

## IN THE HIGH COURT OF SINDH AT KARACHI

**Present:**

Mr. Justice Omar Sial  
Mr. Justice Muhammad Hassan (Akber)

SPL. CR. ANTI TERRORISM JAIL APPEAL NO. 19 OF 2024

Appellants : 1. Muhammad Akmal s/o Hazoor Bux  
2. Farhan s/o Aziz  
through Mr. Qadir Hussain Khan,  
Advocate

Respondent : The State  
through Mr. Ali Haider Saleem,  
Additional Prosecutor General Sindh

Date of Hearing : 21.05.2025

Date of Decision : 04.06.2025

### **JUDGMENT**

**Omar Sial, J.:** The appellants were nominated as accused in a case arising out of F.I.R. No. 1835 of 2022 registered under sections 324, 353, and 34 P.P.C. read with Section 7 ATA, 1997 at Police Station Surjani Town, Karachi. They were also charged in F.I.R. No. 1836 of 2022 and 1837 of 2022 registered under section 23(1)(a) of the Sindh Arms Act, 2013. The case against the appellants is that on 23.12.2022, a police party on regular patrol on receipt of spy information regarding presence of two culprits in the bushes at Main Road of Section-50 situated near TCF School, Taiser Town, Surjani, Karachi at about 0400 hours reached at the pointed place and saw that two persons were present there in suspicious condition. When police party tried to

arrest them, they opened fire on the police. In retaliation police party also made firing in their defence, resultantly both appellants sustained firearm injuries on their legs. The appellants were arrested at the spot and one unlicensed pistol from each appellant was also recovered.

2. After a full dress trial, the learned A.T.C. No. 13 at Karachi vide Judgment dated 23.12.2023 convicted the appellants and sentenced them to ten years for offence under section 324 P.P.C. and offence punishable under Section 7(h) of ATA 1997, seven years for offence under section 23(1)(a) of the Sindh Arms Act, 2013. They were also sentenced to two years for offence under section 353 P.P.C. and 427 P.P.C. The properties of both accused were also ordered to be forfeited to the Government. Benefit of Section 382-B Cr.P.C. was also extended.

3. The learned counsel for the appellants submitted that the case against the appellants was not one of terrorism and that they would not argue the case on merits; however, he requested that the sentence already undergone by the appellants be treated as their final sentence.

4. We have heard the learned counsel for the appellants and the learned Additional 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 complainant in his testimony. 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 appellants falling outside the ambit of terrorism would mean they would be entitled to section 382-B remissions. A jail roll was called for that showed that the appellant Muhammad Akmal had completed 7 years, 10 months and 3 days of the sentence awarded to him, whereas, appellant Farhan

had completed 7 years, 6 months and 21 days of the sentence awarded to him. After reviewing the record and confirming that the appellants had no previous crime record, the learned Additional Prosecutor General conceded that the sentences already undergone by the appellants would be an appropriate punishment. While considering the request made by the appellants, we have also considered that the appellants, remorseful and repentant for what they had done, wish to spend the rest of his life as law-abiding citizens. Their admissions have saved the time and money of the State. The jail authorities have reported that their conduct in jail has been satisfactory. We have also considered that the learned Additional 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 with respect to section 7 of the ATA 1997. The convictions and sentences awarded to the appellants for the offenses under the Penal Code and the Sindh Arms Act, 2013 are upheld; however, the sentences awarded to the appellants are reduced to the period he has already undergone. This will also include imprisonment instead of a fine. We notice that an error has crept up in the sentencing paragraph of the impugned judgment to the extent that forfeiture of property has been ordered as a part of sentence for an offence under Section 324 PPC. The forfeiture order was incorrect as the law does not

permit it as a sentence for the offence. The appellants may be released if not required in any other custody case.

9. The appeal stands disposed of in the above terms.

JUDGE

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