

## **Scenario 35**

### **PAKISTAN'S JUDICIARY IN 2001:**

**5<sup>th</sup> January 2001:** President of the Supreme Court Bar Association (SCBA) told the media that *'Nawaz Sharif's Exile has brought [Pakistani] judiciary's credibility at stake'*.

**29<sup>th</sup> January 2001:** Abdul Rahim, one former deputy director of Intelligence Bureau Pakistan, wrote a letter to the President of Pakistan alleging that Justice Malik Qayyum had been taking direct orders from Khalid Anwar and Saifur Rehman, both federal ministers of Nawaz Sharif's regime, to convict Ms Benazir Bhutto. A copy of the said letter is pasted below *verbatim*:

TOP SECRET

**INTELLIGENCE BUREAU  
GOVERNMENT OF PAKISTAN  
94-UPPER MALL, LAHORE**

No. ARV/2001/01 Dated 29-1-2001

The President,  
Islamic Republic of Pakistan,  
ISLAMABAD

*THROUGH PROPER CHANNEL*

**SUBJ: *SHEER ABUSE OF POWER/ABUSE OF JUDICIARY***

Respected Sir,

I would like to bring it to your kind notice that I am an officer of Intelligence Bureau cadre and have been raised to the rank of Deputy Director out of my sheer hard work. I have always worked honestly, professionally and with full devotions. All my seniors will endorse the high level of my efficiency, professionalism and integrity. I have always pointed out any wrong doings irrespective of any pressure of my seniors. I have no political affiliations, whatsoever.

I, being a conscientious officer, would like to state that an extra-ordinary situation has compelled me to address you directly as I feel that this very sensitive and important matter, which may have very deep impact on the future and present functioning of the judiciary and politics of Pakistan, needs to be dealt at your level. I am constrained to inform you that during my long service career in a very sensitive organisation I have never come across of any such occasion where I was a witness to sheer abuse of state institutions including judiciary of Pakistan by any Chief Executive of the country for the mere satisfaction of his/her personal ego and vendetta. In the instant case, some important dignitaries of the past and the present are involved who have not only violated the Constitution of Pakistan but also crossed other human and legal limits. They have also violated the provisions of their oath, which they took while taking-over their high offices. They have committed such a crime, which no nation on the earth would ever tolerate.

The highly undesirable incident, which I am going to narrate below, in fact, relates to the trial of the Opposition Leader and former Prime Minister of Pakistan Ms. Benazir Bhutto and her spouse conducted by the Accountability Court headed by Mr. Justice Malik Abdul Qayyum of the Lahore High Court. The events which have really shaken my conscious and will also shake you and the whole nation are being summarised below.

With the start of the trial of Ms. Benazir Bhutto and her spouse in SGS Reference in the Accountability Court headed by Mr. Justice Malik Abdul Qayyum, the then Government ordered the Intelligence Sub-Bureau, Lahore for the monitoring of all the office, home and mobile telephones of Mr. Justice Malik Abdul Qayyum in order to keep him under constant observation. Accordingly, I, being the head of the section responsible for the observation / bugging of the telephones, started tapping the telephones of Mr. Justice Malik Abdul Qayyum.

First of all Mr. Khalid Anwar called Mr. Justice Malik Qayyum and told that "Somebody is unhappy over the delay of hearing of this case. He has complained about the case to Saif that nothing has been done so far and why has it not been concluded." He informed the judge that "the gentleman [Mian Nawaz Sharif] was very unhappy" and asked the judge that "Now I am thinking if you could reach the final result within the outside limit of two weeks" and "So get it done on Monday". In response, Mr. Justice Malik Qayyum informed the Minister that "It is being done on Monday. After this we have to give them some time for defence evidence and then the matter will be closed."

During his first conversation with Mr. Justice Malik Qayyum, Mr. Saif-ur-Rehman directed him that "Kindly don't do one thing. Please don't give any further date." to which the judge promised that "Now we are not going to give dates. We are going to finish it by the Grace of God. You don't worry." In a conversation with his wife, Mr. Justice Malik Qayyum told her that "They have said, remove him" and on a further explanation by her wife, the judge stated that Nawaz Sharif has ordered for his removal because "They [Mian Nawaz Sharif] say that he has changed his loyalty." When on his advice the wife of Mr. Justice Malik Qayyum informed Malik Pervez (brother of Justice Malik Qayyum) of this development, he remarked that "But this is Blackmailing" and while agreeing with him, the wife of Mr. Justice Malik Qayyum concluded that "Yes you are right; this is the limit that justice should not be done and only what they want should be done".

