Court	Court of the Additional Sessions Judge-IV (West), Islamabad
Date	31 October 2016
Document	Judgment
Case reference	Case No. 14 of 2016, The State v. Shoaib Ahmed Shaikh and others (Islamabad case)
Outcome	Acquitted. The court acquitted Shoaib Ahmed Shaikh and all the other accused in the Islamabad case, finding that the prosecution had not produced evidence to prove its charge. It was the first ruling in Axact's favour.
Pages	31
Key excerpt	*"…has not been able to produce confidence inspiring and substantial evidence to prove its charge against the accused persons…"*

15

IN THE COURT OF PERVEZ UL QADIR MEMON, ADDL. SESSIONS JUDGE-IV WEST/ ISLAMABAD.

Case No.14/2018.

The State.

Versus

1. Shoaib Ahmed Sheikh s/o Baseer Ahmed r/o 26/3, 18th Street Khayaban-e-Tanzeem, DHA Phase-V, Karachi (Director/CEO).
2. Aysha Shoaib wife of Shoaib Ahmed Sheikh 26/3, 18th Street Khayaban-e-Tanzeem, DHA Phase-V, Karachi (Director/CEO).
3. Viqas Atiq s/o Atiq ur Rehman r/o House No.114, Khayaban-e-Tariq, DHA Karachi.
4. Col ® Jameel s/o Abdul Hameed r/o House No.68, Street No.3, Phase 4, Bahria Town, Islamabad.
5. Qasim Bin Masood s/o Masood Anwar r/o House No.108/10, Haider Camp PAF Base Chaklala, Rawalpindi
6. Haider Farooq s/o M. Farooq Malik r/o village Dhumial House No.75 near Chakwal
7. Sajjad Haider s/o Rajab Ali r/o House No.59, Street No.54, Sector F, Phase 8, Bahria Town, Islamabad.
8. Rizwan Shah s/o Syed Rokhan Shah r/o Sadat House Huzaifa Town Farah Kahu, Islamabad.
9. Afaque Ahmed s/o Mushtaq Ahmed r/o Villa No.125-A, Awami Villas, Phase 8 Bahria Town Islamabad.
10. Ibadat Zaki s/o M. Liaqat Ali House No.233, Street No.17, Rawal Town, Islamabad.
11. Izhar Tanveer s/o Muhammad Tanveer House No.952, Muhallah Tariq Abad, Khadim Hussain Road, Rawalpindi.
12. Lt Col ® Muhammad Younis s/o Hassan Ali r/o House No.223, Askari 11, Near Qasim Market, Rawalpindi.
13. Syed Shoaib Abbas s/o Syed Altaf Hussain Shah r/o House No.488, Street No.18, Sector A, Askari 14, Rawalpindi
14. Ayoub Qamar s/o Qamar Anayat r/o House No.11, Madina Town Adyala Road, Rawalpindi

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15. Hasnain Rehman s/o Rehman ghulam Ali r/o Flat No.K-402, Block-17, Muhallah Zainab Plaza, Gulshan Iqbal, Karachi.

16. Nigel Brain Robello s/o Gilbert Tahir r/o House No.238/3, Muhallah Lalkurti, Tufail Road, Rawalpindi

17. Haseeb Ehsan s/o Ehsan Ullah Malik r/o House No.NA-457, Seventh Road, Rawalpindi.

18. Kaleem Ashraf s/o Muhammad Ashraf r/o House No.593, Allahabad, Westridge Rawalpindi

19. Umer gull s/o gull Muhammad r/o New Lalazar, Adyala Road, Rawalpindi.

20. Daniel Vincent s/o Vincent Anthony r/o House No.309/9, Muhallah Lalazar, Tulsa Road Rawalpindi.

21. Richard Adnan s/o Saleem Raza r/o House No.P.D. 432, Nazamabad, Rawalpindi

22. Umair Farooq s/o Farooq Ahmed Khan r/o House No.511, Street No.07, Hill View Avenue, Adiala Road, Rawalpindi.

23. Asim Bashir s/o Bashir Ahmed r/o House No.345/A, Street No.10, Ghuri Town, Phase 3, Islamabad.

24. Muhammad Amjad s/o Haji Ahmed r/o House No.CB-2963, Street No.7, Muhallah Ghaziabad Dhoke Syedan, Rawalpindi.

25. Zeeshan Anwar s/o Anwar Ahmed r/o Flat No.207, 2nd Foor, MarinHeihts 3 Block-2, Clifton Karachi.

26. Zeeshan Ahmad s/o Naeem ud Din r/o House No.207, 35th Street Phase-VI, DHA, Karachi.

Accused persons.

Pervaiz-ul-Qadir Mehsud
Addl. District & Session Judge-IV
West, Islamabad

CASE FIR NO.56/15 DATED 07.06.2015, OFFENCE U/S 419, 420, 468, 471, 473, 109/34 R/W SECTION 36/37 ETO AND SECTION 4 OF ANTI-MONEY LAUNDERING (AML) ACT 2010 REGISTERED AT POLICE STATION FIA CYBER CRIME CIRCLE ISLAMABAD.

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JUDGMENT

Shoaib Ahmed Sheikh s/o Baseer Ahmed, Aysha Shoaib wife of Shoaib Ahmed Sheikh, Viqas Atiq s/o Atiq ur Rehman, Col ® Jameel s/o Abdul Hameed, Qasim Bin Masood s/o Masood Anwar, Haider Farooq s/o M. Farooq Malik, Sajjad Haider s/o Rajab Ali, Rizwan Shah s/o Syed Rokhan Shah, Afaque Ahmed s/o Mushtaq, Ibadat Zaki s/o M. Liaqat Ali, Izhar Tanveer s/o Muhammad Tanveer, Lt Col ® Muhammad Younis s/o Hassan Ali, Syed Shoaib Abbas s/o Syed Altaf Hussain Shah, Ayoub Qamar

s/o Qamar Anayat, Hasnain Rehman s/o Rehman Ghulam Ali, Nigel Brain Robello s/o Gilbert Tahir, Haseeb Ehsan s/o Ehsan Ullah Malik, Kaleem Ashraf s/o Muhammad Ashraf, Umer Gull s/o Gull Muhammad, Daniel Vincent s/o Vincent Anthony, Richard Adnan s/o Saleem Raza, Umair Farooq s/o Farooq Ahmed Khan, Asim Bashir s/o Bashir Ahmed, Muhammad Amjad s/o Haji Ahmed, Zeeshan Anwar s/o Anwar Ahmed, Zeeshan Ahmad s/o Naeem ud Din, have been sent up to face trial in case FIR No.56 dated 07.06.2015 U/S 419, 420, 468, 471, 473, 109/34 r/w 36/37 Electronic Transactions Ordinance, 2002 read with 419 PPC Police Station FIA / CYBER Crime Circle, Islamabad.

2 Succinctly, stated facts of the matter in hand as gleaned from the record are that enquiry No.49/15 dated 19.05.2015 was registered against M/s Axact Ltd Islamabad Region for preparing and selling degrees of fake online educational institutions with fake accreditation bodies, enticing innocent people through impersonation as student councilors, within Pakistan and abroad, to pay extra fee for their fraudulent legalization/attestation through various governmental institutions and officials. Consequently a raid was conducted on 19.05.2015 at the offices of M/s Axact Islamabad Region Located at Plot No.74, Block-H, Commercial Crimson Road, Phase II, DHA Islamabad and Plot No.56, 57, Garnet Road, Sector H, Phase II, DHA, Islamabad. During on-sport interview Col ® Jameel Ahmad Regional Head, Lt Col ® M. Younis and other officials of M/s Axact Islamabad region could not provide plausible / justifiable explanation regarding their online fast-track PLA (Prior Learning Assessment) education operation, whereas the statements of some of the employees of M/s Axact Islamabad Regional Office clearly showed that their sale agents were impersonating as highly qualified student councilors of the fraudulent, non-existent, fictitious educational institutes, pretending being in USA as they used U.A.N numbers of United States of America and persuaded the prospective students to deposit huge amounts of moneyh in the offshore accounts operated by M/s Axact Islamabad Region in lieu of on-line degrees/certificates/diplomas and the attestation / legalization/accreditations from different government bodies.

