

## **Scenario 123**

### **GEN MUSHARRAF'S COME BACK:**

Former President Gen Pervez Musharraf returned to Pakistan on **24<sup>th</sup> March 2013** after more than four years in exile, seeking a possible political comeback in defiance of judicial probes and death threats from Taliban militants. He landed at Karachi Airport where only a few hundred people welcome him; a small turnout by any standard of Pakistani politics for any national leader.

Gen Musharraf struck a defiant tone while speaking to his supporters outside the airport terminal vowing that ***'he was not cowed by a threat by the Pakistani Taliban to kill him'***. Gen Musharraf's come back could further complicate Pakistan's politics; was viewed as an enemy by many Islamic militants for his decision to side with America in response to the Nine Eleven terrorist attacks.

A day earlier, the Pakistani Taliban vowed to mobilize death squads to kill Gen Musharraf at appropriate time. As a token to that the militants launched a suicide car bomb attack against a military check post in the northwest tribal region, killing 17 soldiers therein.

Gen Musharraf was to face legal charges on certain big issues including assassination of former PM Benazir Bhutto on 27<sup>th</sup> December 2007; Nawab Akbar Bugti's killing in Balochistan, Judges Illegal Confinement Case and most importantly, the TREASON Case under Article six of the Constitution for imposing Emergency on 3<sup>rd</sup> November 2007.

### **NO WELCOME – UTTER DISTRESS:**

Gen Musharraf at last made to land in Pakistan after several failed promises to return previously. He tweeted that he was ***"thrilled to be back home"*** soon after his landing in Karachi. Moments after the security people whisked him away in a convoy of about a dozen vehicles, raising concerns he was being detained for the legal charges against him. His supporters,

waiting over two hours for him, really got disappointed with the beginning of General's new political journey.

During his initial stay at a hotel in Karachi, he planned for the upcoming elections, and then travelled to Islamabad where his legal team was keen to see him to decide the best way to respond to the charges against him. A Pakistani court had granted him pre-emptive bail in three cases in which he was known to be implicated. He had 10 days to appear in court; albeit he had dismissed various charges as baseless in which he was named in absentia, without officially informing him.

A day earlier to his landing, the Pakistani Taliban [TTP] released a video threatening to unleash suicide bombers and snipers against Gen Musharraf if he comes back. One of the two people speaking in the video was Adnan Rashid, a former Pakistani air force officer convicted in an attack against the General. The Taliban had broken Rashid out of prison last year, along with nearly 400 other detainees from a jail in Khyber PK province. Adnan Rashid's video, in which he spoke in front of a group of about 20 militants holding rifles, said:

*"The mujahedeen of Islam have prepared a death squad to send Pervez Musharraf to hell. We warn you to surrender yourself to us. Otherwise we will hit you from where you will never reckon."*

Gen Musharraf was expected to address supporters at a gathering in Karachi near the Qaid's mausoleum but police decided to cancel his permit because of a **"very serious threat"**. In addition, Gen Musharraf was provided an armoured vehicle to protect him. Banners and billboards welcoming Gen Musharraf back to Pakistan were, of course, lined the street from the airport to the Qaid's mausoleum.

In the aftermath of the 9/11 attacks, Gen Musharraf was pressurised by the US to back them in the then war in Afghanistan and cut off ties with the Taliban, which he did. For that, militants as well as many other Pakistanis saw him as carrying out the American agenda in Pakistan. He was also vilified by militants for ordering firing in Red Mosque episode of Islamabad in July 2007; the mosque had become a sanctuary for armed militants. At least 102 people were killed in the weeklong operation, most of them supporters of the Imams in-charge.

Militants tried to kill Gen Musharraf twice in December 2003 in Rawalpindi; firstly by placing a bomb intended to go off when his convoy passed by. When that didn't work, suicide attackers tried to ram his motorcade with explosives laden vehicles. The president was unhurt but 16 others had died.

In addition to the Benazir Bhutto killing case, Gen Musharraf had to face charges resulting from investigations into the killing of Nawab Akbar Bugti, a Baloch nationalist leader who died on 26<sup>th</sup> August 2006 after a standoff with the Pakistani military. In another case, he was accused of illegally removing a number of judges including the CJP Iftikhar M Chaudhry.

Gen Musharraf's opponents had to pass remarks while he was in troubles. The media he muzzled delighted in replaying clips of his court attendances alongside frames of his old photos. Some former politicians thundered against him on television; others had quieter reactions. One PML[N] politician remarked that;

*"It isn't nice for anyone to have to go through this - but I still remember how Musharraf forced me to see my mother and children in handcuffs. It filled their eyes with tears....."*

It is unclear why Gen Musharraf returned, given the controversies he had triggered. Last week, he confessed to CNN that he had entered a secret deal with the US to allow the CIA to operate drones in Pakistan. For years he had denied it and inexplicably chose the moment of his return to Pakistan to finally come clean. Some ascribed the decision to vanity - years of progressively quieter exile denied him the headlines he craved.

Next day, Khateeb Lal Masjid Maulana Abdul Aziz approached Supreme Court (SC) seeking placement of Gen Musharraf's name in Exit Control List (ECL) and registration of treason case against him.

The petitioner had taken the plea in the petition that Gen Musharraf was behind the killings of several innocent people and students in Lal Masjid incident. Therefore, such person should not only be proceeded against under law but his name be also placed in ECL. Gen Musharraf was facing several cases in courts and was on preventive bail; the SC was told. The interior minister and federal government were also made respondents in the *Lal Masjid* petition.

