

## Scenario 216

### **CONSPIRACY AGAINST PM [?]**

Going back to the affairs of 3<sup>rd</sup> July 2017; PML[N] leader Saad Rafiq [referring to daily '**the Express Tribune**' of the next day] also shouted over **Bastian Obermayer**, the German investigative journalist, who was one of the reporters who unearthed the Panama Papers scandal; he termed Kh Saad Rafiq as '**nonsense**'.

As already stated; the German reporter, who had co-authored "**Panama Papers: Breaking the Story of How the Rich and Powerful Hide Their Money**" tweeted on the same day that:

*"With all due respect: this is nonsense. PM of Iceland resigned, so did ministers, 100+ Panama Papers investigations worldwide & more to come."*

His statement came in response to Saad Rafiq's claim in which he termed the scandal was nothing but a "**conspiracy against Pakistan**".

Then very strong rumours were triggered in the capital city Islamabad that **the members of the JIT were not even given the time to go through the documents [related with Panama enquiry] and they were only asked to sign them at the eleventh hour.**

It was alleged that nobody knew who drafted this for submission before the SC bench. As the investigation into the Panama scandal entered its final round, it ignited another debate among legal experts over the future course of action by the top court after it received the final inquiry report. Main focal questions of the debate were:

*i. Whether the special bench will give the final ruling or new judges will also be included in the bench for this purpose.*

*ii. Whether the top court will allow both parties to file their input on the JIT report.*

*iii. Whether the bench will itself decide the question of Prime Minister Nawaz Sharif's disqualification under Article 62 (1) (f) of the Constitution in light of JIT's findings.*

**PAK-ARMY & ISI BLAMED BY SHARIFs:**

In '**the News**' dated **6<sup>th</sup> July 2017**; allegedly a PML[N] sponsored reporter Ahmed Noorani floated a disingenuous report trying to malign the JIT with a confusing caption titled **SC directed ISI to look after Panama JIT affairs**; he wrote:

*"The Inter-Services Intelligence [ISI] is in control of secretarial and administrative affairs of the Panama Joint Investigation Team [JIT] as it is not acting on its own but on the direction of the Supreme Court [SC] of Pakistan.*

*On being approached, the registrar of the Supreme Court didn't respond to written questions from 'the News'.*

*When '**the News**' contacted Justice Ejaz Afzal, the head of the Implementation Bench, and asked him about allowing the JIT to take secretarial support mainly from the ISI, **he did not comment over it.**"*

However, Justice Ejaz Afzal told that correspondent that:

*"...if anyone was aggrieved, he should approach him in the court. I only speak through my judgments or in the court and never discuss any issue in private."*

The media had the inner information that on the first day of the JIT's working, it was decided with consensus among all the JIT members that **'security of information would be the most significant thing to be ensured'** during the working of the team. It was resolved that:

*"If each and everything being discussed in JIT, or the questions being asked to the witnesses, are leaked, the whole process will become scandalous. As it will be a huge exercise and if many people from departments of all JIT members will be made part of the JIT Secretariat, no information will remain safe.*

*....that the secretarial support should be mainly taken from one department, the ISI, and approval of the SC should be sought for this purpose; also that **majority of administrative affairs** would be dealt with by the ISI including the **security of the premises** of the JIT Secretariat."*

**SC's Implementation Bench approved the above proposal** of taking help from the ISI, the elite intelligence agency of the country. As media didn't know about the SC's that approval, the JIT working was criticised by the Jang / GEO group mainly.

*[Within the JIT; documentation and drafting was the responsibility of Irfan Naeem Mangi of NAB and financial analysis was done by Amir Aziz of State Bank of Pakistan [SBP]; the rest of the work was divided into sections like record keeping, management, human resources, documentations, public relations, technical, IT, etc.*

*All these wings or sections added up to form a full secretariat which worked day & night whole heartedly and with dedication.]*

**On 7<sup>th</sup> July 2017;** Former Qatari premier Sheikh Hamad bin Jassim bin Jaber Al-Thani sent a letter to the JIT asking the body to record his statement at his palace before submitting its final report to the SC.

The Qatari prince had previously submitted two letters to the apex court regarding the settlement of London properties with the Sharif family during proceedings in the Panama Leaks case. Ascertaining the authenticity of the Qatari prince's letters was one of the tasks the apex court had directed the JIT to accomplish. He had also asked for the names of the JIT members and due date of their arrival for recording his statement.

