

Human beings are mortal so the death is inevitable. It is an old saying based on proven history and in our present day life, we are all used to attending funerals of our fellow human beings, and we in our own case are also ready to accept the inevitable to happen to us sooner or later. Unfortunately I died on Friday last

tially heard the case for quiet a long period of time was reduced to seven members bench to get the marginal victory for a dictator by four to three to claim majority judgment. The margin of four to three to call it a majority judgment was shamefully useless because the

stage even before the lines for other performers could be finalized with their consultation. So the drama is very tense and every one is stunned and the next episode is yet to be jotted down. The intervening period has made it a real tragedy and the scene of death has

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A Tarra Masih Among The Lawyers.

(9-3-2007) under the debris of the institution called the Judiciary of Pakistan but nobody came to my funeral and rightly so as the casualty on the fateful Friday was not limited to me alone. Every one of my friends at the bar has died except the murderers who have saved themselves in the hope to build additional empires for their illegitimate future after the funeral of Judiciary. They are trying to come out alive from under the debris of the Institution. The demised Institution was the only lifeline for me and my family.

An Institution by legal fiction is always a juristic person. And the Judiciary is the only Institution, which is more so a living being since it is the only Institution which has the sense of respect and we have the law called the contempt of court act to deal with people who disrespect it. The contempt of court act can be equated with an ordinary law of defamation or damages of any human being. It is the choice of a common man that if a fool in the street abuses him/her whether he/she is an artist from amongst the ill reputed class or even a lawyer, he/she may ignore or sue him for defamation. An intelligent decision would always be to let the dogs bark. And if you can guess whose dog is barking then it is more intelligent to avoid the dog and let the time come to catch the owner of the dog for not giving proper training to the pet.

The most unfortunate thing in our history of judiciary is that in military dictatorship, the judges at times were required to sign on the dotted lines. Many of the judges under the law of personal necessity did agree to sign a predetermined judgment written in the GHQ or under the instruction of GHQ but at the same time most fortunate thing is that all the judges were not the same though they were very few so they could not avert the damage.

The biggest ever number of judges who could not succumb to the pressure of a dictator was on the bench dealing with the case of murder of Mohammad Raza Qusuri. The history is witness to the fact that how the nine members bench who ini-

difference in the judgment was of such a magnitude that the death sentence by four judges as against the acquittal by the other three has exposed the quality of sentence that was ultimately executed. And with the execution of ZAB by Tarra Masih the judgment in the judicial history is known not as a judgment in a murder case but a case of judicial murder. Rightly or wrongly the military junta got it as it wanted from the first day go.

In those days before the trial of ZAB has started the dictator knew that at Coutlakpat jail a man called Tarra Masih is already available to hang a human being since the poor fellow by virtue of his job description believes that man is mortal and therefore the death is inevitable and for death the only thing required is a death warrant duly signed by the superintendent of a court. And therefore at the end of the day Tarra Masih hanged ZAB. But everything is not same in the case of a natural person and a juristic person though the two are same in the eyes of law. This is lacuna in criminal law while dealing with the Institution and particularly when the idea is to finish it once for all through criminal trial. The hanging of ZAB was not difficult because he was not a person by fiction of law. The difficulty lies in hanging an Institution where the Tarra Masih part is difficult to enact. Here the fiction is not fiction it is a reality. Probably the present military junta was aware of being handicapped that their final verdict would not go up to Tarra Masih stage so they started the tragic drama in the reverse direction and the last act has been played first. Knowing it well that in case the tragedy fails the people would blame the character that is playing the role of Tarra Masih, the think tank of Military junta before going to a dishonest lawyer to get a fool proof script preferred to approach a bhand first who by a dint of good luck happened to be a lawyer. Being more a bhand than a lawyer he did not apply his mind to the quality of script and in the hands of immature producers he swiftly performed his role of Tarra Masih and left the



already gone on air and there is very little room for the writer to soften the tense feelings of viewers.

The unfortunate thing is that like an ordinary artist the bhand lawyer was apparently oblivion of the place of performance. It was not a drama for a TV channel nor was he performing at the Al-Hamra Hall or Art Council. He did not know that it was not recording. This time he was playing live and in real life. The act of death is complete and the tragedy of inevitable has fallen on all of us as a nation. The tragedy is complete. The first scene is the last and last by all means.

In the common parlance of criminal law, once the trial is started no matter it is posthumous or otherwise the end of trial is in two words. The accused is "guilty" or "acquitted". Generally if the accused is acquitted, to add insult to the injury another word is added to the judgment as prefix to the word acquittal to make it read as "honourably acquitted". The addition of word honourable in acquittal has never undone the damage already done to an innocent accused. And in the case of a posthumous trial it is even more useless.

Tarra Masih of the earlier tragedy too was not aware that who has been hanged by him on 4th April 1977. He was not a bhand he knew there is no drama in life and there is no fiction in life. He knew the tragedy we witness on TV screen is not a drama for everyone; it could be realty in someone life and it could be tragedy from the viewers' own

lives. So as soon as Tarra Masih found that Military Junta has given him a dirty role and he has unknowingly performed the role he never wanted, the next morning when he came to know it through newspaper about the tragedy he has enacted innocently he disappeared as he could not believe in himself and face the world. He preferred to disappear by his own choice. His family never called his disappearance mysterious. He is not on the list of missing persons.

But the Tarra Masih of the tragedy started on 9th March 2007 is played by a real bhand. He is not ready to appreciate that what ever he has enacted was not a drama; it was a tragedy in real life. Whatever he is watching on TV channels or reading in newspapers is not in appreciation of his performance of hanging the Institution. It is all in condemnation of not only the act of Tarra Masih but also the intentions of the producer of the tragedy. The producer and his intention were exposed in the very next scene when after the infamous letter, the innocent accused was called at the Camp Office at Rawalpindi to meet the President though the real Presidency is in Islamabad at hardly two minutes drive from the Supreme Court building and the President while meeting or calling the Chief Justice was not required to be in Military uniform even if it was allowed in militarilised constitution. Courtesy did not demand it. But a military man is first a warrior then anything else and in war and love we know everything is right. The warrior was in love with presidency and therefore he was at war with everyone who might be a slightest obstacle in the way of his love.

At present the real question is that when the bhand Tarra Masih would come out of his trance and realise the gravity of the role he has innocently played and disappear at his own or he would like to add him on the list of missing people. We have two types of list of missing persons. One is the list of persons whose families have sought help from the Supreme Court and the other is the list of persons whose cases were suo moto taken up by the Supreme Court and the producer had forcibly sent them to Canada with their husband after the rape like the case of Dr. Shazia Khalid of Sui, Balochistan. The choice is with the bhand, Tarra Masih. But the time is running fast. The next scene is not very far rather it is on with no definite script. God may save us.