

ORDER SHEET
IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT

W.P. No. 214966 of 2018.

Muhammad Hassan Muawiyah. Vs. Inspector General of Police, Punjab, etc.

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13. 05.03.2019. Mr. Shahid Tasawar Rao, Advocate with the petitioner.
 Sheikh Usman Karim-ud-Din, Advocate for the applicant
 in C.M. No.2/2018.

Mr. Zahid Sikandar, Assistant Attorney General with Mr.
 Inam-ul-Haq, Deputy Secretary, Ministry of Religious
 Affairs and Interfaith Harmony.

Rana Shamshad Khan, Additional Advocate General with
 Mr. Tariq Mehmood Javed, Special Secretary to Govt. of
 the Punjab, Home Department;

Mr. Zulfiqar Ghumman, Secretary Govt. of Punjab, Auqaf
 Department;

Maulana Abu-al-Zafar Ghulam Muhammad Sialvi,
 Chairman Punjab Quran Board;

Mr. Amjad Javed Saleemi Inspector General of Police
 Punjab; Mr. Jawad Dogar, DIG (Legal); Mr. Muhammad
 Anwar Khetran, DPO Chiniot; Mr. Ahmad Mohiyuddin
 SSP CTD Faisalabad; Mr. Saif ul Murtaza SP (Legal); Mr.
 Muhammad Salim DSP (Legal) and Mr. Zafar Iqbal SHO
 PS Chanab Nagar.

C.M. No.2 of 2018.

Through this application the applicant has prayed for
 his impleadment as party in the titled Writ Petition.

2. Learned counsel for the applicant submits that
 though countless allegations have been levelled against
 Ahmadi community but it has not been arrayed as party.
 Adds that without impleading the applicant as party in the

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main petition, no effective order can be passed. Further adds that the applicant is a proper party due to the fact that any order passed in the instant Writ Petition has to affect the community being represented by the applicant.

3. Learned counsel appearing on behalf of the writ-petitioner has opposed this application by submitting that since no relief has been claimed against the community, being represented by the applicant, he is not a necessary party.

4. After hearing learned counsel for the parties and going through the contents of the Writ Petition as well as the document annexed therewith, I have observed that in pith and substance the writ-petitioner has voiced grievance against the inaction on the part of the public authorities to take action against the individuals/communities involved in printing/publication of Holy Qur'an and other religious books of the Muslims by using names of the Muslim authors with distorted text and mutilated translation. In particular a reference has been made to various activities of Qadianis/Lahoris/Ahmadis in that regard. In this backdrop, the applicant has right of audience. Consequently this application is **allowed** and the applicant is allowed to present his view-point.

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MAIN CASE.

5. To begin with firm belief in the one-ness and unity of the Allah Almighty, absolute unqualified finality of the Prophethood of Hazrat Muhammad (P.B.U.H.) and the absolute finality of the Holy Qur'an as the last Divine Book of Allah Almighty. The Allah Almighty in order to convey His message to the humanity, sent thousands of Prophets/Messengers in this world. Further, with a view to enlighten their (Prophets/Messengers) hearts with the divine commands, the Allah Almighty bestowed divine material upon His pious persons in the shape of holy books and scripts etc. The said process was completed with the revelation of Holy Qur'an upon our beloved Prophet Hazrat Muhammad (P.B.U.H) with the clear message that it would be the complete code of life for the humanity till the Day of Judgment. Since the revelation of Holy Qur'an, some unfortunate people have been making abortive attempts either to deface its Arabic text or to mutilate its literal meanings for their personal benefits. To counter said obnoxious attempts, the Muslims have been making tireless efforts towards preservation of the Holy Qur'an since the times immemorial. The present petition is also part of said noble struggle wherein the petitioner has agitated against inaction on the part of the public functionaries to take

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action against individual(s)/publisher(s)/community(ies)/ organization(s) involved in preparation/publication of books by using the names of religious books of the Muslims, in particular Holy Qur'an and their Muslim authors or similar names having distorted Arabic text or mutilated translation or both.

6. Learned counsel for the petitioner submits that though the Government has enacted the Punjab Holy Quran (Printing and Recording) Act, 2011 (the Act, 2011) in addition to framing Punjab Holy Quran (Printing and Recording) Rules, 2011 (the Rules, 2011) for error-free publication of the Holy Qur'an but the same enactments are not being implemented in letter and spirit. Adds that the publication of questionable material by the non-Muslims is part of their attempts to mislead the world about the true concept of Islam on the one hand and on the other to tarnish the belief of the Muslims in particular. Further adds that though the petitioner has been agitating the issue before different authorities but till date no concrete step has been taken seemingly for the reason that the persons involved in such despicable activities have good liaison with the persons at the helm of the affairs in the government.

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7. Learned Additional Advocate General, while supporting the plea raised by the petitioner, states that being Muslims it is our prime duty to ensure the publication of Holy Qur'an with original text and authentic translation. Adds that in view of the sensitivity of the issue all public functionaries at provincial level are trying their level best to implement the provisions of the Act, 2011 as well as the Rules, 2011 and if anybody is still violating the provisions of the said legislation, the public functionaries at provincial level are ever ready to take appropriate action.

8. The Provincial Police Officer, while supplementing the contentions urged by the learned Additional Advocate General, submits that prior to taking charge as Inspector General of Police, Punjab, he remained posted in district Jhang in different capacities and tried his level best to have strict check against publication of such banned material. Adds that in compliance with the orders passed by this Court, he took the field-staff on board and according to the reports submitted by them no person, at present, is undertaking any such activities. Further adds that as and when any such activity is brought to notice of the Police the same would be curbed with full vigour by confiscating material published in violation of the Act, 2011 as well as the Rules, 2011 in addition to registration of criminal

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case(s) against the culprit(s). Submits that while implementing the provisions of the Act, 2011 as well as the Rules, 2011 a number of criminal cases have already been registered against the persons/publishers/communities involved in publication of the Holy Qur'an with distorted text or mutilated translation and a number of such accused have been convicted whereas proceedings against the others are pending at different levels. Concluding his submissions, he has ensured the Court that he would leave no stone unturned to safeguard the sanctity of Holy Qur'an.

9. Maulana Abu-al-Zafar Ghulam Muhammad Sialvi, Chairman Punjab Quran Board, has apprised the Court that upon information regarding publication of proscribed material he visited the place highlighted in the instant petition to unveil proscribed activities, as alleged by the petitioner, but no such material was recovered from the spot. Submits that he, being the head of the Punjab Quran Board, is ready to visit every corner of the Province for implementation of the provisions of the Act, 2011 as well as the Rules, 2011.