### **GEN MUSH'F APPEARS IN COURT:**

**29<sup>th</sup> March 2013** was a rough day for Gen Musharraf when he appeared in the court in Karachi. A shoe was hurled at him as he was forced to appear in two murder cases to plead for bail. He secured bail but was barred from leaving the country. The embarrassment and humiliations kept on

adding to the retired General's troubles since he arrived back in Pakistan about a week earlier. He tried to make another bid for power at the elections in May but had disappointed as when he landed at Karachi airport, fewer than 2,000 people were there to greet him.

The **TIME of 29<sup>th</sup> March 2013** described that day as:

*'Gen Musharraf had heralded his day in court with a tweet as he had claimed in interviews that his social media following demonstrated his popularity in Pakistan. His Facebook page had 825,000 Likes. "Leaving to appear in court today," he said, in the first time a former dictator has live-tweeted an audience with a judge.*

*The Twitter account shows the former commando in action: training at the gym ("Feel very energized"), tasting Pakistani food ("The best cuisine in the world"), posing with a dwindled crowd of fans and showing off his farouche looking armed bodyguard ("**Taliban threat? NOT ON MY WATCH!!!**").'*

As Gen Musharraf strode into court, with flashing cameras retreating in front of him, a shoe zipped over their heads. The assailant was a lawyer, a familiar type of opponent. In 2007, during his last year in power, Gen Musharraf had sacked Pakistan's Chief Justice Iftikhar M Chaudhry twice, sparking a lawyer-led movement that ultimately saw him resign as President of Pakistan the following year.

Like most shoe hurlers, the lawyer, Tajamal Lodhi, was a terrible shot and missed his target by some distance. Local news channels gleefully played the footage several times. They too have a gripe with Gen Musharraf: he had shut down a number of independent news channels when he imposed a state of emergency in 2007.

The lawyer Tajammal Lodhi was later released without charge. Gen Musharraf, however, managed to secure bail in the three cases he's charged with involvement in: the assassination of Benazir Bhutto, the death of Baloch leader Akbar Bugti and a case about his sacking of several judges and confining them home in 2007.

It was also the first time in Pakistan's history that a former military ruler was appearing in court. In his tweets, Gen Musharraf struck a deferential tone, referring to the judges as "honourable." But the Sindh High Court also ruled that Gen Musharraf would not be allowed to leave the country without their permission, placing his name on ECL.

During the next month, Gen Musharraf was forced to appear in courts of different parts of the country to extend his bail. It was unlikely, however, that he would end up convicted of his involvement in either the Bhutto or Bugti assassinations. He was widely accused of failing to give Bhutto adequate security, including in a high-profile UN inquiry. In Bugti's case, Gen Musharraf had notoriously remarked on television that he would **"hit him from where he wouldn't see it coming."**

However, Gen Musharraf managed to attract considerable attention in media of Pakistan. Many news channels broadcast his press conference live from the luxury hotel in Karachi where he was residing. The familiar bluff rhetoric was on display, with Gen Musharraf controversially saying that Kargil — a military adventure he led as army chief in 1999 — was a success. But few believed that he would make a political impact. Another General, who was once close to Gen Musharraf, but a known media analyst opined:

***"Despite a very poor performance by the democratic [PPP] government, people are not going to choose a former military ruler. He's fantasizing. He has highly exaggerated ideas about himself. He's out of touch with reality. He certainly has a grand vision, but it's about himself rather than the country."***

After having ruled Pakistan for nine years, it was not clear why Gen Musharraf wanted to be involved in politics again. Beyond the trouble with the courts, Gen Musharraf had realised hardships of campaigning. He insisted that he would hit the campaign trail, and was tipped to possibly win a couple of parliamentary seats, one in Karachi and one in Chitral but that was not his plan. He was going to sit as member in a Parliament headed by Nawaz Sharif, the former Prime Minister he ousted in the 1999 coup.

Amidst all these hopes; let us peep into more details for a while.

Like Z A Bhutto in an unprecedented way, Gen Musharraf was also booked for a criminal offence that could actually see him land in prison or his stay abroad into a permanent exile but surprisingly he came back. The Islamabad police registered an FIR (*No 131 dated 10-08-09 under section 344 / 34 PPC in Secretariat Police Station*) following the orders of a Sessions Court. It was done against him for illegal confinement of the country's top judges after his 3<sup>rd</sup> November 2007's dictatorial and tyrannical order of Emergency in Pakistan.

It was a point to note that on one side the intelligentsia and the civil society of Pakistan were adamant to set the path of democracy by blocking the

entry of the army in governments through back doors but at the same time the so-called democratic rulers, all the PPP stalwarts in the government boasting Gen Musharraf a Guard of Honour while seeing him off from the government. Not only this, Pakistan High Commission in London was directed by Islamabad to give former dictator full protocol of ex-president during his stay in London. Pakistan's High Commissioner to the UK Wajid Shamul-Hassan himself told the media that:

*"We are bound to act in line with the directions of Islamabad and we have been formally directed by the Foreign Office that Pervez Musharraf should be given the protocol of an ex-president, which we are giving to him.*

*The High Commission [HC] used to send a protocol car and a protocol officer to receive and see off Musharraf whenever he arrived or left the UK. The HC had been arranging a VIP lounge for Musharraf but the money was paid by the ex-dictator."*

Gen Musharraf had also kept at his disposal the services of about 12 (or more) regular officers of the Pakistan Army for his security in London. This deployment was made at Gen Musharraf's residence on Edgware Road London, for his security and for providing him daily services. Naturally this team was being paid a huge amount per month from the national exchequer of Pakistan.

