgment but the history will make its own judgment after this verdict. And Nawaz Sharif will be successful in the court of God and people of Pakistan."*

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Amber Rahim Shamsi, a journalist known for hosting a show on **Dawn TV**, said of the verdict:

**"The Sharif political dynasty has somehow managed to survive Pakistan's rough and bloody politics for over three and a half decades through wheeling and dealing. It is hard to imagine all the family falling like a pack of cards."**

**FOREIGN PRESS HAILED SC JUDGMENT:**

UK's daily '**the guardian**' dated **28<sup>th</sup> July 2017** hailed the said decision and opined that:

**"Transparency International and Global Witness said UK authorities must now work to establish whether the Sharif family still own the London properties, and consider seizure proceedings if they were found to be bought with the proceeds of crime.**

**When these leaks first came out, the UK government promised to clean up the property market to show the world that 'there is no home for the corrupt in Britain' – it's time they made good on that promise."**

Though the SC's judgment left Pakistan's politics in turmoil, it was a very international affair. It was sparked by revelations in the Panama Papers – concerning luxury London property, bought through British Virgin Islands companies linked **to Mr Sharif's children, who were minors at the time.** In 2008, they used the Swiss arm of Deutsche Bank to borrow £7m against the flats.

The files proved, in an eye-opening fashion, that members of the political elite had not played by the rules their citizens obeyed. The wealthy rulers had opted to maximise & conceal their wealth and its origins by exploiting multiple jurisdictions. Nawaz Sharif gone but there was no institution in Pakistan to take serious note of its national wealth – to track billions of dollars in unpaid taxes or other assets spread world over.

UK's daily '**the Telegraph**' dated **28<sup>th</sup> July 2017** wrote: [Pakistan's] Supreme Court dismissed PM Sharif after the judicial panel said his family could not account for its finances and opulent purchases of houses in UK.

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**[But Pakistan's intelligentsia held that the SC's three members bench had compromised with accused as it had not mentioned the said reasons to disqualify the PM – the SC bench disqualified the PM on one flimsy ground.]**

The court also ordered a criminal investigation against the prime minister and his family. Justice Ejaz Afzal Khan said in court:

*"Having furnished a false declaration under solvent information, Nawaz Sharif is not honest. He is no more eligible to be an honest member of the parliament and he ceases to be holding the office of prime minister."*

**[The SC's three members Implementation bench did not include even the above said words in its judgment; a professional dishonesty it was. The PM was sent home on very flimsy reason. The SC bench judges had ignored even their own uttered words & reasons when the judgment was drafted.]**

Mr Sharif, 67, always denied any wrongdoing and rejected graft claims as 'trash'; he and his allies always alleged there was a conspiracy to unseat him. His daughter Maryam was his presumptive political heir but she was also named in the Supreme Court judgement as having to face corruption charges – though the court left her Scot free.

Speaking after the verdict, PTI's Chairman Imran Khan said:

*"Pakistan has won today. Historically there have always been two kinds of laws prevailing in the country, one for the weak and poor and the other for the rich and powerful."*

The poor guy [Mr Khan] couldn't grasp that in fact a conspiracy had been hatched by the SC judges against Pakistan's populace while saving Maryam Safdar by NOT taking any instant action against her for placing series of FAKE & FORGED documents before the apex court.

See a script from UK's daily '**the Independent**' dated **28<sup>th</sup> July 2017** under the title:

***How Pakistan's Prime Minister Nawaz Sharif was brought down by a font:***

*"Pakistan's Prime Minister, Nawaz Sharif, has been forced to resign after he was disqualified from office by the country's top court. The*

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*Supreme Court dismissed Mr Sharif after a damning corruption probe into his family wealth.*

***Interestingly the use of a Microsoft font has played a huge role in Mr Sharif's downfall. The Calibri font was at the heart of the scandal that engulfed Mr Sharif and his daughter, Maryam Sharif, after the 2016 Panama Papers revealed a string of offshore companies linked to the family had been used to purchase a number of luxury properties in London.***

