

Scenario 211

PANAMA LEAKS CASE CONCLUDED

On 16th February 2017; as hearing of the Panama Leaks case resumed, Sharifs' counsel Salman Akram Raja told the bench that the PM's daughter Maryam Nawaz had been a legal beneficiary of Sharif's London flats for around six months – from February 2006 to July 2006 – as she possessed bearer shares regarding ownership as a trustee.

Mr Raja claimed that in July 2006, the shares were registered in the name of **Minerva Services Limited** – a company the premier's family previously identified as a '**service provider to Nielsen and Nescoll**', the offshore companies owned by the PM's son Hussain Nawaz. Here, Justice Sh Azmat Saeed called for documentary evidence which could show the authorised representatives of Minerva Services - but nothing was available with the counsel.

Justice Ejaz Afzal Khan observed that:

"...it was unbelievable that the Sharif family acquired such expensive apartments in posh areas of London but they have no document to establish their ownership as well as the money trail."

Justice Khosa, however, made it clear that the SC could give declaration against the Sharif family under Article 184 (3) of the Constitution. While referring to **Khyra Mines Case judgment**, he observed that '.....the SC has the power to record evidence in any matter'.

Mr Raja argued that the apex court should not give a direct verdict against Sharifs until due process had been followed at the relevant forum. Salman Raja added that:

"The SC is not the proper forum to give a declaration against them [Sharifs]. However, the SC can supervise the investigation as it did in many cases like National Insurance Company Limited [NICL] and Hajj scams."

LAST NAIL IN SHARIFs' COFFIN:
IMRAN KHAN'S AFFIDAVIT IN SC

Meanwhile, the PTI Chairman Imran Khan submitted an affidavit to the apex bench seized with the Panama Leaks case, requesting to ignore the two Qatari letters produced by the Sharifs as evidence of their stance.

In the letters dated 5th November 2016 and 22nd December of 2016, former Qatari prime minister and foreign minister Sh Hamad bin Jassim bin Jabber Al-Thani had clarified the Sharifs' investment and settlement of 12 million UAE dirham in 1980 in the real estate business of the Al-Thani family.

In the 24-page affidavit, the PTI leader termed the letters a wonderful example of reverse reconstruction, clearly concocted to cater to the issues before the Supreme Court. The letters, he argued, were 'unbelievable' and an alleged childish and immature attempt by a rich Qatari prince to come to the aid of rich Pakistani monarchs.

Referring to Nasir Iqbal's report which appeared in daily '**Dawn**' dated **18th February 2017**:

"Mr [Imran] Khan is all out to rebut the Qatari letters, the affidavits of Tariq Shafi — PM Nawaz Sharif's cousin — and that of Abdul Rahman Mohammad Abdullah Kayed and Hussain Nawaz, and touch upon the antecedents and background of Shezi Nackvi, the non-executive director of Crescent Standard Investment Bank Ltd, purchase of London flats and alleged tax evasion by the prime minister Nawaz Sharif.

The affidavit disputed the assertion that 12m dirham in cash was invested with the Qatari royal family and therefore, it said, no question of settlement with the Al-Thani family arises."

Imran Khan's affidavit was filed in the apex court through PTI's counsel Naeem Bokhari who also commented that "No banking transaction has been placed on record by Sheikh Hamad or Prime Minister Nawaz Sharif in support of their contentions."

Tariq Shafi, in his affidavit submitted on 20th January 2017, had claimed that he had deposited 12m dirham in cash with the Qatari rulers after the sale of Gulf Steel Mills in 1980.

BUT how the 12m dhm CASH reached Qatar; in truck / van – no one was going to answer the question. How was it physically possible.

Likewise, ***the February 2006 trust deed between the prime minister's children – Maryam Safdar and Hussain Nawaz – did not, and could not have taken place and, was therefore, fake or otherwise fatally defective*** with no effect on the actual or beneficial ownership of the upscale four London flats.

Imran Khan argued; the Qatari letters reflected that Al-Thani family was acting as banker in respect of non-existent investment. Curiously the worksheet presented before the court was fabricated only after the transactions were summoned by the SC. The affidavit further said:

"For 20 years there was no withdrawal from the [alleged fake] investment, but payment of \$8m in 2000 to Al-Towfeeq Company for Investment Funds was shown without a corresponding bank transaction or remittance, similar to the cash receipts from Tariq Shafi in 1980.

It means that no money was available with Mr Shafi to act as per instructions of the late Mian Sharif, and the improvement made in his subsequent affidavit of 20th January 2017 claiming that the cash was handed over to Fahad bin Jassim bin Jaber Al-Thani of Qatar in Dubai on his different visits was equally false."

Imran Khan's affidavit also claimed that Dubai's Gulf Steel Mills was a financial disaster from the beginning until its end. Besides, ***the Hudaibiya Paper Mill's audited financial statements of 2000 do not reflect the \$8m purported payment as a final clearance of the Al-Towfeeq loan.*** Instead, the accounts show that the liability was simply substituted without identifying the person or entity which was the new creditor.

