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IN THE COURT OF MUHAMMAD AMTIAZ BAJWA,  
JUDICIAL MAGISTRATE SECTION-30, DISTRICT COURTS,  
LAHORE

Case FIR. No.77/2017.  
 Date of registration of case:27.02.2017.  
 Offences U/S: 20,21,24 Prevention of  
 Electronic Crime Act, 2016  
 Police Station FIA/Cyber Crime Circle,  
 Lahore.

Date of Decision: 09.03.2018.

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The State.

Versus:

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 Caste ████████ resident of ██████████  
 ██████████

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JUDGMENT:

Complainant ██████████ got registered the  
 instant criminal case FIR No.77/2017, offence under Sections  
 220,21,24 of PECA 2016 420 PPC registered with police station  
 Cyber Crime Circle FIA, Lahore.

2. As per available record, allegation against the present  
 accused is that he carried on with complainant's wife ██████████  
 ██████████ and by taking advantage thereof, managed intimidate  
 stills as well as videos and subsequently disseminated by him  
 through creating fake email addresses, the impugned material  
 went spreaded and it is prosecution case that the accused  
 coerced the complainant to pronounce divorce upon his wife. The

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case was investigated with the technical assistance provided by an I.T expert who scientifically confirmed that objectionable material was generated by a cell phone with subscriber identity i.e. WhatsApp [REDACTED] and Mobile No. [REDACTED] & [REDACTED], subscribed by no other than the accused himself, he conspicuously figures in graphic postures alongside the lady, views accessible to all and sundry. Hence, on the application of the complainant (Exh.P.A) and subsequent Istaghara by Ashir Aroon SI (Exh.P.E). an FIR (Exh.P.F). was chalked out against the accused person.

3. During the course of investigation, the accused person was found involved in this case, as such, he was challaned to this court to face trial of this case. Accused person was summoned from jail, who has been produced before the court and copies of the statement U/S 161 Cr.P.C. alongwith other documents as required under Section 241-A Cr.P.C. were delivered to the accused person. Charge against the accused person was framed on 25.11.2017 to which he pleaded not guilty and claimed his trial according to law, hence, the prosecution evidence was summoned.

4. Prosecution produced as many as 11 following witnesses:-

PW-1: [REDACTED] son of [REDACTED] who is the complainant and star witness of this case. He has more or less reiterated the same facts as contained in the application Exh.P.A.

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on which formal FIR Exh.P.F. was chalked out against the accused person.

**PW-2:** [REDACTED] wife of [REDACTED] who is the victim of the subject case. She has fully supported the prosecution story and as is deposed by her husband PW-1.

**PW-3:** Ali Faraz Khan Saifi who is Assistant Forensic Expert Cyber Crime Circle. He has prepared his final Forensic Analysis report Exh.P.B of digital media handed over by local police containing nine pages i.e. Exh.P.B/1-9

**PW-4.** Muhammad Usman Assistant Director Investigator FIA/CCC, Lahore. He investigate the case on technical grounds, after registration of FIR and he prepared and submitted his initial technical analysis report VER-1.0 containing thirty eight pages Exh.P.C/1-38, which bears his signatures as Exh.P.C/1.

**PW-5.** Tanvir Ahmad FC FIA who has stated that on 27.07.2017 he was present in PS FIA office. On the same day, case FIR. No.215/2017 PS Ahmad Pur Sharqia Bahawalpur was transferred to FIA. ASI Sajjad Hussain PS Ahmad pur Sharqia (Bahawalpur) handed over digital media containing one laptop make Sharp Korean Colour silver Exh.P-1 and one Samsung Mobile phone Exh.P-2 to I.O. Ashir Aroon SI FIA, who took the same into possession through recovery memo Exh.P.D. and he witnessed the recovery proceedings of above said two items.

**PW-6.** Ashir Aroon SI, who is the I.O. of the subject case, who prepared Istaghasa Exh.P.E which bears his signatures as Exh.P.E/1. He has also conducted investigation of instant case and challend the accused.

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PW-7. Irfan Babar Bhatti SI who has stated that on 17.10.2016 he was performing his duty as Duty Officer in the police station, the complaint Exh.E was sent by Ashir Aroon SI, on which he chalked out the formal FIR Exh.P.F. which bears his signatures as Exh.P.F/1.

PW-8. [REDACTED] who has stated that he received different messages from unknown numbers. The first message was received from the mobile of [REDACTED]. Later on, certain messages were received but he did not reply to those. Later on, the said person sent him objectionable messages regarding complainant's wife. He also received obscene picture of complainant's wife [REDACTED]. After seeing the messages, he deleted all of them. He informed the complainant [REDACTED] regarding the messages, so that he could proceed in accordance with law.

