

فارم چا ان تئیمه مکمل زیر دفعه 173 ضابطه فوجداری

ضلع لاہور

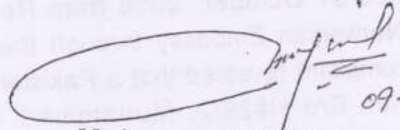
تختانہ FIA سائبر میں امریکہ لاہور


مورخه: 11.04.2017 زیر دفعه: 20,21 & 22 of PECA-2016 R/w 420,109-PPC

مقدمہ نمبر C-34/17

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نام و پتہ مدعی	نام و پتہ ملزمان جو چالان نہ کیے گئے یا ملزمان اشتہاری	زیر حراست	برہنات عبوری	نام و پتہ مع تفصیل گواہان	مختصر حالات مقدمہ
Cyber Crime Circle, FIA, Lahore.	R/o [REDACTED] Malakwal, District Mandi Baha-ud-Din	[REDACTED]	[REDACTED]	1. Sargodha S/o [REDACTED] R/o H# [REDACTED], Block [REDACTED] 2. Road Sargodha S/o [REDACTED] R/o Chak No. [REDACTED] 3. Sargodha S/o [REDACTED] R/o H# [REDACTED] 4. Senior Investigator, NR3C, FIA, Lahore. 5. ADBA, FIA, NR3C, Lahore. 6. FC, Cyber Crime Circle, FIA, Lahore. 7. Forensic Expert, Cyber Crime Circle, FIA, Lahore. 8. Assistant Director/Inv, Cyber Crime Circle, FIA, Lahore. 9. Mr. Tallat Mahmood, Judicial Magistrate Section 30, District Courts, Lahore. 10. House No. [REDACTED] S/o [REDACTED] Manager, PCAC R/o [REDACTED] Rawalpindi.	Consequent upon Enquiry No. 419/2016 dated 14.11.2016 initiated on a written information dated 31 October, 2016 from [REDACTED] Nordic Police Liaison Officer, Royal Norwegian Embassy through the Director General FIA, Islamabad. Perusal of the complaint revealed that a Pakistan National namely [REDACTED] S/o [REDACTED] R/o H# [REDACTED] Malakwal (Punjab) is involved in sexual assault of children having approximate age of 10-12 years old who were being physically abused by him, making their pornographic pictures & videos from different angles and sent to one namely [REDACTED] in Norway who worked as Agent in Norway and fully involved in child migration for further exploitation and illegal migration. The complaint also revealed that identity of [REDACTED] unearthed upon arrest of [REDACTED] in Norway. [REDACTED] used to receive payments through western union & money gram from [REDACTED]. It further mentioned that Saadat Amin alongwith one of his accomplice namely [REDACTED] S/o [REDACTED] R/o [REDACTED], Block [REDACTED] Sargodha are part of larger paedophile network, operating online from Pakistan. On the said complaint, matter was earlier probed by [REDACTED] Senior Investigator, NR3C, FIA, Lahore. During the course of enquiry, Verisys record against the CNIC No. [REDACTED] from NADRA was obtained and Mobile No. [REDACTED] was found registered against aforesaid CNIC of the alleged [REDACTED]. During the course of enquiry, ground verification of [REDACTED] address H# [REDACTED] Malakwal (Punjab) was made and revealed that he is not residing at the said address. Furthermore, sources were deployed. Today on 11.04.2017, a piece of information was received that the alleged is present at 1st Floor, [REDACTED] Town, adjacent to [REDACTED] Sargodha. The information was conveyed to the Deputy Director, Cyber Crime Circle, FIA, Lahore who constituted a raiding team comprising of [REDACTED]