10. Mr. Zahid Sikandar, Assistant Attorney General, on the instructions imparted by the Deputy Secretary, Ministry of Religious Affairs and Interfaith Harmony, Islamabad,

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states that upon highlighting of the issue, under discussion, the Federal Government took up the matter with the Provincial Authorities but till date no response has been given by them in particular the Auqaf department. Adds that to ensure error-free printing of the Holy Qur'an and its translation with exact literal meanings, the legislation at the Federal level is in the offing which is expected to be enacted within a month or two.

11. Sheikh Usman Karim-ud-Din, Advocate representing *Sadar Anjuman Ahmadia Pakistan* states that though allegations of general nature have been levelled against a particular community (*Ahmadis*) of the country but it has not been arrayed as party. Adds that equitable relief cannot be granted in favour of a person who does not possess clean character inasmuch as not only number of criminal cases have been registered against the petitioner but also he was found involved in preparation of bogus letters on behalf of Police functionaries to take action against the said community. Further adds that if an individual or community is involved in such activities, it should be specified but nobody can be allowed to damage the image of a particular community whose members being citizens of the country enjoy equal fundamental rights.

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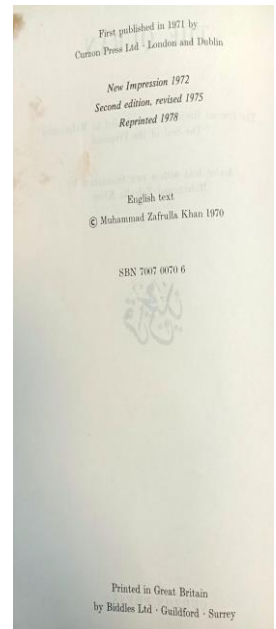
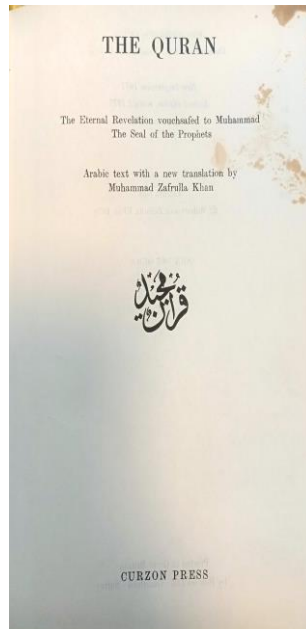
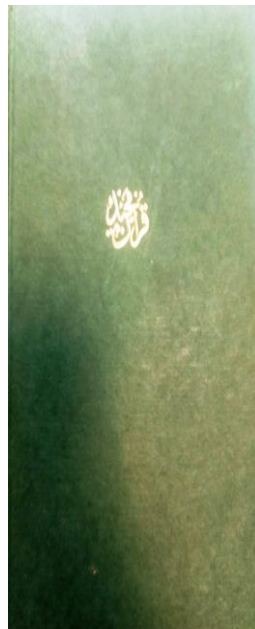
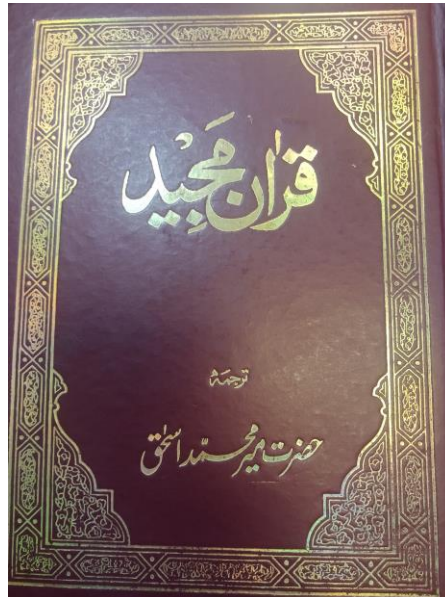
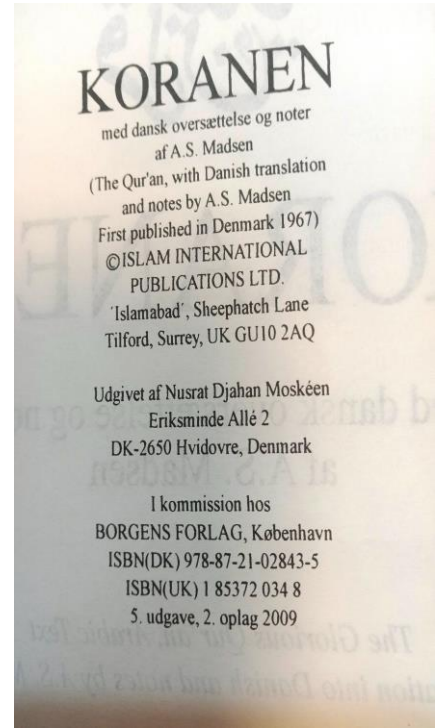
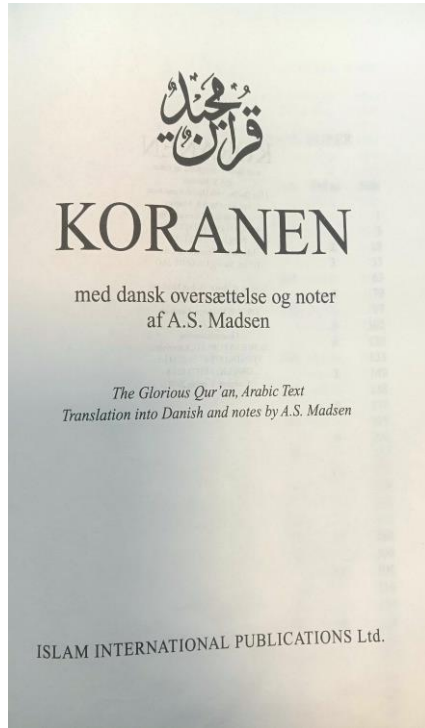
12. While exercising his right of rebuttal, learned counsel for the petitioner submits that the statement of the Provincial Police Officer that at present neither any such material is being published nor the same is available in the market stands negated from the snaps managed by the petitioner from different parts of the country according to which the books authored by the non-Muslims, using the names of the books of the Muslims as well as their authors, are available for sale in every corner of the country. Adds that stance of the Chairman, Punjab Qur'an Board that he did not find any such proscribed material at the site is worthless for the reason that he visited the site by giving prior information to the persons involved in preparation of prohibited material. Further adds that according to the news being published in weekly "Al-Fazal International" a particular community is involved in such activities which are being highlighted as a sign of pride. Submits that non-Muslims cannot be allowed to publish any material by using the names of the Muslim writers or their religious books. While referring to the judgment, reported as Mulana Allah Wasya and others v. Federation of Pakistan through Secretary Ministry of Law and Justice and others (PLD **2019 Islamabad 62**) learned counsel contends that non-Muslims, in particular the *Quadianis, Lahoris* and *Ahmadis*,