*Documents submitted in defence of the Sharif family appeared to show that Maryam Sharif was only a trustee of the company that bought the flats. However, the declaration, dated February 2006, was typed in the Calibri font, which was not introduced until 2007 - raising suspicions that the document may have been forged.*

*They [the JIT & the SC] dismissed the documents, which were assessed by the Radley Forensic Document Laboratory in London, as falsified.*

*In 1998, this newspaper had established bank accounts containing five million pounds which were set up in the names of three members of a British family from Ilford, Essex.*

*His second term was also cut short after a military coup against him and he was placed on trial for "kidnapping, attempted murder, hijacking and terrorism and corruption". He was convicted and given a life sentence but after Saudi Arabia intervened, Mr Sharif was placed in exile for ten years."*

'Poorly informed' **the Independent** didn't guess that the mighty Supreme Court of Pakistan had disqualified PM Nawaz Sharif neither on the basis of **Calibri Font**, nor for amassing huge heaps of wealth in the name of Ilford bases British family, nor keeping luxury properties in London with admitted sources of income – BUT the PM was sent home on the basis of an **un-notified IQAMA & directorship of a company in Dubai**.

Referring to the '**New York Times**' dated **28<sup>th</sup> JULY 2017**:

*"Watching the courtroom drama was the country's powerful military. There had been hushed speculation that the court, in coming to its decision, had the tacit, if not overt, backing of powerful Generals.*

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*The Supreme Court had asked the members of the Sharif family to provide a paper trail of the money they used to buy their London apartments. Investigators found that **they were living beyond their means.***

*Despite repeated court exhortations, Mr. Sharif's family and its lawyers failed to provide satisfactory documentation. **Several of the documents they produced were declared fake or insufficient.**"*

Here again, the NYT staff couldn't grasp that none of the above mentioned reasons i.e. living beyond means OR their London apartments OR fake documents had extended any loss to Nawaz Sharif – or at least the Supreme Court considered so – BUT an IQAMA of Dubai got stuck into his throat which was his ONLY FAULT perhaps.

The NYT cited above also wrote a brief that how Nawaz Sharif served as prime minister an unprecedented three times; all his terms were cut short. Here's how: they played out.

- ***In August 1990**, Mr. Sharif was ushered into power as head of the Pakistan Muslim League. As his business grew, suspicions of corruption surfaced. He was dismissed by President Ghulam Ishaq Khan in 1993. The Supreme Court eventually deemed his dismissal unconstitutional, but Mr Sharif resigned under pressure from Pakistan's military.*
- ***In February 1997**, Mr Sharif was elected again. Two years later, a military coup ended his term after he fired the army chief, Gen Musharraf, and then kept the General's return flight to Pakistan from landing. Troops loyal to Gen Musharraf seized the Karachi airport and overthrew the PM. Mr Sharif was tried and found guilty of hijacking and terrorism and sentenced to life in prison.*
- ***Third Term:** After spending seven years in exile in a deal brokered by the Saudi royal family, Mr Sharif returned to Pakistan in mid 2007. He was cleared of criminal charges [by a rogue Chief Justice Iftikhar M Chaudhry] and deemed eligible to run for office.*

Mr Sharif was again elected prime minister **in May 2013**, but he was met with opposition and faced large protests in 2014. He was tried on corruption charges after the 2016 Panama Papers revealed that his children owned expensive homes in London through a string of offshore companies.

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The NYT specially mentioned that the whole PML[N] held that the party had "**strong reservations about the verdict.**" The ruling, while expected, left undecided the long-term fate of Sharif family which had been leading the Pakistani politics for over thirty years. He and his supporters portrayed the court verdict as victimization and a grave conspiracy involving international powers – referring to the US.

The newspaper held that Mr Sharif's removal from office pushed his political succession plans into dismay and confusion. His daughter, Maryam Safdar 43, who was being groomed as his political heir but was also implicated in the same corruption cases.

Political analysts were bound to hold that the verdict gave Imran Khan an undeniable political and moral victory, because it was his moral pressure on the superior court to take up the Panama Leaks case; he was definitely strengthened – and visibly hailed through.