Director, [REDACTED], ADBA & Tanvir Ahmed FC under the supervision of the undersigned and ordered to conduct a raid and arrest the alleged accused. The raiding team in hurry reached at 1st Floor, [REDACTED], adjacent to [REDACTED], Sargodha. The Source pointed out the accused [REDACTED] and Miscl. CDs were found which were taken into possession as per seizure memo. During search of the premises, 5 internal / external Hard Disks, 01 Laptop, 01 Mobile, [REDACTED] from the recovered external Hard Disk & Tablet and gave his opinion that a large number of sexually explicit images and videos are present in it. Moreover, the accused [REDACTED] confessed his guilt. The accused took into custody by the raiding team. Prima facie, u/s 20,21,22 of PECA-2016 R/w 420,109-PPC. After registration of the case, investigation was entrusted to the undersigned. Complete challan was submitted on 18.01.2018. On 08.02.2018, [REDACTED] S/o [REDACTED], Manager PCEC appeared before the undersigned and submitted complete Western Union Transactions record against CNIC No. 34404-0609256-3 of Saadat Amin consists of 6 pages (139 transactions) alongwith photocopies of transactions receipts. This record was necessary to be the part of investigation. During the course of investigation on the basis of available oral and documentary evidences, the accused [REDACTED] has been found involved in illegal production and transmission of child pornographic videos & pictures for monetary benefits. Suplimentary challan is submitted, please.


09-02-2018,
Mohammad Asif Iqbal
Assistant Director / Inv
FIA/Cyber Crime Circle,
Lahore.


09-02-2018
نقل بہانات زبردفعہ 161 ضف
① صفحہ
محمد آصف اقبال (اسسٹنٹ ڈائریکٹر / Inv)
FIA/CCC لاہور

اصل فرم و توثیق مورخہ 08.02.2018



تفصیل کاغذات :-

فارم چالان تسمہ	نوٹو کا پی فارم چالان مکمل و نامکمل	اصل درخواست
① صفحہ	1 + 1	(54) صفحات
ویسٹرن یونین ریکارڈز اصل	ویسٹرن یونین رسیدات نقل	
(6) صفحات	(6) صفحات	

Forwarded please
09-02-2018

15/02/18

IN THE COURT OF MUHAMMAD AAMIR RAZA BAITU,
JUDICIAL MAGISTRATE SECTION-30, DISTRICT COURTS,
LAHORE

Case FIR. No.34/2017.
 Date of registration of case:11.04.2017.
 Offences U/S: 20,21,22 Prevention of
 Electronic Crime Act, 2016 420/109 PPC
 Police Station FIA/Cyber Crime Circle,
 Lahore.

Date of Decision: 26.04.2018.

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The State.

Versus:

_____ son of _____ resident of
 House No. _____,
 District Mandi Baha-ud-Din.

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JUDGMENT:

The above named accused person has been
 challaned to this court to face the trial of above titled
 criminal case.

2. As per crime report, allegations against the accused
 person are that in the month of November, 2016, accused _____
 _____ son of _____ made pornographic pictures,
 videos in sexually explicit by engaging the children having age of
 10/12 years and the accused named above intentionally
 transmitted those pictures and videos to his one Agent _____
 in Norway. It is further asserted in the epitome of first
 information report that the accused made fraud while engaging
 the minors in sexually explicit conduct through internet and used

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to receive payments through Western Union and Money Gram from Lindstrom etc, hence, on the complaint (Exh.P.H) of Muhammad Asif Iqbal, AD FIA/CCC, instant FIR (Exh.P.J) has been 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 23.09.2017 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] has stated that he has got recorded his statement under Section 164 Cr.P.C.(Exh.P.A.) before the learned Magistrate District Courts, Lahore. Learned Magistrate gave opportunity for conducting cross examination on him, but the accused did not opt to cross examine him.

PW-2: [REDACTED] son of [REDACTED] has stated that he has got recorded his statement under Section 164 Cr.P.C.(Exh.P.B.) before the learned Magistrate District Courts, Lahore. He has further deposed that he was cross examined by the accused person.

PW-3: [REDACTED] son of [REDACTED] has stated that he has got recorded his statement under Section 164

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Cr.P.C.(Exh.P.C.) before the learned Magistrate District Courts, Lahore. Learned Magistrate gave opportunity for conducting cross examination on him, but the accused did not opt to cross examine him.

PW-4: [REDACTED] Senior Investigator deposed that on 11.04.2017, he was posted as Technical Expert in FIA/CCC. He further deposed that house of the accused was raided and recovery of digital media was made and the same was handed over to the I.O. of the subject case. His technical report which was prepared at the spot is Exh.P.D/1-29, which was taken into possession by the I.O. vide recovery memo Exh.P.E, which bears his signatures Exh.PE/1. He further deposed that again on 14.04.2017, same place/abode of the accused person was raided and Laptop Exh.P.F was taken into possession

PW-5: [REDACTED] ADBA/FIA/CCC who is the member of raiding party and in his presence, digital media was taken into possession by the raiding party.