The JIT had offered the Qatari prince to either appear in person at its secretariat at the Federal Judicial Academy Islamabad, or testify through video link from Pakistan's embassy in Doha. JIT told him that it would not only verify the letters but would also go beyond. It reminded the Qatari prince that **after submitting the letter to the apex court he had accepted the jurisdiction of the Supreme Court of Pakistan** and could not unilaterally withdraw the jurisdiction.

The JIT had also informed Sheikh Hamad that after recording the statement with the investigation team he might be summoned by a trial court if the Supreme Court sent a reference to the relevant forum which might be an accountability court.

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While PML[N]'s Tallal Chaudhry termed it a threat to the Qatari prince that he might be dragged into the matter in case he testified before the JIT, an expert in the field of investigation said the team could convey such consequences to a witness before recording his statement under Section 161 CrPC and it has been a practice.

*[A member of the JIT investigating the Benazir Bhutto murder case had recorded the statement of American lobbyist Mark Seigel at his office in the US. However, when an Antiterrorism Court in Rawalpindi summoned him for recording his statement under Section 164 of CrPC, Mr Seigel went to the Pakistani embassy in the US where he testified through a video link.*

*In Unites States if a police officer does not inform the suspect that he is caught under certain offence which may entail certain punishment, the arrest goes void.]*

The JIT and the Qatari prince kept on disagreeing over the jurisdiction. The investigation team insisted that he should record the statement within the territorial jurisdiction of Pakistan, while Sheikh Hamad claimed he was not subject to the jurisdiction, and offered the JIT members to record his statement at his palace.

The PML[N]'s legal team, however, linked the acceptability of the JIT report to the testimony of the Qatari prince and held that the report would be incomplete unless the JIT recorded the statement of key defence witness Sheikh Hamad bin Jassim.

Most legal experts were of the opinion that the JIT could summon the Qatari prince; and that its members were not bound to go to Qatar; adding that "*When the prime minister of Pakistan could appear before the JIT, why not the former PM of Qatar.*"

However, PML[N] expected that PM Nawaz Sharif would be given an opportunity to defend himself in the Supreme Court. The order the five-member SC bench passed on 20<sup>th</sup> April 2017 was self-explanatory as an operative paragraph of the 547-page judgement said:

*"...upon the receipt of the reports, periodic or final of the JIT, as the case may be, the matter of disqualification of respondent No.1 [Nawaz Sharif] 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".*

**On 8<sup>th</sup> July 2017;** at a hurriedly called press conference held after a high-level consultative meeting at PM House, the ruling party PML[N] declared that **'it would not accept the report if investigators do not record the statement of the Qatari former prime minister'**.

The demands were presented by four key members of the federal cabinet at press conference at the Press Information Department, soon after a high-level consultative meeting was held at PM House. Chaired by PM Sharif, the meeting was also attended by the party's legal experts, who reviewed scenarios in anticipation of the JIT's final report.

The news conference was addressed by Defence Minister Kh Asif, Planning and Development Minister Ahsan Iqbal, Petroleum Minister Shahid Khaqan Abbasi and Railways Minister Kh Saad Rafiq. They elaborated:

*"If [Qatari prince's] testimony is avoided, we will be right to believe that this [JIT] report is compromised and not based on justice. We will be justified in saying that the dice have been loaded."*

Later, the minister made it clear that this did not mean that the PML[N] would boycott Supreme Court proceedings if the JIT submitted its report without the statement of Qatari prince. Kh Asif further said:

*"We demand that the proceedings of the JIT be made public; the PML[N] believed that sovereignty belonged to the people and they should know what questions the JIT members put to Sharif family members and what the answers were. These videos and audio tapes should be released without censor or editing and ..... should be broadcast on television channels."*

The Railways Minister said the process adopted for the formation of the JIT, its composition and the selection of certain members had been controversial from day one. The general populace was, however, giving a big laugh because PML[N] had **'celebrated with sweets & shouts with signs of victory'** when the JIT was announced and formed.

Kh Saad held that **the PML[N] government had also objected to the inclusion of two members from intelligence agencies in the JIT** in view of the past history of civil-military relations in the country.

*{Accusing the agencies and the JIT of tapping the telephones of PM House and PML[N] leaders, Saad Rafique said that the JIT should tell the nation under what laws it had tapped their phones.*

*It was all the mockery because JIT had neither the mandate nor they had the technical wing with it to do that job.*

When asked to identify those who had hatched this conspiracy, and whether the Supreme Court or the army was also involved, the PML[N] leaders blamed PTI Chief Imran Khan, saying he wanted to enter power corridors via backdoor, through blackmail and pressure tactics.

