

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Omar Sial
Mr. Justice Miran Muhammad Shah

**Special Criminal Anti-Terrorism
Jail Appeal No. 121 of 2024
[Tanzeem Nawaz & another vs. The State]**

Appellants : through Ms. Amna Usman,
Advocate.

Respondent : through Mr. Muhammad Iqbal
Awan, Additional Prosecutor
General

Date of Hearing : 16.10.2025

Date of Decision : 24.10.2025

JUDGMENT

Omar Sial, J: A police party of the Preedy police station, led by S.I. Iftikhar Ahmed Arain, was on patrol duty on 03.10.2023 when it signalled a motorcycle to stop. The motorcyclists, however, instead of stopping, opened fire on the police party. In a retaliatory fire, one of the two motorcyclists was injured, and both fell off the bike. Both were arrested with unlicensed pistols in their possession. The two were identified as Tanveer and Tanzeem Nawaz. F.I.R. No. 672 of 2023 under sections 353, 186, 324, and 34 P.P.C. was registered against both the arrested men. In addition, two separate F.I.R.s, 673 and 674, were registered against Tanzeem and Tanveer, respectively, under section 23(1)(a) of the Sindh Arms Act, 2013.

2. Both the accused pleaded not guilty and claimed to be tried. **S.I. Iftikhar Ahmed PW-1** was the complainant and the arresting officer. **P.C. Manzoor Ahmed PW-2** was the police official who had assigned weapons to the members of the police patrol party. **Dr. Rajesh Meghani, PW-3**, was the doctor

who treated the injured Tanzeem. **H.C. Nisar Ahmed PW-4** was the witness to the arrest and recovery. **Mohammad Yaqoob PW-5** was the owner of the motorcycle, which was stolen earlier and recovered from the accused during the current encounter. **H.C. Shoaib Anwar PW-6** was the maalkhana in charge. **Inspector Amir Altaf Siddiqui, PW-7**, was the investigating officer of the case. In their respective section 342 Cr.P.C. statements, the accused professed innocence and stated that the real reason for the false implication was that the police wanted a bribe.

3. The learned Anti-Terrorism Court No. 20 at Karachi on 30.09.2024 convicted and sentenced the accused as follows:

- (i) Five years imprisonment for an offence under section 324 P.P.C., read with section 7 of the ATA 1997;
- (ii) One year imprisonment for an offence under section 353 P.P.C.;
- (iii) Five years imprisonment for an offence under section 23(1)(a) of the Sindh Arms Act;
- (iv) Various fines were also imposed.

4. Learned counsel for the applicants submitted that no independent witness was cited; no police official was injured; there is discrepancy whether the injured accused was first taken to the police station and then the hospital or the other way around; the chassis number on the motorcycle recovered from the accused and the one reported stolen earlier was not the same; no fingerprints were taken of the recovered weapons and lastly that a conviction under section 7 of the ATA 1997 was not made out. The learned Additional Prosecutor General supported the impugned judgment, but did say that perhaps the requirements for an incident to be categorized as a terrorism offence were not satisfied.

5. We have heard the learned counsel and the learned Additional Prosecutor General and have re-appraised the

evidence with their assistance. Our findings and observations are as follows.

6. The two accused were apprehended and arrested on the spot, while they had unlicensed weapons and a stolen motorcycle. The learned counsel is correct that there is a discrepancy between the chassis number of the stolen bike and that of the recovered bike. This, however, could very well be on account of a typographical error. Even otherwise, what really mattered was that Mohammad Yaqoob, the person from whom the motorcycle was snatched, appeared as a prosecution witness and identified the motorcycle as the one stolen from him. The applicant's counsel at trial did not even attempt to bring the discrepancy to the court's attention or question Mohammad Yaqoob about it. It is also pertinent to point out that in the impugned judgment, the appellants have not been convicted or sentenced for stealing the bike. The appellants were arrested red-handed from the spot, and in fact, one of them was injured in the shoot-out. No malafide on the part of the police has been proved. We are unable to believe that the sole reason the appellants were implicated in this case was that they did not pay the policemen a bribe. The appellants did not have the money to engage private counsel at trial or in appeal; therefore, it does not appeal to reason that the police, for absolutely no rhyme or reason, go to them and ask for a bribe. No witness was produced at trial by the defence to support or corroborate the bribe defence. The extremely healthy previous crime record of the appellants also shows that they are not strangers to allegations of violating the law.

7. We tend to agree with the appellants' counsel that the evidence led at trial did not satisfactorily indicate that the case fell within the terrorism regime. We agree with the appellants' learned counsel and the learned Additional Prosecutor General that the requirements for terrorism as laid down in ***Ghulam Hussain vs The State (PLD 2020 SC 61)*** case were not complied with. The jail roll shows that had the appellants been granted

remissions, they would have completed five years and three months of their sentence.

8. Given the above, the convictions and sentences awarded to the appellants under the ATA 1997 are overturned; however, those under the Pakistan Penal Code and the Sindh Arms Act, 2013 (which includes the fine and imprisonment in lieu thereof) are upheld. They may be released upon paying the fine or undergoing the sentence in lieu thereof.

JUDGE

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