On this news the former COAS Mirza Aslam Beg had given his candid opinion that according to the rules and regulations of the Pakistan Army, no such protocol was permissible for an ex-Army Chief. Beg disclosed that:

***"Some years back there was a rule of providing a batman, a PS, a driver and an Army telephone to an Army Chief on his retirement, but Benazir Bhutto, during her second tenure as prime minister, had ordered the then COAS Jahangir Karamat to withdraw these facilities from me. This rule of providing no facility to an ex-Army chief made on the orders of Benazir Bhutto still prevails."***

Now the key question: why Gen Musharraf decided to come back despite bags of bullying in the media and threats. Gen Musharraf had not returned to Pakistan from his self-exile to face legal battles, humiliation, house arrests and imprisonments etc. What was the General's real agenda then? Who planned the General's return and with what specific political strategy? An important question in this context was: Why did the PML[N] remain absolutely non-vocal on the eve of the General's return – until he was arrest-

ed? Of course, Sharifs were told by friendly governments to maintain absolute silence over the matter.

Referring to the '**Nation dated 2<sup>nd</sup> May 2013**' Dr Haider Mehdi questioned that:

*'..... why was the PML[N] leadership instructed to stay mum and mute – and by whom? These are the intricate puzzles and mysteries of Musharraf's return..... the Zardari regime had earlier sent off the General with a full guard of honor.*

*....all add a spice of political intrigue to Musharraf's return with a three-way collaboration of incumbent president [Mr Zardari], .... PML[N]'s Sharifs, and the assertiveness of some foreign powers.'*

The subsequent developments: Ahmed Raza Kasuri, legal counsel for Gen Musharraf had threatened in the High Court and repeated himself several times on TV talk shows that '**Gen Musharraf's trial will be the Mother of all legal trials in this country**'. Kasuri had warned that about 500 people, including Parliamentarians, several Generals, provincial governors and high political figures and many members of the higher judiciary, would face legal actions in the prosecution of said case. Kasuri had also publicly proposed a Truth and Reconciliation Commission with the explicit purpose of "integrating" the nation.

The most intriguing and politically alarming part of this proposal was the suggested date of **31<sup>st</sup> July 2009, as the "cut-off date"** – Kasuri advocated that all irregularities [*financial, political, monetary, legal, constitutional as well as criminal*] be waived against all offenders prior to that proposed date, and only those offenders [*politicians, Parliamentarians, tax offenders, loan defaulters, members of the ruling elite, etc*] be dealt by law post 31<sup>st</sup> July 2009.

In other words, a second NRO was being proposed with public accountability of the ruling elite for only the previous 4 years – keeping decades of corruption and financial mismanagement aside to be dealt later.

Suddenly what happened was the unforeseen and unpredictable intervention of hidden variables – a judge of the superior judiciary had surprisingly taken Gen Musharraf to task. The game had changed its intended course of direction, though the original objective of a second NRO remained intact.

Referring to a letter from nationalist ***M Abd al-Hameed, a Lahore - based media columnist***, had convincingly argued in a series of articles then that Gen Musharraf's return to Pakistan was organized by the US Pentagon: the State Department wanted a civilian government in Pakistan in 2013, while the Pentagon prevailed for Gen Musharraf's return as a strongman to Pakistan's political leadership who could unquestionably and effectively aid the American exodus from Afghanistan with the help of the Pak-Army and that *Muk Muka* setup. However, the humiliation Gen Musharraf faced then was not on cards.

Keeping aside the legal proceedings, the general populace believed the General should suffer for dragging the nation into a vicious and destructive war - the so-called war on terrorism. Gen Musharraf had no legal, political or moral authority to have made such a monumental decision unilaterally - he must face the music. But, ***the PPP and PML[N] leadership dragged the whole nation into an anti-army campaign – it was not appropriate at all; the nation did not endorse it.***

**The most important point was that had Gen Musharraf faced the music, so should all the loan defaulters, tax evaders, embezzlers of national assets, inefficient political managers, corrupt officials, account holders of unlawful deposits in Swiss banks, and so on and so forth.**

#### **FACTS & ANALYSIS OF EVENTS:**

Once he was flying so high and then lost his wings at last, lost in vacuum; then he fell down hitting the earth rock – he was Gen Musharraf.

In his nine years rule, the military dictator pushed his country into the crushing jaws of world players while raising loud slogans of ***'Pakistan First'***. *He had handed over military air bases, naval harbours and his western borders to his American friends keeping his own commanders in dark.*

Then a moment came when Gen Musharraf was no more needed in the playing fields. The Americans got him replaced by similar civilian plunderers but had got their slave General departed with guard of honour. While declaring his base in London he had plenty of money bags with him gathered in the garb of *'lectures in foreign universities'*.

Suddenly after five years he landed at Karachi **on 24<sup>th</sup> March 2013**; with the same old passions that perhaps the general populace of Pakistan was waiting for him. The most shrewd General of his times was trapped in Facebook & Twittered praises, might be his [evening] friends circle had made him to believe about his 'top-level popularity' or he was not able to forget the old fortune making days.

