

Form No: HCJD/C-121

ORDER SHEET

**IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT**

Case No. W.P. No. Crl. Misc.No.49971-M/2017

Tallat Mehmood

Versus

The State, etc.

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge and that of parties or counsel, where necessary
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05.	05.12.2017	Mr. Ahsan Qadeer Hunjra, Advocate for the petitioner. Mr. Abdul Samad, Additional Prosecutor General, Punjab. Mr. Anwaar Hussain, Additional Advocate General, Punjab. Mr. Muhammad Rafi, Advocate/representative of Punjab Bar Council.
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This is an application under Section 4 (r) read with 561-A Cr.P.C. for granting permission to the learned counsel (who is not an advocate of this Court) to appear as pleader in the main case before this Court.

2. Learned counsel, who is not an advocate of this Court, submits that he be granted permission to appear before this Court on the basis of the definition of “pleader” given under Section 4 (r) of Cr.P.C. He submits that any person can be appointed as a pleader. He submits that he has represented the petitioner in the trial court and is well versed with the facts of the case, hence, he be granted permission to appear before this Court.

3. Learned APG, on the other hand, has referred to Sections 21, 22 (2) (b), 27 and 58 of the Legal Practitioners & Bar Councils Act, 1973 (“**Act**”) to submit that in order to appear before High Court an advocate must have practiced for not less than two years in the subordinate courts and must also go through the licencing procedure provided under Rule 5.3 of the Punjab Legal Practitioners and Bar Council Rules, 1974 (“**Rules**”). He submits that applicant/advocate has only one year and six months of practice to his credit at the time of filing of this petition and is not an advocate of High Court, therefore, he cannot be permitted to appear in the main case. He further submits that there is no law under which such a permission can be granted by the Lahore High Court.

4. Arguments heard. Record perused.

5. Section 4 (r) of the Code of Criminal Procedure, 1898 defines “**Pleader**” in the following manner:-

*“**Pleader**”. ‘Pleader’, used with reference to any proceeding in any Court, means, a pleader or a mukhtar authorized under any law for the time being in force to practice in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (2) any other person appointed with the permission of the Court to act in such proceeding;”*

The above shows that pleader is a person who is authorized under any law for the time being in force to practice in such court. In case of an Advocate, he must be an advocate of the High Court duly authorized to appear on behalf of the client. Any other person in

section 4 (r) (2) means any person other than an advocate who may be granted permission by the Court considering the special circumstances, if any. This is not a case under Section 4 (r)(2) but is covered under Section 4 (r) (1) of the Cr.P.C.

6. Section 21 of **“Legal Practitioners & Bar Councils Act, 1973”** (“Act”) provides that there are advocates of the Supreme Court, High Court and other Advocates. Section 22 of the Act states that “other advocates” can appear in all the courts other than the High Court or the Supreme Court. Section 27 provides that a person in order to qualify for admission as an advocate of High Court must have practiced as an advocate before the subordinate courts for a period of not less than two years. Section 58 of the Act provides that any advocate, who violates these provisions, is subject to a penalty of imprisonment for a term which may extend to three years, or with fine upto fifty thousand rupees or with both. Therefore, requirements under Sections 21, 22 and 27 of the Act are mandatory. There is no other law under which this Court can permit an advocate, who is not an advocate of this Court, to appear before this Court.

7. In the above legal regime, the definition of “pleader” does not come to the rescue of the applicant as it cannot override the qualification required to obtain a licence to appear as an advocate before this Court.

8. Even in terms of Section 4 (r) (1) of the Cr.P.C., a pleader must be authorized under the law to practice in a particular court and in this case the applicant does not have the license to appear at the High Court. There is no other provision whereby such a concession can be granted to the learned counsel. For the above reasons, there is no force in the instant application, which is hereby **dismissed**.

9. Office shall fix the main case for hearing after proper power of attorney of an advocate of this Court has been placed on the record, in accordance with law.

(Syed Mansoor Ali Shah)
Chief Justice

*M. Tahir**

APPROVED FOR REPORTING

Announced in open Court on____04.01.2018.

(Syed Mansoor Ali Shah)
Chief Justice