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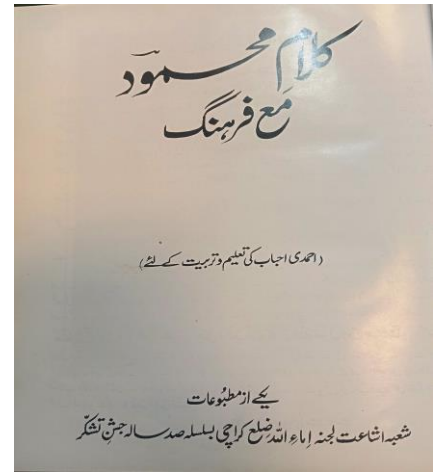
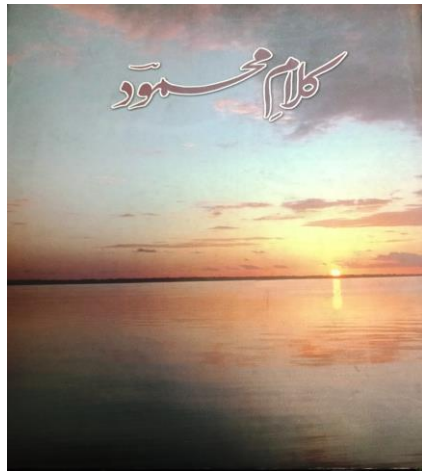
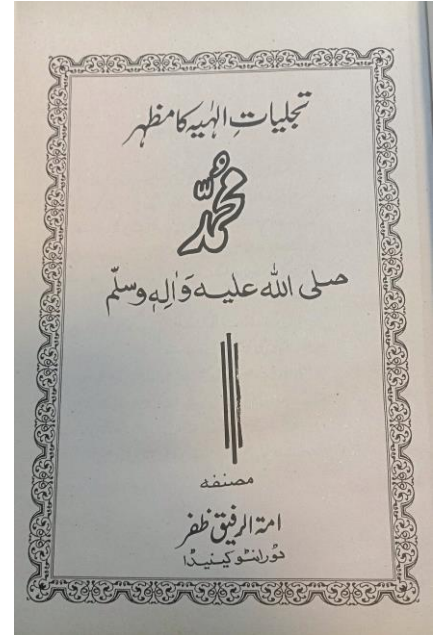
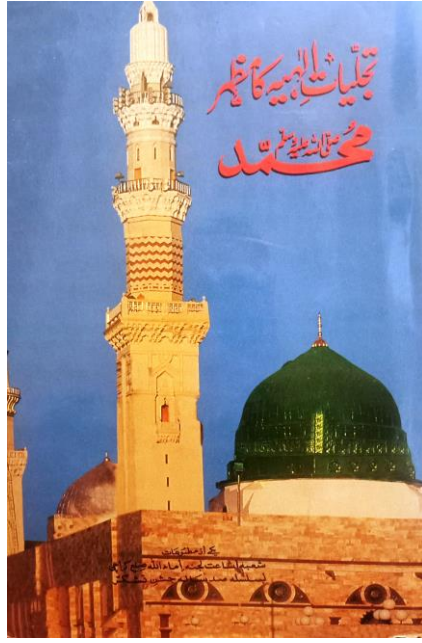
have been prohibited to use even the names of the Muslims, thus, they cannot be allowed to publish material by using the names of the Muslim Scholars and their books. On the said point, learned counsel has further relied upon the cases reported as Zaheer Uddin and others v. The State and others (1993 SCMR 1718) and Mujibur Rehman and 3 others v. Federal Government of Pakistan and another (PLD 1985 FSC 8).

13. In furtherance of above noted submissions of his counsel, the petitioner himself states that involvement of non-Muslims in such forbidden activities is established from the fact that not only such books are being printed and published in the country against their original text with mutilated translation by using names of Muslim Authors and their books but also the same are being imported from abroad without any hindrance. Further submits that the height of lethargic attitude on the part of the public functionaries, in particular the Police, is abundantly clear from the fact that such books/material are/is being delivered in different parts of the country *via* Pakistan Post. In support of his contentions, the petitioner has presented following books published by non-Muslims while using the name of Qur'an and other religious books of the Muslims:-