Next day's '**New York Times'** [of 29<sup>th</sup> JULY 2017] again marked that:

*"During his most recent tenure, Mr. Sharif had an uneven relationship with the military. His overtures of more **openness toward India**, Pakistan's long-time foe, backfired as Generals spurned his efforts.*

*More recently, Mr. Sharif had to fire his information minister and two top aides to placate the army."*

See the public comments appeared on NYT pages in that regard:

***Tabula Rasa July 29, 2017***

*'Mr. 15% [Nawaz Sharif] is toppled in a scandal. Wow, the people accept a dip into the well, however a little moderation please. Luckily, Mr. 10% [PPP's Chief Zardari] is ready...'*

***Abu Bakar July 29, 2017***

*'A corrupt leader gets punished for undeclared properties. The parliament can choose new Prime Minister without any delay to democratic...'*

Daily the '**Washington Post**' dated **30<sup>th</sup> July 2017** in one of its write-ups on Pakistan commented:

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*"The papers revealed that three of Mr Sharif's children owned or could sign authorizations for offshore companies in the British Virgin Islands [BVI]. This raised questions about the origins of the family wealth.*

*Mr Sharif told the court through his lawyer that he did not own any shell companies or property through offshore holdings himself, without addressing whether his children did. The Panama Papers led to protests, and calls for his resignation....*

*The court subsequently created a five-member panel to investigate, and **the panel's report accused Mr Sharif's family of perjury, forgery and hiding assets.***

*It [the Court] found, among other things, that Mr Sharif's daughter, **Maryam Nawaz, potentially falsified ownership papers that were dated 2006 but written in a font that was not commercially available until [January] 2007.** The court then acted unanimously to force him out of office.*

*During the course of the proceedings, certain documents had been given, which were blatantly false, and on the basis of those fabricated documents the Supreme Court concluded that there has been forgery. On that basis, they have the right to disqualify the prime minister."*

Once more the same pity that even the WP crew couldn't clutch and grab that the above said reasons only helped the Supreme Court judges to make up their mind to disqualify Nawaz Sharif BUT they didn't feel enough courage within them OR couldn't find way through Pakistani fragile legal provisions to mention these causes in their final decision. Then they had to take refuge behind flimsy stipulation of IQAMA.

Now see a convincing analysis of Nawaz Sharif's expulsion appeared in the **'Foreign Policy' [FP] of 3<sup>rd</sup> August 2017:**

*"Deposed by an army general in 1999 and fired by the president in 1993, Sharif is no stranger to the political wilderness....*

*His latest troubles however may be decidedly more serious. The legal basis for his disqualification is being contested by his supporters on several grounds. But the core failure to disclose*

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*receivable assets from a foreign company is uncontested. Sharif may never be able to hold public office in Pakistan again."*

The FP further held that ***Nawaz Sharif failed to make a credible case both in the law courts and in the court of public opinion.***

For Panama Papers issue, he could have plotted a course that would not only have preserved his tenure as PM but also secured better financial disclosure and transparency in Pakistan.

Instead, Nawaz Sharif chose a confused and baffling strategy of playing the victim, deploying his daughter Maryam Safdar to manage an offending media strategy and blaming that Pakistan's Army was once again plotting to get rid of him. It back-fired as there was no cogent proof showed to the public regarding Army's involvement.

The case against the Sharifs was structured by the un-deniable evidence. Additionally the **extremely incompetent presentation of facts by the Sharif family in the courts, in parliament, and in the public sphere** damaged them more. On top of it, the supporting actors like JIT, having heaps of investigative information from the military intelligence, helped unearth all the financial filth over which the Sharifs claimed their pride. **The FP** further opined that:

*"At each stage, however, the rocket fuel that powered Sharif's crash landing was **his own incompetence**, stemming from his original failure to properly declare his income and assets to the electoral commission [ECP].*

*This was followed by a perplexing decision to claim victim-hood, followed by **comical differences between his official account and that of relatives.***

***A laughable effort to explain the family fortune through contacts in Middle Eastern royalty [referring to Qatari dealings] has further eroded his credibility."***

However, the disqualification exercise was confined to Nawaz Sharif himself and the fights between him and his equally power-hungry opponents. **It had little to do with wider questions of justice or fairness or corruption.**

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Nawaz Sharif's disqualification wasn't an end to Pakistani elites' corruption or a blow to [Pakistani] democracy either. It, however, created a media that ranks as among the freest in the Muslim world and possibly beyond. Pakistani news channels, newspapers, and social media are rife with real stories of political corruption but NAB, FIA, FBR, the Pakistani 170 years old legal procedures AND high judiciary all impotent.