Imran Khan said in his affidavit that:

"In 2001, Hussain Nawaz received \$1.038m to cover his investment in London, i.e Flagship and other companies - once again there was no banking transaction.

Surprisingly, the amounts for Azizia Steel Company were paid through cheques when the investment was in a brother Arab country. The documents presented by the

Sharif family showed a payment of \$936,766 in 2004, also in cash because there was no bank transaction."

About PM Nawaz Sharif, Mr Khan's affidavit stated that he had failed to mention any investment in Qatar with Al-Thani family's real estate business when he addressed parliament or the nation on live TV and even in his concise statement before the Supreme Court on 3rd November 2016.

Imran Khan's affidavit quoted for **London Flats** that the Sharifs had lived in London for many years where property could not be purchased, except through solicitors. The purchaser needed to deposit the agreed purchase price in the bank account of his solicitor, who upon signing the final contract, transferred the amount to the bank account of the seller's solicitor, who had then deposited it in the account of the seller.

Till [that] date no material whatsoever had been placed before the Supreme Court reflecting any banking transaction by Sheikh Hamad etc for the four London flats purchased between 1993 and 1996 by the prime minister or Hussain Nawaz; how those apartments could be purchased without banking transactions.

Imran Khan's affidavit also urged that the non-reflection of rent claimed to had been paid by [parents of] Hassan Nawaz through quarterly remittances from Pakistan in the alleged ***'newly constructed reverse engineered statement'*** by Sheikh Hamad clearly pointed out that the flats were purchased at the relevant dates by the Sharif family through alleged money laundering and Maryam was [and is] the beneficial owner of these flats.

Imran Khan's affidavit also claimed that:

"Gifts amounting to Rs:812m sent by Hussain Nawaz to the prime minister of which nearly Rs:20m was gifted back to Hussain were income from other sources. Similarly, the cash gift of Rs:51m by the prime minister to Maryam was not admissible under tax laws."

The affidavit was in fact the **last nail in the Sharifs' coffin**; the document carried all the essential and crucial material required by the apex court in concise form.

CHAIRMEN NAB & FBR IN DOCKS:

On 21st February 2017; the Supreme Court's apex bench inquired into the investigative steps that were taken by the NAB and the FBR since the matter surfaced on 3rd April 2016.

Before the SC's five-member bench, FBR Chairman M Irshad told that notices were issued to 343 individuals following the Panama Leaks; the owners of 39 companies were not Pakistani residents and 59 people denied ownership of offshore companies. The PM Nawaz Sharif's sons Hassan and Hussain Nawaz as well as his daughter Maryam had responded to the notices issued to them in November 2016 but no development further.

Elaborating on responses of the premier's children, the Chairman FBR told the court that Maryam had denied having property abroad and being the owner of any off-shore company. The SC bench inquired whether her response mentioned that she was the trustee of four flats located in London's Park Lane – no; she did not, the Chairman replied.

During apex court's hearing on 16th February 2017, Salman Akram Raja, counsel of the premier's sons Hassan and Hussain Nawaz, had told that the London flats had rested with Maryam for six months — from February to July 2006. And that a trust deed was executed between Maryam and Hussain in February 2006, following which she acted as trustee.

Chairman FBR also told the court that in a response submitted to the FBR, Hussain Nawaz had stated that he had been living in Saudi Arabia since year 2000. Justice Gulzar angrily asked the Chairman if he had closed Hussain's file after the premier's son submitted his response. Justice Khosa also inquired about the steps taken by him after receiving those responses.

The FBR Chairman's response made all the five judges on the SC bench angry when he said that ***"the FBR is verifying all the information provided by the respondents"***.

"It seems that you may need 30 years to verify those documents," Justice Gulzar remarked.

"You have wasted a year doing a task that should have taken hours," Justice Azmat Saeed commented.

The lawyer representing the FBR then admitted before the court that no immediate steps were taken; and argued that separate laws and institutions were available for money laundering cases. The FBR should

have dealt with the money-laundering cases with priority; Justice Gulzar was seen most upset.

NAB Chairman Qamar Zaman Chaudhry appeared before the apex court and said that the bureau was aware of its responsibilities but Justice Khosa immediately picked his tone and observed:

"NAB's position has remained that Panama Leaks case does not come within its jurisdiction. Is this NAB's position that because no regulator approached them, investigations were not undertaken against off-shore companies?"

Chairman NAB remained contended that the bureau could start investigative action had any regulator approached them. *"Laws concerning the NAB give it the authority to undertake investigations,"* Justice Khosa told the Chairman. *"It is saddening to hear NAB's position,"* Justice Gulzar remarked. *"If NAB does not have the authority to investigate, who does?"* Justice Ijazul Ahsan asked rhetorically.

