

IN THE HIGH COURT OF SINDH, KARACHI

Spl. Criminal Anti-Terrorism Appeal No. 104 of 2020

Before:

Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Khadim Hussain Tunio

Appellant: Raeesuddin alias Mama a son of Aminuddin through Mr. Mohammad Farooq, advocate alongwith Ms. Faryal Alavi, advocate.

Respondent: The State through Mr. Abrar Ali Khichi, Adll: Prosecutor-General, Sindh.

Date of hearing: 21.03.2022

Date of announcement: 28.03.2022

JUDGMENT

KHADIM HUSSAIN TUNIO, J- Appellant Raeesuddin alias Mama son of Aminuddin has filed the captioned appeal against the judgment dated 24.07.2020 (*impugned judgment*) passed by the learned Judge, Anti-Terrorism Court-XVI, Karachi in Special Case No. 541/2019 (New Special Case No. 204/2019) (*Re: The State v. Raeesuddin alias Mama*), culminated from FIR No. 114/2019 registered at P.S. CTD/OPS, Karachi under section 11-H, 11-N r/w section 7 of the Anti-Terrorism Act (ATA) 1997. Through the impugned judgment, appellant was convicted u/s 11-N of the ATA 1997 for money laundering described u/s 11-K ATA 1997 and was sentenced to suffer rigorous imprisonment for five (5) years and to pay fine of Rs.50,000/- (*Fifty thousand only*), in default whereof to undergo further rigorous imprisonment for six (6) months. The appellant was also convicted u/s 11-N of the ATA 1997 for disclosure of information u/s 11-L ATA 1997 and was sentenced to suffer R.I. for five (5) years and to pay fine of Rs.50,000/-, in case of default in payment of fine, he was ordered to undergo further rigorous imprisonment for six (6) months. However, benefit of Section 382-B Cr.P.C was extended to him.

2. Precisely, allegations levelled against the appellant Raeesuddin, Purchase Officer (BPS-17) of KDA, are that numerous

transactions in the appellant's salary account were deemed suspicious and Complaint No. 38/2018 dated 14.05.2018 was received. When an inquiry conducted, it surfaced that he was raising funds for MQM London with whom he had ties and was using the collected amount to fund terrorism incidents. It also surfaced that he had collected up to Rs. 2.5 million. Therefore, on 30.07.2019, FIR No. 144/2019 was registered by the complainant Sub-Inspector Muhammad Tahir of P.S. CTD.

3. After usual investigation, a challan was submitted against the appellant, whereafter a formal charge was framed against him by the trial Court to which he pleaded not guilty and claimed to be tried. In order to prove its case, prosecution examined in all four witnesses namely PW-1 Operations Manager Zafar Ali, PW-2 Sub-Inspector Muhammad Tahir, PW-3 HC Majid Khan and PW-4 Inspector Ali Haider. Prosecution witnesses also produced a number of documents and other items in evidence which were duly exhibited. Statement of accused was recorded under section 342 Cr.P.C. wherein he denied the allegations made against him and claimed false implication. The appellant neither examined himself on oath nor adduced any evidence in his defence. However, appellant had stated that he is a Government Servant of BPS-17.

4. Learned trial Court, after considering the material available before it and hearing the learned counsel for the respective parties handed down the impugned judgment and sentenced the appellant as stated supra.

5. Learned counsel for the appellant has contended that the appellant is a government servant and serving in DMC in BPS-17; that statement of salary account has been produced by the prosecution; that the appellant has not raised the funds for money-laundering; that appellant has no concern with the terrorist activities; that no single transaction has been shown by the prosecution regarding raising of funds for terrorist activities and money-laundering; that the cheque was issued by the NBP; that no evidence has been adduced that the appellant has utilized the said amount; that PW Azeem has not been examined; that no evidence has been adduced regarding Rs.2.5 million alleged to have been raised by the appellant; that the appellant has falsely been implicated in the false case

by the police; that no evidence has been collected that the appellant belongs to MQM London. Learned counsel for the appellant has referred the case law reported in 2020 PCrLJ 1215 (Shah Meer v. The State & others), 2019 SLJ 628 (Muhammad Hashim v. The State), unreported judgment dated 06.06.2018 passed in Spl. Cr. A.T.A. No. D-181 of 2017 and another unreported judgment dated 08.03.2022 passed in Spl. Cr. ATA No. 125/2020.