In a subsequent conversation with Malik Pervez, Mr. Justice Malik Qayyum informed him that "Regarding the matter of judgement which you know, your friend the biggest boss (Nawaz Sharif) is specially sending two men, one Mehdi and other Pappu (Saif)" to the Chief Justice to ensure "that it should be done with in two days".

In a separate conversation with Mr. Saif-ur-Rehman asked Mr. Justice Malik Qayyum "... we need a place when our man can sit. Kindly permit our man to sit in the room next to your room" to which the judge told him that he "would tell Khawar Sahib". Mr. Saif-ur-Rehman then told the judge that "Then I am going to depute the man Feroz shah who will contact Khawar". When the Judge discusses this development / requirement with the Chief Justice, the Chief Justice remarked that "If we avoid it, it is better for us otherwise the noose will be around our neck if this thing is exposed". Mr. Justice Malik Qayyum in reply told him that "Khawar says that we can place the machine in the Registrar's room" like "when you did it, it was also like this".

Mr. Saif-ur-Rehman, in a separate conversation conveyed the directions of the Prime Minister to Mr. Justice Malik Qayyum and told him that "He [Mian Nawaz Sharif] has asked me to tell you for Monday" and asked him "Whatever you told me before, do exactly like that". Mr. Justice replied that "I am trying my best. You don't worry. You know how sincerely we are trying".

Besides external / political pressure, Mr. Justice Rashid Aziz, the then Chief Justice of Lahore High Court was also used to pressurize Mr. Justice Malik Qayyum. In a telephonic conversation, Mr. Justice Rashid Aziz informed Mr. Justice Malik Qayyum that "Yesterday when I went there, Mr. Yasir Arafat had come. He was busy with him in a meeting. He [Mian Nawaz Sharif] said just wait for ten minutes, twenty minutes, and half an hour. We will talk after lunch" and told Mr. Justice Malik Qayyum that "He [Nawaz Sharif] is a bastard". When Mr. Justice Malik Qayyum enquired about the conversation, Mr. Justice Rashid Aziz told him that "he [Nawaz Sharif] says it has to be tomorrow" and enquired from Mr. Justice Malik Qayyum "Is everything ready?" When Mr. Justice Malik Qayyum asked the Chief Justice that

"You should have told him that it would finish only after they finish (defence evidence)" the Chief Justice told him that "He was saying that just do it".

When Mr. Justice Malik Qayyum could not announce the judgement on the pre-determined day Mr. Saif-ur-Rehman called him and asked that "You were supposed to do it today". Mr. Justice Malik Qayyum replied to him that "For your sake I had to beg her lawyer. I told him that I have to go abroad, I am not feeling well but I have to finish it first". When Mr. Saif-ur-Rehman expressed displeasure over delay Mr. Justice Malik Qayyum asked him to "handle him [Mian Nawaz Sharif] and stated that "By the grace of God, this will be done and then both of us will go to him [Mian Nawaz Sharif] and seek forgiveness". Mr. Saif-ur-Rehman asked the same judge to "Give me 100% confirmation that it will be done tomorrow". In the same conversation Mr. Justice Malik Qayyum asked him about the punishment required to be awarded to which Mr. Saif-ur-Rehman told him that "whatever you have been told by him [Mian Nawaz Sharif]" i.e. "Not less than 7 years". Mr. Justice Malik Qayyum suggested to him that the maximum punishment is not appropriate as "Seven is the maximum punishment and no body awards maximum" and requested Mr. Saif to ask him [Mian Nawaz Sharif] to which he promised to let him (Mr. Justice Malik Qayyum) know. In the same conversation Mr. Justice Malik Qayyum informed Mr. Saif that "I have already done about the fine and confiscation of the properties" and "their disqualification also". Mr. Saif-ur-Rehman informed him that "Now more important is the state of madness in which he [Mian Nawaz Sharif] is" to which Justice Malik Qayyum requested him to "Beg forgiveness on my behalf". Mr. Justice Malik Qayyum assured him that "Under all circumstances it will be done tomorrow. We are going to announce the judgement".