When Justice Khosa inquired about NAB's actions regarding bank accounts and monetary transactions, the Chairman sought to assure the court that investigations would be undertaken. The bench regretted that NAB had not even registered an appeal in the Hudaibiya Paper Mills case.

It was already on the court's record that on 25th April 2000, Finance Minister Ishaq Dar had submitted a confessional statement regarding money laundering before a district magistrate in Lahore, confessing to involvement in laundering \$14.86 million for the Sharif family. The judges also knew that the minister had filed a request for his acquittal from the case after which NAB had not registered any appeals.

The apex bench collectively held the negative opinion about the NAB but Justice Khosa remarked that:

"There are reservations regarding NAB's failure to register an appeal in that Hudaibiya Mills Case. When a criminal gets bail in a case of petty theft, NAB registers an appeal. This is a case worth millions and no appeal registered."

The Chairman NAB explained that the decision to appeal was taken in accordance with the Prosecutor General's advice; in those [Sharifs'] cases, the prosecutor general of NAB had decided that there would be no point in

registering an appeal; had an appeal got registered, the NAB would have been disgraced. See the dialogues:

"Without any pressure, what is your opinion – should this case have been appealed?" Justice Khosa asked the Chairman.

"The NAB seriously believes in the decision not to register an appeal," the Chairman declared.

"Then be prepared to face serious consequences," Justice Saeed warned.

Attorney General of Pakistan [AG] Ashtar Ausaf Ali during his arguments said that previous court rulings on disqualification could serve as examples to the bench as the petitioners seek the disqualification of the prime minister. As the bench had already reached a decision for the hearing of the requests submitted in the court so he would share his opinions regarding the law.

The AG tried to make feel that the apex court had the authority but should refrain to use it in such sensitive cases; if necessary, the authority should be used according to the facts of the case.

When Justice Khosa asked the official **whether false statements were grounds for disqualification**, AG Ali had nothing to say except that street phrase that *'the court has to ensure a transparent trial'*.

Justice Afzal inquired if the bench had refused to hear anyone in this case. When the AG said that it was not about hearing the case, it was about reaching a decision; the bench collectively remarked that: ***"It is a matter of tax evasion, the country wants to know who paid how much tax – and how the institutions deceived."***

Meanwhile, Justice Khosa declared that further documents in the Panama Leaks case would not be accepted; AND the court adjourned for next day.

On 22nd February 2017; the Supreme Court [SC] observed that allegations of corruption against PM Nawaz Sharif's family in Panama Leaks case **'are not frivolous'**. Justice Azmat Saeed Sheikh remarked at the very beginning of proceedings of that day that:

"The qualification of the prime minister is the basic fundamental right of all citizens of the country. The

allegations are not frivolous as they could be right or wrong – the people should know facts."

The Attorney General for Pakistan [AGP] Ashtar Ausaf Ali submitted before the court that disputed material was provided by the petitioner [PTI], therefore, the ***"court cannot give a verdict in the case."***

On this, Justice Azmat asked the AGP to recommend a way forward to adjudicate on the disputed facts in the matter. In his remarks, Justice Ijazul Ahsan observed that:

"Some facts have been admitted by the ruling family and promise was made [by PM Nawaz Sharif] to the people of Pakistan that the complete record will be provided at a relevant forum but it was not given."

The AGP contended that the state institutions should not be disgraced as he felt embarrassed during his appearances at the international arbitration because *"they refer the statements of the country's dignitaries against the national departments."*

Justice Khosa was quick to intervene here while saying that:

"When the state institutions themselves tend to be disgraceful then what should we do – [also] think about why such remarks were being issued against the state institutions."

Referring to the statement made a day before by the Chairman NAB before the apex court; Justice Ejaz Afzal Khan said the chairman did not file an appeal against the Lahore High Court's verdict in Hudaibiya Paper Mills case as ***"he was looking towards the person [PM Nawaz] who appointed him"***.

Expressing disappointment over NAB chairman's conduct, Justice Azmat Saeed remarked that the accountability body's head was the ***"insurance policy of the prime minister"***.

Justice Khosa questioned whether the prime minister had given any statement that his son Hussain Nawaz owned the London flats. ***"The PM in his three speeches used the words 'our flats, our businesses' but he did not say that the properties are owned by his son."***

Concluding his arguments, the AGP contended that the top court **'cannot directly disqualify'** a member of the National Assembly. Adding that if PTI's Imran Khan wanted to file an appeal against the three-year-old LHC judgment for quashing Rs:1.2 billion reference against the Sharif family, he would not object to the latter's *locus standi*.

PTI's Counsel Naeem Bokhari requested the top court to accept the stance of PM Nawaz Sharif regarding the family's London properties as **"his sons' statements are hearsay"**.