Those days, the public eye in Pakistan was an unforgiving, untiring beast that never slept. Some of the most relentless probing of Sharifs did not take place in the court of law but on an array of nightly news channels; through their live TV talk shows.

The Supreme Court bench axed Nawaz Sharif with a unanimous 5-0 verdict; good enough and much applauded. But then critics rightly called for the same ferocious independence to be applied to cases in which **other politicians were vulnerable to disqualification including high bureaucrats** – although it was not a bad beginning.

This time, Sharifs could not blame the ever strong 'military establishment'; the military didn't need to cut him down to size because **they did not fabricate the Panama Papers nor did it force the Sharifs to present a mind-numbingly poor legal defence of their ill-begotten wealth – but Sharif had to shoulder the blame at some one.**

**DUBAI's CAPITAL FZE AFFAIRS:  
JUDGMENT: MORE JUSTIFIDE SCRUTINY**

[*In Pakistan, the family politics represented by the Bhutto-Zardaris and their rivals, the Sharifs, is swathed in corruption. Each has learned from the other how best to conceal it, minimising paperwork and juggling accounts.*

*Many years ago, when Benazir Bhutto was prime minister, she asked an English journalist what people were saying about her. "They're saying your husband is totally corrupt, but are not sure about how much you know ..."*

*B Bhutto knew it all, and was the least embarrassed: "You're so prudish. Times have changed. This is the world we live in. They're all doing it. Politicians in every western country ..."*

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*Her husband, the president-to-be Asif Ali Zardari, was imprisoned by Sharif, but no 'actual' proof of corruption was discovered: Zardari's loyalty to his cronies was legendary, and they remained loyal in return. Sharif, it appears, has been less fortunate.]*  
**'the guardian'** dated **7<sup>th</sup> September 2008** is referred.

Let us start afresh from a brief of the SC's order.....

**On 28<sup>th</sup> July 2017;** a five member Supreme Court bench disqualified Prime Minister Nawaz Sharif from holding public office in well-awaited landmark decision on the Panama Leaks case.

Justice Ejaz Afzal Khan, heading the apex court's implementation bench following the SC's 20<sup>th</sup> April 2017 order on the Panama Leaks case, announced that the larger bench unanimously deemed PM Sharif unfit for holding office and also ordered an accountability court to open references against him, his family, and other respondents. Immediately after; the PM stepped down from his post.

The original five-member bench of the Supreme Court which heard the Panama Leaks case — comprising J Asif Saeed Khosa, J Ejaz Afzal Khan, J Gulzar Ahmed, J Sheikh Azmat Saeed, J Ijazul Ahsan — announced the much-awaited verdict. The courtroom no:1 was filled to capacity as prominent politicians, lawyers and journalists crowded the room to hear the judges deciding a sitting Prime Minister [Nawaz Sharif]'s fate. Rangers and Frontier Constabulary personnel were deployed at the Supreme Court and the Red Zone to assist the police.

The fact remained that the six-man JIT had concluded: It was compelled to refer to sections 9(a)(v) and 14(c) of the National Accountability Ordinance [NAO] 1999. The JIT report also highlighted Articles 122, 117, 129 and other sections of 1984's Law of Evidence, which placed the burden of disproving the allegations on the person facing accusations.

