

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
C.P.No.D- 3179 of 2016.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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- 1. For katcha peshi.
- 2. For hearing of CMA 6365-16.

Present:
Mr. Justice Hasan Azhar Rizvi &
Mr. Justice Muhammad Humayon Khan.

Mr. Aijaz Shaikh Advocate for petitioners.
Mr. Himat Ali Gadani Advocate for respondent No.1/complainant.
Mr. Saleem Akhtar Buriro, Additional P.G.
Mr. Shahriyar I. Awan, Assistant A.G.

Date of hearing: 08-02-2017.

ORDER

Hasan Azhar Rizvi J., In the present Constitutional Petition, petitioners have challenged the order dated 29.06.2016, passed by learned Judge, Anti-Terrorism Court, Naushehro Feroze in Special Case No. 88 of 2015 re: State-Versus Gul Hassan Gadehi and others, arising out of FIR No. 08 of 2015 registered with Police Station, Salari-Dadu for offences under sections 302, 386, 395, 337H(ii), 148, 149 PPC read with section 7(i)(a)(b)(h), ATA, 1997, whereby dismissed the application under section 23 of ATA, 1997.

2. Learned counsel for the petitioners contends that the impugned order is contrary to the sections 6&7 of ATA, 1997, as there was previous enmity between the parties which is evident from the contents of FIR. He further contends that the alleged offence took place in a jungle and these points were not considered by the learned Judge, Anti-Terrorism Court, Naushehro Feroze. Per learned counsel for petitioners, definition of terrorism is not attracted from the face of contents of the FIR. Learned counsel for petitioners has placed his reliance upon the following case-law:

i. Mohabbat Ali and another v. The State (**2007 S C M R 142**).

ii. Bashir Ahmed v. Muhammad Siddique and others (**P L D 2009 Supreme Court 11**).

iii. Umar Farooque v. The State (**P L D 2014 Sindh 203**).

3. Learned Additional P.G and Assistant A.G have candidly not supported the impugned order so also learned counsel for the complainant.

4. In view of the above facts and circumstances of the case, no case of terrorism is made out from the contents of the FIR. The impugned order dated 29.06.2016, passed by learned Judge, Anti-Terrorism Court, Naushehro Feroze is hereby set aside. Learned Judge, ATC, Naushehro Feroze is directed to transmit the record and proceedings of Special Case No. 88 of 2015 re: State-Versus Gul Hassan Gadehi and others, arising out of FIR No. 08 of 2015 registered with Police Station, Salari-Dadu for offences under sections 302, 386, 395, 337H(ii), 148, 149 PPC read with section 7(i)(a)(b)(h), ATA, 1997, to the concerned Sessions Judge for its disposal in accordance with law.

5. The instant petition stands disposed of in the above terms alongwith pending application.

JUDGE

JUDGE