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Addl. District & Session Judge-IV
West, Islamabad

12 NOV 2021

3. On the pointation of Col ® Jameel Ahmad Regional Head M/s Axact Islamabad Region digital/electronic equipment alongwith relevant documents were seized on 19.05.2015 through seizure memo as per legal procedure in the presence of witnesses. Both the buildings of M/s Axact Islamabad Region were seized u/s 5(5) of FIA Act 1974. Subsequently digital / electronic equipment alongwith relevant documents were seized on 20.05.2015 and 27.05.2015 through seizure memos as per legal procedure in presence of witnesses. According to initial Forensic Analysis Report version 1.0 and version 1.1, the computers in use of Shoaib Ahmed Sheikh CEO of M/s Axact, Col ® Jameel Ahmad Regional Head, and other workers of M/s Axact Islamabad Region contained incriminating evidence such as images of degrees/certificates/diplomas/logos/seals/signatures of Must University, Madison Hills University, Paramount California University, Nicholson University, Brooksville University, Grantcheste, Grant Town University, Adamsville University and Rochville University. The Forensic reports also revealed account details of offshore companies and front men / operators of M/s Axact Islamabad Region wherein prospective students were persuaded to deposit their money against sale of degrees/diplomas/certificates and attestations/legalization/accreditation. The initial forensic analysis report version 1.0 & 1.1 also revealed images of fake certificates issued by non-existent/fictitious accreditation bodies alongwith fake/forged certificates of U.S. State Department purportedly issued by Secretary of State Hillary Rodham Clinton, Secretary of State John. F Kerry and others being their fake/forged signatures and U.S. State Department logos and seals copied from official information systems of U.S. State Department by gaining illegal / unauthorized access to those information systems and string them in M/s Axact information systems illegally. The authenticity of the above mentioned universities was verified online through CHEA (Council of Higher Education Accreditation) USA and the data base of accredited Post Secondary Institutions and Programs by U.S. Department of Education from their websites, wherefrom these universities and the accreditation bodies of the above mentioned institutions were not found, which proves the fact that the said universities neither registered nor exist legally

Pervaiz Iqbal Chattha
Addl. District & Session Judge-IV
West, Islamabad

in United State of America hence proving that the above mentioned Universities are fake and fraudulently operated by M/s Axact Islamabad Region.

4. Record from Security Exchange Commission of Pakistan (S.E.C.P) regarding M/s Axact (Pvt) Ltd revealed that Shoaib Ahmed Sheikh s/o Nasser Ahmed Sheikh and Ayesha Shoaib Sheikh w/o Shoaib Ahmed Sehikh are the Directors of M/s Axact who got registered their company on 06, June 2006. There are 700,000/- shares of the company out of which 1 share each is with Shoaib Ahmed Sehikh s/o Nasser Ahmed Sheikh and Ayesha Shoaib Sheikh w/o Shoaib Ahmed Sehikh whereas remaining shares of 599,998 are held with M/s Axact FZLLC. The record of Pakistan Software Export Board (PSEB) conveyed by the board to FIA vide their letter No.A(01)PSEB/2015-631 dated 19th May 2015 shows that the management of M/s Axact include 1. Viqas Aliq (Chief Operating Officedr) 2. Col ® Jamil Ahmadin letter No.FEOD (COU)/42291/EPS/SW/2007 dated 2nd July 2007 from State Bank of Pakistan to M/s Axact. As per record received from PTA vidde letter No.PTA/IP&WA/Vigilance/255/2015 1st June, 2015 for call centre services of M/s Axact, 96 IP addresses were registered with PTA by PTCL, Transworld Associates and Cybernet in 2013. The Directors, Managers and Operators of M/s Axact with active connivance of each other committing the crimes of fraud, forgery and impersonation cheated general public within Pakistan and outside Pakistan by preparing, offering, inducing, selling and issuing bogus degrees/certificates/diplomas of non-existent/fictitious universities, educational institutes and schools extorted huge sums of money from innocent people by using computer system, developing fake fraudulent websites of fictitious and non-existent universities, educational institutes and schools accreditation bodies, by hosting and storing the said websites on hosting servers, transmitting data through internet and VOIP facility and linking U.S issued U.A.Ns with the said websites, hence this FIR was lodged against the accused persons.

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After usual investigation the challan was submitted in the court. Copies as required under Section 265-C Cr. P.C. were delivered to the accused whereafter, the accused persons were charge sheeted under sections 419, 420, 468,

471, 473, 109/34 PPC r/w 36/37 Electronic Transaction Ordinance, 2002 and section 4 of Anti Money Laundering (AML) Act 2010. The same was read over to them in urdu to which they pleaded not guilty and claimed trial.

6. Prosecution examined PW 1 Mehmood ul Hassan Forensic Expert, PW 2 Hassan Iftikhar Forensic Expert, PW-3 Muhammad Raza ul Haq, Assistant Network Administrator, NR3C , PW-4 Tahseen Haider Kazmi, PW-5 Qasim Shahzad, PW-6 Jamsheed Arshad s/o Muhammad Arshad, PW-7 Syed Ali Abbas Hassani, Director Operations and Admin (PSEB) Evacuee Trust Complex, PW-8 Iftikhar Hussain, Assistant Registrar, Security Exchange Commission of Pakistan, PW-9 Muhammad Taimoor Arshad, Director Vigilance Pakistan Telecommunication Authority, PW-10 Imran Haider, Senior Investigator/Technical FIA Cyber Crime Circle, PW-11 Adnan Khan, Duty Officer FIA, PW-12 Kamran Khan, F.C. FIA Cyber Crime, PW-13 Muhammad Anis ul Haq, F.C. Cyber Crime Circle Islamabad, PW-14 Capt Shoaib Ali, Assistant Commissioner, PW-15 Tayyab Amjad s/o Amjad Yousaf, PW-16 Faisal Naseer Awan s/o Naseer Ahmed Awna, PW-17 Umar Islama s/o Muhammad Islam ul Haq, PW-18 Waqas Rasheed, Addl. Deputy Commissioner, PW-19 Touqeere Ahmed Jadoon, Forensic Expert, PW-20 Zulfiqar Fida s/o Sadiq Umer, PW-21 Fawad Sadiq, Constable, PW-22 Muhammad Akram Deputy Director, Network Security National at Response Centre for Cyber Crime Circle FIA, PW-23 Syed Gohar Ali, S.I/I.O, learned SPP on behalf of FIA given upon Fatima, Naveed Hussain and Saqib Nazir being unnecessary and Aamir Saleem being out of country at Canada and closed the prosecution evidence.

Pervaiz-ul-Haq Khattak
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West Islamabad

7. The statements of the accused under section 342 Cr.P.C were also recorded in which all the accused persons denied the allegations levelled against them. In reply to the question why this case was registered against them and why PWs had deposed against them, one of them and Shoaib Ahmed Sheikh accused stated that :

> In fact, I was running one of the best and largest IT company in Pakistan and putting something very positive in the fragile economy by brining huge foreign exchange since 2006 and thereafter, in the year 2014, I decided to launch BOL

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TV channel at very large scale, which created a substantiate threat for those Media houses who are running in Pakistan on foreign of the enemies funding. Moreover, they are building narratives of different enemy countries and when they visualized them, one media channel would be launched in order to built narrative of Pakistan, they got offended and in connivance with the Govt, they hatched a biggest corporate conspiracy and used FIA for their own widgeons and FIA officials in Karachi and Islamabad launched one of the most nefarious actions tainted with malafides on the basis of news articles of Decklin Walsh published in New York Times, which is published in collaboration with Express Tribune, owner of Express Tribune was involved in conspiracy against BOL Media Group, regarding which, one FIR was also registered in Karachi. Moreover, business rivals also tried to make huge fabrications in the name of "BOL" which litigation also ended in our favour.