PW-6. Muhammad Asif Iqbal AD/FIA, the I.O of the subject case and on whose Istaghara/complaint (Exh.P.H) the instant FIR (Exh.P.J) was registered against the accused. He has also verified and testified the whole raiding and recovery proceedings of the subject case through his deposition being Investigating Officer of instant criminal case. After that, he challaned the accused person to this court to face the trial.

PW-7. [REDACTED] Forensic Expert FIA/CR3C has candidly deposed that he prepared the Forensic report consisting of twenty five pages which is Exh.P.K/1-25. During report, he opined that

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the folder was found present including sexually explicit photographs and vides of child pornography.

PW-8. [REDACTED] FC/FIA is a person through whom complaint (Exh.P.H) was sent for registration of criminal case against the accused. He further deposed that after registration of criminal case, copy of FIR Exh.P.J was handed over to I.O. for investigation purpose. Through his deposition, he has also testified the recovery proceedings conducted by I.O. of the subject case. He has further stated that on 11.04.2017, during his presence, the I.O. took into possession the evidentiary items Exh.P.1 to Exh.P.11 and prepared the recovery memo Exh.P.E which was witnessed by him. Similarly, he witnessed the recovery memo Exh.P.F as well.

PW-9. [REDACTED] learned Judicial Magistrate Section 30 District Courts, Lahore has corroborated this fact that he has recorded three statements of witnesses under Section 164 Cr.P.C. (Exh.P.A., Exh.P.B and Exh.P.C) according to law and procedure.

PW-10. [REDACTED] son of [REDACTED] has corroborated the factum of handing over the record including customer transaction list Ex.P-L/1 to 6 and customer's slips Ex.P-M/1 to 11 of Money Exchange regarding the receipt of money by the accused, received from abroad, to the I.O, which took by him vide recovery memo Exh.P.N and his signature on it is Exh.P.N/1.

PW-11. [REDACTED] FC/FIA has deposed that he is working as FC/FI at Cyber Crime Circle, Lahore and on the same day, one [REDACTED] son of [REDACTED] employee of Pakistan Currency Exchange(who is an agent of Western Union) appeared before the I.O. and handed over to him a list containing six pages

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already mentioned in Exh.P.M alongwith cash receipts containing six pages already mentioned in Exh.P.N which were taken into possession by the I.O. which was witnessed by him. He joined the investigation and got recorded his statement under Section 161 Cr.P.C. in this regard. After that, on 19.02.2018 the learned AD(Legal) FIA [REDACTED] 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 further stated that the prosecution has failed to produce any material against him, [REDACTED], [REDACTED], [REDACTED] and [REDACTED] have neither been mentioned in the complainant i.e. Exh.P.G. nor in Exh.P.H "Istighasa" Whereas receiving of amount through Western Union and Money Gram, no such corroboratory evidence lying with the contents of prosecution story and no such information has been disclosed in Exh.P.G. The accused opted not to produce any defence evidence in the subject case.

6. [REDACTED] AD(legal) 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. It is further urged that all the related material, which are substantial piece of evidence in this case, having objectionable images and material as is stated in the complaint of this case have been

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recovered/restored as per Expert report. 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.

7. 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 malafide 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 no date of alleged occurrence is mentioned by the prosecution; that the inquiry report No.419/2016 is neither made forming part of police file nor judicial file; that there is no evidence regarding pictures and video of the children; that the FIA did not opt to arrest the Agent of Narway nor investigate the subject case on that point; It is further argued that the money received by the accused is not against the child pornography; that accomplices co-accused [REDACTED] S/o [REDACTED] have been made as witness of the subject case, which is against the spirit of law; that FIA has not made witness **"the alleged source"** and inquiry proceedings are necessary and mandatory in FIA cases, but no such inquiry has been conducted at all, but oral formalities; that before raiding the spot, the FIA did not bother to obtain the requisite search warrant from the competent court;