***The judgement, announced shortly after 12pm on Friday, brought N Sharif's third term in power to an unceremonious end.*** The federal cabinet was dissolved after N Sharif relinquished his responsibilities as PM same day. The SC's judgment said:

*"The Election Commission of Pakistan [ECP] shall issue a notification disqualifying Mian Muhammad Nawaz Sharif from being a member of the Parliament with immediate effect, after which he shall cease to be the Prime Minister of Pakistan."*

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The judges ruled that Nawaz Sharif had been dishonest to the parliament and the courts; had not disclosed his employment in the Dubai-based Capital FZE company in his 2013 nomination papers; and thus, could not be deemed fit for his office.

**Dubai-based Capital FZE Affairs:** PM Nawaz Sharif was sent packing by the SC bench for not being '***honest***' — a prerequisite for eligibility to the Chief Executive's office, enshrined in Article 62 of Pakistan's Constitution. The opinion was, most probably, based on the 10-volume report of the joint investigation team [JIT].

No one could understand that why the SC bench went so weak; in fact compromising. The three judges of Implementation bench had no courage at all; they dispatched nearly all the issues to various accountability courts to probe and judge, saying that they did not fall under the apex court's purview — a coward but filthy attitude.

It was a key technicality emerging from a discovery the JIT made in the UAE that the three judges used as reason to disqualify Sharif. It was based on an allegation that Sharif's counsels had not been able to deny BUT the reason itself was utterly frail and fragile.

In its report, the JIT said it had secured evidence directly from the UAE's Jebel Ali Free Zone Authority [Jafza] confirming that Nawaz Sharif not only served as Chairman of the board of a Dubai-based company, he also drew a salary of 10,000 dirhams between 7<sup>th</sup> August 2006 and 20<sup>th</sup> April 2014 — till nearly a year after assuming office of the premiership.

The three judges used only that weak point [*that Sharif did not declare it as asset in his nomination papers for 2013's elections*] instead of straightaway punishing the Sharifs for fake documents placed before the bench on 20<sup>th</sup> July 2017 on which J Sh Azmat Saeed had also passed highly alarming remarks.

The Sharif family initially denied the claim. However, upon the Supreme Court's questioning, Sharif's counsel — Kh Harris Ahmed — conceded before the court that Hassan Nawaz, the PM's younger son, was the owner of Capital FZE and Nawaz Sharif its chairman.

Kh Harris insisted that though ousted prime minister was chosen Chairman, he did not draw any salary from the company. The purpose of the arrangement, explained the counsel, was solely to secure an ***iqama*** — work visa — which allowed Nawaz Sharif's easy access to the Gulf state in his years in exile.

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UAE's labour laws mandate that all employees must receive a salary through a bank account under the UAE's Wage Protection System [WPS], "**failing which the firm can be blacklisted and shut down**". This technicality proved to be the former prime minister's undoing. The apex court noted in its judgement:

*"The [...] question emerging for the consideration of this Court is whether respondent No. 1 [Nawaz Sharif] as a Chairman of the Board of Capital FZE, is entitled to salaries and whether the salaries if not withdrawn being receivable as such constitute assets which require disclosure in terms of Section 12(2) of the Representation of the People Act (ROPA), 1976 and whether his failure to disclose them would entail his disqualification."*

Astonishingly, the apex court bench depended upon **the definition of the word 'receivable'** "...which means [...] 'any collectible whether or not it is currently due'..... When it is an asset for all legal and practical purposes, it was required to be disclosed by respondent No. 1 in his nomination papers in terms of Section 12(2) of the ROPA."

The legal fraternity held: there were tens of other heavy grounds in the case to disqualify the prime Minister Nawaz Sharif which the SC bench purposefully ignored through word-play gimmicks.

This was the reason that the counsel for Sharif himself immediately affirmed that the prime minister indeed was a Chairman of the board of Capital FZE and that he was entitled to a salary — even if he never withdrew it. It appeared that '**the reason to be declared for disqualification was pre-settled**'.