Whereas, remaining all the accused in their reply to this question adopted the contention/answer of accused Shoaib Ahmed Sheikh. They did not opt to make their statement as required under Section 340(2) Cr. P.C., however, Shoaib Ahmed Sheikh accused produced evidence in the shape of advertisement of job in BOL TV, Ex.DD, Order of Assistant Registrar OS-II dated 12.08.2013, Ex.DE, M/s Independent Media Corporation alongwith order dated 19.03.2015 and 05.12.2014 Ex.DF, Ex.DF/1, Ex.DF/2, Facts Findings Report Ex.DG, FIR No.574/2014 P.S. Karachi South alongwith Interrogation report and Interim Charge Sheet Ex.DH, Ex.DH/1 and Ex.DH/2, Express Tribune/New York Time Ex.DG, News Article of Declan Walsh Ex.DK, Expultion of Declan Wah Ex.DL, Protest against expultion Ex.DL/1, Enquiry Report against Hindustan Times Ex.D.M, Legal notice to Hindustan Times Ex.DN.

9. Learned Prosecutor for the FIA Ch. Asad and Mr. Khalid Naeem, Assistant Director FIA stood behind the prosecution story and argued that all allegations leveled by the FIA are very much true and accused persons are nominated in this FIR after thorough inquiry and thereafter they have been charged. The M/s Axact was involved in providing fake educational degrees, certificates and diplomas and was involved in Anti-state activities. The M/s Axact was inciting innocent persons to get

Pervaiz Abdul Qadir Malik
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West, Islamabad
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Islamabad High Court
Islamabad

admission on e-mails and thereby cheating them and provided forged and fabricated documents and information. The accused persons used nick names with mala fide intentions and PWs have fully supported the version of the prosecution, therefore, all the accused persons be dealt with iron hands. They relied upon 2015 Cr.L.J 1592 Lahore, 2014 SCMR 1159 Supreme Court, PLD 2015 sindh 284, 2016 Cr.L.J Note 48 Peshawar, PLD 2016 Sindh 139, 2015 MLD 1430 Sindh PLD 2016 Sindh 462

9. On the other hand, Raja Rizwan Abbasi, learned defence counsel advanced his exhaustive arguments by submitting that I.O / Inspector FIA Gohar Ali lodged this FIR mentioning therein that the time of occurrence was from 2006 to 2015. However, no reason of delay was shown/attributed. In fact M/s Axact was running a lawful business till today and was registered with SECP which is still valid and in field now and no illegality in the business of I.T is committed. M/s Axact is running I.T company in the country and it was only when channel "BOL" was to be launched by them, a conspiracy was hatched against them and this ugly action was taken against M/s Axact. Since 2006 no single complaint of public or grievance of any body received to FIA. According to preamble of FIA the FIA has to act with any matter concerning with Federal Government. Here, no such concern was established by FIA of the government with M/s Axact. The ingredient of section 36 & 37 ETO are not attracting and inserted without reason and authority. All moveable and immovable properties were seized and sealed respectively. On the so called seizure of Hard Disks and CPUs various versions were prepared which are not relevant or reliable and cannot be used against M/s Axact as such properties was not sealed as admitted by all PWs of recovery and I.O himself. The PWs have admitted that same could be attached/inserted /deleted, so credibility of the reports are not so much confidence inspiring. The evidence of the PW-2 Hassan Iftikhar who has claimed that he is proprietor of reports 1.0, 1.1 and 1.2 versions but no details of generation of documents could be disclosed so also password. The Hard disks are not sealed and even bearing no stamp. The PW-3 has categorically deposed that no illegality committed. The PW-4 who himself claiming as private witness has categorically mentioned that he did not ever contact FIA for lodging FIR and therefore is stock witness. The perusal of statement u.s 161 Cr.P.C of the PW and comparing with

Pervaiz-ul-Haq Khan
Addl. District & Session Judge
West Islamabad

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1033

the evidence in the Court very much showing that there is lot of improvements in those evidences; when they were confronted they admitted the fact. The FIA has failed to identify or point out any illegality in its business or on the charges of money laundering. Neither amount is deposited in any account of M/s Axact whatsoever, nor any number of account is given. The quality of the evidence is so much pathetic and unreliable that the accused person be acquitted honourably. The learned counsel further argued that as far as pseudo names are concerned admittedly it is prevalent and routine in the call centers to give pseudo name to call agent and such fact is itself admitted by the PWs of the FIA. The statement of 161 Cr.P.C and 164 Cr.P.C appearing word by word ditto and it shows that the statements of 164 Cr.P.C was recorded in mechanical way by Executive Magistrate who was fully under influence of Government and FIA, and so much no such opportunity for cross-examination was given to accused persons although those at that were arrested and in FIA custody.

10. In the absence of verification of the correspondence and received e-mails and not sealing of equipments and so also not mentioning with specific role of every accused nominated in the FIR shows the mala fide of the FIA. The FIA has in fact arrested accused persons as flock of sheeps / goats and put into cage. The evidence of PW-15 was not credible and he was accused in human trafficking in 2002 and had been arrested by the FIA and such fact is also admitted by PW himself and he has failed to give any proof of employment or resign from M/s Axact. The evidence of PW-16 is hearsay evidence and according to section 5 of (5) of FIA Act no property could be seized during inquiry. The I.O crossed his limits and just on the receiving order from D.G. FIA immediately raided and humiliated the building and staff of M/s Axact respectively and while relying upon 1987 P. Cr.L.J 23 Peshawar, PLD 1949 Lahore 179, NLR 1986 Criminal 15, 2011 YLR 337 Lahore, 2016 YLR 18 Sindh, 2000 UC 495 prayed for acquittal of the accused.

Pervaiz Iqbal Mehmood
Addl. District & Session Judge-IV
West, Islamabad

11. After going through the placed facts, grounds, hearing the learned SPP for the State and learned counsel for the accused, I have found following points for determination:-

Point No.1= Whether the accused namely Shoaib Ahmed Sheikh and Ayesha Shoaib Sheikh being Directors of M/s

193

1035

Axact (Pvt) got registered their company alongwith other co-accused Directors, Managers and Operators with active connivance of each other committed the crimes of fraud, forgery and impersonation cheated general public within Pakistan and outside Pakistan by preparing, offering, inducing, stealing and issuing bogus degrees /certificates/diplomas of non-existent /fictitious universities, educational institutes and schools extorted huge sum of money or not?

Point No.2= Whether accused persons concealed or disguises the true nature, origin location, disposition, movement or ownership of property, knowing or having reason to believe that such property is/was proceeds of crime?

Point No.3= What should the order be?

FINDINGS:-

Point No.1 : **Not proved.**

Point No.2 : **Not proved.**

Point No.3: **The accused persons are acquitted u/s 265 H(1) Cr. P.C.**

REASONS:-

Points No.1 and 2:

12. As both the points are inter-linked and connected with each other, hence the same are discussed and decided together. The FIA after conducting enquiry lodged this FIR No.56 dated 07.06.2015 and made seizure of property, sealing of buildings and arrest of employees of M/s Axact. The main claim and charge of the FIA against M/s Axact was that it was running illegal business of I.T and under cover it was involved in illegal activities of providing false bogus degrees of non-existent universities to the receipts/students and aspirant of such bogus degrees through internet in consideration of receiving huge amount of money. The Axact according to FIA, was involved in cheating, preparing false and bogus degrees, misrepresentation, impersonation and cyber crime as well as in money laundering. After lodging FIR, FIA submitted interim report in shape of 173 Cr.P.C Report for the trial of accused persons mention in it.

13. After framing of charge against the present accused persons, the FIA examined as many as 23 numbers of PWs, some were FIA officials and some were produced in evidence as private and independent PWs/ effectee/victims of M/s Axact.

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Islamabad

14. The PW-1 namely Mahmood ul Hassan, Deputy Director Forensic NR3C HQ was examined. He deposed that he was working as Deputy Director Forensic at NR3C HQ and he supervised enquiry No.49/15 and same was converted into FIR No.56/15. Under his supervision report of Forensic details were prepared by Forensic Expert namely Waqas Saeed and Hassan Iftikhar. Version No.1.0, 1.1, 1.2 and another report were prepared by Mr. Raza ul Haq, Assistant Network Administrator and Haider Abbas, Assistant Director Network. During the cross-examination he categorically admitted that he was unaware about the orders on whose this enquiry was initiated and how many days it did take. No number of equipment and hard Disk brought to him are disclosed or mentioned by him in his statement u/s 161 Cr.P.C. He also not knew that whether the Hard Discs were same or those were detached from those CPUs which were claimed seizure property. He denied that dubious proceedings were taken/initiated on the behest of D.G. FIA.

