# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Revision Appln. No. D-01 of 2025

Present:-
*Mr. Justice Mehmood A. Khan, J.*
*Mr. Justice Khalid Hussain Shahani, J.*

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| Applicant | : | Rashid Ali s/o Ghulam Sarwar Bhatti<br>Through Mr. Jaleel Ahmed Memon, Advocate |
| Complainant | : | Zahid Ali s/o Abdul Khalique<br>Through Mr. Shoukat Ali Bohio, Advocate |
| The State | : | Through Syed Sardar Ali Shah,<br>Addl. Prosecutor General, Sindh. |
| Date of hearing | : | 03.09.2025 |
| Date of Order | : | 03.09.2025 |

***O R D E R***

**KHALID HUSSAIN SHAHANI, J:—** The applicant, Rashid Ali Bhatti, has sought through the present revision application transfer of case arising out of Crime No.567 of 2024 for offences under sections 302, 324, 337-H(ii), 337-F(iii), 148, 149, 504 PPC read with sections 6 and 7 of the Anti-Terrorism Act, 1997, registered at Police Station Moro, District Dadu from the Court of learned Judge, Anti-Terrorism Court, Naushehro Feroze, to the ordinary Court of Sessions, by setting aside the order dated 12.12.2024, through which his application under section 23 of the Anti-Terrorism Act was dismissed.

2. The facts leading to this revision are that on 23.10.2024, the complainant party, proceeding to attend a civil case, was allegedly intercepted by the accused including the present applicant. In the incident that ensued, indiscriminate firing resulted in the death of two persons, namely Waheed Ali and Mst. Sajida, while one passerby, Ghulam Sarwar, sustained firearm injuries. Upon investigation, the challan was submitted before the Anti-Terrorism Court.

3. Learned counsel for the applicant contends that the offence did not fall within the domain of terrorism as envisaged under section 6 of the ATA, 1997. He submits that the allegations even if taken at their face value disclose a crime stemming from private vendetta arising out of property and monetary disputes, rather than an act designed to spread terror in society at large. In support of his contention, reliance is placed on the judgments of the Honourable Supreme Court in *Ghulam Hussain and others v. The State*(PLD 2020 SC 61), *Kashif Ali v. Judge, Anti-Terrorism Court No.II, Lahore and others* (PLD 2016 SC 951), *Muhammad Mushtaque v. Muhammad Ashiq and another* (PLD 2002 SC 841), and *Waris Ali and others v. The State* (2017 SCMR 1572). Learned counsel emphasized that the learned Judge, Anti-Terrorism Court, misread the law and wrongly retained jurisdiction in the matter.

4. Conversely, learned counsel for the complainant, supported by the learned Additional Prosecutor General, argued that the indiscriminate firing in a populated area during day hours created sense of fear and insecurity in the public, thereby attracting the provisions of sections 6 and 7 ATA. For his part, learned Additional Prosecutor General also supported the impugned order and recorded his objection stating that except two persons who have done to death while one passerby sustained injuries therefore, case squarely fell within the definition of ‘terrorism’ for the purpose of the ATA; however, he conceded that previous enmity existed between the parties.

5. We have heard learned counsel for the parties and carefully perused the record. The central question involved in this matter is jurisdictional, namely whether the present case, though involving heinous offences of *qatl-i-amd,* falls within the rubric of terrorism under section 6

of ATA. The Honourable Supreme Court has in a consistent line of authority held that not every shocking or gruesome murder would qualify as terrorism, for the essential test is not the gravity or detestability of the act, but the design and intent underpinning it. In *Waris Ali v. State* (2017 SCMR 1572), where multiple murders including that of a minor child were committed, the Apex Court held that where the dominant object was private revenge, the matter could not be brought within the anti-terrorism regime. Similarly, in *Kashif Ali v. Judge, ATC-II, Lahore* (PLD 2016 SC 951), it was reiterated that Anti-Terrorism Courts must not usurp jurisdiction in traditional enmity cases merely because the offence was brutal in nature. The authoritative pronouncement in *Ghulam Hussain and others v. The State* (PLD 2020 SC 61) leaves no manner of doubt on this issue, as the Court conclusively declared that subsection (2) of section 6 of the ATA must always be read with subsection (1), and that actions, however grave, brutal or shocking, do not fall within terrorism if they are committed in furtherance of personal vendetta and not with an object of creating panic, destabilizing the State, or overawing the public at large.

6. Examining the present FIR in the light of the above pronouncements, it manifests that the occurrence arose from admitted property and monetary disputes between the parties. The mens rea discernable is one of personal enmity, not the creation of widespread dread or coercion of the public or State. The mere fact that the incident happened in day time within Moro town and firing ensued in public view does not automatically convert such personal enmity crime into terrorism. As held in the aforementioned cases, mere brutality or detestability of an act is insufficient to extend jurisdiction of the Anti-Terrorism Courts.

7. For reasons discussed, we are persuaded to hold that the impugned order dated 12.12.2024, passed by the learned Judge, Anti-Terrorism Court, Naushehro Feroze, cannot be sustained. The incident, though heinous, is a traditional crime triable by ordinary criminal courts. Accordingly, this revision application is allowed, the impugned order is set aside, and the case is transferred from the Anti-Terrorism Court, Naushehro Feroze, to the Court of learned Sessions Judge, Naushehro Feroze, who may either try the case himself or entrust it to any other Court of competent jurisdiction in accordance with law.

**JUDGE**

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