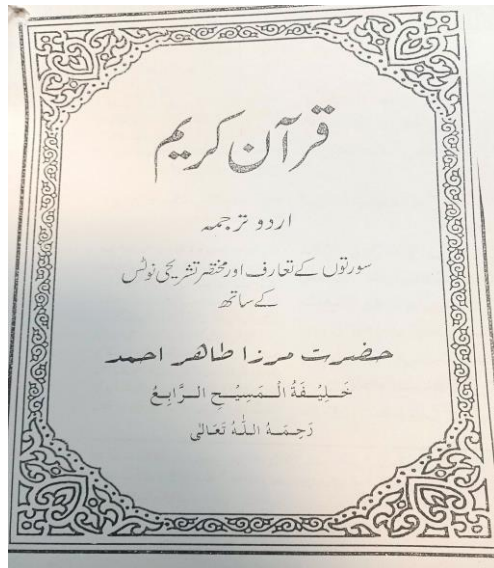
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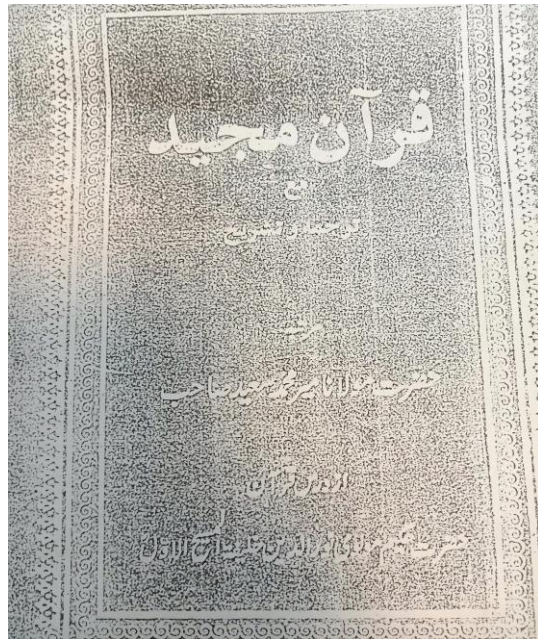
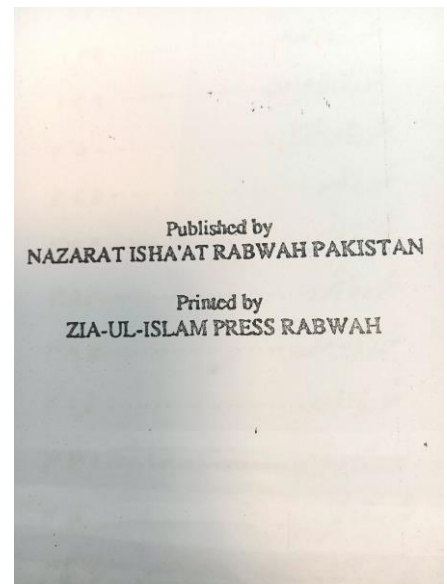
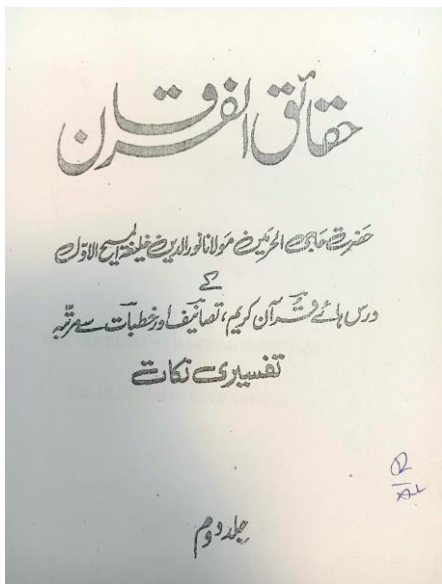
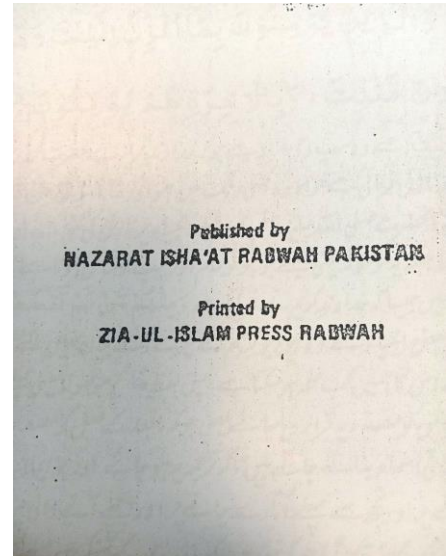
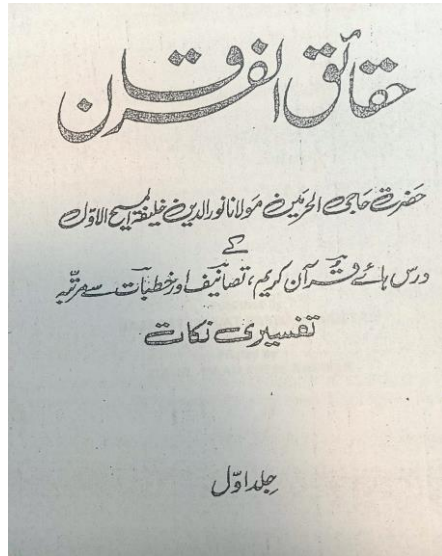
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In addition to the above, the petitioner has also appended with this petition the copies of the following books written by non-Muslims while using the name of Holy Qur'an and other religious books of the Muslims: -



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The petitioner adds that he has no personal vendetta against anybody despite the fact that learned counsel appearing on behalf of the applicant in C.M. No.2/2018 has tried to

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malign his character only for the reason that he is before this Court to highlight the inaction on the part of the public functionaries to eliminate the publication of Holy Qur'an and other religious books by the non-Muslims with distorted Arabic Text and mutilated translation just to damage the belief of the Muslims. Further asserts that if the community, being represented by Sh. Usman Karim-ud-Din Advocate, is not involved in such activities instead of opposing this petition the members of said community should come forward and share the efforts of the Muslim to expose the person(s)/community(s) involved in such activities.

14. In view of the sensitivity of the issue, I have given anxious attention to the respective view points of the parties and have also gone through the material appended with this petition coupled with that presented during the course of arguments as well as that forming part of the report and parawise comments submitted on behalf of the respondents in addition to the case-law cited at the bar.

15. The Allah Almighty foreknowing the human folly to tinker with the Holy material, as was done by the earlier nations with the previous holy books, Himself ensured the

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preservation of Holy Qur'an. In this regard, following
Ayahs of Holy Qur'an can be quoted for reference: -

Surah Al-'A'la (87), Verse No.6, Para No.30: -

سَنُقَرِّئُكَ فَلَا تَنْسَى

"We will make you recite so you shall not forget"

Sura Al-Hijr (15), Ayah No.9, Para No.13: -

إِنَّا نَحْنُ نَزَّلْنَا الذِّكْرَ وَإِنَّا لَهُ لَحَافِظُونَ

"Surely We have revealed the Reminder and We will most surely be its guardian."

Surah Ha'meem Al-Sajda (41), Ayah No.42, Para No.24: -

لَا يَأْتِيهِ الْبَاطِلُ مِنْ بَيْنِ يَدَيْهِ وَلَا مِنْ خَلْفِهِ ۖ تَنْزِيلٌ مِنْ حَكِيمٍ حَمِيدٍ

"Falsehood shall not come to it from before it nor from behind it; a revelation from the Wise, the Praised One."

A perusal of the afore-quoted verses renders it crystal clear that in view of the fact that the Holy Qur'an is complete code of life till the Day of Judgment the Allah Almighty has ordained that it shall remain intact in originality till the last day as He has taken the responsibility to safeguard it from any human intrusion aiming at to garble its original text. In the afore-quoted verses plural form (we) has been used which connotes to the fact that alongwith the Allah Almighty, His Prophet, Hazrat Muhammad (P.B.U.H.)

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shared the responsibility to safeguard the Holy Qur'an in its original form.

16. The Holy Prophet, Hazrat Muhammad (P.B.U.H.) in his lifetime *inter-alia* took the following measures to preserve the Holy Qur'an: -

- Transcription of the revealed verses on sheets and storage of said sheets at safe places.
- Supervision of the transcription of Holy Qur'an.
- Separation of chapters and awarding them a title.
- Asking the scribes to read what they had written so that possibility of any error may be eliminated.
- Preservation of Holy Qur'an through the honest memorization of Holy Qur'an, which took place as per His advice. A large number of people became engrossed in memorizing the Holy Qur'an and some of them succeeded in learning the whole Holy Qur'an by heart and they came to be called as those who knew the whole Quran by heart (Huffaz).