15. The PW-2 namely Hassan Iftikhar, Forensic Expert deposed that he was working as Forensic Expert in NR3C. He prepared report 1.1 Version. He corroborated the statement of PW1. During the cross-examination he deposed that he never visited Axact office nor he was aware of its system of connections. He on one question admitted that it was possible that data / files can be changed and could be stored in hard disk with changed dates, if date in system is changed. He further deposed that he was not aware that who was using those laptops, when same were brought to him. It was not under his scope to know the concept of working accreditation and non-accreditation of universities of USA and other parts of world. He very categorically deposed that degrees extracted from the system were not bearing Axact name. He admitted that degrees and logos could be down loaded through internet.

16. The PW-3 namely Mohammad Raza ul Haq, Assistant Network Administrator NR3C HQ FIA deposed that he conducted network analysis of those routers. During cross-examinat5ion he also admitted that it was correct that nothing found any illegality or illegal activities during analysis, and neither it was mentioned in his report.

17. PW Haider Abbas was given up by Prosecutor FIA.

Pervaiz Iqbal Khokhar
Addl. District & Sessions Judge-IV
West, Islamabad

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18. The PW-4 Tahseen Haider Kazim, a jobless person, deposed that for career growth in 2014, he planned to do MBA in logistic and chain Management. He searched universities on web. During search he came across a website of Axact which was offering different programs from different universities. He contacted them with UNA number and its student counselor advised him and as he (PW) wanted to do MBA through a cheaper universities so the counselor offered a university located in Dubai at so reduced cost. They offered him admission in Dubai and he also paid Fees (tuition and admission fees) through Western Union 6200 Dirhams. He went Dubai in 2014 and attended classes. The university was consisting of 02 rooms and small number of staff. After 10 days he realized that the staff was not competent. He did take test and was given degree and certificate. The Dubai government attested the sticker diploma certificate. He received employment letter from a U.K. Company but when the document were verified the same were fake. He contact with FIA to register a case against Axact. He provided them the evidences with 09 items, including certificates, diplomas, fees receipt, counter service record, e-mails, and his CPU. During cross-examination he deposed that nothing such facts are brought on record during his statement u/s 161 Cr.P.C. He admitted that he attended classes in Dubai and got certificate. He claimed that in 2014 he had handed over all his certificates and CPU to FIA for registration of case. He also admitted that in his statement u/s 161 Cr.P.C only word "website" is mentioned not Axact. No record of conversation and with whom he talked was mentioned in his statement. No account number or receipt of bank was brought on record that in which account he paid fees etc. He admitted that he had not provided any documents regarding his appointment, rejection letter. He denied that he was deposing false. He also recorded his statement u/s 164 Cr.P.C. but at the time of recording his statement I.O was present with him.

19. The PW-5 namely Qasim Shahzad deposed that he was employee of M/s Axact situated at DHA Phase-II Krimsan Road Axact office, as Executive. His job was enrolment of students. He used to call students as Senior Counseler of a university. Other employees used to call officials of any Embassy to give confidence to students. The colleagues told him that in case of leak of Axact working the employer would beat

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them. His statement was also recorded by Assistant Commissioner. During cross-examination he admitted that they were providing back office services and source of accused persons who were facing trial were also working in education department of M/s Axact like him. He admitted that in call centre Sudo names are used throughout the world. He admitted he had not provided any details of any student, who had called him or who had got certificate or degree in his presence. He denied that he was deposing falsely due to pressure of FIA.

20. The PW-6 namely Jamshed Arshad, profession Private Job deposed that he was working in office of M/s Axact situated at DHA Phase-II Islamabad. He also almost disclosed some facts as that of PW-5. He further stated that M/s Axact took his signatures on blank stamp papers. He recorded his statement u/s 164 Cr.P.C on 11.06.2015. During cross-examination this PW admitted that statement u/s 164 Cr.P.C produced in the court was not sealed one. No reference was made in 161 Cr.P.C and 164 Cr.P.C about any fake degrees whatsoever. No any appointment letter no of resignation letter is placed on record. He also had protested against BOL channel. Accused persons facing trail of this case were also performing same nature of job as that of this PW. No name is mentioned of any student who was threatened. No reference of M/s Axact is mentioned. The PW admitted that statement u/s 161 Cr.P.C and 164 Cr.P.C are ditto copies of his statements.

21. The PW-7 namely Syed Ali Abbas Hassani, Director Operation and Admin (PSEB) deposed that he was working as Director Operation and administration at Pakistan Export Board Islamabad since June 2010 till date. He received a letter from FIA asking over office to submit all required documents' related to M/s Axact. On 28.05.2015, PSEB submitted the required documents to FIA through his dispatcher containing 70 papers bearing his signatures. During the cross-examination he deposed that it was necessary to get registration with PSEB for running a call centre. But it was not necessary for IT company, and run legitimately, registration is renewed every year. He admitted every year the registration of PSEB of M/s Axact was renewed. It was properly checked and visited. The registration certificate was issued after all fulfillments

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Islamabad High Court

of formalities. PSEB never ever received any complaint against M/s Axact. He denied that he was deposing falsely.

22. The PW-8 namely Iftikhar Hussain, Assistant Registrar of Security Exchange Commission of Pakistan (SECP) deposed that M/s Axact is Karachi based company. FIA demanded certain information regarding M/s Axact from SECP and same was handed over to it. During cross-examination he deposed that during year 2015 Mr. Zafar Hajazi was Chairman of SECP. No illegality found with M/s Axact and that if any company committed such illegality or irregularity SECP proceeded against it and SECP had never proceeded against M/s Axact regarding any illegality committed by it.

23. The PW-9 namely Muhammad Taimoor Arshad, Director Vigilance Pakistan Telecommunication Authority Headquarter Islamabad deposed that on 25.05.2015 received letter from FIA requiring information of M/s Axact same was provided. He admitted no complaint whatsoever received to PTA against M/s Axact till to date.

24. The PW-10 namely Imran Haider, Senior Investigator / Technical FIA Cyber Crime Circle (CCC) Islamabad deposed that he prepared technical report alongwith Taqeer Ahmed Jadoon, Deputy Director CCC version 1.0 containing 101 pages. He also prepared report version of 1.1 containing pages 18. Moreover, digital equipments were seized on his pointation and same were taken into possession through seizure memo, Ex.P12232. He claimed that hard disc 08 in number P1 to P8, CPU P-9 to P-15 were present in court. He admitted in his cross-examination that equipments were seized before lodging FIR. His 161 Cr.P.C statement was not recorded when equipments were seized. It was recorded on 07.06.2015. the articles present in the court were not sealed nor which hard disc was being used by which CPU. No photograph of seizure was taken. All e-mails were not verified from the recipient end witness nor chat conversation has been verified from the recipient end. He admitted that data could be washed/deleted from the hard disc and new one could be entered. Date system could not be changed. Again said that date could be changed. He admitted that all the diplomas, degrees, attestations etc had no reference of M/s Axact.

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West, Islamabad
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25. PWs Adil Saleh and Waqas Saeed have been given up by Public Prosecutor FIA being unnecessary.

26. The PW-11 namely Adnan Khan, Duty Officer, FIA deposed that on 03.06.2015 he was posted at FIA CC, Rawalpindi in enquiry 49/15, one Syed Tahseen Kazmi produced a CPU alongwith hard disc, to I.O for Forensic analysis. During cross-examination he admitted that no such fact of receiving hard disc is mentioned in his statement u/s 161 Cr.P.C. the same was not sealed. He did not see if the same were in working conditions. No proof was got from Tahesseen Kazmi that if the property owned or used by him. He denied that he was deposing falsely. R

27. PWs namely Umair Hamid, Fawad Sadiq and Muhammad Javed were also given up by the Mr. Khalid Naeem, Assistant Director (Legal) FIA being unnecessary.