6. Conversely, learned Additional Prosecutor General supported the impugned judgment while submitting that the documentary evidence has been adduced by the prosecution; that the appellant has admitted regarding amount deposited in his account; that the suspicious transaction were found by the Investigating Authority; that the FU Complaint has been received and produced in evidence; that PW-1 is independent witness who produced bank statement; that the letter has been issued to the State Bank of Pakistan regarding issuance of statement of accounts; that the accused is involved in 18 heinous cases; that the sufficient evidence has been adduced against the appellant by the prosecution; that no enmity whatsoever has been alleged or proved by the appellant against the PWs; that the PWs have consistently deposed against the appellant; that no major contradictions exist in the evidence of the prosecution witnesses; that the appellant had disclosed his association with the MQM London during interrogation.

7. We have heard the arguments advanced by the learned counsel for the appellant as well as learned Additional Prosecutor General and have gone through the entire evidence available on record with their assistance.

8. From the perusal of record, it is revealed that the appellant Raeesuddin was initially investigated on the basis of Complaint No. 38/2018 received on 14.05.2018 whereafter orders were issued to the complainant to lodge the FIR and investigate further. Upon receiving the bank records of the appellant's salary account through HBL KDA Civic Centre Branch, the complainant found various transactions in the appellant's account that were not matching his salary records. The appellant was in custody in relation to other cases and had been in

custody since 26.03.2018. He was interrogated in Central Prison by the investigation officer and admitted that he was working for MQM London and used to host fund raisers to raise money and fund terrorism activities. PW-3 Majid Khan who was a mashir of re-arrest and interrogation of the appellant deposed that *"During interrogation it was disclosed by the accused that one Wasay Jaleel, the then Nazim of Gulshan-e-Iqbal Town, had deposited two cheques amounting to Rs. 450,000/- (Four Hundred Fifty Thousand) and he further disclosed that he used to distribute the amount to his companions for terrorist activities."* PW-2 complainant Muhammad Tahir in this regard deposed that *"Rais Mama was interrogated who made disclosure that he belongs to MQM Pakistan and he is active member and has the transaction in his account from the members of the party."* PW-4 Ali Hyder, the investigation officer, deposed that *"I interrogated the accused in the jail on 28.08.2019 where the accused made disclosure that he was sector In-charge of MQM in year 2011 and used to collect the fund for the party through extortion and used to deposit the sae with Yasir Jameel Bhai who had also given him around two cheques worth amount of Rs.450,000/-. He further disclosed that he used to distribute the amount to his companions for terrorist activities."* When a question was put to the appellant during the recording of his statement regarding him receiving Rs. 450,000/-, he admitted to receiving the cheque of Rs. 150,000/- from the Nazim for "official work" whereas he failed to remember anything regarding the other cheque. From the CRO of the appellant, it is revealed that he is involved in as many as eighteen other cases ranging in severity from murder, explosive attacks and target killings. His association with MQM, although denied by him, is rather clear from the report furnished by the Financial Monitoring Unit of FIA through letter No. FMU/A&D/746/2018 dated 04.04.2018 available at Ex. 7/B. The report also suggests that the appellant had previously been on the Exit Control List and was arrested by the Interpol from Malaysia after issuance of a red warrant against him. Bank statement with regard to the appellant's salary account maintained at HBL is also available at Ex. 6-C which showed multiple transactions that were out of the ordinary and were not salary related. The appellant failed to provide any explanation for the same nor could he controvert the suggestions of the prosecution regarding the same being laundered to fund terrorism activities. Rather,

his admission to receiving the cheque for “official work” provides no aid to his case as he failed to disclose what type of work he was involved in. The depositions of all the prosecution witnesses are consistent and in line with each other’s and when put in juxtaposition with the documentary evidence available on the record, nothing contrary to the view of guilt of the appellant is suggested.

9. For what has been discussed above, we find that the prosecution has proven the guilt of the appellant Raeesuddin beyond reasonable shadow of doubt. As such, convictions and sentences awarded to the appellant are maintained and the impugned judgment dated 24.07.2020 is upheld. Consequently, instant Special Criminal Anti-Terrorism Appeal No. 104 of 2020 is dismissed.

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