After departure of the Holy Prophet Hazrat Muhammad (P.B.U.H.) from this impermanent world the task to preserve the Holy Qur'an was completed by the pious Caliphs, namely, Hazrat Abu Bakar Siddique (R.A.), Hazrat Umar-e-Farooq (R.A.), Hazrat Usman (R.A.) and Hazrat Ali (R.A.). After their death, this obligation has been discharged by the Muslim rulers and other pious Muslims all over the world. Since the creation of our beloved

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country was based on two-nation theory the Legislators made the Objective Resolution as part of the Constitution of Islamic Republic of Pakistan, 1973 (the Constitution) through insertion of Article 2-A according to which the sovereignty belongs to the Allah Almighty and the basis for creation of Pakistan was to provide an atmosphere where the Muslims could lead their lives according to the injunctions of Islam. Further, the law-makers, as per Article 31 of the Constitution, have mandated encouragement of Islamic way of life for the Muslims citizens of the country. The said Article for convenience of reference is reproduced herein below: -

“31. Islamic way of life.-

(1) Steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah.

(2) The State shall endeavour, as respects the Muslims of Pakistan,-

(a) to make the teaching of the Holy Quran and Islamiat compulsory, to encourage and facilitate the learning of Arabic language and to secure correct and exact printing and publishing of the Holy Quran;

(b) to promote unity and the observance of the Islamic moral standards; and

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(c) to secure the proper organisation of Zakat, ushr, auqaf and mosques.”
(emphasis provided)

According to the afore-quoted Article it is bounden duty of the State to encourage Islamic way of life as embodied in the Holy Qur'an and practiced by Hazrat Muhammad (P.B.U.H.). Further, as a step towards encouragement of Islamic way of Life, the State has to ensure error-free publication of Holy Qur'an as it is one of the authentic sources *qua* Divine Commands. To discharge its liability the Government of the Punjab has enforced the Act, 2011 in addition to framing the Rules, 2011. As per section 4 of the Act, 2011 the Punjab Quran Board comprising permanent *Ulamas, Huffaz* and *Qaries* of all Schools of thought amongst the Muslims has been constituted. The said Board is responsible for recommendations to ensure error-free printing and publication of the Holy Qur'an. To ensure error-free publication of Holy Qur'an, the Qur'an Board is responsible to prepare a standard copy of Holy Qur'an to be used by the printers/publishers. In this backdrop, the Punjab Qur'an Board *inter-alia* has most vital role towards error-free printing and publication of the Holy Qur'an.

17. As per section 6 of the Act, 2011, any person, publisher or community intentionally found involved in literal distortion of the text of an *Ayah*, is liable to

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punishment provided under section 9 of the Act, 2011. Likewise, under section 7 of the Act, 2011 an embargo has been imposed against the non-Muslims to translate or interpret the Holy Qur'an contrary to the belief of the Muslims and in the eventuality of violation of said provision, the perpetrator is liable to penalty/punishment provided under section 9 of the Act, 2011. Moreover, according to section 10 of the Act, 2011 if a company/body corporate, proprietor, director, manager, or other office bearer of a company or body corporate is found involved in violation of sections 6 & 7 *ibid* they are also liable to same penalty specified for individuals under section 9 *ibid*. A conjunctive reading of sections 6, 7, 9 & 10 of the Act, 2011 makes it crystal clear that neither any Muslim is permitted to literally distort the text of an *Ayah* nor a non-Muslim is allowed to translate or interpret the Holy Qur'an contrary to the belief of Muslims nor any company/publisher/body corporate/community is allowed to indulge in such activity.

18. While pre-empting any misadventure on the part of non-Muslims against preservation of original text of Holy Qur'an or its literal meanings the law-makers under rule 8 (14) of the Rules, 2011 have clarified that a non-Muslim cannot associate or to be associated in printing or

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publication of the Holy Qur'an. As per mandate of rule 8(14) *ibid* neither a non-Muslim by himself can associate with the printing/publication of Holy Qur'an nor any publisher can be allowed to associate a non-Muslim in the process of printing or publication of Holy Qur'an. Since the afore-referred provisions of Law/Rules hold field till date, all the public functionaries, at Federal as well as Provincial level, are duty bound to ensure their implementation in letter and spirit and in case any individual(s) or community, irrespective of its affiliation with the persons at the helm of the affairs of the State, are found involved in violation of said provisions, they should be taken to task by awarding penalty/punishment in terms of section 9 *ibid*.

19. The next question which surfaces for determination by this Court is the definition of "Muslims" and "non-Muslims". In this regard, we have to make a reference to Article 260(3) of the Constitution which reads as under: -

"260 (3). In the Constitution and all enactments and other legal instruments, unless there is anything repugnant in the subject or context,-

a. "Muslim" means a person who believes in the unity and oneness of Almighty Allah, in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of the prophets, and does not believe in, or recognize as a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him); and

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*b. "non-Muslim" means a person who is not a Muslim and includes a person belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, **a person of the Qadiani Group or the Lahori Group (who call themselves 'Ahmadis' or by any other name)** or a Bahai, and a person belonging to any of the Scheduled Castes."(emphasis provided)*

A cursory glance over the afore-quoted Article leaves no ambiguity that *Ahmadis/Lahoris/Quadianis* fall within the definition of non-Muslims, thus, they are debarred to publish/print religious material by using the name of books of the Muslims alongwith names of Muslim authors. The Hon'ble Supreme Court of Pakistan in the case of Zaheer Uddin and others (Supra) while dealing with the repercussions of an act of the non-Muslim to use Muslim epithets etc. has *inter-alia* observed as under: -

"Before proceeding with the contentions as raised, it appears necessary to say, if the general law applied so far, gives everyone a right to the use of any word, name and epithet etc. or, do there exist any recognised restrictions already? It will be appreciated that some of the epithets, descriptions and titles etc., as given in section 298-B have been used by Qur'an for specific personages (See 33: 32, 33: 54 and 9: 100) while others undoubtedly and rather admittedly are being used by the Muslims, for those mentioned there, exclusively, for the last about 1400 years. These epithets carry special meaning, are part of the Muslim belief and used for reverence. Any person using them for others, in the same manner, may be conveying impression to others that they are concerned with Islam when the fact may be otherwise.

It is to be noted that it is not only in Pakistan but throughout the World, that laws protect the use of words and phrases which have special connotations

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or meaning and which if used for other may amount to deceiving or misleading the people.....”

20. During the course of arguments, the petitioner agitated that in addition to publishing the Holy Qur’an and other religious books of the Muslims with the name of Muslim authors, certain individuals and communities are also importing such material from abroad without any hindrance. The Legislator, being cognizant of such act under rule 8(11) of the Rules, 2011 has mandated that no person, publisher, stockist, proprietor of a recording company can import such material without getting NOC from the government. If such material is being imported in Pakistan without such NOC the State functionaries are under obligation to have strict check and stern action against the person(s)/organization(s) involved in such activities. During the course of hearing, the petitioner in addition to annexing copies of certain religious books with the writ petition has also produced the afore-quoted original books to show that not only the same are being published in the country but are also being imported from abroad and are being distributed all over the country through State agencies without any hindrance. It is height of inaction on the part of public functionaries that they have failed to perform their duties casted by the Act, 2011 as well as the Rules, 2011. Though the Provincial Police Officer, while addressing the

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Court, has stated in clear cut words that neither any such material is being published in the country nor the same is being imported from abroad but the delivery of books, through Pakistan Post (a State owned agency), is sufficient to negate his stance. The said fact also lends support to the plea of the petitioner that the public functionaries, who have the responsibility to ensure implementation of the provisions of the Act, 2011 as well as the Rules, 2011, are reluctant to take action against the delinquents on account of their say in the power corridors of the government. If we collectively fail to curb such activities, perhaps, the very basis to have a separate country to lead our (Muslims) lives according to the commands of Allah Almighty would become redundant.

