IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice Qazi Faez Isa, CJ
Justice Syed Mansoor Ali Shah
Justice Amin-ud-Din Khan
Justice Athar Minallah

Criminal Appeal No. 785 of 2020
(On appeal from the order dated 17.12.2019 passed by the Special Court, Islamabad in Complaint No.1/2013)

General (Retd.) Pervez Musharraf. ... *Appellant*

Versus

Federation of Pakistan and others. ... *Respondents*

For the Appellant: Barrister Salman Safdar, ASC.

For the Respondents: Ch. Aamir Rehman,
Additional Attorney-General for Pakistan.

Dates of Hearing: 10.01.2024.

ORDER

Qazi Faez Isa, CJ. This appeal arrayed General (retired) Pervez Musharraf as the appellant and the Federation of Pakistan, the Special Court and the State as the respondents. The appellant was convicted by the Special Court *vide* judgment dated 17 December 2019 and the instant appeal was filed on 16 January 2020 under section 12(3) of the Criminal Law Amendment (Special Courts) Act, 1976. Since as per legal requirement, the appellant had not surrendered himself the office of this Court had raised objection to the maintainability of this appeal. However, learned counsel Mr. Salman Safdar contended that the appellant was indisposed and under treatment abroad, therefore, he was not in a position to appear before this Court. Subsequently, the appellant passed away on 5 February 2023, as informed by learned Mr. Safdar, who had sought time to contact the appellant's legal heirs. Time was also granted by this Court on 10 November 2023. Learned Mr. Safdar states that he had sent messages to the legal heirs of the deceased appellant but did not receive any response from them.

2. This Court, though not obliged to do so, but in the interest of justice, had also issued notices to the legal heirs of the appellant on all available

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addresses and which were provided, both within the country and abroad. Notices were also published in the leading English newspaper '*DAWN*' and the leading Urdu newspaper '*JANG*'. However, none of the legal heirs have come forward and elected to contest this appeal.

3. On 28 November 2023 the following two questions were also framed:

> '(1) Whether on the death of the appellant the appeal did not abate in terms of section 431 of the Code of Criminal Procedure, 1898; and
>
> (2) If the conviction of the appellant is upheld, the consequences thereof, including on the rights/benefits of the appellant and his legal heirs.'

4. Learned Mr. Safdar states that the legal heirs did not approach him, let alone engage him, and have also not responded to the notices/publications issued by this Court. He submits that in his opinion the instant appeal abates in terms of section 431 of the Code of Criminal Procedure, 1898.

5. Therefore, in the given circumstances, and as none of the legal heirs have come forward, the instant appeal is dismissed as having abated. Consequently, the conviction of the appellant by the Special Court subsists.

Chief Justice

Judge

Judge

Judge

Islamabad:
10.01.2024
(M. Tauseef)

Approved for Reporting

Kismat Khan Zimri

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