***When asked about the possible involvement of the military, Kh Asif, the defence minister said they believed the army was not involved in politics,*** adding that:

*"The army and other sensitive institutions have nothing to do with politics; the military was busy eradicating the menace of terrorism from the country and handling the situation on the borders in a professional manner."*

Objecting to judges' remarks such as "**godfather**" & "**Sicilian mafia**", Ahsan Iqbal said: "**Courts do not function under godfathers and mafias**". Mr Rafique also quoted media reports saying that "**an intelligence agency was controlling the JIT**", whereas it was supposed to be headed by the FIA.

The four ministers made the PML[N]'s official stance public only two days before the end of the 60-day deadline set by the Supreme Court for the JIT to submit its report. Earlier, a 'B-team' of ruling party MNAs and state ministers were tasked with keeping the matter alive in media.

Minister of State for Information Marriyum Aurangzeb, who had been in the forefront in criticising the opposition and expressing concern over the JIT's proceedings, ***received the ministers at PID but did not join her cabinet colleagues on the main stage.***

Later on that night, PTI spokesperson Fawad Chaudhry responded to the ministers' presser, saying that "**since the Qatari prince was a defence witness**", it was the responsibility of the Sharifs to produce him before the JIT. He also rejected the allegation that Imran Khan had hatched any "**conspiracy**" against the government or the Sharifs, saying that the Panama Papers had not been leaked by the PTI or the army.

The fact remained that if the PML[N] had objections to the inclusion of ISI and the MI representatives in the JIT, why it had not challenged this in court at the time. Raising these matters when the JIT had completed its job

was an inferior move. The general feelings prevailed that Pakistan was not a banana republic and the people of Pakistan were standing behind the JIT and the Supreme Court.

**On 9<sup>th</sup> July 2017;** the FIA inquiry team found SECP Chairman Zafar Hijazi guilty of tampering the records of companies owned by the Sharif family, and recommended registering a First Information Report [FIR] against him. The team submitted a 28-page inquiry report to the SC in which it endorsed the stance of the JIT probing the offshore assets of PM Nawaz Sharif and his family members.

In FIA investigations, two opposing groups emerged within the corporate sector regulator for and against the ruling regime PML[N]. The two camps, which emerged in the wake of the allegations and counter-allegations levelled by senior and mid-level SECP executives, had Chairman Zafar Hijazi on one side. Mahmood — the most senior executive — was allegedly leading the dissident camp.

While the three-year tenure of Hijazi was set to end in December 2017, Mahmood, a career SECP officer, kept high aspirations. The cracks in SECP ranks came to the fore when the relevant executives and the chairman gave contradictory statements to the FIA team.

In his defence, Hijazi tried to turn the tables on his subordinates when he told the FIA team that:

***"I have now learnt that some undisclosed witnesses have falsely deposed before the JIT that the case (of Chaudhry Sugar Mills) was prepared on my directions in 2016."***

Hijazi's response also claimed there were no allegations of money laundering against Chaudhry Sugar Mills Ltd [CSML] and any impression to this effect was given due to ulterior motives. This statement contradicted the detailed response given to FIA by Maheen Fatima, who was heading the Internal Audit and Compliance department. It was her earlier statement to the JIT that blew the lid on alleged record tampering.

Maheen Fatima told the JIT that ***'the alleged money laundering case against CSML was closed in 2016 on the directives of the Chairman Hijazi, but the date penned in the closing note was May 2013'***. In response, the SC had directed the Interior Ministry to conduct an inquiry through the FIA, which opened a Pandora box inside the SECP.

The rest of the facts are narrated else where in this book.

In fact, the Sharifs had ***'lost all moral authority to hold reins of the government'***.

**JIT HELD 15 CASES AGAINST SHARIFs:**

The Panama Leaks scenario: Pakistan drifted into a stinking conflict – clashes; disagreements were seen between the PML[N] and the military leadership, between the PML[N] and judiciary, between other political parties and judiciary and among the political parties themselves. Despite a change of high command in the military from aggressive Gen Raheel Sharif to neutral Gen Qamar J Bajwa, the institution continued to tolerate PM Nawaz Sharif in the wake of his foolish foreign policies – especially PM's dubious relations with India.

The battleground had shifted from Imran Khan's inspired ***dharnas*** to the court rooms. PML[N] was firstly jubilant on the announcement of the JIT, then raised fingers over its credibility. Mainly because the PML[N] could not manoeuvre its formation; none of PM's covert nominees was named; bitter complaints against each other were seen.

Various institutions of the state were accused of obstructing the JIT's investigation process; notices had to be served to the Chairmen of SECP, NAB and FBR while the IB was warned to stop harassing the investigators – in the garb of official duty.