In a separate conversation, Mr. Rashid Aziz described the madness of the Prime Minister to Mr. Justice Malik Qayyum and told him that "You can't understand. Do you know what he [Mian Nawaz Sharif] is going to say? He is going to issue warrants for both of us. He has specially called me and told to advice you that what are you doing?" In reply Mr. Justice Malik Qayyum informed the Chief Justice that "90% I will try my best to finish it tomorrow". Mr. Justice Malik Qayyum went on assuring the Chief Justice in the words "OK. Tomorrow I will, even if have to push it". The Chief Justice told the judge that he has told him [Nawaz Sharif] that "It is already written and lying with us. He can sign it for you on it and you can keep it with you".

In another conversation with Mr. Justice Malik Qayyum, Mr. Saif-ur-Rehman told the judge that he had asked him [Mian Nawaz Sharif] about the punishment to which he had directed to tell you that "Give them full dose". Mr. Saif-ur-Rehman also informed the judge that "When I inquired about five or seven, he said I should ask you why you would not like to give them full dose". Explaining the strategy for the next day (the day of the announcement of the judgement) Mr. Justice Malik Qayyum informed Mr. Saif that "Whole day will be given. After eleven (11:00 AM) we would tell him to finish. After the interval at 11:00 AM, even if they disagree, we will not care" and "We will tell them, say whatever they want to say in their defence. It (order) is already prepared in written". The judge went on explaining and stated that "So after half an hour, we will come back and announce it". Mr. Saif-ur-Rehman then suggested to him that "Give the brief tomorrow but try to cover the maximum the brief the judgement".

When the trial of Ms. Benazir Bhutto was over, Mr. Shahbaz Sharif, the then Chief Minister of Punjab rang up the judge and told that "I made a request to you" to which the judge replied that "Sir, I did finish that". Mr. Shahbaz Sharif then informed him that "thank you very much. The matter regarding Ch. Sarwar [MNA], my elder brother has asked me to tell you that Sarwar should be favoured [in his disqualification case]" to which Mr. Justice Malik Qayyum promised that "It's done, as desired by Mian sahib. As per his desire the matter is finished".

During this process of close day to day observation of his phones, I was astonished to note that the judge was being dictated to obtain a judgement of their choice against Ms. Benazir Bhutto and Mr. Asif Ali Zardari by the then Federal Law Minister Mr. Khalid Anwar, Chairman Accountability Bureau, Mr. Saif-ur-Rehman and the then Chief Justice of Lahore High Court, Mr. Justice Rashid Aziz, under the orders of from then Prime Minister of Pakistan Mian

Muhammad Nawaz Sharif, to hastily conclude the trial, announce conviction of Ms. Benazir Bhutto and her spouse with maximum punishment or seven years and forfeiture of her entire property. The Honourable Judge was pressurized to the extent that once he was called by the then Chief Justice of Lahore High Court at his residence to convey that Mr. Nawaz Sharif has asked to remove him (Mr. Justice. Malik Abdul Qayyum) as he (Mian Nawaz Sharif) has become doubtful of his loyalties. The Honourable Judge ultimately succumbed to the pressure and announced pre-written judgement against Ms. Benazir Bhutto and her husband by violating all norms of Justice, provisions of the Constitution of Pakistan and fair-play.

The whole conversation of these important Cabinet Ministers and the judges was part of the official record of the Intelligence Sub-Bureau, Lahore. I am also enclosing my affidavit along with 60-minutes recorded tape and its transcription with the view to assist your kind honour to proceed against two sitting judges, one of the Supreme Court of Pakistan and the other of Lahore High Court, respectively, former Prime Minister of Pakistan Mian Muhammad Nawaz Sharif, Chairman Accountability Bureau Mr. Saif-ur-Rehman and the then Federal Law Minister Mr. Khalid Anwar.