21. This Court is fully in agreement with Sh. Usman Karim-ud-Din, Advocate that all the communities, irrespective of their creed, religion or race are entitled to fundamental rights enshrined under Articles 20 & 36 of the Constitution, however, at the same time it is equally true that the fundamental rights being enjoyed by the citizens of the country are subject to certain restrictions imposed by the Constitution itself and other enactments. Further, under the garb of freedom of every citizen to follow or propagate his own religion or faith, the non-Muslims cannot be

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allowed to use the distinctive characteristics of the Muslims to camouflage their identity. In this regard, the law-makers have enacted certain provisions under Chapter X of PPC. Section 298-B PPC has declared the act of the non-Muslims to use the distinctive characteristics of the Muslims as a cognizable offence, which for convenience of reference is reproduced herein below: -

“298- B. (1) Any person of the Qadiani group or the Lahori group (who call themselves 'Ahmadis' or by any other name) who by words, either spoken or written, or by visible representation,

(a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as 'Ameer-ul-Mumineen,' 'Khalifa-tul-Mumnineen', Khalifa-tul-Muslimeen, 'Sahaabi' or 'Razi Allah Anho';

(b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him), as 'Ummul-Mumineen';

(c) refers to, or addresses any person, other than a member of the family (Ahle-bait) of the Holy Prophet Muhammad (peace be upon him), as Ahle-bait; or

(d) refers to, or names, or calls, his place of worship as 'Masjid':

shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(2) Any person of the Qadiani group or Lahori group (who call themselves 'Ahmadis' or by any other name) who by words, either spoken or written, or by visible representation, refers to the mode or form of call to prayers followed by his faith as

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'Azan', or recites Azan as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."

Further, the act of the non-Muslims in particular *Quadianis, Lahoris and Ahmadis* to pose themselves as Muslim or to preach or propagate their faith while showing themselves to be Muslims has also been declared as a cognizable offence under section 298C PPC which reads as under: -

"298-C. Person of Quadiani group, etc., calling himself a Muslim or preaching or propagating his faith.--Any person of the Quadiani group or the Lahori group (who call themselves 'Ahmadis' or by any other name), who, directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description of a term which may extend to three years and shall also be liable to fine."

One of the reasons for banning the use of epithets/distinctive characteristics of Muslims by non-Muslims is to desist them from posing themselves to be Muslims. For example, the expressions *Ummul Mumineen* (mother of the Muslims), *Ameer ul Momineen*, *Khalifatul Muslimeen*, *Khalifa-tul-Momineen* (all denoting Head or Chief of the Muslim Ummah) include the words *Momineen* (Muslims) or *Muslimeen* which may deceive the people that the bearers of such names are or call themselves Muslims.

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Likewise, the expression ‘*Razi Allah Anho*’ is used in the Holy Qur’an as a form of blessing for the companions of the Holy Prophet Hazrat Muhammad (P.B.U.H.) or at the most for the Muslims. Similarly, the words ‘*Sahabi*’ and ‘*Ahl-e-Bait*’ are used by the Muslims for the companions and members of the family of the Holy Prophet Hazrat Muhammad (P.B.U.H.) respectively. The use of such terms in respect of the companions or members of the family of non-Muslims in particular *Ahmadis/Quadianis/Lahoris* means that they are posing themselves as Muslims.

Considering from another angle, the words “*Ahadees*”, “*Rawayat*”, “*Sunnah*” etc. are exclusively used by the Muslims. In case, non-Muslims compile books by using said names in addition to the names of the Muslim writers/scholars the same would mislead the public-at-large about the true belief of the Muslims. The books produced by the petitioner, during the course of arguments as well as those appended with this petition, are proof positive of the fact that non-Muslims are printing/publishing books while using the names of the books of the Muslims as well as their authors with different text/context. While taking note of said activities of non-Muslims the Apex Court of the country in the case of *Zaheer Uddin and others* (Supra) has *inter-alia* concluded as under: -

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“As regards ‘Shaa’ir of Islam’ (distinctive characteristics), the Court held that Islamic Sharia does not allow a non-Muslim to adopt them and if an Islamic State in spite of its being in power, allows a non-Muslim to adopt them (without embracing Islam), it will be its failure to discharge its duties. An Islamic State, like a Secular State, thus has the power to legislate, to prevent non-Muslims from adopting Shaa’ire-Islam, to propagate their own beliefs. As said above, such restriction will be meant to prevent unscrupulous and fraudulent non-Muslims from using the effective and attractive features of Islam in order to attract other non-Muslims not to Islam but to their own heretic fold. It was further held that claim could not be allowed to be pressed on the basis of the Fundamental Rights.”

If the issue agitated by the petitioner is considered in the light of the afore-referred judgment of the Hon’ble Supreme Court of Pakistan there leaves no ambiguity that neither the non-Muslims can print/publish any material by using the name of the books of the Muslims and their authors nor can they use distinctive characteristics which relate to the Muslims to the exclusion of any other non-Muslim community.

It is pathetic state of affairs that despite enactment of various provisions regarding the restriction against non-Muslims to print/publish books while using religious books of the Muslims and their authors, in particular the Holy Qur’an, the inaction on the part of the public functionaries is sufficient to establish that they have failed to discharge their duty. It is well established by now that a Police

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Officer, who comes across any cognizable offence through any source, is bound to take immediate action under section 154 Cr.P.C. and in case the Police Officer fails to comply with the said provision he puts himself at the mercy of departmental proceedings.

22. Insofar as plea raised by Sh. Usman Karim-ud-Din, Advocate regarding damage to the reputation of a particular community (*Ahmadis*) is concerned, suffice it to note that Islam teaches absolute tolerance in matters of religion and leaves it to the conscience of a man to accept the religion of Islam. No compulsion in this respect is allowed in Islam. Even the Holy Prophet Hazrat Muhammad (P.B.U.H.) was not empowered to interfere with belief of anyone rather His function was to convey the message of Allah Almighty. However, the non-Muslims, who are involved in activities to encroach upon the rights and privileges of the Muslim community to the utter disintegration of the *Ummah*, cannot be left unbridled on account of immunity provided under the Constitution.

