



## Mumbai trial in Pakistan: With confessor gone, fate of accused uncertain

Men on trial in Rawalpindi court have stronger case without Kasab's evidence.

By Mudassir Raja / Creative: Muhammad Suhaib

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**RAWALPINDI: Ajmal Kasab's execution will further entangle the already slow-moving trial of seven men arrested in Pakistan for their alleged role in the 2008 Mumbai attacks.**

In January 2009, the Federal Investigation Agency (FIA) registered criminal cases against the seven men, all from banned Lashkar-e-Taiba (LeT), based on Kasab's confessional statement.

So far, the prosecution in Pakistan has been unable to determine whether Kasab should be cited as a prosecution witness or a co-accused in the pending trial. In his confessional statement, he had accused Zakiur Rehman Lakhvi, the operational commander of LeT, of planning and executing the Mumbai attacks.

One of the defence counsels, Riaz Ikram Cheema, said that as long as Kasab was alive, there was a possibility for the FIA to get a fresh confessional statement registered in Pakistan or to allow defence lawyers to cross-examine him to determine the authenticity of his statement.

In the absence of Kasab, however, the Indian claims that he was trained and sent by the men arrested in Pakistan would remain doubtful without any independent and fair cross-examination, the lawyer said.

In response to a question, Cheema said all other evidence whatsoever will become irrelevant after Kasab's death, as the case was registered in Pakistan based on his confessional statement.

The lawyer added, however, that "the Lahore High Court, Rawalpindi bench, in 2010 declared the confessional statement of Kasab recorded in India as inadmissible in Pakistan. The Indian government earlier this year denied cross-examination of Rama Vijay Sawanath, the magistrate who recorded the statement of Kasab."

An Anti-Terrorism court (ATC) trying Lakhvi, Hammad Amin Sadiq, Shahid Jamil Riaz, Younas Anjum, Jamil Ahmed, Mazhar Iqbal and Abdul Majid had also declared the statements of four Indian officials cited as prosecution witnesses here as unacceptable without cross-examination by the defence lawyers, Advocate Cheema said.

"Kasab's death will create further problems for the prosecution in Pakistan as they had already been unable to decide his status in the case. The trial court had declined the application of the prosecution to cite Kasab as a co-accused and declare him a proclaimed offender," Cheema said. Cheema is defending the accused in the case along with Khawaja Haris, the former advocate general of Punjab.

The lawyer added that a criminal revision petition submitted by the prosecution, which aimed to get Kasab declared a proclaimed offender, is pending in the Islamabad High Court (IHC).

## Prosecution hopeful

On the other hand, the prosecution is hopeful that no irreparable damage has been done to their case after the execution of Kasab. Negotiations between India and Pakistan are underway to provide opportunities for cross-examination to the defence counsels, said Chaudhry Zulfiqar Ali, Special Public Prosecutor in the case. Under the law, the magistrates who record the confessional statement of an accused can be cross-examined to establish the authenticity of the statement, he said.

Regarding the legal status of Kasab before the Pakistani trial court, the prosecutor said the matter was pending in the IHC and he hoped the prosecution would receive a favourable verdict.

“There is further evidence, which is independent in nature, against the arrested accused other than the confessional statement of Kasab. There is a CD containing the conversation between Pakistani handlers and the terrorists in Mumbai, and a statement of Pakistani officials stating that the arrested men operated LeT training camps in different areas of the country,” Zulfiqar added.

Another member of the prosecution team, however, stated that due to the ‘missing link’ of Kasab, the seven arrested suspects plus 11 others at large could now get the benefit of the doubt.

(WITH ADDITIONAL REPORTING BY OUR CORRESPONDENT IN LAHORE)

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## Chief minister of Indian state of Gujarat, Narendra Modi

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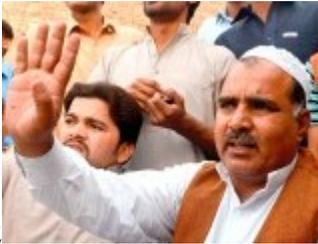
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