The SC bench's following reasoning was felt more awkward when mincing the words unnecessarily in the following manner that:

*"It has not been denied that respondent No. 1 [Nawaz Sharif] being Chairman of the Board of Capital FZE was entitled to salary, therefore, the statement that he did not withdraw the salary would not prevent the un-withdrawn salary from being receivable, hence [making it] an asset."*

The Supreme Court bench thus concluded that:

*"It is hereby declared that having failed to disclose his un-withdrawn receivables constituting assets from Capital FZE Jebel*

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*Ali, UAE in his nomination papers filed for the General Elections held in 2013 in terms of Section 12(2)(f) of the Representation of the People Act, 1976 (ROPA), and having furnished a false declaration under solemn affirmation respondent No. 1 Mian Muhammad Nawaz Sharif is not honest in terms of Section 99(f) of ROPA and Article 62(1)(f) of the Constitution of the Islamic Republic of Pakistan, 1973 and therefore **he is disqualified to be a Member of the Majlis-e-Shoora (Parliament).**"*

The SC bench recommended that all material collected by the JIT tasked with probing the Sharif family's financial dealings be sent to concerned Accountability Court within six weeks.

Another very cogent comment from media:

*The SC judges on the bench could have believed the ICIJ investigations carried out by dozens of international investigative journalists through laborious work for more than a year – many countries believed so. What was the need to make out a JIT to reach the same conclusion of disqualification.*

*In fact the SC judges favoured Nawaz Sharif by making out a JIT knowing that, as usual, NS would buy or tackle the JIT members being his subordinate government officials.*

*Fact also remains that for disqualification purposes, JIT was not at all needed – threadbare dissection of the PM's speeches on TV and in Parliament viz a viz his sons' TV statements and Maryam's interviews were enough to reach that conclusion.*

*Justice Khosa & Justice Gulzar correctly understood the above points and made open their minds through the judgment dated 20<sup>th</sup> April 2017 – then why three other judges showed deviation.*

It was a mockery of justice as the general populace knew that the Sharifs would go Scot free from Accountability Courts because NAB's Chairman Ch Qamar Zaman in person had flatly told to the SC during his earlier appearance that:

**'...he is not at all inclined to send any case or reference of Sharifs to any court – and he is placing it on apex court's record – [was it not a slap on SC's face].'**

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The SC bench held that on the basis of JIT's information, cases would be opened against Finance Minister Ishaq Dar; MNA Captain M Safdar; Maryam Safdar, Hassan and Hussain Nawaz; as well as the premier. *A judgement on these references should be announced within six months. One judge will oversee the implementation of this order.*

Here again; **when PM Sharif was being declared as disqualified; the two other MNAs, Finance Minister Ishaq Dar and Capt Safdar were also to be declared 'disqualified' but the SC bench did not follow that route.**

It was a blatant and deliberate compromising act on the part of later three judges that they simply had chosen the reason of Dubai's 'Iqama' & Capital FZE Company to disqualify PM Sharif and ignored other strong reasons **because Ishaq Dar & Captain Safdar were to be saved.**

The judges "**commended and appreciated**" the hard work and efforts made by members of the JIT in preparing and filing a comprehensive and detailed report. The court order said:

*"Their [JIT members] tenure of service shall be safeguarded and protected and no adverse action of any nature including transfer and posting shall be taken against them without informing the monitoring Judge of this Court nominated by the Honourable Chief Justice of Pakistan."*

But the fact remained that the three judges of Implementation bench had not used any such proof or document which the JIT had procured through so hard work except that related with Capital FZE Company – an utter disappointment for the legal fraternity all over the country.

Coming back; **other media reports** held that PM Nawaz Sharif was removed from office in a unanimous verdict **over corruption allegations;** the judgment by the five-member court capped a year of political controversy over corruption allegations unleashed by the Panama Papers Leak in April 2016. Nawaz Sharif stepped down immediately and headed towards a pre-planned strategy to choose an interim prime minister to be accepted by the parliament.

The SC decision threw the ruling party into turmoil ahead of elections due in 2018. The disqualification of Nawaz Sharif for the whole life had cut short the third tenure of a man who had been a leading figure in Pakistani politics for nearly three decades.

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Most political analysts held that the judgment was expected so but on more stern and demanding grounds which were available through JIT's exhaustive report. The ruling was apparently a big win for Imran Khan, who had been inexorably calling for N Sharif's removal; but more logical decision could have been penned down.

