IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Omar Sial
Mr. Justice Muhammad Hassan (Akber)

SPL. CR. ANTI TERRORISM APPEAL NO. 112 OF 2024
SPL. CR. ANTI TERRORISM APPEAL NO. 113 OF 2024

Appellant	:	Umar Farooq through Mr. Dur Muhammad Shah, Advocate
Respondent	:	The State through M/s Ali Haider Saleem & Muhammad Iqbal Awan, Additional Prosecutors General Sindh
Date of Hearing	:	21.05.2025
Date of Decision	:	04.06.2025

JUDGMENT

Omar Sial, J.: The appellant was nominated as accused in a case arising out of F.I.R. No. 421 of 2022 registered under sections 353, 324, and 34 P.P.C. read with Section 7 A.T.A. 1997 at Police Station Azizabad, Karachi He was also charged in F.I.R. No 422 of 2022 registered under section 23(1)(a) of the Sindh Arms Act, 2013. The case against the appellant is that on 23.05.2022, a police party on regular patrol when reached at Al-Khalij Tower, Block-8, F. B. Area, Karachi, they signaled the two persons riding a motorcycle to stop, but instead of stopping, the accused sitting on the rear seat of motor cycle opened fire on the police. Police party also retaliated firing in their defence as a result both accused persons sustained fire arm injuries and fell

down on the earth. The appellant along with co-accused Muhammad Nasir were apprehended. One unlicensed pistol was also recovered from them. During the course of trial, it was reported that after release on bail co-accused Muhammad Nasir died in police encounter and proceedings against him were abated by the trial Court. The present appellant was sent up for trial.

2. After a full dress trial, the learned A.T.C. No. 20 at Karachi convicted the appellant and sentenced him to five years for offences under section 324 P.P.C. read with Section 7(h) of ATA 1997 and section 23(1)(a) of the Sindh Arms Act, 2013. He was also sentenced to one year for an offence under section 353 P.P.C.

3. The learned counsel for the appellant submitted that the case against the appellant was not one of terrorism and that he would not argue the case on merits; however, he requested that the sentence already undergone by the appellant be treated as his final sentence.

4. We have heard the learned counsel for the appellant and the learned Additional Prosecution General. Our findings and observations after re-appraising the evidence are as follows.

5. **In Ghulam Hussain vs The State (PLD 2020 SC 61),** the Supreme Court held:

> “For what has been discussed above it is concluded and declared that for an action or threat of action to be accepted as terrorism within the meanings of section 6 of the Anti-Terrorism Act, 1997 the action

> must fall in subsection (2) of section 6 of the said Act and the use or threat of such action must be designed to achieve any of the objectives specified in clause (b) of subsection (1) of section 6 of that Act or the use or threat of such action must be to achieve any of the purposes mentioned in clause (c) of subsection (1) of section 6 of that Act. It is clarified that any action constituting an offence, howsoever grave, shocking, brutal, gruesome or horrifying, does not qualify to be termed as terrorism if it is not committed with the design or purpose specified or mentioned in clauses (b) or (c) of subsection (1) of section 6 of the said Act. It is further clarified that the actions specified in subsection (2) of section 6 of that Act do not qualify to be labeled or characterized as terrorism if such actions are taken in furtherance of personal enmity or private vendetta."

6. In the current case, no evidence was produced at trial to establish that the ingredients of section 6(1)(b) or (c) were satisfied. 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.

7. The case against the appellant falling outside the ambit of terrorism would mean he would be entitled to section 382-B remissions. A jail roll was called for that showed that the appellant had completed 5 years, 5 months and 26 days of the sentence awarded to him. After reviewing the record and confirming that the appellant had no previous crime record, the learned Additional Prosecutor General conceded that the sentence

already undergone by the appellant would be an appropriate punishment. While considering the request made by the appellant, we have also considered that the appellant, remorseful and repentant for what he had done, wish to spend the rest of his life as law-abiding citizen. His admission has saved the time and money of the State. The jail authorities have reported that his conduct in jail has been satisfactory. We have also considered that the learned Additional Prosecutor General, on behalf of the State, very correctly and wisely, does not object to a reasonable reduction in sentence.

8. Given the above, the Appeal No. 112 of 2024 is allowed only to the extent of the conviction with respect to section 7 of the ATA 1997. The convictions and sentences awarded to the appellant for the offenses under the Penal Code and the Sindh Arms Act, 2013 are upheld; however, the sentences awarded to the appellant is reduced to the period he has already undergone. This will also include imprisonment instead of a fine. The appellant may be released if not required in any other custody case.

9. Both appeals stand disposed of in the above terms.

JUDGE

JUDGE