IN THE HIGH COURT OF SINDH AT KARACHI

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

Spl. Cr. Anti-Terrorism Jail Appeal No. 81 of 2024
[Mir Muhammad Bux Dashti vs. The State]

Appellant	:	through Mr. Afzal Ahmed Solangi, Advocate
The State	:	through Mr. Mumtaz Ali Shah, Assistant Prosecutor General, Sindh
Date of Hearing	:	11.04.2025
Date of Decision	:	05.05.2025

J U D G M E N T

Omar Sial, J.: Mir Muhammad Bux Dashti was nominated as accused in a case arising out of F.I.R. No. 230 of 2023 registered under sections 353, 324, 147, 148, 149 and 34 P.P.C. He was also charged in F.I.R. Nos 231 of 2023 registered under section 23(1)(a) of the Sindh Arms Act, 2013. The case against the appellant is that on 05.08.2023, the police received information that two groups of drug sellers were having a shoot-out. A police party of the Pak Colony police station intervened and alleged that the two groups of drug sellers fired at them. The police killed two people and injured the appellant, who was then arrested along with an unlicensed pistol.

2. After a full-dress trial, the learned A.T.C. No. 15 at Karachi on 30.05.2024 convicted the appellant and sentenced him to five years for offences under section 324 P.P.C., 7(1)(h) A.T.A., 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 Assistant 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. The only reference to insecurity was made by the witnesses in their testimonies; however, that too was made in the context that two groups of drug sellers were having a shoot-out. 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 four years and eight months of the sentence awarded to him. The learned Assistant 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, wishes to spend the rest of his life as a 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 Assistant 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 is allowed only to the extent of the conviction for 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 are 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. The appeal stands disposed of in the above terms.

JUDGE

JUDGE