See few lines from EDITORIAL of UK's '**the guardian**' dated **28<sup>th</sup> July 2017** specially commenting upon Pakistan Affairs of that day:

*"No prime minister of Pakistan has completed a full term in power since the country won independence 70 years ago.... On Friday the Supreme Court disqualified him from office and referred the issue of his family's offshore assets to anti-corruption authorities....*

*The files proved, in eye-opening fashion, that members of the political elite have not played by the rules.....**The German newspaper Süddeutsche Zeitung shared the data;** the International Consortium of Investigative Journalists [ICIJ] arranged for teams from 80 countries.....*

*The Panama Papers sparked the resignation of Iceland's prime minister within days. David Cameron came under intense scrutiny over his family's tax affairs. Malta is still dealing with the political fallout. Now Mr Sharif has gone.....*

*Efforts must not stop there."*

The case against the Sharif family took turn when documents of February 2006 appeared using a font, Microsoft Calibri that was available only from 30<sup>th</sup> January 2007; thus termed as forged by the bench itself. Certain other documents placed before the SC were found blatantly false.

The SC had rightly concluded that "**there has been forgery; on that basis, they have the right to disqualify the prime minister**" but as per rogue traditions of Pakistani style judiciary, **the SC bench could not find courage to use its own jurisdiction of applying Sec 476 PPC to punish the wrong-doers at its own.**

The general populace was seen angry over the judiciary because the SC had given much relaxation to the rulers; 60 days JIT's tenure in the name of '**fair trial**' though everything was proved through documentary proofs.

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At another place daily '**the guardian**' dated **28<sup>th</sup> July 2017** quoted '**Transparency International**' and '**Global Witness**' like world organisations which were urging, as noted before, that:

**"UK authorities must now work to establish whether the Sharif family still own the London properties, and consider seizure proceedings if they were found to be bought with the proceeds of crime."**

*When these leaks first came out the UK government promised to clean up the property market to show the world that '**there is no home for the corrupt in Britain**' – it's time they made good on that promise."*

Since Pakistan's foundation in 1947, things like assassinations and military takeovers used to happen but that day [28<sup>th</sup> July 2017] it was money rather than force that sent N Sharif home. The SC surprised itself by voting unanimously to ensure that no one going to be the exception.

In Pakistan, the metaphors came fast and furious – Pakistanis have always been sentimental in such situations:

**"...the Sharifs have been fixing matches for ever. The public mood full of distrust; Sharif has looted the country long enough; other parties deserve a chance."**

*....Nawaz Sharif's party PML[N] is fighting back, **accusing the SC of vendetta – which usually means that his billions could not buy any judge [but still the people doubted].**"*

The PML[N]'s think tanks held that the Pak-Army's invisible hand ensured the unanimous verdict of the Supreme Court. Did force actually trump money? This notion was given a boost when the federal Interior Minister, Ch Nisar, calmly informed the press a day before [on 27<sup>th</sup> July 2017] that the country faced **four serious threats**, known only to four key players – including himself, of course – but others not named.

What were the threats; mainly the US, as always, was supposedly angry about Pakistan's closeness to China. The other could be Sharif's servility to the Saudi monarchy which had been vexing Iran. Such presumptions were the semi-official interpretation; Sharif was an obstacle and had to be removed. However; it could only be partially true if not out-rightly rejected.

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There was little doubt that political corruption had acquired colossal proportions in Pakistan; attempts by military regimes to harpoon this whale failed because they refused to address corruption of so large scale – **failure of NAB & FIA in Gen Musharraf's era is referred.**

The other problems confronting the country remained the endemic violence against minorities, women and the poor.

Nawaz Sharif was knocked down through a constitutional clause inserted by his one-time patron, Gen Ziaul Haq, stipulating that every MP must be "**honest and sincere**". However, the fact remains that the whole Senate, National Assembly and four provincial assemblies would probably be empty had the said clauses of Art 62 & 63 made applicable sincerely.