28. The PW-12 namely Kamran Khan, F.C, FIA deposed that on 14.06.2013 on pointation of accused persons Sayed Sohaib Abbas, Ayub Qamar, Haseeb Ahsan and Sajjad Haider he visited the M/s Axact alongwith other officials and I.O and on their pointation 05 computers alongwith five hard disc were taken into possession through seizure memo. In cross-examination he admitted that joint pointation was made by accused persons and that all the articles were not in exclusive possession of accused persons rather it was lying in office which was huge in size. The property was not sealed.

29. The statement of PW-13 namely Muhammad Anis ul Haq, F.C is almost same as that of PW-12.

30. The PW-14 namely Capt Shoaib Ali, Assistant Commissioner, Industrial Area Islamabad was examined. He deposed that on 11.06.2015, on the submission of application of FIA he recorded statements of witnesses. All statements were in sealed condition and opened in the Court. During cross-examination he admitted that 1st page of the statements was printed proforma. No opportunity of cross-examination was given to any accused, as he did not know how many accused persons were in custody when the statements of witnesses were recorded. The PWs were identified by I.O, not by him. He denied the suggestion that he acted as puppet and did all on the behest of FIA.

Pervaiz-ul-Haq Khan
Addl. District & Sessions Judge
West Islamabad

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31. The PW-15 Tayyab Amjad, an independent witness, deposed that he had 13 years experience in call centre industry. He joined M/s Axact in year 2009 as an Executive and remained with it for about 8/9 months. He remained in Karachi after train ng and joining. M/s Axact obtained his signatures on blank stamp papers and if it was not done so he would be terminated. He was assigned Belford University. His Supervisor informed that students could get admission and degree through accreditation universities and it was legal process and was also going on as legal in USA. He started communication with students who were trying to get enroll in Belfort University. When he read out different blogs on internet and specially on Wikipedia about the Belford university that it was not accreditation university, he left M/s Axact. Durl ng cross-examination he admitted that he was arrested by FIA in year 2012 on the allegation of human trafficking. Tahir Tanvir was investigating officer in that case, who was also I.O of this case. That in this case, it was highlighted very much that a big gang of human trafficking was busted and four other persons also shown arrested and involved with recovery of various cheques. No proof of employment was with the PW of M/s Axact was provided to FIA during the investigation. No mention of his training at Karachi in his statement u/s 161 Cr.P.C. Not a single affectee is mentioned or told to FIA or his statement u/s 161 Cr.P.C. No account number is mentioned in which student / people deposited money. He denied the suggestion that he was deposing on the behest of Tahir Tanveer. He admitted that no year of resignation is mentioned by him durl ng course of investigation. He had little idea about accreditation of universities. He denied that he was star witness of Tahir Tanveer.

32. The PW-16 Faisal Naseer Awan, a real estate Business deposed that he was Executive International Sales in M/s Axact on 14.01.2015 and used to provide information to students on telephone e-mails and other modes. He also during cross-exa mination admitted that he had no proof of his employment in the M/s Axact.

33. The PW-17 namely Umar Islam, an independent witness deposed that in the 2005, he received an e-mail from so called accreditation education institute. He replied to e-mail and after interaction 2-3 times he applied for accreditation degree programme. He paid 6,39 U.S. Dollars through his credit card for above said admission.

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Islamabad High Court
Islamabad

After some time he received his degree through courier service. He asked the concerned authorities to verify his degree but they asked for more money. Then he did not pursue the same. He never used the said degree anywhere for obtaining job etc. he came to know about drama of Axact then he searched out about the Ashwood University and said university was also included and then he came to know that he have been defrauded. During the course of cross-examination he deposed that he has not mentioned e-mail address through which he was contacted by the above said institution throughout the investigation/ statements u/s 161 / 164 Cr.P.C. He further deposed that he did not provide e-mails to the investigating officer or any other proof of communication with institution mentioned by him in his examination in chief. He did not provide the proof of payment of 639 U.S. Dollars to the I.O. there is separate envelope of DHL. He deposed it is correct that receipt on evelop does not contain his father name nor his residential address. It is correct that document Ex.PW-17/1-14 does not contain any reference of M/s Axact. He denied the suggestion that his assertions before the court are false and solicited one.

34. The PW-18 namely Waqas Rasheed, Addl. Deputy Commissioner deposed that on 2nd July 2015, he was posted as Assistant Commissioner Secretariat Islamabad. Gohar Ali Shah, S.I. FIA appeared and submitted application for recording the statement of two persons namely Umair Hameed and Zulfiqar Fida u/s 164 Cr.P.C in case FIR No.58/15 dated 07.06.2015. The statements were recorded after due process of law and following the laid down procedure. During the course of cross-examination he deposed that he did not try to know from the witness that since how long they were in the custody of FIA. He did not physically examine the witness in order to know whether torture was applied on them or not. He further deposed that at the time of recording of statements names of accused were mentioned in the record. He did not give any notice to the accused for cross-examination of the witness at the time recording of statement u/s 164 of Cr.P.C. He further deposed that it is no where mentioned that the I.O or other FIA officials were turned off from the court while recording the statements of witness u/s 164 Cr.P.C

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West, Islamabad

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Islamabad

35. The PW-19 namely Touqeer Ahmed Jadoon, Forensic Expert deposed that on 19.05.2015 he was posted in a Zone, at the time of raid, he alongwith investigating team conducted raid in M/s Axact and after sample they seized certain computers vide seizure memo Ex.PW-19/A. The articles which were seized are P-40 to P-99 and documents 100-123. On 20.05.2015 second and raid conducted in the office of M/s Axact and we again got few samples and seized relevant documents alongwith computer equipments vide seizure memo Ex.PW-19/B which bears his signatures. During the cross-examination he deposed that at the time of raid the FIR was registered. He does not know whether in pursuance of inquiry raid was conducted or otherwise. He knows that raid was conducted on the basis of press clipping New York time. He knows that New York time is published in Pakistan on Express Tribune because of liaison of New York Time and Express Tribune. He is aware of DECLAN WALSH. He further deposed that he is well aware of the fact Declan Walsh was involved in anti State activates i.e. having meeting with BLA and BLF alongwith other conspiracies against the state of Pakistan due to which was declared persona non grata by the government of Pakistan and deported from Pakistan. He admitted that it is no where mentioned in any of the memo that equipments were ever sealed by us.

36. The PW-20 namely Zulfiqar Fida an independent witness deposed that he joined as Assistant Executive (APM). The office was located in DHA Commercial Phase-VII Karachi. It was his duty to receive application and responding the same to the system. They used to receive various orders around the world and thereafter, they used to prepare the same to give response. After preparing replies and fulfilling all the other codal formalities, they used to say the same as "Dream Company Express courier Service" After dispatching the same, they used to get tracking number from courier company. He dispatched several orders to the vendor around the world and he do remember some of the names like Atlus Vizas, Watintant TGravels, Zaki Salavi, Ismail Bosali. When they do receive blank proforma of the degrees and then they used to get printage by Admin print New customer university used to contact them (branch Manager) and provide them their requisite layouts and documents and they used to provide them requisite documents printed by Admin printers. As per orders of claim