PROSECUTION & DEFENCE FINISHED:

On 23rd February 2017; both the defence and prosecution completed their arguments and the Supreme Court reserved its verdict on Panama Leaks case to issue a detailed judgement later. Head of the SC's bench Justice Asif Saeed Khosa remarked after the arguments concluded:

"If a judgement is not in someone's interest, they [will] say the judiciary is corrupt, or that may be the judges aren't fit to handle such cases; and if a judgement benefits their own stand [on the issue], they will say there can be no better judge.

We'll decide this case only by the law; such that people will say, 20 years down the line that this judgement was made by the book."

There were concerns about massive investments allegedly made by PM Nawaz Sharif and his family members through **Mossack Fonseca**, an offshore investment company of Panama; a gigantic leak of secret files unearthed tens of offshore companies in tax havens.

Data from the Panama Papers, available on the website of the International Consortium of Investigative Journalists [ICIJ] — which comprised around 100 news organisations and 300 journalists — had revealed that **"the PM's children — Mariam, Hassan and Hussain were owners or had the right to authorise transactions for several companies"**.

During that last day's hearing, PTI's Counsel Naeem Bokhari, presented his arguments once more before the SC's five-member bench and revisited his previous submissions on the case. He reminded the bench that the Sharifs had failed to provide an explanation for the **Gulf Steel Mills** set up in

Dubai in 1974; the mill's liabilities had exceeded 63 million dirhams and a sufficient explanation was not offered as to how those were settled.

During his arguments, Mr Bokhari also referred to documents purporting to show Maryam Safdar's involvement with **Minerva Financial Services**, as highlighted by German **daily Süddeutsche Zeitung** in a tweet in January that year – most things remained in grey.

Maryam Safdar's Counsel, Shahid Hamid, had argued earlier that the **signatures attributed to Maryam** on the documents in question were fake. However, Bokhari maintained in his rebuttal that the documents were correct. Justice Khosa said that none of the documents submitted by the parties in the case had come from verifiable sources.

Mr Bokhari's rebuttal mentioned the speech delivered by PM Nawaz Sharif in the National Assembly on 16th May 2016 where the **premier had failed to speak the truth in the House** and did not demonstrate honesty - *how can such a person be the prime minister?*

PTI's counsel also asked why the **PM had failed to send a notice to Mossack Fonseca** if the leaks against him and his family members were indeed inaccurate or wrong or erroneous.

Mr Bokhari pointed out that for a year, there had been no mention of the **Qatari connection** by the Sharif family, drawing the court's attention to two letters submitted before the bench suddenly. The Qatari letters said that loans were paid off, but how could such a huge sum be transferred without involving banks from 1980 till 2004.

Sheikh Rashid opened his arguments before the bench with the question that *how the Dubai mills were set up* and where the investment came from; how the investments were made in Qatar. Further he said:

"The prime minister [himself] had said those guilty of corruption do not register companies and property in their name - 20 people had been disqualified by the courts on the basis of hiding their assets.

A former Chairman NAB, himself an honourable judge of this Supreme Court, was FIRED on the request of an interior minister."

Sheikh Rashid urged that the case had already been made apparent and the on-going SC's proceeding was a waste of time; Haseeb Bhatti's report in daily '**Dawn**' dated **23rd February 2017** is referred.

Jamaat-i-Islami [JI] also submitted a rebuttal in the form of a written document before the Supreme Court, stating that **"...it has been established that the prime minister's speech [in parliament] was incorrect – mistaken and without truth."**

For the Qatari prince, who had issued two letters in defence of the Sharifs, the JI's counsel concluded that: **"If he [the Qatari prince] does not present himself, the letters should be discarded."**

JI's Counsel also said the prime minister had presented himself for accountability therefore the onus of proof was on his shoulder under Article 119 of *Qanoon-i-Shahadat*. **"The PM has also violated his oath in this matter."**

After 25 hearings of the Panama Leaks case, the Supreme Court finally closed proceedings and reserved its ruling, saying it was not possible to give a short order in such a case – but adding that the court's decision would be such to remain relevant and could be cited for at least two decades down the road.

After the proceedings concluded, PTI's Imran Khan and JI's Sirajul Haq addressed the audience outside saying that they had not come to the court because of an animosity towards Nawaz Sharif, but to re-emphasize the concept that the country's leaders should always be above board, honest, truthful and sagacious.

On the last day of hearing, the SC judges also observed that the court was not going to accept all the documents on face value, adding that 99pc of the 25,000-odd pages submitted to the court deserved to be thrown out.

In Pakistan, the meaning of 'justice' had unfortunately changed; it remains justice for a party if the verdict comes in their favour. Otherwise, litigants always claim that the judges are incompetent or have failed to understand the matter or labelled as **'sold out'**.

On the last day, when asked what judgement one could expect, PM's counsel Makhdoom Ali Khan said that *'Justice Khosa's words should be taken as a guide'*; adding that the decision of the court should be respected, irrespective of what the outcome.