I would also like to state that I have taken on against the most powerful group of politicians, two corrupt and immoral judges and hence I apprehend that I along with my family members are going to be harassed and victimized besides a serious danger to my life too. I also fear that the authorities in the Intelligence Bureau may try to terminate my services on false grounds but fact remains that I am just doing my duty by exposing to you bad elements in our judiciary. I, therefore, appeal to your honour to provide me protection and security against all such dangers. The aforementioned corrupt characters have not only brought bad name to the judiciary itself but also the image of our great nation. I would also like to make it clear that I have no motives whatsoever but I just want you to know as to what kind of havoc is being played by such people who had made mockery of justice without fear of the Almighty Allah.

In the light of the above facts, I would request: to your honour to kindly take necessary and appropriate action into the matter.

In the end I would once again like to reiterate the fact that I have no motives whatsoever in exposing these bad elements as I, being a civil servant, was duty bound to bring the wrongdoings of such like undesirable characters to the notice of such authorities which I am confident would take necessary action. I would also request you to kindly keep this summary confidential till you have taken a final action against them.

Thanking you in anticipation and I am confident that your kind honour, being the custodian of the Constitution of Pakistan and a former judge of the apex court of the country, would definitely proceed in the matter in accordance with the law.

Yours obediently,

*[Signature]* (A. RAHIM)

Deputy Director / IB

Encl:

1. Copy of the transcript 2. 65 Minutes recorded tape 3. Affidavit

cc:

1. Gen. Pervez Musharraf, The Chief Executive of Pakistan, Islamabad.
2. Honourable Chief Justice of Pakistan, Islamabad.
3. Maj. Gen. Rafi-ullah Khan Niaz, Director General, Intelligence Bureau, Islamabad.
4. Mr. Jehangir Mirza, Joint Director General, PPHQ-IB Lahore.

Sd/- (A. RAHIM)  
Deputy Director/IB

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[100 Rupee Certificate]

**AFFIDAVIT**

[Stamped by Advocate Notary Public.]

I, A. RAHIM S/o Mr. NAZIR AHMED, do hereby solemnly declare and affirm as under.

1. That I was working in the Intelligence Bureau directorate, Lahore since 1997. Further, I worked in other positions in I.B.

2. That according to the instructions of the Government, the residential, office and mobile numbers of Justice Malik Abdul Qayyum were placed under observation during the trial of former Prime Minister and Opposition Leader Ms. Benazir Bhutto.

3. The Mr. Nawaz Sharif and his associate wanted to know Justice Malik Qayyum's day to day engagements, and contacts. In fact, they wanted to ensure that Justice Malik Qayyum was following the advice of Accountability Bureau and the Federal Law Minister to implement the pre-determined conviction of Ms. Benazir Bhutto.

4. that the Prime Minister wanted the proof that instructions given by him to Justice Malik Qayyum through Chief Justice Rashid Aziz of Lahore High Court, Mr. Saif-ur-Rehman, Chairman Accountability Bureau and the Federal Law Minister Khalid Anwar were being followed.

5. That accordingly all incoming and outgoing calls in his office, home and mobile were monitored and regular record of day to day conversation started building. I was shocked to find that the concerned judge is being ordered to convict Mr. Benazir Bhutto and Asif Ali Zardari by Saif-ur-Rehman, Chief Justice and Law Minister by hastily concluding the trial at the earliest and announcing the conviction of Ms. Benazir Bhutto with "full dose" at every cost. I found the Judge to be working as junior to the Accountability Bureau and the Federal Law Minister.

6. My conscience felt bad learning about the gross injustice being done to the defendants through the judge trampling the provisions of the constitution of Pakistan. I, being a civil servant felt duty bound to protect the Constitution and not become party to any such violations. I, therefore, decided to make a duplicate copy of the conversation and a 65-minutes long audio recorded conversation to this effect is enclosed with this affidavit. The entire record of conversation between Premier Sharif's cabinet Ministers, namely Saif-ur-Rehman (who had also investigated the case against Ms. Benazir Bhutto), personal friend of Nawaz Sharif, the then Federal Law Minister Khalid Anwar, and Justice Rashid Aziz, the then Chief Justice of Lahore High Court confirms that a conspiracy was hatched against Ms. Benazir Bhutto for getting her convicted through Justice Malik Qayyum.