Pervaiz Iqbal Memon
Addl. District & Session Judge-IV
West, Islamabad

University were performed its obligations and they used to fill the credentials and sent the documents as per direction of client (university). Different programs given by the universities were verified by us and then after proper verification they used to send the documents as per university's direction. During cross-examination deposed that he kept in working MS Axact Private Ltd for 8 years. He is properly aware / acquainted with concept of IT business/IT contracts and business by M/s Axact Private Ltd. He admitted that any business through internet is call it business and there are two kind of IT business generally i.e. Director Monitory Business and Indirect Monitory business. He further deposed that in IT business customer has to click agreements with the service provider e.g. when some open e-mail account, it is open after acceptance of terms and condition that is also done through click agreement. He further deposed that M/s Axact Private Ltd used to provide back office services to different clients, organization, institutes etc. and in IT related business all payment are made through credit card and same are always protected by merchant account. He deposed that neither Axact is some educational institution nor M/s Axact Pvt. Ltd used to provide back office services including documents Management to the requisite clients. He further deposed that call center is a centralized location used tor receiving or terminating a large volume of telephone calls and when some company provide the services of call center to High Cost Region Companies, they received call and provide requisite information to the callers on behalf of said high cost region company. He further deposed that M/s Axact Pvt. Ltd exports IT and ITES from Pakistan under a registered State Bank contract to Axact FZLLC, M/s Axact is having 10 different IT related business Units, which includes software, business process out souring (BPO), legal process out sourcing (LPO), call center services, document management services etc. Action against Axact/Axact employees was initiated on the basis of new article of one Declan Walsh. It is in my knowledge that said Declan Walsh was declared as persona-non-grata by the government of Pakistan due to his anti state activities. Offices of Axact were raided and sealed immediately after publication I early hours of the day. Till the time Shoaib Sheikh was running M/s Axact Pvt. Ltd nothing happened but a moment he decided to launch BOL TV channel, action was taken against Shoaib Sheikh and another Axactians. This

Pervaiz-ur-Rauf Memon
Addl. District & Session Judge-IV
West, Islamabad

12 NOV 2021

action was launched on the instance of different media houses generally Jang-Geo/Mir Shakeel ur Rehman particularly. Had any illegal activity carried out in Axact he would have mentioned the same before the Court. No illegal activity was carried by M/s Axact Pvt. Ltd and law full bussiness / trade of IT/ITES services and action has been launched against Axact because of launching of BOL TV channel. He admitted that he know the nature of allegation against Axact in Karachi. It allegation against the accused are by the same in Karachi and Islamabad. He is not employee of Axact. None of the employee of Axact is ever involved in any kind of illegal activity as alleged by the FIA. Employee of Axact are highly education.

37. PWs Muhammad Abid and Arslan were given up by the learned SPP on behalf of FIA being unnecessary.

38. The PW Fawad Sadiq, Constable, Cyber Crime Circle FIA deposed that he is working as constable Cyber Crime Circle FIA Islamabad. On 19.05.2015, he alognwith FIA Team Headed by Deputy Director FIA Islamabad went to the office of M/s Axact located at DHA Phase-II Islamabad where on the pointation of Col Jameel they seized digital equipments and relevant documents through seizure memo which is Ex.PW-19/A (four pages) which bears his signatures. All articles are P-40-99 and documents are P-100 to P-123. On 20.05.2015, he alongwith FIA Team, Head by Deputy Director Cyber Crime Circle FIA Islamabad visited the office M/s Axact located at DHA Phase-II and took into possession Digital Equipments through seizure memo Ex.PW-19/B alongwith relevant documents (Ex.P-100 to P-123). On 22.05.2015, Tahseen Haider Kazmi provided them his educational documents certificates and degrees which were taken into possession vide seizure memo Ex.PW-4/12046 and documents and certificates are Ex.12047 to 12055. On 29.05.2015, a rent agreement of Building Plot No.56, 57 DHA Phase-II was taken into possession vide seizure memo Ex.PW-21/A which was provided by Arslan Saleem. On 30.05.2015. Abid Khan provided a copy of offer of appointment letter of Col. Muhammad Younis was taken into possession vide seizure memo Ex.PW-21/B. On 02.06.2015, Aamir Saleem gave educational documents of Rochville University which were taken into possession vide seizure memo Ex.PW-21/C. The documents including cover are Ex.PW-21/C/1-9.On

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Islamabad High Court
Islamabad

07.06.2015, ten accused persons were arrested as per procedure and their separate personal search memos were prepared which bears his signatures. On the same day i.e. 07.06.2015, 11 vehicles from the accused persons were taken into possession vide separate memos Ex.PW-21/D/-1, Ex.PW-21/E/1, Ex.PW-21/F/1, Ex.PW-21/G/1, Ex.PW-21/H/1, Ex.PW-21/J/1, Ex.PW-21/K/1, Ex.PW-21/L/1, Ex.PW-21/M/1 and Ex.PW-21/N/, Ex.PW-21/P/1.

On 09.06.2015, Umar Islam provided educational documents of Ashwood University which were taken into possession vide seizure memo Ex.PW-17/A and documents are Ex.PW-17/A/1-14. On 14.06.2015, on the pointation of four accused, computer equipments, CPUs which were being used by them were taken into possession from fourth floor of M/s Axact, Plot No.74, Block-H, DHA, Phase-II vide recovery memo Ex.PW-12/A and equipments / articles Ex.P-18 to Ex.P-22 and computers are Ex.P-23 to Ex.P-27. On 22.10.2015, on the pointation of Col Jameel accused they recovered two vehicles one Suzuki Cultus and Honda Civic from his house alongwith relevant documents vide seizure memo Ex.PW-21/Q. Vehicles are Ex.PW-21/Q/1-2. On the same day, an other vehicle Toyota Corolla were recovered and taken into possession vide recovery memo Ex.PW-21/R and vehicle is Ex.P-21/R/1. On 27.10.2015, another vehicle Honda PW-21/S/1 was recovered on pointation of Col. Jameel Ahmed and taken into possession vide recover memo Ex.PW-21/S which was in the use of Qasim Bin Masood. On the same day another vehicle Suzuki Mehran was recovered alongwith with documents from Danial, which was taken into possession vide recovery memo Ex.PW-21/T and vehicle is Ex.PW-21/T/1.

39. During the course of cross-examination he deposed that in his presence search warrant was not obtained by the I.O before this raid. He cannot tell which kind of office it was. Similarly he cannot tell that whether office related to I.T and IT office. They visited all the floors of the above said office they stopped the work running in the above said building. He cannot tell as to whether computer equipments were on or off when it was seized by us on 19.05.2015. He did not see any accused person while using any computer equipment. In his presence no photograph or video of computer equipment. He cannot tell at what time raid was conducted in the office of M/s Axact on 20.05.2015.

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12 NOV 2021

Examiner
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Islamabad High Court

He even cannot tell the approximate time of above said raid dated 20.05.2015. He is unable to answer that articles seized on 20.05.2015 that why article seized on 20.05.2015 were not taken into possession on 19.05.2015. On 20.05.2015, office of Axact was already open as I.O had already deputed FIA officials in the above said office. Documents provided by Aamir Saleem i.e. Educational degrees etc also do not contain any reference of M/s Axact. No objectionable articles were recovered from the office of M/s Axact on the instance of accused. Similarly no objectionable articles were recovered from the vehicles.

40. On 09.06.2015 Umar Islam came to the office at 12:00 O-clock however, educational documents provided by him do not have any reference with M/s Axact. He cannot tell whether he came to the office by his own or summoned by anyone else. All the educational documents provided by all the witnesses do not contain any initial/mark or reference of any accused. It is correct that from 19.05.2015 till 14.06.2015 no separate statements were recorded and all the proceedings were included in one statement. He denied the suggestion that he has deposed falsely on every and each aspect.

41. PW-22 namely Muhammad Akram, Deputy Director, Network Security National at Response Centre for Cyber Crime Circle FIA Islamabad NR3C deposed on 12.07.2016, his statement was recorded by the I.O. he submitted a report regarding Network Forensic Analysis of M/s Axact Pvt. Limited volum-I and domain and hosting managing system report volume-II. Total containing 601 pages and one CD which he has prepared. He sent the report to the Deputy Director FIA Cyber Crime Islamabad through letter Ex.PW-22/A alognwith report containing 601 pages Ex.P-22/A/1-601 alongwith CD Ex.PW-22/A/602. Domain and Hosting Management System has been used to present evidences of online education domain and hosting management by M/s Axact Pvt. Ltd. Data Communication and Networking Devices Analysis shows that communication with chat and voice server was allowed from within office of M/s Axact Karachi. During cross-examination deposed he is deputed in FIA NR3C Islamabad since April 2008. He started his work of analysis of system of M/s Axact in May 2015. He admitted that at page No.4 of his report which contains "Report of Axact Network

Pervaiz Qadir Memon
Addl. District & Session Judge-IV
West, Islamabad

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Islamabad High Court
Islamabad

and Infrastructure" reference of case FIR No.7/2015 CCC, FIA Karachi has been given. Above said report only pertains to networking and not of contents. It is partially correct networking report pertains to networking of the system that how system was connected used and operated alongwith evidence in the form e-mails. E-mails were not verified from the other side (Recipient and Sender). He has submitted to report pertaining to the networking in Karachi and Islamabad. In My 2015 e-mail server was decoded by them. He do not know whether other companies like M/s Axact Pvt Ltd also operating working in different countries. Every section of report is having different paras. He has not mentioned any reason of delay of more than one year in submission of above said report. He denied the suggestion that certain fabrication were made by them to bring the case in conformity with the allegations leveled by the prosecution.