23. During the course of arguments, Sh. Usman Karim-ud-Din, Advocate, while referring to Article 20 of the Constitution argued that the Constitution ensures liberty to all the citizens to profess or practices one's religion.

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There is no cavil with the preposition that the Constitution guarantees liberty to the non-Muslims in respect of their faith and belief but the said liberty is subject to law, public order and morality. It goes without saying that printing and publishing of books by the non-Muslims while using names of the Muslim authors and their books against the original context is a source of recurring resentment, thus, the fundamental rights guaranteed in favour of the minorities are subject to certain restrictions inasmuch as the non-Muslims can follow their religion but without posing themselves to be Muslims or using distinctive features of Muslims which otherwise are meant only for the Muslims. Reliance in this regard is placed on the case reported as Mirza Khurshid Ahmad and another v. Government of Punjab and others (PLD 1992 Lahore 1).

24. Insofar as protection to minorities in terms of Article 36 of the Constitution is concerned, suffice it to say that when any community or individual member of the said community claims a right under a codified law (the Constitution) he is bound to fulfill his obligation in respect of other citizens under the said enactment. At the cost of repetition it is noted that since the *Quadianis/Ahmadis/Lahoris* have been declared non-Muslims as per Article 260 *ibid* they cannot perform any act to portray

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themselves as Muslims and in case they are found involved in such activities the law has to take its course.

25. Sh. Usman Karim-ud-Din Advocate, while portraying the petitioner as a man of shadowy character on account of his involvement in criminal cases, submitted that the petitioner is not entitled to equitable relief under Article 199 of the Constitution. To substantiate his plea, learned counsel has referred to certain criminal cases registered against the petitioner in addition to a communication allegedly prepared by him at the behest of the Police functionaries to take action against the persons involved in violation of the Act, 2011 as well as the Rules, 2011. This Court is cognizant of the fact that a person who seeks equity must do equity but the said principle is not applicable in the instant case for the reason that the petitioner is not claiming anything for his personal benefit rather he is before this Court seeking a direction to the public functionaries to perform their duties towards implementation of the Act, 2011 as well as the Rules, 2011.

As far as registration of criminal cases against the petitioner and his involvement in preparation of bogus letters at the behest of the Police is concerned, suffice it to observe that the departments/agencies concerned are at liberty to bring the proceedings against the petitioner, if

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any, to their logical conclusion but no adverse inference can be drawn against the petitioner just owing to filing of this petition wherein a sensitive issue has been highlighted.

26. While replying to a Court's query as to what steps have been taken to confiscate and ban the publication of the books, referred in Notification, dated 20.01.2016, issued by the Secretary to Government of the Punjab, Home Department, Mr. Tariq Mehmood Javed, Special Secretary to Govt. of the Punjab, Home Department states that all the stakeholders in the Province were directed to forfeit the said books as and where the same were found but he failed to specify as to the number of books confiscated by the public functionaries pursuant to said Notification and the action taken against the delinquents. The said fact lends support to the plea of the petitioner that the public functionaries, instead of taking any action against the delinquents, are passing the buck from one department to another shying away from performing their duties. It is sorry state of affairs that the Home Department which otherwise is responsible for maintaining the law and order situation in the Province, through various law enforcement agencies, is not abreast about the gravity of the issue agitated in this petition. Mere issuance of a Notification to the authorities at local level is

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not sufficient rather hot pursuit is need of the hour to save the interfaith harmony and religious serenity.

27. The Chairman Qur'an Board apprised the Court that pursuant to the filing of the applications by the petitioner and other citizens he visited the disputed sites with prior arrangements with the District Administration as well as the proprietors/owners of said places. It appeals to a man of prudent mind that if some public functionary chooses to inspect a site under prior notice/intimation to its proprietors/owners, the said public functionary would not be able to lay hands on such material for the reason that an accused does not leave any mark of his act which otherwise is against any law for the time being in force. This Court is fully cognizant of the fact that while performing their duties the public functionaries are bound to ensure protection/sanctity of a dwelling place but the said restriction cannot be used to enable an accused person to wash away the evidence *qua* his involvement in illegal/unlawful activities. In this backdrop, the Qur'an Board is required to be made more vibrant and efficient.

28. During the course of arguments, learned counsel for the petitioner has referred to certain material which offends against the provisions of the Act, 2011 as well as the Rules,

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2011. Additionally submits that the said material is also available on-line in Pakistan. Since a number of enactments have already been enforced to cope with the offences relating to cyber-crimes the government has the responsibility to make efforts for removal/banning of said material in the country in addition to taking criminal action against the citizen(s)/community(ies) involved in said activities, under the relevant Statute.

29. The petitioner, on number of times, has referred to a report submitted by the Counter Terrorism Department (CTD) regarding printing, publication of proscribed material by the non-Muslims and its sale at various points in the country. He further agitated that the authorities in CTD refused to succumb before the allurements of non-Muslims to harmonize the wording of said report to their benefit and to dissuade them to take action against the culprits who are involved in violation of the provisions of the Act, 2011 as well as the Rules, 2011. To fortify his plea, the petitioner read over the report submitted by the CTD. The inaction on the part of the relevant authorities to proceed against the hoodlums in line with the report of CTD is condemnable.

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30. While unveiling the tricks being played by the non-Muslims in particular *Quadianis, Lahoris* and *Ahmadis* to dissuade the petitioner to pursue his noble cause, the petitioner states that one of his companions has been got murdered by the members of the said community and the criminal case registered in respect of said murder has already been closed without any concrete effort by the agencies to apprehend the accused persons. Adds that during pendency of this petition, the petitioner has been receiving threats of dire consequences from different quarters but he, with a view to continue the mission of the Holy Prophet Hazrat Muhammad (P.B.U.H) towards preservation of the Holy Qur'an, has refused to surrender before the illegitimate demands of the various quarters and he would be satisfied if the public functionaries are directed to stop the publication of religious books of the Muslims, in particular the Holy Qur'an, with the name of Muslim scholars with distorted text and mutilated translation.

Since according to own showing of the petitioner a criminal case has already been registered *qua* murder of his companion, in case he is aggrieved of any act of the public functionaries he can resort to appropriate proceedings but no order can be passed in this petition which otherwise revolves around a question relating to the publication of

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material by non-Muslims by using the names of the Muslim authors and their books.

31. Learned Assistant Attorney General has apprised the Court that in view of sensitivity of the issue the efforts of the Federal Government to bring a codified law to eliminate the publication of any proscribed material by the non-Muslims in the country are at final stage and the same is expected to be enforced within two or three weeks. This Court lauds the efforts, being made by the Federal Government, to tackle issue of such important nature.