7. That the above facts are correct and true to the best of my knowledge and nothing has been concealed or withheld.

DECLARANT

[Signature] A. RAHIM 6-12-2000

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**4<sup>th</sup> February 2001:** the '*Sunday Times*' of London came out with verbatim taped conversations between Khalid Anwar the Federal Law Minister, Saif ur Rehman the Ehtesab Chief, Chief Justice of the Lahore High Court (LHC) Rashid Aziz and Justice Malik Qayyum to which Mr Rahim had asked the President to take cognizance. That was the moment when the credibility of whole judicial process in Pakistan was made a laughing stock throughout the world.

The **daily Dawn** of the same day had commented that:

*'..... Justice Malik Qayyum of Lahore High Court had allegedly announced a pre-written judgment in the case; the Sunday Times story revealed. .... When approached Justice Qayyum said he could not remember the conversations recorded by the IB. "I don't recall any such calls," he said. "I don't know anything about it."*

**12<sup>th</sup> February 2001:** Federal Interior Minister of Nawaz Sharif's regime Chaudhry Shujaat himself disclosed to the media that the bugging of Justice Rashid Aziz and Justice Malik Qayyum's phones was ordered by Saif ur Rehman, the former Accountability Minister. It was done by the Intelligence Bureau Lahore and copies of tapes were also kept at IB (HQ) Islamabad.

An editorial appeared in **Friday Times of 16-22nd February 2001**, under caption: '*Far Reaching Repercussions*' (when the verbatim audio tapes of Justice Malik Qayyum's conversation had appeared in 'The Sunday Times of London') wrote:

*' ..... Asif Zardari should be released immediately and arrest warrant against BB should be withdrawn. Supreme Court should punish Nawaz Sharif; present rulers (Gen Musharraf) allowed him Scott free. He took 23 bags of male-ghanimat. A billion rupees of jewellery and millions in foreign currency were discovered in his mother's house with white ants eating all the loot hid in a bag. The bias against Asif Zardari and BB is ridiculous.'*

#### **BB'S TRIAL VITIATED BY THE SC:**

**6<sup>th</sup> April 2001:** a 7-member Supreme Court Bench, presided over by Justice Bashir Jehangiri, pronounced that '*the trial of Benazir Bhutto and her husband A A Zardari stands vitiated*'. The apex court, therefore, set aside their convictions by the Ehtesab Bench of the LHC and ordered retrial of the case by the court of competent jurisdiction. Detail judgment was written after 15 days.

The apex court's decision had, beyond any doubt, established that Justice Malik Qayyum had acquired personal interest in the case by deriving an out of the way favour of securing diplomatic passports for him and his wife in violation of the rules. Besides, Malik Pervez, real brother of Justice Qayyum was elected unopposed from the seat [of National Assembly] vacated by Nawaz Sharif himself, whose political rivalry with Ms Benazir Bhutto was a matter of common knowledge.

The apex court also noted that Justice Qayyum had exerted influence on the second member of the Ehtesab Bench S Najmul Hasan Kazmi, who being an unconfirmed judge of the LHC was sweating for confirmation. Justice Kazmi was consequently appointed permanent judge on 13<sup>th</sup> May, a month after the Ehtesab Bench's judgment against the appellants. The Supreme Court had observed that:

*'In this scenario, judicial propriety demands that Justice Malik Qayyum should tender his resignation as judge of the Lahore High Court in the interest of judiciary's honour and dignity.'*

The Supreme Court's verdict held that:

*'The element of bias was floating on the surface of the record.'*

The most damaging part of the judgment from Justice Malik Qayyum's point of view was its assertion that he had 'chased' the particular reference against Benazir Bhutto and Zardari because he was keen that it should be heard by a bench headed by him. His aim was to 'impose' himself on the case so that he could '*take it to its end according to his preconceived notions*.' In the opinion of the SC judges, there was 'undisputed' evidence that Justice Malik Qayyum wanted the Nawaz Sharif government to give diplomatic passports to him and his wife, and that he [J Qayyum] had frozen the appellant's assets for getting favours from Benazir Bhutto's political adversary.

