

**PLJ 2017 Quetta 63 (DB)**

*Present:* MRS. SYEDA TAHIRA SAFDAR AND ZAHEER-UD-DIN KAKAR, JJ.

STATE through Prosecutor General, Balochistan--Petitioner

versus

ABDUL NAFAY and another--Respondents

C.P. No. 569 of 2016, decided on 16.6.2017.

**Aggrieved Party--**

----Scope--A person aggrieved is a person who has got a personal grievance or a person who is deprived of anything to which he is legally entitled. [P. 65] A

**Complainant--**

----A complainant in a case cannot be considered as a person aggrieved, unless his/her right is infringed or is adversely affected from the order judgment and decree. [P. 65] B

*Mrs. Noor Jehan Kahoor*, Addl. PG for Petitioner.

*Mr. Tahir Hussain Khan*, Advocate for Respondent No. 1.

Date of hearing: 17.6.2017.

#### JUDGMENT

**Zaheer-ud-Din Kakar, J.**--The petitioner (Prosecutor General Balochistan), through this petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 assails the validity of order dated 19.5.2016 "**the impugned order**", passed by the learned Sessions Judge-V, Quetta in his capacity as Ex-Officio Justice of the Peace "JoP" who disposed of the application of Respondent No. 1 under Section 22-A, Cr.P.C. in the following terms:

"In view of the above discussion, I, hereby allow instant petition of petitioner and SHO Police Station, Sariat, Quetta is directed to register criminal case against above named accused persons and conduct impartial investigation of the case under intimation to this Court."

2. According to the facts as narrated in the application filed by Respondent No. 1 (Abdul Nafay), under Section 22-A, Cr.P.C. were that after receiving telephonic call from New Sariat Police Station, he reached there, where police officials inquired him about his brother and directed to visit Murda Khan (mortuary) at Civil Hospital, Quetta and to take his brother's dead body from there. The police personnel also informed him that his brother was killed while committing theft. Thereafter, he along with his father and relatives went to Civil Hospital, where he found dead body of his brother in pool of blood. He immediately approached the SHO Police Station, Sariat for necessary legal action but he did not lodge F.I.R against the accused persons, who have committed murder of his brother.

3. After registration of application, the JoP called report from concerned SHO and after hearing the arguments of learned counsel for Respondent No. 1, passed the impugned order, hence this petition.

4. From perusal of the record it appears that on 29.5.2017. Additional Prosecution General (APG) was asked that how the State is an aggrieved party and filed the instant petition against an order passed on an application filed by Respondent No. 1, which was allowed in respect of a particular person?

5. On 07.6.2017, arguments was heard on maintainability of the instant petition and also on merit and the matter was reserved.

6. During course of arguments, learned APG did not satisfy the Court that how the State is an aggrieved party and how the petition is maintainable. On the other hand, learned counsel for Respondent No. 1 stated that the State does not come within the definition of an aggrieved person and the present petition has been filed by an incompetent person (Prosecutor General), therefore, the same is liable to be dismissed.

7. We have heard the learned counsel for the parties and have gone through the available record. The Court observed that the application of a private person was allowed, how the Prosecutor General Balochistan falls within the ambit of aggrieved person, thus, entitled to file the instant petition? Since the learned APG was unable to satisfy us that how the State is an aggrieved party and filed the instant petition against the impugned order, therefore, to understand the true meaning of term aggrieved, the Black's Law Dictionary was consulted which defines the word "aggrieved" at page 77 as under:

"Aggrieved: Of a person or entity", having legal rights that are adversely affected; having been harmed by an infringement of legal rights. "

Similarly, "an aggrieved party has been defined in the Black's Law Dictionary at page 1232 as under:

"Aggrieved party: A party entitled to a remedy; esp. a party whose personal pecuniary or property rights have been adversely affected by another person's actions or by a Court's decree or judgment."

8. The above definition leads us to the conclusion that a person aggrieved is a person, who has got a personal grievance or a person who is deprived of anything to which he is legally entitled. A person is a human, in whom a legal right is vested, and if his/her personal interest, pecuniary interest or property right is directly affected as a result of a Court's order, decree or a judgment, he/she would be a person aggrieved. Similarly, a person, who may be a complainant in a case, cannot be considered as a person aggrieved, unless his/her right is infringed, or is adversely affected from the order, judgment or decree.

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8. In view of the above discussion, it is clear that the State through Prosecutor General is not an aggrieved party from the impugned order and the petition was filed by an incompetent person, the petition is not maintainable, thus dismissed.

(W.I.B.)

Petition dismissed.