PW-9. [REDACTED] son of [REDACTED], who is brother of victim of the subject case. He deposed that his sister [REDACTED] told him that a person whose name is [REDACTED] was harassing her and she informed him that she tried to handle the situation by herself, now the matter is out of her hand. He fully implicated the accused through his deposition.

PW-10. Sajjad Hussain ASI/1302, who has deposed that on 14.07.2017, he was posted at police station Ahmad pur Sharqia. After registration of FIR. No.215/2017 the investigation was handed over to him. On 14.07.2017, he recorded the statement of two witnesses and also prepared rough site plant Exh.P.G.. He arrested the accused on 15.07.2017. The accused produced

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Laptop Exh.P.1 and a Samsung mobile phone Exh.P-2, which he took into possession through recovery memo Exh.P.H. He has further deposed that on 16.07.2017, he produced the accused before the learned Illaqa Magistrate and he was sent to judicial lock up. On 18.07.2017, the complainant came to police station and handed over to him 39 pages regarding the case, which he took into possession through recovery memo Exh.P.I. He also recorded statement of complainant [REDACTED] under Section 161 Cr.p.C. Later on, the case was transferred to FIA/CCC, Lahore.

**PW-11** Shahid Aftab/2002 who has deposed that on 14.07.2017, he was posted at police station Ahmad pur Sharqia. On 27.07.2017, he alongwith Sajjad Hussain ASI came to FIA and handed over digital media laptop Exh.P-1 and Samsung Mobile phone Exh.P-2 to the I.O Ashir Aroon SI, who took the same into possession through recovery memo Exh.P.D. After that, the prosecution has closed oral as well as documentary evidence and the accused was asked to get recorded his statement under Section 342 Cr.P.C.

5. The accused got recorded his statement under Section 342 Cr.P.C. and refuted all the allegations leveled against him. He has further stated that he is innocent having no nexus with the alleged offence. He has been made an escape goat in this case by the complainant and his wife [REDACTED] She and he used to work in a same NGO. She developed relationship with him and by using the relation, she used to extort money from him. On refusal she always threatened him of dire

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consequences. It is in the evidence that [REDACTED] (PW-2) admitted transfer of Rs.8000/- by him in her bank account and he also transferred money in her father's account. The recovered articles from him are of no consequences. The technical export report prepared by PW-4 and annexures of said report are not admissible in evidence, hence, of no worthy and value in the eyes of law. All the PWs are related interse and the FIA officials did not observed merit while conducting investigation. It is clear that FIA officials were under influence of complainant as he is employee of PAF. In his defence evidence, he opted to produce photo copy of application submitted before FIA, Lahore as Mark and receipt as Mark-A/1. Conversation with Sagheer Ahmad with him as Mark B/1. Photo copy of Bank's statement as Mark C/1-6 of [REDACTED] showing transaction made by the accused. Photo copy of certificate as Mark- D/1-6 issued by the [REDACTED] Manager HR and Admin [REDACTED] Paksitan.

6. The learned counsel for the accused person made a good effort to save the accused from the charge leveled against him. He has argued that the accused person is totally innocent and he has falsely been roped in this case with mala fide intention and ulterior motives, while he has nothing to do with the commission of alleged offence, whatsoever. It is further argued that there are certain dents/improvements and major significant discrepancies in the ocular account brought on file by the prosecution. It is further argued that statement of PWs have not been recorded at the place of occurrence and all kind of drawing is prepared by the Agency while sitting at the police station.

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There is no proof to the effect that alleged recovered mobile and laptop are owned by the accused person, as such, the recovery of mobile and laptop is planted one, as such, the prosecution has miserably failed to link the accused with the commission of crime as the digital forensic analysis report is null. It is further argued that whole investigation was carried on inclusiveness with the complainant. It is further maintained that there is no evidence that any indecent images were sent by the accused person to the complainant of this case and other as the objectionable pictures and videos are not valid piece of evidence. Lastly, it is prayed that the prosecution has failed to establish the guilt of the accused beyond any shadow of doubt and prayed that the accused be acquitted from the charges.

7. Monam Bashir Chaudhry AD(legal) with the able assistance of learned counsel for the complainant has has inter alia argued that the accused person is well named in the FIR with the specific role. It is further argued that the prosecution has established and proved its case against the accused by producing cogent and reliable evidence before the court through scientific manner. The email accounts, WhatsApp messages and related material, which are substantial pice of evidence in this case, having objectionable images and material as is alleged by the complainant of this case have been recovered/restored. During the course of investigation, the accused was found involved in this case, as such, the prosecution has proved its case beyond any shadow of doubt. With these submissions, it is prayed that the accused may be punished according to law.

