

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Sial
Mr. Justice Miran Muhammad Shah

SPL. CR. ANTI TERRORISM JAIL APPEAL NO. 88 OF 2023

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| Appellant | : | Khalid Hussain s/o Khadim Hussain |
| Respondent | : | The State through Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh along with Khadim Hussain (CNIC No. 43204-1686652-5), father of appellant |
| Date of Hearing | : | 15.10.2025 |
| Date of Decision | : | 15.10.2025 |

JUDGMENT

OMAR SIAL, J.- Khalid Hussain son of Khadim Hussain was nominated accused in FIR No. 110 of 2022 registered under Sections 353, 324, 186, 34 PPC read with Section 7 ATA 1997. He was also nominated in FIR No. 111 of 2022 registered under Section 23(1) A of Sindh Arms Act, 2013 at Police Station Bin Qasim, Karachi.

2. After a full-dressed trial, the learned Anti-Terrorism Court-I, Karachi, vide Judgment dated 27.04.2023 convicted and sentenced the appellant as follows:-

1. For an offence under section 7(h) of Anti-Terrorism Act, 1997 to undergo R.I. for 05 years with a fine of Rs. 20,000. In default in payment of such fine, a further S.I. for 3 months more.

2. For an offence under section 353 P.P.C. and sentenced to undergo R.I. for 02 year with a fine of Rs. 10,000. In default in payment of such fine, a further S.I. for 2 months more.
3. For an offence under section 7(b) of Anti-Terrorism Act, 1997 to undergo R.I. for 10 years with a fine of Rs. 20,000. In default in payment of such fine, a further S.I. for 3 months more.
4. For an offence under section 324 P.P.C. to undergo R.I. for 05 years each with a fine of Rs.20,000. In default in payment of such fine, a further S.I. for 3 months more.
5. For an offence under section 23 (I) (a) of the Sindh Arms Act, 2013, Appellant was sentenced to undergo R.I. for 05 years with a fine of Rs. 20,000. In default of payment of such fine, a further S.I. for 3 months more.

All the above sentences were to run concurrently. The benefit of Section 382-B Cr.P.C. was extended to the accused.

3. Learned counsel for the Appellant is absent today. Khadim Hussain, father of the appellant, is present. He says that his son/the appellant has completed 10 years and 07 months' sentences including remissions as such instead of deciding the appellant's case on merits, a lenient view is taken so far as the sentences are concerned.

4. The learned Additional Prosecutor General submits that he agrees that the evidence which was led at trial does not reflect that the case falls within the ambit of terrorism. He submits that the conditions which were stipulated by the Supreme Court in ***Ghulam Hussain vs The State (PLD 2020 SC 61)*** case were not satisfied, hence he has no objection if the conviction and sentence awarded to the appellants under the terrorism legislation is set aside.

5. We agree with the stance of the learned Additional Prosecutor General that the requirements of section 6(1)(b) or (c) of the ATA 1997 were not satisfied at trial. We therefore acquit the appellant for the conviction and sentences under A.T.A. 1997. A jail roll was called, which reflects that the appellant has completed nearly 10 years and 07 months of his sentence. The record further reflects that he is young boy aged 28 years and that he sustained firearms injuries on his leg while no damage or hurt was caused to the police party or any bystander. The Senior Superintendent has also reported that his conduct while he has been in custody has been satisfactory. We also notice that he does not have a previous crime record. Taking a lenient view on his father's assurance that the appellant wishes to spend the rest of his life as a respectable and law-abiding citizen, the conviction awarded to him under the Pakistan Penal Code and the Sindh Arms Act are upheld however sentence which was given to him is reduced to the one which he has already undergone. The fine amount is reduced to Rs.2000/- and if he does not pay the fine he will stay in jail for two days more.

JUDGE

JUDGE

Amjad PS