The Supreme Court verdict also referred to many other technical mistakes in the case like the variation of versions in the short order and the final judgement (the latter having a reference to the necklace while the former not having it); the '**abuse of section 342 CrPC**' with a view to reaching '**a hasty conclusion,**' and '**the mode and manner**' in which Benazir Bhutto's statement was recorded. Finally, the Supreme Court judgment noted the 'glaring injustice' that was meted out to Mr Zardari when Justice Malik Qayyum refused to recall certain witnesses the counsel for the accused wanted to cross-examine. All this goes to show, the SC judgment said, that there was '*a close liaison*' between Justice Qayyum, Senator Saifur Rahman and the PM Nawaz Sharif.

A little background: In April 1999, Justice Qayyum reportedly found late Benazir Bhutto and her husband, Asif Ali Zardari, guilty of taking a \$4.3m commission after awarding a pre-shipment inspection contract to the Swiss firms CoTecna & *Societe Generale de Surveillance*. Both were fined \$8.6m and jailed for five years. Mr Zardari was already in jail awaiting trial on other cases; Benazir Bhutto had left Pakistan shortly before the verdict and never returned till October 2007.

**Daily Times Monitor of 21st November 2010** described that:

*'... The audiotape was provided by Senator Faisal Raza Abdi. The TV channel [ARY: 'program Sawal Yeh Hai' by Dr Danish dated 19<sup>th</sup> November 2010] also aired a conversation between Pervez Elahi, Shahbaz and Justice Qayyum. Following is the transcript of the conversation. Justice (r) Abdul Qayyum: Your task will be done in a day or two. I had to request an adviser (Peerzada) for you. I told him that I am very ill and I have to leave abroad and I have asked him to end up the matter for my sake. Peerzada has told me that he will do it and it will be done. He told me that he would compensate for all the mistakes I have done; adding that Mian Sahib (Nawaz Sharif) would be happy as well. Audiotape reveals Sharif's manipulated verdict in that Zardari's case.'*

The Supreme Court had, inter alia, observed that:

*'We are convinced that the trial in this case was not fair and on account of bias of the Ehtesab Bench the trial of the appellants stands vitiated'.*

The court found that Justice Qayyum and his wife had applied for diplomatic passports on 17<sup>th</sup> April 1998 after taking up the case. Diplomatic passports were not to be issued to judges and the foreign ministry had opposed the application but with special instructions of the then PM Nawaz Sharif, the process started as a special case. On 27<sup>th</sup> April 1999 Justice Qayyum issued an order freezing the properties and assets of Ms Benazir and Mr Zardari. Three days later the diplomatic passports were issued to Justice Malik Qayyum and his wife. It was also held by the Supreme Court that the judge had ignored 10 other accused in the trial and rushed the hearing.

**[Finally, the Supreme Court noted that the verdict was written and dated on 14<sup>th</sup> April 1999, one day before the trial actually ended.]**

**'Give them full dose;**' Ehtesab Chief Saifur Rehman had told Justice Qayyum on phone. Pakistan's hard luck was that Gen Musharraf, the army dictator did not bother to take action against Justice Qayyum for that corrupt practice. Instead he was allowed to start his legal practice in the same higher courts; rather he was made Attorney General of Pakistan later in 2006-07; reasons best known to Gen Musharraf; the successor king of Nawaz Sharif's dynasty.

What matters for the people of Pakistan and for history was the truth it revealed about the judiciary as well as the executive. In a sense, it was an indictment of the kind of politics we had in this country and reflected upon the depths of aberrations to which governments and some judicial misfits and adventurers could descend in pursuit of questionable ends. The Supreme Court sent back the case and ordered retrial of Ms Benazir and Mr Zardari because

Justice Qayyum had shown bias towards both of the PPP leaders during her trial in the Lahore High Court.

**AYAZ AMIR'S HISTORICAL VERDICT:**

A paragraph from an essay, written by PML(N)'s own party legislator **Ayaz Amir**, published on **20<sup>th</sup> April 2001** is placed here to reflect the minds of a judge and rulers of those days:

*'His Lordship Justice Qayyum of the Lahore High Court was the Sharif family's personal judge, settling matters, both private and state, to their complete satisfaction.*

*The Sharifs' notions of government were intensely private: which is to say, have your own man at every key post. They began with commissioners and police DIGs, the dregs of both services pandering to their whims and enriching themselves in the process. But when Nawaz Sharif became Prime Minister the second time round the family's sights were set higher.*