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8. Arguments heard and record perused.

9. Accused person named above is facing trial under custody for the offences under Sections under Sections 20,21,24 of PECA 2016

10. Owing to irony of fate, first of all, I can help observing here before dialoguing further in the subject case that every scientific invention simplifies the aspect of the everyday life. At the same time it gives birth to a new crime. The modern devices can be seen as technology that has greatly enhanced our lives. While the introduction of the modern technology led too many benefits, unfortunately, it also came with its new set of problems. These problems create negative impact to our security, privacy and as a whole to society. To combat the criminal misuse of information technology, the State made new legislation. The case in hand is also a case of misuse of modern technology. The allegation against the present accused is that he established contact with complainant's wedded wife and sent objectionable images of complainant's wife to harm her reputation through email and WhatsApp etc. The allegation leveled against the accused, supported by technical evidence is that he by betraying the trust reposed by the prosecutrix exposed her on the internet and shared indecent images not only with her better half but with others as well. It is a flagrant intrusion into privacy that brings a young lady into perennial embarrassment and ridicule within and outside family fold.

11. In order to prove its case, the prosecution has produced as many as eleven witnesses in the subject case. The

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complainant of this case appeared as PW-1 and he has fully implicated the accused with the commission of alleged offences. [REDACTED] appeared as PW-2 and he has fully supported the prosecution story materially, while minor discrepancies in her deposition is a natural phenomena. Muhammad Usman Assistant Director Investigation Cyber Crime Circle FIA appeared as PW-4 and he has deposed that his job is to investigate on technical grounds in cases of FIA/Cyber Crime Circle. He was associated with this case as Technical Expert and he prepared and submitted his initial technical analysis report VER-1.0 containing thirty seven pages Exh.P.C/1-38, which bears his signature as Exh.P.C/1. He further candidly deposed that he conducted email analysis of complainant's email account namely, [REDACTED]@gmail.com. he also analysis the information regarding email accounts namely, [REDACTED]@gmail.com and [REDACTED]@gmail.com. After conducting his analysis of above mentioned email accounts the subscribers information of mobile No. [REDACTED] and [REDACTED] were also obtained from the concerned quarter. He also analyzed whatsapp messages and mobile messages of mobile No. [REDACTED] and [REDACTED] a mobile of Saudi Arabia. He further deposed that he also took screen shots of relevant material taken from email accounts, subscriber email information, mobile messages and WhatsApp screen shots which are a part of his report Exh.P.C/1-38. He further deposed tht during his analysis of emails, he found that those emails which came into the inbox of email

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account [REDACTED]@gmail.com of complainant, namely, [REDACTED] were containing attachments of nude photographs of wife of complainant, namely, [REDACTED] alongwith some other person. These photographs were also found edited. He found around 130 email out of which 58 emails were containing mainly, three email accounts namely, [REDACTED]@gmil .com and [REDACTED]@gmail.com. He further deposed that those nude pictures which were available in email attachment were also found available in WhatsApp data of a number of Saudi Arabia. He handed over his report to the I.O. He joined the investigation and recorded the statement under Section 161 Cr.P.C. Ashir Aroon SI Cyber Crime Circle FIA appeared as PW-6 and he has deposed that on 27.07.2017, he was posted at PS Cyber Crime Circle FIA, Lahore. On the same day Sajjad Hussain ASI appeared before him and handed over to him case file of FIR.No.215/2017 for the want of jurisdiction of FIA Cyber Crime by the order of competent authority and for further necessary action as per law. On the same day, he prepared Istighasa Exh.P.E. which bears his signature as Exh.p.E/1. Upon his Istighasa FIR.No.77/2017 Exh.P.F was registered and the copy of the same was entrusted to him for investigation which is Exh.P.F. and he started investigation. He further deposed that Sajjad Hussin ASI police station Ahmad pur East Bahawalpur appeared before him and he handed over to him digital medial containing one laptop make Sharp Korean colour silver Exh.P-1 and one Samsung moble phone S-3 Exh.P.-2 which are present in