42. PW-23 namely Syed Gohar Ali, S.I/I.O deposed that on 19.05.2015, he was posted as Sub Inspector at P.S. FIA Cyber Crime Circle FIA Rawalpindi. Orders of regular inquiry were issued against M/s Axact through letter dated 19.05.2015 Ex.PW-23/A and Ex.PW-23/A/1. He conducted a raid on the office of M/s Axact situated at DHA, Islamabad on 19.05.2015. Digital Electronic Equipments were seized through seizure memo Ex.PW-19/A which bears his signatures. On 20.05.2015, he alongwith raiding team again visited the above said premises and seized Electronic Equipments and other documents through seizure memo Ex.PW-19/B which bear his signatures on it. On 22.05.2015, Syed Tehseen Haider Kazmi provided him his educational documents which were seized by him through seizure memo Ex.PW-21/A which also bear his signatures and the documents which were seized are Ex.P-12048 to P-12065.

43. On 27.05..2015, he again visited the above said premises and seized the further computers alongwith Hard Disk through seizure memo Ex.P-12232 which also bear his signatures. On 29.05.2015, Arslan Saleem provided a rent agreement executed between Sohail Ahmed and Col Jameel which were taken into possession through seizure memo. On 30.05.2015, one Abid Khan provided a photocopy of his offer of employment letter to Lt Col ®, Muhammad Younis containing 18 pages and same were taken into possession vide seizure memo Ex.PW-22/B. Similarly 02.06.2015, Aamir Saleem PW provided his educational documents of Roswell

Pervaiz-ud-Din Memon
Addl. District & Session Judge
West, Islamabad

University containing 9 annexures and same were taken into possession through seizure memo Ex.PW-21/C. On 03.06.2015, Syed Tehseen Kazmi produced a CPU alongwith Hard Drive and the same was taken into possession through seizure memo Ex.PW-11/A. The DHA provided the ownership record of both of the buildings through their letter Ex.PW-23/B/1-4 containing 04 pages.

44. During the course of inquiry the seized articles were sent to FIA NR3C Forensic Lab for Forensic Analysis and three forensic reports No.1.0 1.1 and 1.2 (report 1.2 was received after lodging of the FIR No.56/15) were received (Report are already exhibited). Two technical reports 1.0 and 1.1 were also received prepared by the Technical experts and made a part of this case and the same are already exhibited.

45. After completion inquiry, he drafted FIR No.56/15 dated 07.06.2015 Ex.PW-23/C against 26 accused persons. Out of 26 accused 17 accused were arrested. On 08.06.2015, on the pointation of accused persons, computers which were under their use were seized through seizure memo Ex.PW-13/A (already exhibited) which bear his signatures. On 09.06.2015, one of the victim Umar Islam produced his educational documents of Ashwood University containing 14 enclosures and the same were also seized by him which bear his signatures. He also got recorded the statements of 09 PWs by producing them before the Magistrate to record their statements under section 164 Cr.P.C on two occasions.

46. On 14.06.2015, on pointation of arrested accused persons, equipments which were under the use of accused were seized from the Axact Office through seizure memo Ex.PW-12/A which bear his signatures. After submission first interim report four accused wee arrested in the instant case after dismissal of their pre-arrest bail and after completion of investigation they were sent to the judicial lockup. Another letter from U.S. embassy was also received to the FIA on 09.12.2015 containing two pages and the same is Ex.PW-23/G.

Pervaiz Iqbal Qadir Memon
Addl. District & Session Judge-VII
West, Islamabad

47. During the course of cross-examination deposed that he is working in the FIA since 2009. He know that FIA take cognizance of the offence which are connected with the affairs of Federal government or ancillary thereto. He has not mentioned anywhere in any of his report that how there allegations/this case have any nexus

directly or indirect with the affairs of Federal Government. He admitted that M/s Axact is a registered company of SECP. Articles of association of M/s. Axact was taken into possession by him through SECP. He has mentioned in challan No.2 that company exceeded from the domain of their work which was described in the article of association (SECP). He do not know whether the registration of M/s Axact has been canceled or not. M/s Axact as per record is operating / working in Pakistan since 2006. Inquiry was not initiated on the basis of complaint of any private individual/individuals, however, it was started on the direction of D.G. FIA. He cannot say that any inquiry ever conducted like present case without complaint of some private or public sector. He admitted that purpose of inquiry to ascertain the truthfulness or falsity of allegation and if allegation are found true then inquiry is converted into investigation after lodging of FIR and a moment D.G recommended inquiry building of M/s Axact were seized on the same day. Building were seized at evening time. He cannot recall the number of person who were examined as witness before sealing the building however they were too much. He denied the suggestion that u/s 5 (5) of Federal Investigation Agency Rules property can be seized only during investigation and inquiry.

48. On 19.05.2015, no independent person was called by him to join the proceedings to seizure of equipments or building u/s 103 of Cr.P.C. He denied the suggestion that reason been so was that huge quantity of equipments were seized by us but recovery of little quantity was shown and rest of the equipments were misappropriated and sold by them. Throughout the investigation he could not found any proof that all the above three individuals Syed Tehseen Haider Kazmi, Aamir Saleem, and Umar Islam ever deposited any amount in the account of M/s Axact. He admitted that all payments were made through credit card in case of some hiring of service of good are immediately reimbursed in case of dissatisfaction of client immediately without inquiry. He did not join into investigation all those official of USA embassy who sent alleged letters. He did not secure any report from Embassy or from USA government to ascertain the fact that authors of alleged letter were real entity or some fake persons. He denied the suggestion that all fabrications were made by them on instance of high ups. He further denied the suggestion that prosecution against all the accused were

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Islamabad High Court

launched on the instance of government and government was influenced by all the media houses because of launching of BOL Channel. Appointment letter of Izhar Tanvir was not taken into possession by me. He admitted the suggestion that executive was most junior post in M/s Axact. No documents of employment were obtained from those witnesses who were shown to be employee of Axact. He denied the suggestion that he has deposed falsely before the Court.

49. PWs Fatima, Naveed Hussain and Saqib Nazir were given up by learned SPP appeared on behalf of FIA being unnecessary and Aamir Saleem being out of country at Canada and closed the prosecution evidence.

50. From the perusal of placed record, charge sheet, evidence and keeping in view the statements of all accused persons, it appears that M/s Axact is a registered I.T. Organization / company since 2006 and was working in I.T. business till 2015 when FIA raided its offices in Karachi and Islamabad. The gist of allegations leveled by FIA is that M/s Axact was running an illegal business of preparing, offering, inducing, selling and using bogus educational degrees/diplomas/certificates in and out side Pakistan. In the light of such allegations when we see the available and produced evidence, it appears no material and tangible evidence or record is brought by FIA to prove its case beyond the shadow of doubt. The set of PWs of Forensic Experts have submitted a plea thereof in papers and versions but nowhere it is mentioned that any such flagrant illegality was found. Neither produced Hard Disk and CPUs are not sealed nor such alleged recoveries are made in presence of independent witnesses. The claim of independent PWs that they informed FIA about running of illegal business of providing fake degrees is without any evidence. Nothing is provided by them or is on record of FIA. Simple statements of PWs are not confidence inspiring. Their statement before this Court and u/s 161 Cr.P.C are standing pole a part. There appears clear cut improvements and additions. When those PWs who got recorded their statements u/s 164 Cr.P.C confronted to their statements u/s 161 Cr.P.C it clearly shows that nothing is brought on record and their statements are like empty vessels thunders much. The allegations are leveled u/s 37 ETO but from the bare reading of said sections the same are applied when any one attempts to do any act with intent alter, modify, delete, remove, generate,

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Islamabad High Court
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transmit or store any information through information system knowingly which he was not authorized to do or to do any act with intent to impair the operation or access to any information which he was not authorized then this section could be applied. In this matter no such illegality is brought on record. No such evidence available on record which may show that any member / employee of the M/s Axact did or attempted to do so. Open invitation was thrown to public for calling any complaint from all over the world in this respect but none has come forward to record his / her evidence.