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that confessional statement of an accused before the police has no evidentiary value as is envisaged under Article 38 of Qanoon-e-Shahdat Order, 1984; that the prosecution did not opt to cite [REDACTED] as witness in the subject case, while the witnesses so produced by the prosecution have not known as and when impugned data was uploaded by such and such person, which palpably creates doubt in the whole prosecution case; that there is material contradictions regarding the time of raid by the police party as is deposed by the PW 1 to PW4 as well as PW-9. It is further argued that as per Exh.P.6, time of reaching the money in Pakistan is 2014/2015, while the money can be sent by any person, through some other means. 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. Reliance is placed on **PLD 2018 SC 28, 2018 MLD 136, 2018 MLD 193, 2018 MLD 57 and 2014 SCMR 1034.**

8. Arguments heard and record perused.

9. The accused is facing the trial of this case with the allegations that he being member of international Mafia (PAEDOPHILE Network) operating online from Pakistan by engaging the children having age of 10/12 years and produces, other to make available distributes and transmitted the pornographic pictures and videos having with him without lawful justification in a sexual explicitly conduct by disclosing their identity as minor and received payment against child pornographic pictures and videos through Western Union and Money Gram from abroad. Every scientific invention simplifies the

Done
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aspect of the everyday life, but at the same time it gives birth to a new crime. Now it is modern technology too many benefits and at the same time unfortunately, it also came with new set of crimes. These problems create negative impact to our social life, private life and to whole society. To handle the criminal misuse of modern technology/information system, the State made new legislation i.e. the Prevention of Electronic Act, 2016.

10. The allegation leveled against the accused regarding possession, transmission and producing the child pornographic pictures and videos is a serious allegation and has a create impact to our society and also international diminished the positive impact of our society. Child pornographic is any kind of representation of sexually explicit images of minor under 18 year age. Mostly, the children involved in child pornographic have not been abducted or physically forced and have knew the pornographers, but those children were caused through gnomie and other pressures. The victimization through child pornography means that the victimization never ends. Whenever, any image of child pornography placed on internet can never be fully erased or recovered and these images continuously passed from one person to the other person for an indefinite period. This all caused physically injuries and pain including sexually transmitted diseases and it has a long term effect on the child victims by discarding their social life and it is quite difficult that they may establish healthy relationship in our society due to ongoing humiliation and lack of privacy. It is also observed that insisting child pornography may be used to desensitize the child and normalize sexual activity in an effort by offenders to engage in

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sexual abuses or creating new child pornography. To protect a child from all kind of abuses is a whole responsibility of the society not particularly by the individual.

11. In order to prove its case, the prosecution has produced as many as eleven witnesses. According to available record, whole prosecution case is based on scientific documentary evidence which specifically fully connects the accused with the commission of offence of child pornography. All the prosecution witnesses were cross-examined by the learned counsel by the accused at length and as well as by the accused himself because the accused is a graduate from [REDACTED] and he knows very well the use of information technology. The whole prosecution evidence is sufficient to connect the accused with the commission of offence of child pornography and particularly the evidenced produced by P.W4 i.e. initial technical report Exh.PD/1-29, P.W.7 submitted forensic report Exh.PK/1-25 of digital media recovered from the accused vide recovery memo Exh.PE. Moreover, Investigating Officer of the case appeared as P.W6 and in deposition of P.W6 fully connects the accused with the commission of child pornography and thereafter during his cross-examination, the learned counsel as well the accused himself cross-examined the P.W6 at length but the credibility of P.W6 and the evidence produced by the P.W6 has not been shaken in any manner. During the cross-examination of P.W6, the learned counsel put certain question and at the insisting of P.W6, same was write down in answer and question form which also made it clear that there is no doubt the accused is involved in child pornography being an online agent in Pakistan of

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International Mafia ((PAEDOPHILE Network) and received payment against the transmission of child pornography pictures and videos through information system from his agents namely

██████████, ██████████, ██████████, ██████████.

