



BEFORE THE DISCIPLINARY COMMITTEE OF PAKISTAN MEDICAL COMMISSION

In the matter of

P.F.8-1201/2015-Legal

Ayesha Muhammad Vs Dr. Umair Khan (7528- D)

Mr. Ali Raza	Chairman
Mr. Aamir Ashraf Khawaja	Member
Dr. Asif Loya	Member
Professor Dr. Shajee Siddiqui,	Expert (Medicine)

I. FACTUAL BACKGROUND

Complaint

1. Ms. Ayesha Mohammad (hereinafter referred to as the “Complainant”) filed complaint before the Disciplinary Committee on 26-02-2015 against Dr. Umair Khan (hereinafter referred to as the “respondent”) wherein she has alleged that Dr. Umair Khan had abducted her and forcefully raped her, consequently she became pregnant. Dr. Umair also made her objectionable films. When, she became pregnant, Dr. Umair Khan with the help of his friend made her abort the child. According to the Complainant, he is a habitual felon and is very influential. He is threatening her constantly and apprehends that he is maligning and harassing other females too. She also filed police complaint against Dr. Umair and requested to cancel the license and take strict action against Dr. Umair Khan.

Reply of Complainant

2. Complaint was forwarded to the Respondent who replied on 13-06-2015 and submitted that he did not abduct Ayesha Muhammad. Evidence is present in the police investigation done by the officially appointed investigation officer Mr. Aurangzeb (IO), Police Station



Nawab Town, Lahore. Mr. Aurangzeb (IO) has summarized his report in which he clearly mentions that he is innocent and the Complainant and her family has trapped him to gain financial benefits from him.

3. He did not have sexual relations with Ayesha Muhammad. It can be evidenced by the DNA report (Punjab Forensic Science Agency) which clearly “denies” my chance of being the source of DNA taken from the Complainant as the report says that Ayesha Muhammad is the source of the DNA obtained from item # 5.1, 6.1, 7.1 and 8.1 to a reasonable degree of scientific certainty and Umair Khan (item#S1) is “eliminated” as being the source of the DNA obtained from item # 5.1, 6.1, 7.1 and 8.1. The samples were submitted to Punjab Forensic Science Agency on 05th November 2014 and 12th November 2014. If he was culprit than how come the DNA report came out to be absolutely negative. And all the doctors of the world know that even after miscarriage the sample of male semen can be collected from female genitalia at least up to 3 months.
4. In the Medico Legal examination certificate for females it is clearly mentioned by Dr. Raheela Danish (PGR Gynae Unit-III, Jinnah Hospital Lahore) that Ayesha Muhammad was confident, well oriented, intelligent with stable emotional state at the time of her examination and her hymen’s rupture was old.
5. In Complainant’s statement u/s 164-Cr.P.C given by her in the court of Ch. Muhammad Imran Ishaque, Judicial Magistrate 1st Class, Model Town Courts, Lahore, she herself commits that he brought a ‘Nikah Registrar’ on 24.09.2014 and our Nikah was done in the presence of two witnesses with all formalities being done, before any sexual intimacy between us (according to Ayesha Muhammad’s statement). This is pretty much hilarious because if we follow the Islamic Sharia, then Nikah was done between us (according to Ayesha Muhammad’s statement) so there is no case of abduction and sexual abuse and automatically withdraw all charges filed against me. This point is further explained by Mr. Aurangzeb (IO) in his report. This statement of hers u/s 164-Cr. P.C shall also be used against her in the court of law.



II. PROCEEDINGS OF DISCIPLINARY COMMITTEE OF ERSTWHILE PMDC

6. The matter was taken up by the Disciplinary Committee in its meeting held on 18-04-2017. Nemo on behalf of the parties. Case was adjourned for next hearing.
7. The matter was again taken up by the DC in its meeting held on 29-06-2019. Both parties were absent. Case was adjourned for next date.