**Najam Sethi** in his weekly '**The Friday Times**' of **30<sup>th</sup> June 2017** issue paid back his perks by licking the Sharifs' feet while saying:

*"... confrontation between the judiciary and core civilian institutions of the state is no less inflammatory and destabilizing than the continuing civil-military conflict.*

*The political parties are also at serious odds with the judiciary [in fact there was none except PML[N]; PPP & PTI were openly standing with the SC]. If Nawaz Sharif is obstructing the judicial investigation into the money trail of his personal wealth, Imran Khan is obstructing the Election Commission of Pakistan [ECP] from inquiring into the money trail of his personal and party funds.*

*.....the Pakistan military establishment is not inclined to give the [PMLN] government any leeway in conducting any **unconditional dialogue with New Delhi.**"*

The comparison of two leaders had no logic; every one was answerable to the law for their deeds separately. SC was dealing with the two cases on their own merits – **such bogus reason forwarded by a writer of Najam Sethi's stature was really devastating.**

While advocating, rather safe-guarding, American interests in Pakistan, Najam Sethi frightened PM Nawaz Sharif on proposed cuts for military assistance to Pakistan by withdrawing its status as a Major Non-Nato Ally because **"it had failed to fight terrorism that has claimed American blood"**. See how Sethi created horror for the PML[N] government:

*"Apart from significant Coalition Support funds, this status enables Pakistan to receive priority delivery of defense equipment and a loan guarantee program for private banks that finance American arms sales to Pakistan.*

*The World Bank has sniffed the mood in Washington and accordingly issued a warning to the finance minister, Ishaq Dar, that he has missed important fiscal targets and must not expect leniency from donors."*

**While PM Nawaz Sharif had such friends and American lobbyists around, he didn't need enemies at all.** PPP's Zardari was covertly standing by Sharif's but had also instructed its former interior minister, Rehman Malik to depose before the JIT against them – though he never did so; the written remarks of the JIT are referred.

BUT **Najam Sethi** in his 'The Friday Times' issue of **14<sup>th</sup> July 2017** tried to jump into another boat while saying:

***"In the considered opinion of the JIT, PM Nawaz Sharif and his family have amassed wealth beyond their declared sources of income; their defense is full of holes and lies; they are not good Muslims; they must be punished.***

***Who can disagree with this assessment?"***

Najam Sethi also held that in the said **wonderful [Pakistani] system** that must prevail over all else, the judges were not accountable – nor

the Generals. However, the one man think-tank forgot to understand that who were responsible for such failures or blunders – the politicians and their parliaments in succession. The Zardaris and Sharifs could have made legislations in that respect; were they serious.

Sethi once more elaborated;

*"Let us be clear. **There is no doubt that the Sharifs have accumulated a mountain of wealth beyond their known sources of income.***

***Mr Sharif's options are limited.** He can choose to resist and be ousted ignominiously. Or he can resign on the pretext of higher "moral ground" and live to fight his case another day."*

Imran Khan had pestered Sharifs to provide the money trails for purchase of the apartments - **Show the receipts, was a common slogan of the general Pakistani populace.** Khan added:

*"Now, there will be criminal proceedings against the prime minister; the whole family has lied to the court. The whole defense has been a fraud. The investigators also proved that a letter sent by a Qatari royal whose family had been a business partner of Mr. Sharif's father was fake.*

*"Next week is his [PM's] last week. You know that Elton John song '**Goodbye, Yellow Brick Road**' — I am hoping there will be a big goodbye reception for the PM in Islamabad next week."*

**On 14<sup>th</sup> July 2017;** a top aide to the PM, Zafarullah Khan, the minister of state for law and justice, said that:

*"A verdict resulting in PM Nawaz Sharif's removal would be **a judicial coup.** There is no precedent of the court using Article 62 and 63 - if a new history is to be made, I cannot say, but there is not a single precedent.*

***We have confidence in the Supreme Court;** the so-called evidences gathered by the investigative team are based on 'sourced reports' and don't have evidentiary value."*

However, other opposition politicians believed that the prime minister was running out of time; the situation was very serious for Nawaz Sharif. In the

past, the Sharif family managed to manipulate the judicial system but this time, it was a very different kind of judiciary. Nawaz Sharif, who himself chose the current army and intelligence chiefs, could not portray himself to be a victim of a conspiracy.

Day by day, the JIT report became hot topic in media, print and electronic both. The JIT, while looking into the Panama Papers case, recommended re-opening of five DECIDED CASES from the Lahore High Court [LHC], eight investigations and two inquiries against PM Nawaz Sharif and their family members – horror-days were ahead.