In the country's history — after year 2000's Zafar Ali Shah Case which had validated the 12th October 1999 military takeover, Panama Leaks was the most volatile case. It was a great learning opportunity for all of the lawyers

involved; especially for the junior lawyers. Everyone was also appreciative of the manner the judges showed their patience.

Attorney General Ashtar Ausaf admitted that the manner in which proceedings were conducted in a cordial atmosphere was unprecedented and the judges demonstrated the utmost patience by providing the fullest opportunity to all parties.

Frederik Obermaier, investigative reporter at the German publication ***Süddeutsche Zeitung***, which first obtained the Panama Papers documents, held that in numerous countries authorities had launched investigations based on the Panama Leaks; the European Union [EU] formed a Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion to investigate the Panama Papers revelations – perhaps this was the reason the Sharif family and other respondents had not questioned or denied the allegations contained in the documents.

Mr Obermaier said when asked about the veracity of the documents:

"To my knowledge, apart from Pakistan, the authenticity of the Panama Papers documents has not been seriously questioned in court in any country worldwide."

Accepting the legal principle involved, the Sharif family's failure to challenge the Panama Papers' veracity in any court in Pakistan or abroad amounted to an admission. The message was more important than the messenger when one of the judges on the SC's bench had observed that allegations levelled by the petitioners **did not seem frivolous**.

The legal fraternity held that the Panama Leaks contained the official records of certain offshore companies ***'...which does have an intrinsic evidentiary value. They were the basis of the Supreme Court case hence their evidentiary value cannot be denied.'***

UK's parliament deemed the Panama Papers sufficient proof for a complete disclosure from former prime minister David Cameron but in Pakistan who bothers about the world's maxims of justice – here the democracy is the name of getting votes from the people and to plunder the country as the elected ruler's right.

However, after the hearing, the PTI was hopeful that even if the PM was not disqualified, the court might accept certain other demands of his party. They had raised three main points in the case — the disqualification of

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Prime Minister Nawaz Sharif, his son-in-law Capt Safdar and Finance Minister Ishaq Dar; the reopening of Hudaibiya Paper Mills case; the filing of references in the Panama Leaks case under the NAB ordinance and the removal of the NAB and FBR chiefs.

During all the hearings, PTI Chief Imran Khan and his Secretary General Jahangir Tareen remained regular visitors to the SC, as were other leaders such as Ishaq Khakwani or Sheikh Rashid and JI Chief Sirajul Haq. The government side was also represented, without fail, by ministers and advisers such as Maryum Aurengzeb, Barrister Zafarullah Khan, Daniyal Aziz, Talal Chaudhry and several others.

However, no untoward incident was witnessed, even with all the sworn rivals in the same room – it was the first victory of the Pakistan's apex judiciary in the contemporary era.

Till 17th April 2017; as referred to **beyondthehorizon.com.pk**, Sharifs owned 340 residential properties in East London as revealed by local '**Newham Daily**' of London. Also that the Sharifs owned property worth more than £80 million [Rs:10 billions] in and around Central London. Of these, the Sharif family residence, four flats at 17 Avenfield House, 118 Park Lane alone were worth around £12 million [Rs:1.6 billion].

Hassan Nawaz's company [Flagship Investments] website listed many of those properties, which included Flat 8 Burwood Place – London W2 worth £700,000; Flat 9, Burwood Place – London W2 worth £900,000; 10 Duke Mansions, Duke Street, London W1 worth £1,495,000; Flat 12a, 118 Park Lane Mayfair – London SW1 worth £475,000; Flat 2, 36 Green Street – London W1 worth £800,000; and, 117 Gloucester Place, London W1 [value not listed by the source].

The website also featured a piece of real **estate near the Buckingham Palace valued at around £4,450,000**. One of the properties listed on the said website – 841 Neil Gwynne House, Slone Avenue – was the residence of one Waqar Ahmed, listed on the documents as the Company Secretary of Flagship Investments Limited.

Pioneer Point, the two towers owned by Sharif Family in Ilford were known to all media persons and many documentary programs were held on Pakistani media Channels over that.

SC VERDICT OF 20TH APRIL 2017:

On 4th January 2017; the day to day hearing had started under a reconstituted bench comprising the five judges mentioned earlier after former CJP A Z Jamali retired midway into the proceedings and was succeeded by the incumbent.

The SC's new bench took afresh the four petitions filed by one Tariq Asad, JI chief Sirajul Haq, PTI chairman Imran Khan and AML leader Sheikh Rashid, who all had petitioned the SC to disqualify the PM Nawaz Sharif for making misstatements in his speech in the National Assembly on 16th May 2016 and in his address to the nation on 5th April 2016 regarding investments made by his children in offshore companies that led to the purchase of four expensive flats on London's Park Lane.

After hearing the arguments from both sides, the bench had reserved its ruling on 23rd February 2017 with the observation that their judgement would remain relevant and valid for at least 20 years.

The landmark judgement was made public 57 days after the case was last heard by the court. The federal capital was abuzz with excitement ahead of the pronouncement as the country waited for the historic verdict.