The same question again; why he came to Pakistan; who trapped him in such cruel way – no one really knows

**On 29<sup>th</sup> March 2013**, Gen Musharraf got fifteen days relief when the Sindh High Court [SHC] extended his bail in three separate cases but telling him NOT to leave Pakistan without permission. The bench further ordered: '*Let copy of this order be communicated to the Secretary, Ministry of Interior, as well as Director General of Immigration and Passports for strict compliance.*'

Gen Musharraf appeared in the SHC at Karachi, the same city where **on 12<sup>th</sup> May 2007**, 46 persons were slaughtered and 150 injured and the city remained besieged by containers; the ways to all hospitals were blocked; the court premises were engulfed by gunners but he was raising his fist at Islamabad declaring that massacre as '*Awam ki Taqat*' [the people's force].

*[On 26<sup>th</sup> May 2007; the Chief Justice Sabihuddin Ahmed [Sindh High Court (SHC)] had taken suo moto notice on a report of the In-charge Registrar of SHC submitted to him regarding the 12<sup>th</sup> May siege. The court converted the registrar's report into a petition and constituted a 7-member full bench for hearing it. The bench comprised Justice Sarmad Jalal Osmany, Justice Anwar Zaheer Jamali, Justice Mushir Alam, Justice Azizullah M Memon, Justice Khilji Arif Hussain, Justice Maqool Baqar and Justice Ali Sain Dino Metlo.*

*The In-charge Registrar of SHC, Abdul Malik Gaddi, had submitted in his report that at 7.45am on 12<sup>th</sup> May 2007 the entire High Court premises were surrounded by a mob and they were not allowing anybody, including advocates and members of the staff, to enter the court premises and the police were not helping in this regard.*

*The Registrar stated that when he proceeded towards the High Court for attending his duties, he found that all roads leading to the High Court were blocked by containers, buses and tankers, and he also could not find a way to enter the High Court premises. The police force deputed there was not taking any action against miscreants and it was sitting as a silent spectator.*

*The Registrar was informed by district and sessions judges Karachi West and South that the City Court premises had also been besieged by miscreants, who were not allowing anybody to enter the City Court premises. All roads leading to the City Court premises were barricaded and blocked and 'the police were not taking action'.*

*The Registrar also submitted that miscreants had maltreated and thrashed advocates, including senior woman lawyer, Ismat Mehdi, and as a result a number of advocates had received injuries. When the SHC Chief Justice and members of the administration committee arrived at the High Court, they were also disturbed by the fact that access to the court had been blocked from various entry points, preventing the judges, court staff, advocates and litigant public from attending the court.*

*The CCPO and the **Town Police Officer concerned** appeared and offered their explanation, stating that they **had also arrived on foot** and they themselves were helpless. The **Sindh Home Secretary also appeared** and undertook to do his best but the **'situation remained the same'**.*

*As all the roads were blocked, the CJP Iftikhar Chaudhry was not able to come to the High Court and he remained with Police at airport till about 8:00 pm till he boarded the plane back for Islamabad. The Police Head categorically admitted that when they returned from the airport at about 9:30 pm, the blockade was found to have been removed. The CJP was invited by the Sindh High Court Bar Association for addressing the concluding ceremony of the Supreme Court's 50th anniversary.]*

**On 29<sup>th</sup> March 2013**, the same 'Awam' was throwing empty water bottles on him; some one tossed his shoe on him; outside court his car was broken with stones and he himself was hearing the noisy shouts of 'dictator – hang him; traitor – kill him; seller – blacken his face' but he kept on hearing helplessly. He kept on standing before the court powerlessly, combing his hair with fingers, eyes down when up – just seeing at walls.

Chief Justice Mushir Alam observed in his order:

*"Therefore in my humble opinion without adverting to merits, as rightly contended by the learned AAG Sindh, where the applicant has earnestly approached the court and prepared to surrender before the trial court for facing trial, this court in all fairness would give fair opportunity to the applicant, more particularly in view of*

*Article 10-A of the Constitution, which has been recently introduced through 18th Constitutional Amendment, which guarantees to a person right for fair trial in any criminal charge against him."*

While walking from CJ's court to the other he asked some one to go through '*judges way*' in the name of security but was told that **'the said corridor was for judges not for accused ones'**.

Within the court premises and outside, angry lawyers protested and chanted slogans against ex-military ruler when he appeared in the court. A group of about 20 lawyers had gathered there to protest against Gen Musharraf while shouting **"he's a military dictator and he should be hanged"** before one of them hurled the shoe which, however, did not hit Musharraf. Shah Zain Bugti immediately announced Rs:200,000 reward for that shoe - advocate, named Tajammal.

The lawyer Tajammal was not detained by police because no charges were filed against him. Though the local TV channels showed video of the incident, but it was impossible to identify the shoe thrower because he was hidden behind part of the corridor. Well, one thing was evident that some one got courage to show the nation how **'some military dictators'** could be treated at times. That was mainly due to Pakistan's involvement in America's War on Terror [WOT] only due to his person.

Gen Musharraf was also directed to **visit in person** the respective courts of Rawalpindi and Sibi and Islamabad to get further 'fateful' orders. The real problem lied that before going in the respective courts for confirmation of his bail, he was required to stand before the '*pulsia*' investigation officers of those cases in which General Sahib had been named.

The President Rawalpindi Bar Association has already moved the Supreme Court to initiate proceedings under Article 6 of the Constitution against Gen Musharraf; this single move could turn all tables of Gen Musharraf's APML any moment.