III. DISCIPLINARY COMMITTEE UNDER PAKISTAN MEDICAL COMMISSION ACT 2020

8. Pakistan Medical and Dental Council was dissolved on promulgation of Pakistan Medical Commission Act on 23 September 2020 which repealed Pakistan Medical and Dental Council Ordinance, 1962. Section 32 of the Pakistan and Medical Commission Act, 2020 empowers the Disciplinary Committee consisting of Council Members to initiate disciplinary proceedings on the complaint of any person or on its own motion or on information received against any full license holder in case of professional negligence or misconduct. The Disciplinary Committee shall hear and decide each such complaint and impose the penalties commensurate with each category of offence.

Hearing on 27-03-2021

9. The Disciplinary Committee held the hearing of pending disciplinary proceedings including complaint of Ms. Ayesha Muhammad on 27-03-2021. On the date of hearing Complainant was not present. The Committee decided to proceed with the matter.
10. A letter was presented before the Committee which was sent by the Complainant to Disciplinary Committee on 17-05-2017, wherein she stated that she filed a case against the Respondent who was accused of serious charges but the case was not taken seriously and was kept in continuous delay. Now she received a letter from PMDC for case hearing but Allh Almighty had already done the justice faster than PMDC and court. Accused Dr. Umair khan died on 29-04-2016 due to heart failure. Now it is her request to cancel Respondent's registration and all the affiliations with PMDC.



IV. FINDINGS/CONCLUSION OF THE DISCIPLINARY COMMITTEE

11. The Disciplinary Committee has considered the facts of the case and perused the documents available on the record. The Committee has also gone through the letter dated 17-05-2017 sent by the Complainant wherein she provided detail of death of Respondent along with the documentary evidence and snapshots of dead body of the death certificate. She has stated in her letter that in 2015 she filed a case and requested PMDC to cancel his registration but the case was not taken seriously and was kept in continuous delay. Now Allah Almighty had already done the justice faster than PMDC and the court. Accused Dr. Umair Khan died on 29-04-2016 and now it is her request to cancel registration and all the affiliations of Dr. Umair Khan with PMDC.
12. The Committee observes that there is no evidence available on the record to establish any of allegations of abduction, rape, abortion, harassment as leveled in the complaint against the Respondent. Whereas report of Inspection Officer, Medico Legal Report, DNA report and Statement of the Complainant u/s 164 of Cr.PC suggest on the contrary. Also, there is no decision/findings against the Respondent by the court of competent jurisdiction to deal with the criminal offences mentioned in the complaint.
13. Apparently, the Complainant has been in contact with the Respondent one and half years before filing the instant complaint before Disciplinary Committee. She has described her relationship with the Respondent as friendship as per her statement recorded before the Judicial Magistrate. In the Medico Legal examination certificate for female it is clearly mentioned by Dr. Raheela Danish (PGR Gynae Unit-III, Jinnah Hospital Lahore) that "Ayesha Muhammad was confident, well oriented, intelligent with stable emotional state at the time of her examination and her hymen's rupture was old." DNA report (Punjab Forensic Science Agency) came out negative and source of DNA from the Respondent was denied which further denies the allegation of abortion/ miscarriage as alleged by the Complainant.



14. We would like to clarify here that Disciplinary Committee has been mandated under the PMC Act, 2020 to take disciplinary action against a full license holder in respect of professional negligence while performing duties as a medical practitioner and also misconduct which may also include sexual harassment of patient and colleagues. However, a disciplinary action does not include personal affairs and relationships of a medical practitioner.
15. In view of above, we do not find any evidence of professional negligence and misconduct on part of Respondent which may be in breach of code of ethics of medical practitioners. Therefore, the Committee is of the opinion that the Complainant has lodged a vexatious and frivolous complaint against the Respondent. It is clarified that in terms of Regulation 11 of the PMC (Enforcement) Regulations, 2021 any vexatious or frivolous complaint by any person may be dismissed by the Disciplinary Committee and any person found to have filed a false and frivolous complaint may be imposed a penalty being a fine to be determined by the Disciplinary Committee. In view of foregoing, the complaint filed by the Complainant is dismissed being frivolous and vexation. Since the allegations mentioned in the complaint are criminal offences which the Disciplinary committee does not have jurisdiction to give any opinion and determine the penalty, therefore, matter is referred to the Medical Tribunal for appropriate action against the Complainant.

Mr. Aamir Ashraf Khawaja
Member

Dr. Asif Loya
Member

Muhammad Ali Raza
Chairman



28th April, 2021