12. The forensic expert report i.e. Exh.PA indicates that from the digital media recovered from the accused sent to forensic analysis and during the forensic analysis of evidentiary items labeled as FIA/NR3C/LHR/C-34/2017/External-HDD-ADData, total files 6,57,538 in 80061 folders were present including sexual explicit photographs and videos of child pornography. It is established beyond the doubt that the accused possesses a large number of child pornography files/data of 1-terabyt which is huge in scale and this is also enough to fully connects the accused with the commission of child pornographic through information system. Statements of three witnesses under Section 164 Cr.P.C. have been recorded by PW-9, which are brought on file as Exh.P.A., Exh.P.B and Exh.P.C, according to which the accused has fully been implicated in the subject case. During the arguments and according to other available record, it is admitted that the accused person ██████████ received money from abroad through Money Exchange as is fortified through deposition of ██████████ PW-10, but the accused remained unable to tender any explanation that he received the same from abroad from other such and such means, as such, it is termed that the accused person received the wrongful benefits against pornographic pictures and videos of the children. In this way, it can be inferred that it is a International Mafia and the present accused who is facing the trial has become active member of that

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Mafia and dared to commit the offence for which he is facing trial of the subject case. It is pertinent to mention here that accused in his statement recorded u/s 342 Cr.P.C while putting question regarding the recovery of digital media etc (Ex.P-1 to Ex.P-12) through recovery memo Ex.P-E and Ex.P-F in question No.2 he did not utter a single word in his defence to negate the recovery of above said articles.

13. I have perused the remaining evidence of other witnesses of the prosecution carefully word to word, but I saw no major significant discrepancies in it. So far as the contention of the learned defence counsel that said [REDACTED], should have been summoned as CW in order to dig out the truth is concerned, it is suffice to say neither the defence has moved any application for summoning him as court witness during trial nor he opted to produce him in his defence evidence, while the esteemed ratio reported as PLD 2018 SC 28 as is referred to by the learned counsel for the accused does not match, co-relate and support the version of the accused at this final stage, when final logical verdict is going to be pronounced by the court. At this juncture, I would like to reproduce the expressed provisions of Section 22 of PECA of 2016 to differentiate and fortify the observations recorded above, which are as under:-

22. Child pornography.----(1) Whoever intentionally produces, offers or makes available, distributes or transmits through an information system or procures for himself or for another person or without lawful justification possesses material in an information system, that visually depicts----

- a) a minor engaged in sexually explicit conduct;
- b) a person appearing to be a minor engaged in sexually explicit conduct; or
- c) realistic images representing a minor engaged in sexually explicit conduct; or
- d) discloses the identity of the minor.

12. After this, this court reached this conclusion that the prosecution has established its case beyond any shadow of doubt and the above said penal provisions of law i.e. under Section 22 PECA of 2016 is fully attracted against the accused person, because the guilt of the accused person to this extent has proved through deposition of prosecution witnesses & documentary evidence that the accused has produces, madqualifi, posses & transmitted the photographs having sexual explicit to abroad and gained wrongful benefit in the shape of payments as is expounded herein before and proved through oral evidence of other witnesses of the prosecution. So far as the application of remaining offences u/s 20,21 PECA and 420,109 PPC in the subject case are concerned, it is suffice that the prosecution has failed to established these offences against the accused and the same are even otherwise are not applicable in such an eventuality.


14. Now, I adverted my attention to the quantum of punishment. For what has been discussed above, I have no hesitation to hold that the prosecution has successfully proved its case against the accused person to the extent of offence under section 22 PECA of 2016 by producing oral as well as documentary reliable, convincing, corroborative and trustworthy evidence. Therefore, accused [REDACTED] is hereby found guilty, convicted under Section 22 Prevention of Electronic Crime Act, 2016 as under:-

- i) Under Section 22- Prevention of Electronic Crime Act, 2016, the convicted is sentenced with an imprisonment for 7-Years and fine of Rs.12,00,000/-.

In case of non-payment of fine, the convicted shall undergo of one year (1-Year) imprisonment. Benefit of section 382-B Cr.P.C is given to convicted.

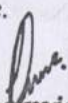
Case properly be disposed of after efflux of appeal or revision, if any. Copy of this judgment be delivered to the convict free of costs. Since the convicted is under custody, be committed back to jail alongwith committal warrant to serve out the sentences awarded to him today. [REDACTED] is directed to consign the case file to the record room, after its due compilation.

Announced.
26.04.2018


Muhammad Amir Raza Baitu,
Judicial Magistrate Secion:30,
District Courts, Lahore.

Certified that this judgment consists of 13 pages which is dictated, read, corrected and signed by me.

Announced.
26.04.2018


Muhammad Amir Raza Baitu,
Judicial Magistrate Secion:30,
District Courts, Lahore.