

**IN THE HIGH COURT OF SINDH, CIRCUIT  
COURT, HYDERABAD**

*Cr. Revision Application No.D-21 of 2020*

Before:

Mr. Justice Nazar Akbar,  
Mr. Justice Khadim Hussain Tunio

Mr. Fakhruddin Dahraj, Advocate for Applicant.  
Mr. Shawak Rathore, D.P.G

**Date of hearing:** 12.01.2021

**Date of order:** 12.01.2021

**O R D E R**

*Khadim Hussain Tunio, J.-* Through captioned revision application, applicant/complainant has impugned the order dated 15.10.2020 passed by the learned Judge, Anti-Terrorism Court, Mirpurkhas, in Private complaint filed by applicant/complainant, which has been returned to him for submission of the same before the Court having jurisdiction.

2. The case of the applicant is that the respondent Nos. 3 to 12/accused forcibly demanded *bhatta* from the applicant/complainant and pressed upon him to withdraw from the petition filed by him against police officials before this Court and caused several injuries to him while keeping him in custody.

3. After recording of statement under Section 200 Cr.P.C of the applicant/complainant, the learned trial Court ordered for conducting the preliminary inquiry and recorded the statement of the witnesses under Section 202 Cr.P.C and after hearing the learned

Counsel for the applicant ordered for return of the complaint to the applicant/complainant for presenting it before the Court having jurisdiction, hence, this revision application.

4. Learned Counsel for the applicant/complainant has mainly contended that applicant has owned and possessed 22 plots and the police officials demanded bhatta from him. On refusal, they registered a false case bearing Crime No.55 of 2019 and subsequently F.I.R bearing No.56 of 2019 and 57 of 2019 were also registered against him in order to pressurize him for taking bhatta from him; that demand of bhatta is an act of terrorism and such offence is triable by the Anti-Terrorism Court; that the applicant has produced sufficient evidence against the respondents/accused; that the offence committed by the respondents/accused is an act of terrorism; that the impugned order suffers from illegalities and material irregularities; therefore, he prays that it may be set aside and learned trial Court may be directed to proceed further with the case in accordance with law. He, in support of his arguments, referred the case laws reported as 1983 SCMR 775, PLD 1994 SC 693, PLD 2007 Karachi 405 and 2000 P.Cr.LJ 726.

5. Conversely, learned D.P.G for the state has supported the impugned order by contending that the impugned order does not suffer from any illegality or irregularity, therefore, he prays for dismissal of the present revision application being misconceived.

6. We have heard the learned Counsel for the applicant, learned D.P.G and have perused the record.

7. After a perusal of the record available before us, we have come to the conclusion that the trial Court did not err while returning the complaint for presentation before a Court having jurisdiction.

There is nothing on the record, brought forth by the complainant/applicant, as to why the demand was made in the first place. He did not disclose as to why he was specifically asked for ransom, he did not disclose his source of income or his financial status even, which could have justified the demand of ransom. The complainant also did not disclose the specific date, time and place of demand of ransom made by the accused. The prosecution had failed to prove the demand of ransom. Mere allegation of the extortion of money does not attract section 6(2)(k) of the Anti-Terrorism Act, 1997. In the case of *Sagheer Ahmed v. The State and others (2016 SCMR 1754)*, the Hon'ble Apex Court has been pleased to observe that:-

"2. We have heard the learned counsel for the parties and have gone through the record.

3. High Court in the impugned judgment has observed as follows:

*"10. The averments of FIR are silent regarding the financial status and source of income of the complainant against which accused have been demanding Bhatta. Complainant has also not disclosed the specific dates, times and places of demanding Bhatta by accused persons nor any such evidence was produced before the Investigating Officer to prima facie establish such allegations. In absence of any tangible material, mere allegations of demanding Bhatta do not attract section 6(2)(k) of Anti-Terrorism Act, 1997, in the present case nor said section was mentioned in the FIR and Challan. Perusal of Challan reflects that Investigating Officer had made a request to the Anti-Terrorism Court for return of FIR and other documents so that Challan may be submitted before the ordinary Court of law as no case under the provisions of Anti-Terrorism Act, 1997 was made out, but his request was declined by the Anti-Terrorism Court vide order dated 09.06.2014, and cognizance was taken by the Court."*

4. We note that observation made by the High Court is based upon the record of the case and no misreading in this respect was pointed out before us. The submission of learned counsel for the petitioner that in evidence petitioner has brought on record sufficient material to substantiate the fact of demand of Bhatta in FIR that complainant party was doing business of brick kiln. There is no allegation in the FIR that complainant party was engaged in brick kiln business. Be that as it may, we find that High Court has rightly dealt with the matter and prima facie there is nothing on record to deviate from the same. The petition is, therefore dismissed and leave refused."

8. When the element of extortion itself is not proven, the case no longer falls under the jurisdiction of Anti-Terrorism Court.

There is no allegation of “sectarian or religious” issues either nor is there an allegation of threat of awe over the society or a section of people alleged in the case, therefore the question of creating terror has also not risen. The remaining allegations against the accused are all triable by the Court of ordinary jurisdiction, therefore justifying the actions of the trial Court by returning the complaint and documents with directions to file the complaint before a Court having jurisdiction.

9. For the foregoing reasons and discussion, the instant criminal revision application was dismissed and the impugned order dated 15.10.2020 was upheld by our short order dated 12.01.2021. These are the reasons for the same.

**JUDGE**

**JUDGE**

Shahid