

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

AKASH MASIH---Petitioner

Versus

The STATE and others---Respondents

Crl. P. No. 1079-L of 2020, decided on 30th July, 2021.

(Against the order dated 11.09.2020 passed by the Lahore High Court, Lahore in Crl. Misc. No.23063-B/2020).

Supreme Court Rules, 1980---

---O. IV, Rr.6, 15, 22 & 25 & Sixth Sched., Form 5---Advocate-on-Record---Duties of an Advocate-on-Record and importance of his/her role under the Supreme Court Rules, 1980 stated.

Role of an Advocate-on-Record (AOR) was pivotal in the dispensation of justice in the Supreme Court. Under Rule 6 of Order IV of the Supreme Court Rules, 1980 (Rules), no advocate other than an AOR could appear or plead in any matter unless he was instructed by an AOR. Under Rule 15 of Order IV of the Rules, no advocate other than an AOR was entitled to act for a party in any proceedings in the Court. Further, every AOR before acting on behalf of any person or party was to file in the Registry a power of attorney in the manner prescribed in Form 5 of the Sixth Schedule to the Rules. Under the terms of the prescribed power of attorney an AOR was, inter alia, authorized to appear and defend his or her client; to file and take back documents; to accept the processes of the Court; to appoint and instruct counsel; to represent his client in the matter and to do all things incidental to such acting for the client. Under Rule 25 of Order IV of the Rules, every AOR in the case was personally liable to the Court for due payment of all fees and charges payable to the Court. These provisions unambiguously showed the fundamental role played by an AOR in the life of a case filed before the Supreme Court.

Case and court management system at the Supreme Court was hugely dependent on the quality of professional services rendered by the AOR. Failure of the AOR to carry out his/her obligations as envisaged under the Rules or the terms of his/her Power of Attorney unnecessarily delayed a matter and seriously hampered the reduction of pendency of cases before the Supreme Court.

Mst. Tasneem Amin, Advocate-on-Record for Petitioner.

Rana Abdul Majeed, Addl. P.G. for the State.

Date of hearing: 30th July, 2021.

ORDER

SYED MANSOOR ALI SHAH, J.---This matter pertains to pre-arrest bail of the petitioner, but inspite of repeated calls the petitioner has not tendered appearance. Ms. Tasneem Ameen, Advocate on Record ("AOR") submits that she has no information regarding the whereabouts of the petitioner and submits that learned ASC for the petitioner has since passed away. Upon our asking, the learned AOR informed us that she does not even have the contact details of the petitioner.

2. It is important to highlight that the role of an AOR is pivotal in the dispensation of justice in this Court. Under Rule 6 of Order IV of the Supreme Court Rules, 1980 ("Rules"), no advocate other than an AOR can appear or plead in any matter unless he is instructed by an AOR. Under Rule 15 of Order IV of the Rules, no advocate other than an AOR is entitled to act for a party in any proceedings in the Court. Further, every AOR before acting on behalf of any person or party is to file in the Registry a power of attorney in the manner prescribed in Form 5 of the Sixth Schedule to the Rules.¹ Under the terms of the prescribed power of attorney an AOR is, inter alia, authorized to appear and defend his or her client; to file and take back documents; to accept the processes of the Court; to appoint and instruct counsel; to represent his client in the matter and to do all things incidental to such acting for the client. Under Rule 25 of Order IV of the Rules, every AOR in the case is personally liable to the Court for due payment of all fees and charges payable to the Court. These provisions unambiguously show the fundamental role played by an AOR in the life of a case filed before this Court. However, much to our regret, it is noticed in the instant case that the learned AOR has not been able to perform her responsibilities as envisaged under the Rules.

In the present case the AOR has no knowledge of the whereabouts of the petitioner or even has his contact details to verify the reason for his absence. It is underlined that the case and court management system at the Supreme Court is hugely dependent on the quality of professional services rendered by the learned AOR. Failure of the learned AOR to carry out her obligations as envisaged under the Rules or the terms of her Power of Attorney unnecessarily delays the matter and seriously hampers the reduction of pendency of cases before this Court. The Rules also point towards the removal of the name of the AOR from the Rolls for professional misconduct or for being unfit to be enrolled. However, for now, we are confident that the learned AOR has been sufficiently cautioned and we are sanguine that the learned AOR will perform her duties more onerously, vigilantly and responsibly in accordance with the Rules, from now on.

3. Since the petitioner is not present in Court in this pre-arrest bail matter, the learned AOR is not aware of his whereabouts, the petitioner has made no effort to contact the learned AOR, thus, in this background, we are of the view that this petition cannot proceed further in terms of section 498-A of the Code of Criminal Procedure, 1898 read with the second proviso to Rule 8 of the Order 23 of the Supreme Court Rules, 1980. Leave is therefore refused and this petition is dismissed.
MWA/A-33/SC Petition dismissed.

¹ Order IV Rule 22