

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Spl. CrI. A.T. Jail Appeal No. 68 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

1. For order on MA No.4941/2023
2. For hearing of main case.

22-08-2025

Mr. Ghulam Shabbir Buledi, advocate for the appellants.
Mr. Muhammad Iqbal Awan, Addl. Prosecutor General.

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M.A. No.4941/2023 has been pending since the filing of the instant appeal for condonation of delay. It appears that appellants filed a jail appeal as they are poor persons having no means to engage counsel to defend them. As the liberty of a person is at stake, the application is allowed as prayed.

The appellants Shahzad and Asghar were nominated accused in 3 F.I.Rs being F.I.R. No.226/2022 registered under sections 353, 324, 186, 337-f(III), 34 PPC r/w section 7 ATA, 1997, F.I.R. No.227/2022 and F.I.R. No.228/2022 registered under section 23(i) A Sindh Arms Act, 2013 at P.S. Kalakot. After a full dress trial, learned Anti Terrorism Court No.2, Karachi, convicted and sentenced the appellants as follows:

- (i) For an offence under section 6(2)(m) which is punishable under section 7(h), ATA r/w section 353 PPC, to undergo R.I. for 5 years and a fine of Rs . 5,000 in default of payment of fine, the convicts shall further undergo S.I. for 3 months.
- (ii) For offence under section 6(2)(n) which is punishable under section 7(H), ATA r/w section 324 PPC to undergo R.I. for 5 years and fine of Rs. 10,000 in

default of payment of fine, the convicts shall further undergo S.I. for 6 months.

- (iii) For offence under section 337(f)(iii) PPC to undergo R.I. for 2 years and pay Rs. 10,000 as Daman, to the injured ASI Shariq Mehmood.
- (iv) For offence under section 23(i) of the Sindh Arms Act, 2013, to suffer R.I. for 5 years and fine of Rs. 3,000, in default of payment of fine, the convicts shall suffer further S.I. for 3 months

Learned counsel submits that he will not argue the case on the merits; however, he submits that this is not a terrorism offence. We have gone through the record with the assistance of learned counsel for the appellants and the learned Additional Prosecutor General. The latter agreed that the evidence led at trial does not show that the requirements for an offence to be categorized as “terrorism”, as stipulated by the Supreme Court in the case of **Ghulam Hussain vs The State (PLD 2020 SC 61)**.

In the current case, no evidence was produced at trial to establish that the ingredients of section 6(1)(b) or (c) were fulfilled. No witness was produced at trial to prove the alleged insecurity. It is also evident from the very facts of the case that no design or intent was established for the offence to be categorized as a terrorism offence. We have no qualms in concluding that the prosecution failed to justify a section 7 ATA conviction. The same is accordingly set aside.

The Superintendent of Prison has sent a jail roll which shows that the appellants have completed their sentences, if remissions had been granted (had it not been a terrorism case). Learned counsel agrees that the Rs. 10,000 daman will be paid to the injured A.S.I. within one week and that the fine will also be paid. The appellant may be released once the daman and the fine

have been paid or when the daman and the imprisonment in lieu of fine are complete.

Given the above, the appellants are acquitted of the sentences given to them under the terrorism legislation; however, the conviction and sentence for offences under the Pakistan Penal Code and the Sindh Arms Act are upheld. The appeal stands disposed of in the above terms.

JUDGE

JUDGE

Saleem/P.S.