In his press statements, Gen Musharraf tried to clarify that he was not at all involved in Nawab Akbar Bugti's killing or of Benazir Bhutto nor responsible for Red Mosque episode of July 2007; the respective courts would decide. But how one could forget the *brutal murder of Advocate Iqbal Ra'ad at Karachi who was assassinated* only for his fault that he was pleading Nawaz Sharif's 'hijacking case' in an Anti-Terrorist Court of Karachi.

Gen Musharraf, the 69-year old former president had availed pre-arrival protective bail for 10 and 15 days from two SHC benches respectively.

Though the SHC corridors echoed with pro- and anti- Musharraf slogans in a highly charged atmosphere, however, no untoward incident occurred as the number of both supporters and opponents of Gen Musharraf's APML did not exceed a dozen with sizeable contingent of Rangers and security guards in plain clothes. In two court rooms the General remained calm and quiet and heard the proceedings carefully and intently with clenched lips.

Gen Musharraf had demanded, through his council, five weeks' time to appear and surrender before the trial court in Islamabad and to obtain copies and other relevant material to defend himself in cases against him but the Prosecutor General Shahadat Awan opposed the bail application sternly.

Gen Musharraf ruled Pakistan from October 1999 to August 2008 after seizing power in a military coup and was intending to lead his party, the All Pakistan Muslim League [APML], in the general elections of May 2013. He was forced to step down in August 2008 by Mr Zardari's PPP but equally disliked by many lawyers throughout Pakistan because of his decision to suspend the CJP Justice Iftikhar M Chaudhry just for flimsy reasons.

It was a bad day for Gen Musharraf as another court of Sessions Judge served a notice upon him in a '**missing person case**'. He was asked to appear before the court **on 4<sup>th</sup> April 2013**.

#### **ANOTHER CASE IN ABBOTABAD:**

**In 2011**, one M Siddique of Malikpura ward had filed an application under Section 22-A of the PPC seeking registration of a criminal case against Gen Musharraf. Therein it was alleged that his son Atiqur Rehman, an employee of Qadeer Khan Research Laboratory, was picked up by local police one evening of September 2005 – the very next morning of his wedding; was later taken into custody by the sleuths of intelligence agencies and never returned home since then.

On Siddique's application, the District & Sessions Judge had ordered the registration of a criminal case against Gen Musharraf at the city police station in Abbotabad. The accused [Gen Musharraf] had failed to appear before the court during the trial as he was in self-exile. The court had ordered the attachment of General's movable and immovable property and had declared him a proclaimed offender.

However, the case file was closed when the Supreme Court constituted a judicial commission on missing persons case headed by Justice (rtd) Javed Iqbal Khan. Contrarily it was also on record that one Army Havaldar was hanged on the charge of conspiracy of killing Gen Musharraf and many of his associates were still undergoing prison sentences.

After the arrival of Gen Musharraf in Pakistan on 24<sup>th</sup> March 2013, the disgruntled lawyers again moved an application in the court of District Judge Arshad Khan seeking trial of the proclaimed offender in the said Atiqur Rehman case and all other cases that were pending against him. The court admitted the application for hearing and served notices to the prosecution and to Gen Musharraf for appearing before the court on 4<sup>th</sup> April.

Gen Musharraf has come to Pakistan to take another turn of ruthless rule but the general impression prevails that he had landed in self-called trouble; a booby trap of *thana-kuchehry* in Pakistan. For what? – just for one seat in the Parliament – his own seat, that too, if the MQM would like to repatriate his blessings of nine years. History would have called it a beggar's seat.

**On 5<sup>th</sup> April 2013;** in another blow to former President Gen Musharraf's bid for election, the Supreme Court accepted an application filed against the former military strongman, accusing him of committing treason under Article 6 of the Constitution. A 3-member bench of the apex court, headed by CJ Iftikhar M Chaudhry, was constituted to hear the case on, 8<sup>th</sup> April 2013. The application was filed by Ch Taufiq Asif, the president of the Lahore High Court's Rawalpindi bench bar association. He had asked the court to try Gen Musharraf for treason for imposing emergency rule in 2007, a move that ultimately paved the way for his downfall.

The former president's electoral future appeared to have gone bleaker as, a week earlier, the returning officer in Kasur, rejected his nomination papers for the elections. By law it was not fair because till then he was convicted.

A local lawyer, Javed Kasuri Advocate, had raised objections over the Gen Musharraf's candidacy for the NA-139 constituency, arguing that he did not qualify to contest elections under Article 62 & 63 of the Constitution. The Returning Officer, Mohammad Saleem, accepted the objections and rejected the former dictator's nomination paper. Gen Musharraf had filed papers to contest the general elections from four seats, including Karachi, Islamabad, Chitral and Kasur.

Meanwhile, a Supreme Court lawyer Barrister Zafarullah, on behalf of the PML[N] leader Ahsan Iqbal, filed an application before the Election Commission seeking disqualification of Gen Musharraf. The applicant alleged

that Gen Musharraf was not able to contest polls due to his involvement in four criminal cases: the Akbar Bugti killing case, the Lal Masjid case, the Benazir Bhutto killing case, and the Missing Persons case.

### **JUDGES HOUSE ARREST CASE:**

On **18<sup>th</sup> April 2013**, Gen Musharraf, protected by his heavily armed security team, fled an Islamabad courtroom to evade his arrest after Justice Shaukat Aziz Siddiqui of Islamabad High Court ordered his immediate detention on criminal charges of wrongfully confining judges of the Supreme Court of Pakistan **on 3<sup>rd</sup> November 2007** being the President of the country and the Army Chief in uniform.