32. As a necessary corollary to the above discussion I am of the considered view that neither the non-Muslims, in particular *Ahmadis/Quadianis/Lahoris*, can pose themselves as Muslims nor can they publish any material by using the names of the books of the Muslims, in particular Holy Qur'an, with the names of the Muslims authors just to portray that the same belongs to Muslims. Further, they have no right to use Muslims epithets to make the others to believe that they are Muslims. Consequently, this petition is **disposed of** with the directions that—

- i. the Federal as well as the Provincial Government shall ensure availability of a standard copy of Holy Qur'an alongwith its literal meaning, at Federal, Provincial, District and Tehsil levels, duly approved by the respective Qur'an Boards to use it as a

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specimen to determine as to whether any subsequent publication qualifies the test of authenticity of original text of Holy Qur'an and its literal meaning or not;

- ii. the Federal as well as Provincial government shall take steps to ensure that only the printers/publishers, authorized by the Qur'an Board, are allowed to print Holy Qur'an and other religious books of the Muslims. Further, the authorized printers/publishers be bound down to give specific **Bar/QR code as well as distinct serial number against each copy of every religious book, in particular the Holy Qur'an**, to know the authenticity of the said book and to fix responsibility in case of any omission/commission on the part of any publisher/printer. **Furthermore, each page of the Holy Qur'an be embossed with name of the publisher/company** in order to eliminate the possibility of replacement of any page at subsequent stage;
- iii. in view of the ever increasing importance of the Information Technology, the Federal Government, in collaboration with other stakeholders, in particular Pakistan Electronic Media Regulatory Authority (PEMRA) and the Pakistan Telecommunication Authority (PTA) shall take measures that the search engines/websites showing proscribed religious material are blocked. Further, only the websites which are registered with PTA and possess certificate from the Qur'an Board regarding authenticity of the religious material, in particular the Holy Qur'an, be allowed to display online Holy Qur'an and other religious books of the Muslims. Moreover, all other unregistered websites, displaying such religious material against its original text and literal meaning, be blocked forthwith. For the purpose, the Federal as well as the Provincial Government shall display at conspicuous places, in particular the web portals owned and operated by the government, the registered/approved websites for information of the public-at-large;
- iv. the Federal Government shall ensure that the e-copy of Holy Qur'an, duly approved by the

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Qur'an Board, is available at *Google Play Store*, *App Store* and *Windows Store* etc. for reference. Further, the Ministry of Foreign Affairs should take up the matter with the managers/owners/operators of the application stores to remove every application containing unauthentic text of the Holy Qur'an and other religious books of Muslims;

- v. every printer/publisher be bound down to put a certificate at the end of each copy of Holy Qur'an to the effect that the same is 100% compliant with the copy approved by the Qur'an Board. Moreover, the contact numbers (telephone, e-mail id & Facebook id etc.) of the Qur'an Board should be available on each and every copy of the Holy Qur'an to facilitate the reader to highlight any issue relating to printing and publication of religious material of Muslims in particular the Holy Qur'an;
- vi. in case of surfacing of any book even with the name of Holy Qur'an but with distorted text or mutilated translation the same be confiscated forthwith and the individuals/communities or the corporate bodies/companies involved in publication of said book be taken to task while implementing the provision of the Act, 2011 and the Rules made thereunder;
- vii. the Qur'an Board at Provincial and Federal level be made more efficient to have vigilant eye on publication and printing of any religious material in particular the Holy Qur'an against its original text or authentic meaning.
- viii. all the communities, companies, bodies corporate, publishers and individuals be bound down to give free access to the Chairman of the Qur'an Board, at any time, for inspection of the site used for publication of Holy Qur'an and other religious books;
- ix. all the public functionaries, in particular law enforcement agencies, shall ensure that no religious material is imported from abroad without issuance of NOC in terms of 8(11) of the Rules, 2011 and if any importer, stockist, bookseller or recording company is found

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involved in selling/delivery of any banned material, firstly, the importer be taken to task and secondly the recipient of said material be also proceeded against in terms of Rule 9 *ibid*;

- x. all non-Muslim communities be sensitized about the repercussions of printing/publication of material by using names of the religious books of the Muslims, in particular the Holy Qur'an, using the name of the Muslim authors. Further, the non-Muslims in particular *Ahmadis/Lahoris/Quadianis* be restrained to use the epithets of the Muslims;
- xi. all the wings of the Law Enforcement Agencies be mobilized to curb printing/publication of any proscribed material by the non-Muslims;
- xii. necessary measures be taken for interfaith harmony amongst the citizens representing different religions, communities, clans and localities;
- xiii. necessary measures be taken for safeguarding the rights of minorities in terms of Articles 20 and 36 of the Constitution provided they are not involved in any activity which offends against any provision of the legislations discussed *supra*;
- xiv. the Quran Board, Cabinet Subcommittee on Law and Order in the province, Committee Muthida Ulma Board Punjab, Police Department, Auqaf and Religious Affairs Department Government of Punjab, Association of Publishers and Traders of Religious Books Punjab and Information Technology Department shall coordinate *inter-se* with regular intervals and their deliberations shall be shared with the Ministry of Religious Affairs and Interfaith Harmony, Government of Pakistan to formulate a uniform policy/SOP for the entire country to curb printing and publication of proscribed religious material;
- xv. the Federal as well as the Provincial Government shall ensure that before accepting copy of Holy Qur'an, *Paras* and *Surahs*, as defined under Section No.2(d) of the Act, 2011

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in any mosque, shrine, institution religious or otherwise, the head/owner/operator/organizer of the above institutions, shall confirm that the same is in line with the standard copy of the Holy Qur'an;

xvi. the Federal as well as the Provincial government shall ensure that the Holy Qur'an and other religious material being taught in different institutions conforms with the standard copy duly certified by the Qur'an Board and

xvii. the Federal as well as the Provincial Government shall ensure that the conditions for printing/publication of Holy Qur'an, as enshrined under Rule 8 of the Rules, 2011, are strictly adhered to and any person/authority/community/company etc. found involved in violation of the said rule be awarded punishment provided under rule 9 *ibid.*

33. Before parting with this order, it is directed that the Registrar of this Court shall arrange for Urdu translation of this order and to ensure circulation of this order, alongwith its Urdu translation, to the Secretary, Government of the Punjab, Home Department, Lahore for its further circulation amongst the heads of the Police at provincial/divisional/district/tehsil levels as well as Police Stations. He shall further transmit a copy of this order, alongwith its Urdu translation to the Secretary, Government of Pakistan, Ministry of Religious Affairs and Interfaith Harmony, Islamabad for information.

34. The Assistant Registrar, Media and Publication of this Court, is directed to share this order, alongwith its Urdu

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translation, with the media persons for its circulation/
publication in the print/electronic media.

(Shujaat Ali Khan)
Judge

Approved for Reporting.

Judge

G.R.*