The uncertainty on Panama Leaks issue ended that day; neither a clean chit nor a disqualification: the drawn out Supreme Court [SC] case to disqualify PM Nawaz Sharif for his family's involvement in corrupt practices, brought a climax while ordering the formation of a **Joint Investigation Team [JIT]** to probe into further questions regarding Sharifs' money trails towards Qatar, Jeddah or Dubai and then to London.

After continuous 26 full-day hearings, in a forum where being granted 26 minutes of audience was a privilege, the ten-minute pronouncement of a historical judgment was enough to mark it **A PIECE OF ART** – to be remembered for decades in the judicial history of Pakistan.

The judgment was a piece of art in terms that, perhaps, for the very first time, some Premier had walked out dishonourably, but preferred to celebrate. PM Nawaz Sharif walked out with greater burden than with which he had walked into those corridors.

All five judges concurred that the matter involved question of fundamental public rights. ***There was also consensus that the Prime Minister failed to account for his assets;*** the rights of an individual were

undisputed as well. The SC also recorded an observation that the **"ISI, MI or any other Agency like IB have no role to play in the political affairs of the country"**.

The final verdict was split 3-2 among the five-judge bench, with two dissenting notes from Justice Asif Saeed Khosa and Justice Gulzar Ahmed. Justice Ejaz Afzal authored the majority opinion in the 540-pages verdict.

The two judges who ruled against PM Nawaz Sharif said he should be disqualified as he could no longer be considered 'honest' and 'truthful' [*ameen* and *sadiq*], whereas the other three were in favour of forming a JIT to definitively answer the related questions of allegations against the prime minister.

Following are the excerpts from the text of Supreme Court's order:

"Before we read out the judgment, we expect that the dignity of the court will be upheld and that you will express any opinions you may have outside the Court. This judgment spans more than 540 pages, and each judge has recorded his own opinion. Forgive me if I am not too articulate in reading it out; it has been authored by my learned brother, Justice Ejaz Afzal Khan.

1. By a majority of 3 to 2 (Asif Saeed Khan Khosa and Gulzar Ahmed, JJ dissenting), who have given separate declarations and directions, we hold that the questions how did Gulf Steel Mill come into being; what led to its sale; what happened to its liabilities; where did its sale proceeds end up; how did they reach Jeddah, Qatar and the UK; whether respondents No.7 and 8 in view of their tender ages had the means in the early nineties to possess and purchase the flats; whether sudden appearance of the letters of Hamad Bin Jassim Bin Jaber Al-Thani is a myth or a reality; how bearer shares crystallized into the flats; who, in fact, is the real and beneficial owner of M/s Nielsen Enterprises Limited and Nescoll Limited, how did Hill Metal Establishment come into existence; where did the money for Flagship Investment Limited and other companies set up/taken over by respondent No. 8 come from; and where did the Working Capital for such companies come from; and where do the huge sums running into millions gifted by respondent No.7 to respondent No.1 drop in from - which go to the heart of the matter and need to be answered. Therefore, a thorough investigation in this behalf is required.

2. In normal circumstances, such exercise could be conducted by the NAB but when its Chairman appears to be indifferent and even unwilling to perform his part, we are constrained to look elsewhere and therefore, constitute a Joint Investigation Team (JIT) comprising of the following members:

- i) A senior Officer of the Federal Investigation Agency (FIA), not below the rank of Additional Director General who shall head the team having firsthand experience of investigation of white collar crime and related matters;*
- ii) A representative of the National Accountability Bureau (NAB);*
- iii) A nominee of the Security & Exchange Commission of Pakistan (SECP) familiar with the issues of money laundering and white collar crimes;*
- iv) A nominee of the State Bank of Pakistan (SBP);*
- v) A seasoned Officer of Inter Services Intelligence (ISI) nominated by its Director General; and*
- vi) A seasoned Officer of Military Intelligence (MI) nominated by its Director General.*

3. The Heads of the aforesaid departments/ institutions shall recommend the names of their nominees for the JIT within seven days from today which shall be placed before us in chambers for nomination and approval.

The JIT shall investigate the case and collect evidence, if any, showing that respondent No.1 or any of his dependents or benamidars owns, possesses or has acquired assets or any interest therein disproportionate to his known means of income.

Respondents No.1, 7 and 8 are directed to appear and associate themselves with the JIT as and when required. The JIT may also examine the evidence and material, if any, already available with the FIA and NAB relating to or having any nexus with the possession or acquisition of the aforesaid flats or any other assets or pecuniary resources and their origin.

*The JIT shall submit its **periodical reports every two weeks** before a Bench of this Court constituted in this behalf. The JIT shall complete the investigation and submit its **final report before the said Bench within a period of sixty days** from the date of its constitution.*

The Bench thereupon may pass appropriate orders in exercise of its powers under Articles 184(3), 187(2) and 190 of the Constitution including an order for filing a reference against respondent No.1 and any other person having nexus with the crime if justified on the basis of the material thus brought on the record before it.