One M Aslam Ghuman advocate had filed a petition with the Additional Sessions Judge Islamabad, Muhammad Akmal Khan in July 2009, that former president Gen Musharraf and others had detained judges of the Supreme Court of Pakistan and their families at their houses without lawful authority. Their children were neither allowed to attend their schools nor permitted to appear in examinations. District Attorney Mehfooz Paracha and S.I Shahid Mehmood were present in the court during the hearing.

The brief facts listed in the original petition were that **on 3<sup>rd</sup> November 2007** the then COAS Gen Musharraf prevented all the judges of the Supreme Court and High Courts from functioning unless they took a new oath under his issued PCO. The same day seven judges of the Supreme Court headed by the Chief Justice [*verification still needed*] had declared the said action of Gen Musharraf as illegal and passed the judicial orders prohibiting the judges of the Supreme Court and High Courts from taking oath under the PCO. As a result they were sent home and the same day, orders were conveyed to the district authorities to keep them and their families in their houses till the next presidential orders.

History is cruel. Nawaz Sharif was sent to Attock Jail to bear life sentence in Plane Hijacking Case by the same Anti-Terrorist Court of Karachi which he had invented to take revenge from his political opponents. Similarly, it was an ironic fate of twist for a man who once boasted that he would never allow Nawaz Sharif and Benazir Bhutto to end their exile on their own and return to Pakistan.

In a dramatic move after the court unexpectedly revoked his bail in that **case registered on 10<sup>th</sup> August 2009** with the Islamabad Police. The retired General, surrounded by his guards, hustled past policeman and sped

away in a black SUV to his home in Shahzad Town Islamabad, a compound protected by high walls, razor wire and watchtowers.

The police tried to reach the former military ruler but he was escorted by his personal security, fleeing in his bullet-proof black four-wheeler. In the written judgement, the IHC ordered that: **"He (Musharraf) be taken into custody and dealt with in accordance with law."** Later he was shown arrested by police on papers, kept him in his farm house in Chak Shahzad which was got declared as sub-jail. Judicial remand of 14 days used to be arranged there every time while confined in his residence.

*The lawyers were attacked with fists and shoes, while the officially deputed guards of the Gen Musharraf, turned their eyes back. The court did not take any notice of that attack, although when Ali Musa Gilani had been arrested by ANF from outside the court premises, in the notorious ephedrine case, the 'honourable' judges had jumped with shocks to claim that the sanctity of the court had been violated and they ordered the ANF to produce the accused before them in less than one hour. And of course when that order was obeyed, the accused was granted a bail within minutes.*

The detailed verdict issued by the **IHC also ordered for sections of Anti-Terrorism Act to be added to the list of charges against the former military ruler.** The order further said that Gen Musharraf's exit from the court earlier without giving arrest to the police warranted for separate charges to be filed against him.

The story was that Gen Musharraf's lawyers had approached the Supreme Court to file a pre-arrest bail application in order to avoid his surrender to the police. However, the SC returned the 14-page bail application as the timings for the Registrar's office had ended.

Putting a former army chief in jail was an unprecedented move in Pakistan, where the army, or army - backed politicians, had ruled for about 36 years. On administrative grounds, it was considered feasible to declare Gen Musharraf's spacious farmhouse, in an exclusive residential district of Islamabad, as **"a sub-jail where Mr Musharraf can be kept and would formally be declared as arrested"**, a form of de facto house arrest.

Such arrangements were permissible in law and had been in practice before to detain political elite and high-profile Pakistanis, rather than sending them to jail, such as some politicians including Mr Bhutto, Nawaz Sharif, Moonus Elahi and many more.

The Living History of Pakistan VOL-II

The matter of illegal confinement of judges in November 2007 and the similar related events were categorically narrated at pages of 599-601 of a book **'Judges & Generals in Pakistan' Vol-II** published in 2012 in UK.

The high court's decision to revoke Gen Musharraf's bail reflected a bitter homecoming for the former Army Chief, who returned to Pakistan after about five years of self- exile in Dubai and London; claiming that he had returned to *'save the country'*.

Gen Musharraf's rallies and public appearance had generated negligible public enthusiasm while the four Returning Officers had disqualified him from contesting the polls, ruling mainly that he had imposed the army rule twice, in 1999 & 2007, in the country.

After 3<sup>rd</sup> November 2007's Emergency, the British media in March 2012 had once, while Gen Musharraf himself was in UK, published that event with concerns - the main paragraph contained that:

*'Most of the Supreme Court judges, including the Chief Justice of Pakistan, who was not called to take oath under the new Provisional Constitutional Order (PCO) of November 2007, were held in-communicado. No one, including newsmen and even the judge's own relatives or acquaintances, was allowed to enter the Judges Colony and meet any of those judges.'*

One (detainee) judge was quoted as saying that they had been isolated from the outside world:

*".....have we committed a robbery? We cannot get out of our residence and find heavy security conducting our surveillance and blocking our way out".*

The security officials who had met the (detained) judges found them in high morale but at a complete loss to understand why they had been detained and treated like criminals. Justice Javed Iqbal, who was offered to take oath as the Chief Justice of Pakistan under the PCO but had refused to do so, and being a heart patient, remained all alone in his official residence. Justice Javed Iqbal told afterwards that we were neither allowed to go out nor was anyone permitted to visit us. Adding that:

*"The judges do not get the newspapers while they also don't have any access to the private television channels; thanks to PEMRA (Pakistan Electronic Media Regulatory Authority). The internet con-*