***Of these 15 cases, three were registered during 1993-96 and in 2011 while 12 were prepared during months till October 2000*** after Gen Musharraf had toppled the Sharif government in a military coup. The case regarding the Sharif family's four London apartments was also among the eight investigations started by the NAB in December 1999.

Besides the London properties, the JIT also recommended reviving cases such as three NAB references and two FIA cases that were quashed by the LHC; JIT had found anomalies in the cases quashed by the high court since 1997 onwards. While quashing of an FIR of 1994 registered against Shaifur regarding Hudaibiya Engineering Ltd by opening fake and fictitious accounts, the JIT report stated that:

***"Lahore High Court only discussed the jurisdiction of the FIA regarding conducting investigation...question regarding existence of the individuals in [whose] name fake accounts were opened was not adequately addressed.***

***....that these cases have also been quashed without conducting a proper trial and without giving evidence a chance to come on record."***

The JIT also recommended re-opening of another case the FIA registered the same year of the same nature. The report pointed out that the LHA had quashed a NAB reference filed against Sharifs and Saifur Rehman **related to purchase of a helicopter, allegedly through unfair means**, and said it was a "case of further investigation".

Discussing the LHC verdict on FIR no: 12 & 13/94 regarding the **Hudaibiya Paper Mills** reference, the JIT team opined:

***"It was very well investigated reference which could not get a chance to go under trial and was quashed mere on technical grounds.***

***The investigation has clearly established the accounts and annexed the relevant evidences along with the reference which could not have over shadowed / thrown out mere on technical deficiencies."***

The JIT also recommended that NAB court be asked to start hearing of the **London Properties Reference**. The report stated:

*"The properties highlighted in this investigation are in fact the same on the basis of which primarily, the Honorable Supreme Court took cognizance of the Panama case and made JIT."*

The JIT also recommended that the SC should resume examination into the prime minister's orders for recruiting 42 employees in the FIA in late 90s on the basis of nepotism; the forced acquisition of land in and around Raiwind; the construction of a road to Raiwind; receiving funds for the Sharif Trust, assets beyond known sources of income AND illegal allotments of plots to his slave bureaucrats and cronies.

The SC was also recommended to direct the SECP to reopen the investigation into alleged money laundering by the Chaudhry Sugar Mills Ltd [CSML] owned by the Sharif family.

### **HIGH NOISE AGAINST SHARIFs:**

**On 12<sup>th</sup> July 2017;** former *Pakistan Tehreek-i-Insaf* [PTI] leader Javed Hashmi questioned accountability for judges and the military at an unexpected press conference in Multan. He said at the beginning of the press conference that **this could be the last press conference of his career** while urging that:

*"Nawaz Sharif should be held accountable; I'm the first person to say that accountability should exist but why just Nawaz Sharif?"*

*A plot was afoot to take down Nawaz Sharif's government that when CJP Tasadduq Hussain Jilani's tenure would end, the incoming CJP would break the government and Parliament.*

*Has any judge been punished? Why are judges not caught for their wrongdoings? Is this justice?"*

Javed Hashmi noted that although politicians were constantly held accountable but the same principle has never been applied to the military. "We can't speak about Pervez Musharraf. Can anyone punish him?" he questioned, referring to a pending treason case against the former military ruler; adding that:

*"The situation is such that if the Generals say that this rock is not a rock but a god, the judges and politicians will fall in **sajda** towards the rock. Can anyone take the name of that holy judge who was named in the Panama Papers?"*

***....if I say that Nawaz Sharif has not looted money, I would be lying. It is Nawaz Sharif's responsibility to satisfy the court that he has not looted any money."***

Referring to SC judges' remarks highlighting '**Godfather & Sicilian Mafia**', Hashmi said that judges should act with restraint. He said:

***"A Supreme Judicial Council exists but can anything happen against the judges?... Has anyone been punished? What is its [SJC's] standing? Why does it not catch the judges – whose cases are lying pending?"***

*The Supreme Court has made many mistakes in this country's history. When the Constitution was broken, the judges did nothing [– rather became part of it]."*

About Articles 62 and 63, the *Sadiq* and *Amin* clauses; '***...nobody can be Sadiq & Amin other than the Holy Prophet [Peace be upon him]... No Supreme Court judge is Sadiq & Amin, no General is Sadiq & Amin.....'***

On the same day of 12<sup>th</sup> July 2017; **JUI[F] Chief Maulana Fazlur Rehman** expressed his strange logic [while addressing a gathering at the JUI-F Secretariat in Peshawar] saying that:

*"The JIT probe into the Sharif family's wealth was an attempt to destabilise the country. While maintaining all due respect for the [apex] court, I would like to ask if this investigation was held to fight corruption or to get rid of Nawaz Sharif or to destabilise the*

*country and disrupt progress on the China-Pakistan Economic Corridor [CPEC]?"*

**PPP stance:** *Chirman PPP Bilawal Zardari held that PM Nawaz Sharif had been found guilty of concealing his offshore assets, money laundering, presenting forged documents to the Supreme Court and tax evasion. Therefore, he [PM] had no legal ground to rule anymore. PM Shaif did not enjoy legal and moral authority and it was better for him and democracy that he should go home; also that the ruling party should stop threatening the Supreme Court and the JIT.*

Bilawal Zardari tasked Leader of the Opposition in the National Assembly Syed Khurshid Shah to establish contact with all other opposition parties and chalk out a joint strategy to deal with the situation emerging in the wake of the JIT report.

Separately, PTI parliamentary leader Shah Mehmood Qureshi called on PPP's Khurshid Shah at the latter's chamber in the Parliament, where the two men decided to wait for the first hearing of the case on 17<sup>th</sup> July 2017 before gearing up to push for the resignation of the prime minister. Talking to media after their meeting, Mr Qureshi said both the PTI and PPP were on the same page.

*Jamaat-i-Islami [JI] Emir Sirajul Haq, who was also one of the petitioners in the Panama Leaks case, held that the JIT report had vindicated the decision of the two dissenting judges — that Prime Minister Nawaz Sharif was no longer **sadiq & ameen**. Praising the [JIT] investigators, he said: **"It was a heroic [task] on the part of the JIT members to come up with such a comprehensive report."***

Dr Tahirul Qadri's Pakistan Awami Tehreek [PAT] also joined the chorus demanding the resignation of the prime minister and called on him to face the charges against him in a court of law.

An editorial of Pakistan's leading daily '**DAWN**' dated 12<sup>th</sup> July 2017 titled as: ***Mr Prime Minister, step aside;*** carried some of its lines as:

*"Whatever the law may permit, PM Nawaz Sharif must do the right thing by democracy and step aside, at least temporarily.*

*The JIT report submitted to the Supreme Court has now been pored over by experts, politicians and citizens alike. ....the JIT report has laid out a number of very serious and specific allegations*

*against Prime Minister Sharif and his children. Simply, no democratic order ought to have a prime minister operating under such a dark cloud of suspicion.*

*The prime minister has a clear alternative: step aside, fight whatever charges are brought against him or his children in court and, if he is eventually cleared of the charges, he can seek a return to office as the law permits.*

***To be sure, stepping aside now would not be an admission of guilt. It would, in fact, be a necessary sacrifice for the protection and strengthening of the democratic order. The country does not need and cannot afford the distraction of an incumbent prime minister fighting corruption charges in the courts."***

With reference to Prime Minister Nawaz Sharif, the fact remains that for a sitting PM; there could not have been a more derogatory indictment. The JIT report charged the Sharif family on several counts — from perjury and faking documents to hiding their sources of wealth and much more; it was left to the Supreme Court to **'do more'**.

In Pakistan, the ensuing legal battle was bound to drag on for long thus further deepening the political polarisation in the country; the outcome of this historical judicial action was going to change the political dynamics.

Zahid Hussain, a celebrity journalist, in his essay on media pages dated **12<sup>th</sup> July 2017** wrote:

*"Another shock for Sharif is that the JIT report has also alleged his daughter Maryam Nawaz, who has long been groomed as his heir apparent, has falsified documents.*

*This may have doomed the family's plan for the transition of power to the second generation to failure."*

Such a comprehensive probe into intricate financial deals spanning over almost three decades by a small team cobbled together from various departments, in just 60 days was astonishing. The gathering and verification of information from government - controlled financial institutions against sitting prime minister of a country where the rich and powerful appear to enjoy immunity from the law was by no means an easy task. Surely the backing of the country's apex court was there along with

'extra' work of two members of the military intelligence agencies represented in the JIT.

No doubt, the earlier investigations conducted by the FIA during 1993-96 had provided some important links, but the JIT probe was able to gather substantive evidence in that connection. It was made possible by the effective collaboration of some other countries including UK and the UAE under a mutual legal cooperation agreement. Indeed, the record of communications between the offshore companies, foreign banks and the Sharif family helped fill the gaps.