51. The evidence of PW-4 shows that they have miserably failed to substantiate their allegation with documentary proof. The claim of PW-4 that he got admission through M/s Axact has failed to proof his allegation as he has categorically admitted that he did not deposit fees in M/s Axact account, nor he approach M/s Axact website.

52. The evidence of PW-15 shows nothing on record that if as he was an employee of M/s Axact. Neither any appointment letter nor such acceptance of his resignation is brought on record. These PWs, surprisingly are made PWs and not put with category of accused persons although they have been shown as employees of the M/s Axact. Neither a single effactee is mentioned to FIA by any PW nor account number is mentioned in which student/people did deposit their money.

53. The PW-17 has also admitted that no details of e-mail address were provided to I.O and there was no proof of payment of 639 U.S.U. Dollars. The Ex.PW-17/1-14 does not contain any reference of M/s Axact.

54. The evidence of PW-18 namely Waqas Rasheed, Addl. D.C also shows that he had asked in mechanical way and the requirements for recording statement u/s 164 Cr.P.C are not followed or observed in letter and spirit. The presence of I.O during the statement of PWs and absence of accused persons, when many of them were arrested, shows that in what careless manner the statements are recorded by violating the laid down procedure.

55. It is admitted fact that FIA has taken action against M/s Axact after the publication of articles in newspaper and so much so without having such complainants received to it. No complainant regarding any cheating, fraud or illegal I.T. Business

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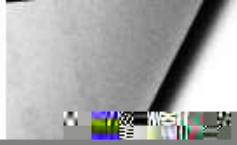
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Islamabad High Court

received to FIA since the establishment of M/s Axact in 2006. The enquiry is initiated on the orders of the D.G. FIA, without plausible reason. Moreover, at the stage of the enquiry, the FIA,, by transgressing its authority and power, seized and sealed the equipments and building of M/s Axact although all these should have been done so during investigation after lodging FIR. The conduct and the method of enquiry and lodging FIR shows that as if FIA awoke from deep slumber all of sudden and then it did not see anything but to show of abuse of power. The perusal of evidence of each and every PW is very much clear and showing that how FIA can destroy or cause humiliation of any person or organization. Not a single word is said by any PW about money laundering. The Executive of SECP has deposed M/s Axact was working within mandate and its license was valid. The FIA has tried to produce experts regarding the connection and communication of M/s Axact with students of accredited and non-accredited institution and universities but no such illegal activity is pointed out. The M/s Axact was running I.T business since 2006 but FIA never bothered to raid or take such aggressive action but did so on the sweat will of its D.G without having a single complaint against it in 2015. All other independent PWs are arranged thereafter. One of the independent PWs has claimed that he had informed FIA prior to the raids, and had handed over his CPU, details and forged degree allegedly provided by M/s Axact. But nothing has been brought on record to substantiate his version. Another PW has admitted that he was arrested by FIA on the charges of human trafficking and Tanveer Incharge inspection was at that time I.O of his case. Even this PW has not been able to bring any material against M/s Axact.

56. The evidence of last two PWs namely Muhammad Akram PW-22 and I.O of this case namely Syed Gohar Ali are examined and that nothing has come on record or in evidence which may support the version of FIA. The FIA miserably failed to give any detail of such specific role or involvement in all offence mentioned in its charge sheet. It is not sufficient to say that M/s Axact was involved in those offences but it was duty of FIA and its PWs to place tangible and material evidence. Most of accused persons are non-technical staff like security guards or lower grade employees. It appears they had nothing to do with such activities. Not any documents or equipment

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West, Islamabad
31/10/2016

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Islamabad High Court
Islamabad



full-fledged operation was taken against it. It shows a clear cut mala fide and ulterior motive of FIA and D.G. himself.

59. I have also gone through the allegations leveled by FIA regarding money laundering committed by the accused persons. Surprisingly all accused persons, many of them having nothing to do with business or having capable being the lower grade employees of the M/s Axact, are implicated in this charge. As for as Chief Executive or other accused persons are concerned, not a single witness or I.O has uttered a word regarding such commission of offences. The proceeding of crime defined in Anti-Money Laundering Act (AMLA) under section 2 (q) as:

> *"**Proceeds of crime** means any property derived or obtained directly or indirectly by any person from the commission of a predicate offence or a foreign serious offence;*
>
> And
>
> **Predicate offence** means as per section 2 (s) *offence specified in the Schedule to this Act.*

60. From the bare reading of the above sections and comparing with the evidence produced by the FIA I am of the firm opinion that FIA has not been able to indicate or identify any property which may fall under category of proceeds of crime or may be considered in the light of section 3 (a,b,c,d) AMLA.

Pervaiz Iqbal Cheema
Addl. District & Session Judge-IV
West, Islamabad

61. In the light of above discussions and placed evidence, I am of the strong view that FIA has not been able to produce confidence inspiring and substantial evidence to prove its charge against the accused persons rather it has been found that the FIA has made a fabricated and concocted story and Deputy Director FIA without having receiving any complaint whatsoever launched a large scale action against M/s Axact. Under these circumstances, my findings are in negative being not proved.

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Islamabad High Court

Point No.3

62. In the light of above observations and discussion, I acquit all the accused persons namely Shoaib Ahmed Sheikh s/o Baseer Ahmed, Aysha Shoaib wife of Shoaib Ahmed Sheikh, Viqas Atiq s/o Atiq ur Rehman, Col ® Jameel s/o Abdul

Hameed, Qasim Bin Masood s/o Masood Anwar, Haider Farooq s/o M. Farooq Malik, Sajjad Haider s/o Rajab Ali, Rizwan Shah s/o Syed Rokhan Shah, Afaque Ahmed s/o Mushtaq, Ibadat Zaki s/o M. Liaqat Ali, Izhar Tanveer s/o Muhammad Tanveer, Lt Col ® Muhammad Younis s/o Hassan Ali, Syed Shoaib Abbas s/o Syed Altaf Hussain Shah, Ayoub Qamar s/o Qamar Anayat, Hasnain Rehman s/o Rehman Ghulam Ali, Nigel Brain Robello s/o Gilbert Tahir, Haseeb Ehsan s/o Ehsan Ullah Malik, Kaleem Ashraf s/o Muhammad Ashraf, Umer Gull s/o Gull Muhammad, Daniel Vincent s/o Vincent Anthony, Richard Adnan s/o Saleem Raza, Umair Farooq s/o Farooq Ahmed Khan, Asim Bashir s/o Bashir Ahmed, Muhammad Amjad s/o Haji Ahmed, Zeeshan Anwar s/o Anwar Ahmed, Zeeshan Ahmad s/o Naeem ud Din from in this case. All the accused persons are present on bail. The bail bonds of the said accused persons are cancelled and their sureties are discharged.

63. Case properties i.e. vehicles which are already delivered to the owners on superdari are hereby released and sureties against the said vehicles are hereby discharged from their liabilities. Moveable and immovable properties sealed by FIA be also de-sealed if not required in any other case. File to records.

31/10/2016

Pervez ul Qadir Memon
Addl. Sessions Judge-IV(West)/
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Pervaiz-ul-Qadir Memon
Addl. District & Session Judge-IV
West, Islamabad

Announced
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Certified that this judgment consists of 31 pages.
Each page has been read, corrected and signed by me.

31/10/2016

Addl. Sessions Judge-IV(West)/
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