*nections (DSL) were also removed from the residences of these **so called defiant judges.***

In nut shell; Gen Musharraf was facing what he did with the judges and the judges had also not forgotten those painful days of their seniors. Most intelligentsia including retired CJ Saeduzzaman Siddiqui, Justice (Rtd) Tariq Mahmood, Rtd AVM Shahzad Chaudhry and Gen (Rtd) Talat Masood in their TV interviews held that the authorities must obey the court orders and arrest Gen Musharraf. The Human Rights Watch observed that:

*"General Musharraf's act today underscores his disregard for due legal process and indicates his assumption that as a former army chief and military dictator he can evade accountability for abuses.*

*The continued military protection for Gen Musharraf will make a mockery of claims that Pakistan's armed forces support the rule of law and bring the military further disrepute that it can ill afford."*

In a poll conducted on the same evening by the **DAWN TV Channel**, conducted by Asma Shirazi, 86% of Pakistani populace voted that Gen Musharraf should be taken through a court trial to uphold the law in the country; 13% voted in favour of extending him pardon in the name of his association with the Pak-army and one percent abstained.

On another TV channel **ARY News of 18<sup>th</sup> April**, with Kashif Abbasi as host, two retired Generals including Gen Hamid Gul, openly opined that Gen Musharraf should be treated just as a normal citizen like others and should be taken through strict course of justice.

Moreover, lawyers in the capital chanted slogans and cheered the court's directive of bail cancellation whereas the decision was seen as a welcome development by political leaders.

Ironically enough, Gen Musharraf was in the hands of the same judiciary he had humiliated and punished in November 2007. When the IHC turned down his appeal for bail in that case, the former army chief's immediate flight from the court made him a laughing stock in the country and abroad. Two days earlier Gen Musharraf was produced before a magisterial court; a total disgrace because Pakistani president when happened to be the Army Chief too, had never walked up to a magisterial court at least. It was indeed a dramatic change in fortune – a twist of fate.

The All Pakistan Muslim League [APML] used to say he was ready to face justice. But the General himself was expecting special treatment; ***perhaps he was looking towards Pak-Army for his rescue which was not moved at all. He had chosen, with typical arrogance, to ignore their advice of not to come back.***

The final outcome of this drama is still awaited. It is in part a farce, in part a comedy, and in other ways a tragedy. Pakistan was witnessing the fall of a man who believed he was invincible and above the law - the message sent out was loud and clear.

The scenes witnessed over those two days were horrible; the lack of enthusiasm for the General from the people could demonstrate that his support was only extended to the number of 'likes' on his Facebook page or followers on his Twitter account.

A general perception prevailed that Pakistan Army should also forget about Gen Musharraf – as he had taken all criminal decisions as president, and not as COAS. ***In fact he was guilty of dragging Army into many of his criminal activities un-necessarily and was instrumental in disgracing the good name of Pak-Army.***

Some people tried to paint the picture as if a row would be seen between the two institutions of Army and judiciary; not at all. Black sheep are every where; there may be more in judiciary. The intelligentsia, however, comprehended that the army would not put its own reputation at stake by owning certain wrong decisions taken by Gen Musharraf as the president. But instead of making it a media trial, let the law take its own course.

### **GEN MUSHARRAF ARRESTED:**

Gen Musharraf was also an accused in the Benazir Bhutto murder case and was granted interim bail till 24<sup>th</sup> April instant by the Lahore High Court Rawalpindi bench.

**On 25<sup>th</sup> April 2013;** the Federal Investigation Agency [FIA] formally arrested Gen Musharraf in the Benazir Bhutto assassination case after obtaining permission from the court of law to investigate him. Earlier, the ATC No 1, Rawalpindi Judge Ch Habibur Rehman issued orders for General's arrest. The court also granted permission to the FIA to formally investigate Gen Musharraf in the said case.

Gen Musharraf was already under arrest in the judges detention case, FIR No 131, dated 11<sup>th</sup> August 2009 with the Secretariat Police Station Islamabad, under Section 344 PPC but ***the Section 7 of the Anti-Terrorism Act (ATA) was added in the FIR on the order of the court.***

The jurists though could appreciate that it was un-called for but it was considered as tit for tat – the General had also extended the same treatment to Nawaz Sharif in Plane Hijacking Case in 1999. A JIT was asked to record statements, after which the court proceeding continued as per routine.

**On 9<sup>th</sup> October 2013;** Pakistan's Supreme Court granted bail to Gen Musharraf over the death of Baloch leader Akbar Bugti, bringing closer the former dictator's possible release after nearly six months of house arrest. His lawyer said the ruling meant he was a free man but he would remain under heavy guard at his residence where he remained under house arrest since April that year.

A 2-judges bench of the apex court, headed by Justice Nasirul Mulk, heard Gen Musharraf's appeal against the Balochistan High Court's rejection of his bail application in the Nawab Akbar Bugti murder case. The bench observed that substantial evidence was not available to involve the General in criminal conspiracy of Bugti's murder and granted bail to the former president.

**On 7<sup>th</sup> November 2013;** the Adiala Jail authorities formally released Gen Musharraf from his sub-jail, his farmhouse in Chak Shahzad near Islamabad, after he was granted bail by a court. The General remained confined for over seven months while he faced court trials.