Some foreign private investigative agencies hired by the JIT also helped to collect forensic evidence of alleged forgery of the documents. With such substantive evidence produced by the JIT, it became difficult for the PM and his family to disentangle themselves from the muddle. Sharifs hoped that a prolonged legal and political battle could salvage the situation.

Later, the Sharifs and the PML[N] were convinced that the issue could have been resolved much earlier had the government agreed to an investigation into the matter in the parliament but then it was too late. It was hubris that finally led to the intervention of the apex court.

In the SC bench's judgment of 20<sup>th</sup> April 2017, PM Nawaz Sharif narrowly escaped disqualification but the formation of the JIT indicated that he was not out of the woods. Interestingly, the mandate given to the JIT went far beyond the original petitions. Although he appeared defiant, the options for PM Sharif went limited. The PML[N] could survive in power to complete its five-year term – but only possible by electing a new leader of the house.

### **PML[N]'s GLOBAL CONSPIRACY?**

In the backdrop of Panama Leaks, surely there would have been no need for the Supreme Court of Pakistan to take up Imran Khan's petition had the lawmakers demonstrated some maturity in taking up the issue involving the Prime Minister; and if the law-enforcement agencies were allowed to do their job independently outside the influence of the PML[N] and its chief. Subsequent legal battle over the Panama Leaks left a significant mark on democratic political scenario in Pakistan.

The said development on Panama revelations also exposed the fault lines hampering the growth of an elected polity – the parliament appeared

completely redundant. A new history was written in a corruption riddled country; un-precedented in its legal history; the SC resorting to such action against the highest executive and political authority. Many hailed it as a positive step, making accountable the untouchables while the Nawaz's loyalists termed it as a '**global conspiracy**'.

PML[N] paid media-men held that the SC's action was a conspiracy to derail the democratic process in the country; it was an unholy alliance between the judges and the military – but they had no cogent proof to support their claims; only some past examples were cited as argument.

The general populace conveniently ignored the fact that it all happened under military rule. PML[N]'s allegations that security agencies were still dictating to the judges, coupled with the mantra of '**democracy under threat**', were stirred high just in defence of the status quo. Some even warned of tanks rolling into Red Zone of Islamabad soon.

Zahid Hussain, a celebrity journalist, in his essay dated 19<sup>th</sup> July 2017 on media pages opined that:

*"Indeed, the very composition of the JIT has sucked the military deeper into the fray. The inclusion of the members of the MI and ISI was bound to widen the cleavage in civil-military relations....."*

*"It may also be true that the participation of the two intelligence agencies could have provided further clout to the JIT's investigations [but without them NS was sure to prevail upon]."*

For nationalists, the inclusion of MI or ISI in eradication of corruption should have been appreciated if they were helpful in any way. There was no harm in it as the military was an integral part of any nation building process. Had the two agencies not been there, the PML[N] would have been made the JIT as FIA or NAB's another arm; SC's strapping remarks would remain alive in our politically corrupt history.

PML[N]'s stooge think-tank conveniently avoided the question why the Sharifs did not opt to investigate the Panama Leaks at their own being the government. The holder of the country's highest elected office must be more accountable than anyone else; Sharifs had ample opportunity to come clean on the issue in parliament – BUT they lied there instead.

The contradictions in PM family's statements and interviews at live TV channels ultimately landed them in the awkward situation. The PM got

numerous chances to defend himself before the original five-member bench and then in the JIT. The later three-member bench had offered another lifeline to him **thus the allegation of witch-hunt targeting all-powerful PM was taken as ridiculous and bizarre.**

*[The people knew how the NAB laws were used selectively by Gen Musharraf against his opponents. **Many of those who faced serious corruption charges were taken in the cabinet after they pledged allegiance to the regime.***

***Not surprisingly, accountability had become a filthy joke in Pakistan - but this time it was different from the past cases of victimisation.]***

The fact remained that SC's keen interest provided an opportunity for the political leadership to rationalise the accountability process and strengthen investigation and law-enforcement agencies in Pakistan. The democratic process remained fragile without the rule of law; it started with a sitting prime minister in the court room.

PML[N] & PPP joined hands to raise slogan that what and why not accountability for Judges & Generals. No one could dispute the argument that no one should be above the law; however there was no substance in the argument that **either all or none** be held accountable.

In Pakistan, the investigation agencies had gone completely ineffective, and failed to do their job freely. These fault lines in our political and justice system became more pronounced during the Panama Leaks saga; **the other political leaders too remained untouchable.**

The said unprecedented action against a sitting prime minister provided that there was certainly no threat to the democratic process with the judges performing their role independently. Recall the beginning of the process. The whole campaign against Nawaz Sharif had its roots in his rejection of Imran Khan's demand over re-checking results of FOUR constituencies; but the PM's loyalists started building his road to disaster.