4. It is further held that upon receipt of the reports, periodic or final of the JIT, as the case may be, the matter of disqualification of respondent No.1 shall be considered. If found necessary for passing an appropriate order in this behalf, respondent No.1 or any other person may be summoned and examined.

5. We would request the Hon'ble CJP to constitute a Special Bench to ensure implementation of this judgment so that the investigation into the allegations may not be left in a blind alley.

This was the Order on behalf of 3 Honourable members of this bench. The remaining two have gone a step further, and said that:

"Apart from criminal investigation and prosecution, a declaration has been made that the explanations offered by Respondent 1 are inadequate, and are rejected.

Respondent 1 has not been honest to the members of the National Assembly, the people of Pakistan, or this Court. He is therefore disqualified, and the Election Commission of Pakistan is therefore directed to notify the same. "

The bench, comprising Justice Asif Saeed Khosa, Justice Gulzar Ahmed, Justice Ejaz Afzal Khan, Justice Azmat Saeed and Justice Ijazul Ahsan, had examined arguments presented by the Pakistan Tehreek e Insaaf [PTI], the *Jamaat e Islami* [JI], the Watan Party and the Awami Muslim League [AML], who framed the case out of court as a campaign against corruption.

Prime Minister Nawaz Sharif, Maryam Nawaz, Hassan Nawaz, Hussain Nawaz, Capt Safdar [the PM's son-in-law] and Finance Minister Ishaq Dar were among the respondents in the case.

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The petitioners had touted the revelations brought forth in the Panama Papers, published by the International Consortium of Journalists on 3rd April 2016, as 'evidence' that the premier had lied to the nation in an address to Parliament where he had 'explained' his position following the leaks.

On that day, Islamabad's Red Zone, where the SC is located, had been on 'red alert', with around 1,500 police, Rangers and Frontier Constabulary personnel deployed in and around the area for security and to maintain peace. Police officials, including Special Branch officials, were deployed for intelligence gathering and timely responses.

Heavy contingents of security forces personnel had been deployed in and around the Red Zone. Strict checking was implemented at entry points into the Red Zone, where only concerned individuals, including government officials and residents of the area were being allowed entry.

Only individuals with passes were allowed onto court premises. Ordinarily, there are about 60 to 70 reporters at the apex court on a daily basis, but many more that day turned out to witness the judges deliver the historic verdict on well trumpeted Panama Leaks.

PML[N] and PTI leadership had gathered outside the SC premises ahead of the announcement and made charged statements on their hopes for the outcome. The prime minister followed the proceedings with his family and senior party officials from his official residence in Islamabad.

Justice Asif Saeed Khosa announced the final verdict on the case in Courtroom 1 at 2pm at the apex court to an audience of over 400 people; concluding that **"A thorough investigation is required."**

The apex court eventually ruled that there was not enough evidence to send the premier packing at once. PM Nawaz Sharif and his party breathed a collective sigh of relief, as the fear of an 'extreme verdict' — the premier's ouster — fizzled away.

A plea filed by Pakistan *Tehreek e Insaf* [PTI] to disqualify PM Sharif as the Prime Minister was rejected in a three-two split verdict; in fact the process was still incomplete.

COMMENTS FROM MEDIA HOUSES:

The BBC's monitoring team compiled a detailed report on the matter, however, summed up today's verdict in two paragraphs:

"Pakistan's Supreme Court has ruled there is insufficient evidence of corruption to remove Nawaz Sharif from the role of prime minister of Pakistan.

It instead ordered a further investigation into money transfers."

The lead story of '**India Today**' dated **21st April 2017** carried an interesting analysis on the Panama Leaks Case verdict.

*"Nawaz Sharif narrowly escapes **jinxed April's fate**, which has doomed many Pakistani politicians.*

The worst April in history of the country was 4th April 1979 when former Prime Minister Zulfikar Ali Bhutto was hanged in Rawalpindi for criminal conspiracy to kill a leading politician.

Prime Minister Sharif's government was sacked by then President Ghulam Ishaq Khan for alleged corruption in April 1993.

Years later on 26th April 2012 Prime Minister Yusuf Raza Gilani was convicted for disobeying an order by the apex court to write letter to Swiss government to reopen a corruption case against Zardari."

'The Washington Post' was one of the few major US publications to cover the verdict. After informing its readers about updates from the hearing, it went on to speculate over PML[N]'s chances at the next general elections. Michael Kugelman weighed in with his expert views.

"...it left the ailing, 67-year-old prime minister politically diminished, and the Muslim League vulnerable at the polls.

With the odour of alleged shoddy financial practices in the air, Sharif's party becomes a perfect target for a hodgepodge of electoral opponents — from secular activists to religious groups — who have sought to portray Sharif and the dynastic political elite as corrupt and insular.

