

## THE HIGH COURT OF SINDH AT KARACHI

Special Criminal Anti-Terrorism Appeals No. 143 to 145 of 2020  
Special Criminal Anti-Terrorism Jail Appeals No. 163 to 164 of 2020

Present: Mr. Justice Mohammad Karim Khan Agha  
Mr. Justice Irshad Ali Shah

Date of Hearing : 20.08.2021

Date of judgment : 20.08.2021

Appellants : Mir Hassan and Haji Khan Muhammad  
through Mr. Naeemullah Bhutto advocate  
  
Bhooral through Mr. Iftikhar Ahmed Shah  
advocate

Respondent : The State through Mr. Muhammad Iqbal  
Awan Additional Prosecutor General Sindh

### JUDGMENT

MOHAMMAD KARIM KHAN AGHA J- Appellants Mir Hassan, Haji Khan Muhammad and Bhooral were tried by learned Anti-Terrorism Court No.VIII Karachi in Special old cases No. 178, 178-A, 178-B and 178-C of 2020 (Special new cases No.50, 50-A, 50-B and 50-C of 2020), arising out of FIR No. 365 of 2020 for offences under Sections 353, 324, 34 PPC read with Section 7 of Anti-Terrorism Act, 1997, FIR No. 366 of 2020 for offence under Section 23(1)(a) of Sindh Arms Act 2013 separately registered against appellant Mir Hassan, FIR No. 367 of 2020 for offence under Section 23(1)(a) of Sindh Arms Act 2013 separately registered against appellant Bhooral and FIR No. 368 of 2020 for offence under Section 23(1)(a) of Sindh Arms Act, 2013 separately registered against appellant Haji Khan Muhammad at P.S SITE Superhighway Industrial Area, Karachi. After full-dressed trial, the appellants were all convicted and sentenced as under:

"The sequel of the discussion is that the prosecution has successfully proved the involvement of the accused persons Mir Hassan son of



Court and therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

6. After reading out the evidence and the impugned judgment, learned counsel for the appellants did not press the appeals on merits, but instead under instructions from the appellants prayed for reduction of the sentences handed down to them to that of already undergone. Learned Additional Prosecutor General Sindh based on the particular facts and circumstances of the case has raised no objection to such proposition.

7. We find that the prosecution has proved its case beyond reasonable doubt through reliable, trustworthy and confidence inspiring evidence of police eye witnesses along with the pistols, which were recovered at the scene, matched with empties recovered at the scene, which led to a positive FSL report.

8. We are however, of the view that ATA is not applicable in this case as at the time of the encounter no one from the police party sustained any injury and only the appellants had received injuries. Besides, the encounter took place at the spur of moment without any design or intention to create terror among the public and there is no evidence that it did so. The offences therefore fall u/s 324, 353, 34 PPC and u/s 23 SAA. This legal position has not been disputed by the learned Addl. PG.

9. In mitigation, learned counsel for the appellants have submitted that (a) all three appellants are of young age and are capable of reformation, (b) that the appellants are married and are the only bread earners of their families, (c) that the appellants have no previous criminal record and (d) that all the appellants have shown genuine remorse for their conduct by accepting their guilt. In the light of the above mitigating factors and keeping in view the fact that all three appellants have also received injuries which would take time to recover from and in some cases may be permanent in nature and the no objection given by the learned Additional Prosecutor General Sindh for reduction in sentences, we hereby reduce sentences of all three appellants to the time, which they have already undergone in custody, which shall also include sentence of imprisonment for non-payment of fine. Appellants Mir

Hassan son of Muhammad Hassan, Bhooral son of Abdul Jabbar and Haji Khan Muhammad son of Allah Bux shall be released, unless wanted in any other custody case.

10. The above appeals stand disposed of in the above terms.