Then critical issues of governance were continuously ignored. The two main leaders, **Zardari and Nawaz Sharif, treated their parties as packs of bonded slaves;** the masses were excluded from the process, dialogue and involvement. Since TEN years, the constitution was being flouted by keeping the Elected Local Bodies paralysed on one text or the other.

I A Rehman, another celebrity journalist, wrote on 20<sup>th</sup> July 2017 in a media paper:

*"A politician has no private life. What they do or what they avoid doing in private life has a bearing on their public life. They cannot denounce child labour in public and employ children at home.*

*Even if the country's middle class believes in living beyond its means, the politicians must at least appear to be living within their legitimate resources. Regardless of the state's being notorious for lack of documentation or for its reliance on unverified statistics, they must keep their books in order."*

Specifically, Nawaz Sharif's case carried the dangers of relying on Articles 62 & 63 of the Constitution which were incompatible with utterly false democratic norms in Pakistan. The filthy use of politicians by Gen Ziaul Haq during 1980s made Pakis believe that their coming generations were going to pay for extremism, drugs, gun culture, abuse of religion for political ends and authoritarian patterns of governance.

The fault lines must be seen beyond the persons involved; Nawaz Sharif had no answer for whatever he did but Pakistan could not become a healthy polity because the basic state policies — corruption, insecurity, nepotism, lawlessness, unequal application of law & justice, state-sponsored sectarianism are openly encouraged.

I A Rehman [cited above] rightly questioned that:

***"What has Nawaz Sharif done apart from making money to earn the wrath of powerful [masses &] forces?"***

One explanation, found pasted on each corner, was that ***'...if he stays on till March 2018 his party will capture the Senate and he will enjoy a heavy mandate such as he had in 1999, and there will be trouble'***. Pakistan would have to blame itself for the consequences of not learning from the Panama Leaks case.

Shaheen Sehbai, a world known media guru, wrote in the **'daily Times'** dated **21<sup>st</sup> July 2017**:

*"Two big theatres, the court and the media, are visible with the same case fought by the same combatants but with totally different sets of arguments, strategies, principles and ethics.*

*Nothing can be said about the outcome, but the transparency of the trial in itself is making many things clear, at least in the minds of the people inside and outside the country, and probably the judges [– everyone has confidence and approval].”*

To settle down the Panama Leaks in Pakistan, piles of documents were imported, rehashed and presented repeatedly to the court. The same papers were getting thrashed and trashed outside, with sharp media men pointing out loads of discrepancies ***like a 2007 Notary’s stamp put on top of a 2015 authentication by a similar foreign notary – total forgery & fraud by Maryam Safdar.***

Inside the court, lawyers were using every trick to save their clients; already examined and cross questioned. Outside, the same high profile accused making statements on TV even before they went into the JIT room. A big fight was there between ruling Sharifs being tried on corruption charges inside the court and using its political and executive power to subvert the trial outside.

Many otherwise forbidden practices and red lines were frequently crossed and ignored; concept of ***‘obstruction of justice’ stood compromised.*** In loud noise, adherence to basic ethics and principles were ignored with impunity. In taking sides, some players in politics and the media had gone way beyond their call of profession.

In Shaheen Sehbai [cited above]’s words again:

*“Never before has the country seen such a high profile corruption case against a sitting government being fought with such ferocity; publicly abusing opponents is considered fair game.*

*The myth turned to a fact that Pakistan is still not firmly set in the democratic tradition and the system is so fragile that punishing a financial crime by a person or a family could derail the entire process [called democracy].”*

It was a grand entertainment circus that had gripped the nation and in the process many myths were confirmed or erased for ever; for instance:

- *The myth that the establishment, judicial or security, would never act against the ruling elite, no matter how many murders or loot and plunder it might have committed - buried for ever.*
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- *The myth that the security establishment had finally withdrawn into its shell – appeared to be on trial.*
- 
- *The myth that the judiciary appeared finally grown up and got the strength & confidence to take decisions on merit – confirmed, avowed and acknowledged.*
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- *The myth that the media had become the strongest pillar; fearing or appeasing – strength established but with labels of partisanship.*
- 
- *The myth and the fear that Pakistan was not firmly democratic and so fragile that punishing a financial crime by families in power could derail the entire process – tested and found truthful.*

All the fears and misgivings were applied to the Panama Leaks Case - it became the most important court trial of contemporary times in Pakistan.