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the court and he took into his possession through recovery memo Exh.P.D.. Besides him, Sajjad Hussain ASI Shahid Aftab constable and Tanveer Ahmad FC signed the recovery memo and on the same day, he handed over this digital media to the Assistant Forensic Expert. He further deposed that statement of witnesses under Section 161 Cr.P.C. were recorded. During investigation, the complainant appeared before him and he provided him the email ID [REDACTED]@gmail.com of complainant namely, [REDACTED] and its password. He handed over the email I.D. alongwith password to the technical expert, who analyzed and examined the email I.D. of the complainant and prepared his report, which he handed over to him. His report contained 38 pages which is Exh.P.C./1-38. The email ID of complainant was containing in inbox attachments of number photographs of wife of the complainant, namely, [REDACTED] These photographs were also found edited. It was also around 130 emails out of which 58 emails were containing attachments of above said data of objectionable pictures which were received from mainly three email accounts, namely [REDACTED]@gmil.com and [REDACTED]@gmail.com. The above said items having objectionable images which are corroborated from the evidence of Expert and annexures fastened with the technical report, which have been brought on file. By this and by that way, cyber stalking is established against the accused person beyond any shadow of doubt. The complaint Exh.P.A filed by the complainant of this case clearly indicates that a person namely,

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[REDACTED] (present accused) used his contact/relations with the wife of the complainant of the subject case. After this incident, she broke her relation with him and now the accused person is harassing/blackmailing her by misusing her original pictures/objectionable material. The objectionable images and pictures are indecent at all, as such, this is not a case of traditional nature, but relates to digital media/modern technology. (There is no need to elaborate comment any more on these images and pictures in the judgment, as after the delivery of judgment, it would be a public document and anyone can obtain the copy of this judgment). At this stage, I have no hesitation to observe that the prosecution has successfully proved the offence under Section 20,21,24 of PECA of 2016 as is discussed in the preceding lines of this paragraph because the defence has failed to shatter the veracity of phenomena of cyber stalking, as is established and proved from the prosecution evidence. At this juncture, I would like to reproduce the expressed provisions of Section 20,21 and 24 of PECA of 2016 to differentiate and fortify the observations recorded above, which are as under:-

20. Offences against dignity of a natural person.--- (1) Whoever intentionally and publicly exhibits or displays or transmits any information through any information system which he knows to be false, and intimidates or harms the reputation or privacy of a natural person shall be punished with imprisonment for term which may extend to three years or with fine, which may extended to one million rupees or with both.

21. Offences against modesty of a natural person and minor---(1) Whoever intentionally and publicly exhibited or displays or transmits any information which,--



- (a) Superimpose a photograph of the face of a natural person over any sexually explicit image or video.

24. Cyber stalking.—(1) A person commits the offence of cyber stalking who, with the intent to coerce or intimidate or harass any person, uses information system information system network, the internet, website, electronic mail or any other similar means of communication:-

- (a) follow a person or contacts or attempts to contact such person to foster personal interaction repeatedly despite a clear indication of disinterest by such person.

12. Now I adverted my attention to the quantum of punishment. The accused person is first offender. No doubt, ignorance of law is no excuse, but at the same time, the cyber crimes are new one to the society. There must be awareness movement on behalf of the Government to educate the people in respect to the new Cyber crimes. Thus keeping in view the above mentioned mitigating circumstances, accused [REDACTED]

[REDACTED] is hereby found guilty, convicted and sentenced as under:-

i) Under Section 20 PECA 2016, he is sentenced to two years imprisonment and fine of Rs.200,000/-. In default whereof, the convict shall have to serve out further two months imprisonment.

ii) Under Sections 21 PECA 2016, he is sentenced to two years imprisonment and fine of Rs.300,000/-. In default whereof, the convict shall have to serve out further three months imprisonment.

iii) Under Sections 24 of PECA of 2016, he is sentenced to two years imprisonment and fine of Rs.200,000/-. In default

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whereof, the convict shall have to serve out further two months imprisonment.

iv). Likewise, the offences committed by the convict had damaged the social/private life of the victim, therefore, the victim, namely, [REDACTED] wife of [REDACTED] resident of Chack [REDACTED]

Rahim Yar Khan is awarded compensation at Rs.10,00,000/- (one million) payable by the accused, otherwise, law shall its own its own course as is envisaged under Section 45 of PECA Act, 2016.

13. The benefit of Section 382-B Cr.P.C. is also extended to the accused person. All the sentences shall run concurrently. Case properly be disposed of after efflux of appeal or revision, if any. Copy of this judgment be delivered to the convict free of costs. Since the accused is under custody, be committed back to jail alongwith committal warrant to serve out the sentences awarded to him today. Muhammad Imran Ramzan Ahlmad is directed to consign the case file to the record room, after its due compilation.

Announced.  
09.03.2018

*Muhammad Amiaz Bajwa*  
Judicial Magistrate Secion:30,  
District Courts, Lahore.

Certified that this judgment consists of 14 pages which is dictated, read, corrected and signed by me.

Announced.  
09.03.2018

*Muhammad Amiaz Bajwa*  
Judicial Magistrate Secion:30,  
District Courts, Lahore.