

Present: Syed Mansoor Ali Shah and Amin-ud-Din Khan, JJ

MUHAMMAD RASHID---Petitioner

Versus

The STATE and others---Respondents

CrI. P. 457-L of 2021, decided on 19th July, 2021.

Supreme Court Rules, 1980---

---O. IV, Rr. 2, 17 & O.VII, R.1---Criminal Procedure Code (V of 1898), Ss. 154 & 197---Advocate-on-Record, duty of---Better copy of FIR, omissions in---In the present case, the better copy of FIR appended with bail petition was missing certain (important) lines---Better copy of FIR placed in judicial file which carried the same omission, had been duly attested by the Advocate-on-Record ("AOR"), while the copy placed in the paper books before the Supreme Court did not carry the said attestation---Held, that such grave omission could totally misdirect the course of justice and result in injustice---Under O. VII, R. 1 of the Supreme Court Rules, 1980 ("Rules) copies of documents, if not forming part of the record of the Court appealed from, filed for the use of the Supreme Court, shall be certified to be true copies by the AOR for parties presenting the same---Under O. IV, R. 17 of the Rules the AOR undertook to abide by the Rules---Under O. IV, R. 2 an AOR could be adjudged guilty of professional misconduct or otherwise be considered unfit to be enrolled or allowed to remain as an advocate---In the present case, the better copy of the FIR attested by the AOR carried serious omissions---Supreme Court issued notice to the AOR to furnish his explanation for filing the incomplete better copy of the FIR in question and directed that Office shall ensure that only better copy duly attested by the AOR must be placed before the Court and to avoid any confusion, the actual copy of the FIR must accompany the better copy; that similarly, in the case of the Medico legal Certificate ("MLC"), if a better copy of the MLC was placed on the record, it must be duly attested by the AOR as per the Rules and the actual copy of the MLC must accompany the better copy---Case was adjourned for next date of hearing with the counsel for accused undertaking to place complete better copy of the FIR, as well as, the medical evidence before the Court.

Ch. Ahmad Khan Gondal, Advocate Supreme Court for Petitioner.

Khurram Khan, Addl. P.G. along with Riaz Ahmed, S.I. for the State.

Date of hearing: 19th July, 2021.

ORDER

The petitioner, Muhammad Rashid seeks post arrest bail in case FIR No.262/2020 dated 10.08.2020 registered at Police Station Shahkot, District Sahiwal for offences under sections 324, 337-F(ii), 337-A(i), 337-L(2), 337-A(ii), 148 and 149, P.P.C. The specific role of the petitioner, as mentioned in the impugned order dated 11.02.2021 is that he made a fire shot that hit the right thigh of one Muhammad Nasir. Upon perusal of the better copy of FIR No.262/2020 dated 10.08.2020 appended with the petition, it is noticed that there is no mention of the petitioner or of his making the fire shot thereby injuring Muhammad Nasir. Later, upon examination of the judicial file, it was discovered that the following lines were missing from the better copy of the FIR placed before this Court:-

It is also noticed that the better copy of the FIR placed in the judicial file which carries the same omission, has been duly attested by the Advocate on Record ("AOR") namely Shaukat Ali Mehr, while the copy placed in the paper books before us does not carry the said attestation. We are deeply disturbed by this. Such grave omission can totally misdirect the course of justice and result in injustice. Advocate-on-Record under the Supreme Court Rules, 1980 ("Rules) is to act and plead for a party in the Supreme Court.¹ Under Order VII, Rule 1 of the Rules copies of documents, if not forming part of the record of the Court appealed from, filed for the use of this Court, shall be certified to be true copies by the AOR for parties presenting the same. Under Order IV, Rule 17 of the Rules the AOR undertakes to abide by the Rules. Under Order IV, Rule 2 an AOR can be adjudged guilty of professional misconduct or otherwise be considered unfit to be enrolled or allowed to remain as an advocate.

2. In the present case, the better copy of the FIR attested by the AOR carries serious omissions mentioned above. We, therefore, issue notice to Shaukat Ali Mehr, AOR in the instant case to furnish his explanation for filing the incomplete better copy of the FIR in question. Office shall also for better dispensation of criminal justice system ensure that only better copy duly attested by the AOR must be placed before the Court and to avoid any confusion, the actual copy of the FIR must accompany the better copy. Similarly, in the case of the Medicolegal Certificate ("MLC"), if a better copy of the MLC is placed on the record, it must be duly attested by the AOR as per the Rules and the actual copy of the MLC must accompany the better copy.
3. Learned ASC for the petitioner undertakes to place complete better copy of the FIR, as well as, the medical evidence in this case before the Court by the next date of hearing. The AOR shall also furnish his written explanation on the next date of hearing. To come up on 27.07.2021.

MWA/M-45/SC

Order accordingly.

¹ Order I, Rule 2(1) of the Rules.