*They had whiz-kid younger brother running Punjab. They had their own man in the presidency. After Sajjad Ali Shah's arranged departure from the Supreme Court, they thought they had the apex court lined up in their favour. In the person of Justice Qayyum at the Lahore High Court they had the closest thing they could get to a personal judge. Division of family assets, balancing of huge bank loans against dummy collateral, tightening the noose around Asif Zardari and Benazir: the only judge who could handle these sensitive matters was Justice Qayyum.*

*In the Qayyum tapes which detail conversations between Justice Qayyum and Nawaz Sharif's fox-hound, Saifur Rehman, nothing matches the echo of these words uttered by His Lordship: "By the grace of God this will be done (that is, the judgment against Bhutto and Zardari) and then both of us will go to him (Nawaz Sharif) and seek forgiveness." Forgiveness for what? For not being able to wrap up the case against Benazir and husband as quickly as Nawaz Sharif desired.*

*But Saifur Rehman and his goons in the Accountability Bureau aimed not at justice but victimization. And because their hands were not clean retribution has knocked at their doors. The losers as always are the people of Pakistan. Of what matter to them if one set of looters is embarrassed while another set is distributing sweets over a form of judicial vindication?'*

At the same time Ayaz Amir was right to raise questions like: 'Does any newspaper-reading man in Pakistan doubt Benazir's and Asif's guilt? Does anyone think they got no commission from the Swiss firm, SGS-Cotecna? Does anyone doubt the financial acumen of the then ruling couple who turned Islamabad into an open auction mart where every deal, no matter how outrageous, was on offer provided the right palms were greased?'

Certainly not; but it was Saifur Rehman and Justice Qayyum's foolishness which helped Bhuttos and Zardaris to get green labels for them to befool the innocent people again.

[On 26<sup>th</sup> June 2001, the game was over. Malik Qayyum was asked to resign from his seat as judge of the Lahore High Court and he was un-ceremonially sent home. On 9<sup>th</sup> July 2001 Chief Justice of Lahore High Court Rashid Aziz preferred to seek early retirement. A chapter of intellectual and judicial corruption closed.]

**20<sup>th</sup> June 2001:** Gen Musharraf, while he was also Chief Executive, took over the office of the President of Pakistan, under the Provisional Constitutional Order (PCO) by removing a dummy Rafiq Tarar before he was allowed to complete his five-year tenure. With immediate effect he dissolved the suspended Senate, National and Provincial Assemblies and dismissed the Chairman of the Senate and the Speaker of the National Assembly. J Irshad Hassan Khan, Chief Justice of Pakistan administered this swearing.

More than fifty years back, Justice Muhammad Munir had strengthened the forces opposed to 'rule of law', legitimizing Mr Ghulam Mohammad's rule giving an idea of 'legalised illegality' providing a solid foundation for repressive rule over democracy; government of men as opposed to government of laws, 'rule of persons' as opposed to 'rule of law'. It is an old story now where the legislative pillar of the state became a consistent looser. Justice Munir had decided in favour of a wrong person; Justice Anwarul Haq decided in favour of another General and Justice Irshad Hassan Khan decided in favour of a third similar General.

In essence, affirming the 'doctrine of necessity' depends upon the inside strength of sitting judge; see Justice Yaqoob Ali. Such like judges are the light towers in the history of nations. Mostly the politicians provide opportunities to the military dictators to continue in the wake of certain calculated compromises. Example is the circumstances around 2003-04; when all the PML(Q) and MMA parliamentarians opted to twist themselves in favour of uniform, no body raised his hand against the military dictator only to save his seat, then putting the burden of doing wrong on the courts alone do not justify at all. Every one had to play his role judiciously, if they wanted to keep history on their side.

On **21<sup>st</sup> June 2001**, the very next day, Gen Musharraf's holding of the Office of President was challenged in Sindh High Court and on **31<sup>st</sup> July 2001** Chief Justice of Sindh High Court, Syed Saeed Ash'had had dismissed petitions against Gen Musharraf challenging him.

**6<sup>th</sup> October 2001:** Gen Musharraf himself extended his term as Chief of the Army Staff (COAS) for an indefinite period. The details have already been enumerated in the preceding chapters.