Nawaz Sharif isn't off the hook yet, but given how concerned the government was about Sharif getting disqualified, it could have

*been **much worse; the government received a fairly hard slap on the wrist, but ultimately it survived.***"

The case was continuously debated in country's TV studios for months. Bureaucrats and politicians were constantly making calls to the news correspondents to gauge what speculations were prevalent in legal corridors; there remained palpable nervousness.

The case, the verdict which was reserved since 23rd February 2017, even led to speculations on **whether the army had a behind-the-scenes role**. On 8th April 2017, Maj Gen Asif Ghafoor, the ISPR's spokesperson, had to tweet at 1824 hrs to deny allegations by saying that:

"Response to Q on Panama in UK reported incomplete / out of context. Army, like every Pakistani awaits a decision based on justice and merit."

'**the guardian**' dated **20th April 2017** held that;

"The Pakistani Prime Minister, Nawaz Sharif, has narrowly survived an attempt in the supreme court to unseat him on allegations of corruption levelled by the opposition.

The case against Sharif emerged last year after the Panama Leaks linked his children to offshore companies in British Virgin Islands in relation to the purchase of upmarket property in London."

With the full details of the judgment, the UK's newspaper surprisingly mentioned that:

"He [the PM] and his daughter Mariam claimed last year that their London properties were bought through Qatari investments. The family submitted a letter from a Qatari prince claiming that the flats were bought through investment in the 1980s from the Sharif family into the prince's family business.

The Qatari ambassador to Pakistan denied that his government had anything to do with the letter, which Imran Khan claimed was fake."

The London flats, bought between 1993 and 1996, are located at Avenfield House overlooking Park Lane. According to the leaked **Mossack Fonseca** papers, Nawaz Sharif's son Hussain and his daughter Mariam used the flats

as collateral in October 2008 to take out large loans from the Swiss arm of Deutsche Bank. The flats have been held by two British Virgin Island [BVI] companies; the Sharifs family claimed that Mariam was not a beneficiary or owner of any of the companies and that her brother had filed all relevant tax returns.

The **BBC** dated **20th April 2017** wrote [again] on its internet site that:

"Nawaz Sharif and his family had denied any wrongdoing. In an address to the nation on 5th April 2016, he said those who use ill-gotten wealth don't keep assets in their own names'.

The pressure was believed to be the reason behind Mr Sharif's unscheduled departure for London on 13th April 2016 to keep a rare appointment with his doctors.

In November 2016, they told the Supreme Court that their London property was bought through investments in companies owned by the Qatari ruling family. Initially, however, the leaks appeared to trigger panic in the top circles of the ruling PML[N] party."

However, the verdict could not relieve the air of acrimony that had marred Pakistani politics since 2014. **BBC also held:**

"Allegations of corruption have chased Mr Sharif since the 1980s. And much of what the Panama Papers have revealed now was the subject of a federal inquiry in the mid-1990s.

*Mr Sharif ordered that inquiry closed when he came into power in 1997, calling it '**politically motivated**'. But this time he and his family have had to acknowledge they used offshore companies to acquire foreign assets."*

The fact remained that bitterness continued and even worsened when the investigators started their work. And all this was happening at a time when the PML[N] government had lost much of its territory to the military and elections were approaching.

The Pakistani Supreme Court ordered an investigation into their affairs by a joint team of civil and military investigation agencies; however, the prime minister's top aides called it a victory for the ruling party.

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The fact, that the court had not cleared the PM & his family and had directed them to appear before investigators, would be used by the opposition to chip away at his legitimacy and personal integrity.

The '**New York Times**' dated **20th** April 2017 held that:

"Pakistan's highest court ordered an investigation into offshore wealth held by the family of Prime Minister Nawaz Sharif, but it stopped short of removing him from office over allegations of corruption and money laundering."

Members of Sharif's governing party PML[N] were seen jubilant. Salman Akram Raja, a lawyer for Sharif's family, said the ruling was justification for the government, which had supported an independent investigation of the allegations. He added:

"It [the SC] should devise a mechanism for an investigation into the allegations, and today's verdict formulates that mechanism."

Opposition figures echoed Imran Khan's call for the prime minister to step aside while the investigation was carried out; it was doubtful that an impartial investigation could be conducted with Nawaz Sharif still in power.

Michael Kugelman, Deputy Director for Asia and senior associate for South Asia at the Washington-based **Woodrow Wilson Center** opined:

"It's not the best possible outcome for the government, but it comes quite close. The bottom line is that Sharif isn't off the hook, but he's also not heading out the door, and ultimately that's a big victory for the government."

The fact remained that this time the dynamics of the whole scenario were perceptibly different, as the petition was based on information exposed not by a political party in Pakistan but by a 108-strong network of news organisations globally, the International Consortium of Investigative Journalists [ICIJ], which had won the Pulitzer Prize for uncovering the corruption net all over the globe.