Two days earlier, Additional District and Sessions Judge Wajid Ali granted Gen Musharraf bail with a solvent surety of Rs:100,000 against the alleged murder of former Lal Masjid cleric Ghazi Abdul Rasheed and his mother during the army operation on the mosque and the adjacent *madrassa* in July 2007. He had already been granted bail in three main cases discussed earlier in detail.

Even though the General had been granted bail in all cases, Gen Musharraf's name was still there on the Exit Control List [ECL]. The interior ministry had put his name on the ECL on the orders of the Sindh High Court [SHC] in March that year. A high treason case was still in pending against him as the FIA had not started formal proceedings till then. The Supreme Court had referred this case to the federal government to initiate the high treason case for twice holding the Constitution in abeyance.

**The dust settles Down:** After months of delay, Gen Musharraf appeared before a panel of three judges, which was named in November 2013 and had already met 22 times without the General's participation. Former military ruler was charged with treason for his decision of 3rd November 2007 to suspend the constitution.

Many previous appointments had been frustrated at the last minute; including on both Christmas Eve and New Year's Day, then due to suspicious discovery of explosives near his residence. Six weeks earlier, while he left his home for another court hearing, Gen Musharraf suddenly fell ill on the way; his car was swiftly diverted to a military hospital, where he remained for weeks under clinical tests and treatment.

The nature of Gen Musharraf's illness was directly related with his age – 70 years, which included hypertension, a clogged artery, a rickety knee, and some trouble with his spine etc. Once he left the courtroom after twenty minutes: his lawyers pleaded that the court first had to rule on whether a case against a former Army chief could be heard in a civilian rather than a military court. Among media reporters, the staggered court proceedings were likened to an interminable Turkish soap opera.

Gen Musharraf faced serious threats to his life from an array of dangerous militants, and he deserved adequate protection. According to many military analysts, they were deeply uncomfortable with one of their longest - serving chiefs being put on trial—raising the prospect of a possible clash between Pakistan's Generals and its elected civilian leaders if Gen Musharraf would be convicted.

Gen Musharraf's greatest misfortune was that Nawaz Sharif, the man he ousted when he seized power in a military coup in October 1999, had returned to government in June 2013. Soon after taking office, Sharif appeared in Parliament to announce that the government would try Gen Musharraf for "high treason."

After Gen Musharraf deposed him, Nawaz Sharif was hurled into a cell in a sixteenth-century fort along with some of his closest political lieutenants, and later dispatched into exile, to Saudia, where he remained for seven years. Critics argued that ***Sharif was motivated solely by revenge and that, given the circumstances, Gen Musharraf was not able to get a fair trial.*** But Musharraf's detractors were not only in the parliament: the judiciary was similarly ill-disposed toward the former military ruler due to the judges' confinement episode – quite un-warranted.

Salman Akram Raja, a leading lawyer and constitutional expert commented that **"it was a unique kind of constitutional subversion - a coup against his own government."** That evening, the policemen were scooping up troublesome lawyers and politicians; TV news channels went blank. There were no tanks on the street - only the police barriers around government buildings. In a blunt display of symbolism, Constitution Avenue was blocked.

Gen Musharraf was in fact propelled by the belief that he was still his country's savior: there was no other explanation for his decision to return to Pakistan in March 2013 from his comfortable exile in London, despite the best advice of his erstwhile allies in both government and the Army. He had come to 'save Pakistan' but in the elections, his party won just one seat. The supporters who had once crowded around him at the height of his popularity fled to rival parties.

Referring to **'The New Yorker' dated 20<sup>th</sup> February 2014:**

*'The Pakistani Army had long urged Musharraf not to return. The former Army chief, Gen Kayani believed that his predecessor's plunge back into politics would invite legal troubles and damage the Army's image. He was correct: the Army is now trying to fend off a crisis it never wanted in the first place. However, it distanced itself from Musharraf's ruinous legacy; it nevertheless cannot abide one of its own former chiefs being convicted for treason.'*

Good luck for Gen Musharraf, the new Army Chief, Gen Raheel Sharif had a longstanding family connection to the General under trial. His brother, the war hero Major Shabbir Sharif, was a close friend of the man now in docks. To honour that bond Gen Sharif ordered the Army to take Gen Musharraf under its protection.

The situation went further complicated. The army under new commander Gen Raheel Sharif remained uneasy with the government's decision to pursue negotiations with the Pakistani Taliban, particularly when the militants were killing Pakistani troops. In January 2014, twenty soldiers were killed in Bannu town, Gen Sharif responded with immense force. Gen Sharif wanted to go offensive but the PML[N] government continued **'inviting the militants to the negotiating table'**. The Taliban have been quick to exploit the new space yielded to them.

The militants did not even bother to meet PML[N]'s chosen interlocutors. Meanwhile, the bombings continued: in Peshawar, cinemas and pro-government tribal elders were attacked. In Karachi, eleven policemen were

The Living History of Pakistan VOL-II

killed. Three different media organizations were either attacked by bombs or threatened; lastly the Taliban beheaded twenty-three soldiers in their custody. Beyond that the military's patience could not stand by PM Nawaz Sharif's government. A wider military offensive was launched that weakened Gen Musharraf's trial because the general populace started hailing Pak-Army and cursed the political elite as they deserved.

A much known maxim that ***the soldiers cannot be expected to die for the country while their former chief is on trial for treason.*** As the offensive against Taliban started the Army got tremendous backing from the people. The army had to come on one front otherwise a tense situation was likely to develop. PM Sharif's kitchen cabinet abstained to prolong Gen Musharraf's trial though they wanted a quick conviction for the record.

But it was not so easily possible.