

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,**  
**MIRPURKHAS**

**Crl. Revision Application No.D-22 of 2024**

**Applicants:** Bhai Khan, Abdul Ghafoor, Ashique Ali and Naveed.  
Through Mr. Mir Pervez Akhter Talpur, Advocate.

**The State:** Through Mr. Shahzado Saleem, Additional Prosecutor General, Sindh.

**Respondent:** Haseeb son of Muhammad Hayat.  
Through Mr. Afzal Karim Virk, Advocate (called absent)  
Mr. Haresh Chander advocate holds brief on his behalf

**Date of hearing:** 01.09.2025

**Date of order:** 01.09.2025

**O R D E R**

**Amjad Ali Sahito, J:** Through this Crl. Revision Application, the applicants/accused have impugned the order dated 22.07.2024 passed by learned Anti-Terrorism Court Mirpurkhas Division @ Mirpurkhas in Criminal Miscellaneous Application No.13 of 2024 IN Special Case No.14 of 2024 “Re-Bhai Khan & Others Vs. The State”. The case was registered against the applicants vide F.I.R No.15/2024, under sections 302 506(ii), 504, 109, 34 PPC. During the investigation of the case, sections 6/7 of Anti-Terrorism Act, 1997 were also inserted, for which the applicants/accused moved an application for transfer of the case from Anti-Terrorism Court to the Court of ordinary jurisdiction, which was dismissed vide order dated 22.07.2024. Being aggrieved, the applicants/accused filed instant Criminal Revision Application before this court.

2. Learned counsel for the applicants/accused contends that the FIR arises out of a personal dispute over agricultural land between the parties, who belong to two different Baloch tribes and have a history of enmity. It is submitted that the FIR,

registered under Sections 302, 506(ii), 504, 109, and 34 PPC read with Sections 6/7 of the Anti-Terrorism Act, 1997, is false and motivated. Despite the production of documentary evidence reflecting the longstanding dispute, the learned trial court failed to consider this material aspect. Even a bare reading of the FIR indicates prior hostility between the parties, and the allegations do not attract the provisions of Sections 6 and 7 of the Anti-Terrorism Act. However, this crucial aspect was overlooked by the trial court while passing the impugned order. It is further submitted that the learned trial court failed to consider that Sections 6 and 7 of the Anti-Terrorism Act, 1997, apply only when an offence is intended to create public terror or insecurity.

3. In this case, no such intention is evident, and the incident stems from a longstanding tribal dispute between the MARI and BIROHI communities. Thus, the application of anti-terrorism provisions was misused due to the complainant party's influence. Learned counsel further argued that from the perusal of the contents of the FIR, it is evident that prior to the alleged incident, the same complainant, namely Muhammad Haseeb Mari, had lodged another FIR bearing Crime No. 40 of 2023 under Section 324 PPC at Police Station Jam Nawaz Ali against the present applicant/accused, Bhai Khan Brohi, alleging an attack on Muhammad Moosa Mari, the brother of the complainant.

4. Despite this background, the police, acting with mala fide intent, favored the complainant party and wrongly applied Sections 6 and 7 of the Anti-Terrorism Act, 1997. It is further submitted that the trial court overlooked that the case stems from a longstanding tribal enmity between the Mari and Brohi communities, suggesting the applicants/accused were falsely implicated out of personal vendetta. As the incident lacks elements of terrorism, trying it before the Anti-Terrorism Court is inappropriate and contrary to the law's intent. The case should be transferred to the regular Sessions Court for a fair trial as an ordinary criminal matter. Furthermore, learned counsel argued that before the trial Court the complainant in his deposition also admitted the previous dispute by deposing

before the trial Court that in the month of November 2023 a dispute had taken place, for which FIR No.40/2023 was registered at PS Jam Nawaz Ali and since then they are not on cordial relations with accused Bhai Khan and others. Lastly, he has prayed that the ingredients of Sections 6 and 7 of the Anti-Terrorism Act are not attracted in the present case, and therefore, the matter may be transferred from the Anti-Terrorism Court, Mirpurkhas, to the competent Sessions Court for appropriate proceedings in accordance with law. In support of his contentions placed his reliance on case reported in the case of Sadiquallah and another v. The State and another (2020 SCMR 1422), Bashir Ahmed v. Muhammad Siddique and others (PLD 209 Supreme Court 11), Ghulam Hussain and others v. The State and others (PLD 2020 Supreme Court 61), Haji Allah Nazar and others v. Special Judge Anti-Terrorism Court-II, Quetta and others (2012 P Cr.L J 178), Basharat Ali v. Special Judge Anti-Terrorism Court-II, Gujranwala (PLD 2004 Lah 199) and Muhammad Idrees v. Special Judge Anti-Terrorism Court and others (2019 P Cr.L J 516).

5. On the other hand, Mr. Haresh Chander advocate holds brief on behalf of Mr. Afzal Karim Virk and states that he is busy in bar politics whereas on last date of hearing viz; 25.08.2025 following order was passed;

*Mr. Abdul Hafeez Mari, Advocate, holds brief on behalf of Mr. Afzal Karim Virk, Advocate for the complainant, and states that he has gone to attend a funeral ceremony and seeks time. As an indulgence and by way of last chance, the matter is adjourned. At this stage, learned counsel for the applicants submits that, up to the date of hearing, Mr. Afzal Karim Virk does not appear to be interested in pursuing the matter. It is further submitted that the case is under proceeding before the learned Trial Court, and there is an apprehension that, upon conclusion of the trial, the judgment may be announced. In view of the above, the learned Trial Court is directed to proceed with the trial, but shall not announce the judgment until a decision is made on this application. The matter is adjourned to 01.09.2025.*

6. Since specific directions were given to him to proceed with the matter, and the case was adjourned for today. Mr. Afzal is once again absent. His continued absence indicates a lack of interest in pursuing the matter.

7. On the other hand, the learned A.P.G raised no objection and submitted that the learned trial Court may indeed be directed to proceed with the case in accordance with law, as the statute provides for the transfer of a case from the Anti-Terrorism Court to the ordinary Court.

8. Heard and perused.

9. From the perusal of record, it reflects that the incident has took place between the parties due to previous enmity. Such facts were also admitted by the complainant in his FIR so also in his evidence deposed by him before the trial Court. In this regard reliance is placed upon case law reported in the case of Haji Allah Nazar and others v. Special Judge Anti-Terrorism Court-II, Quetta and others (2012 P Cr.L J 178):

*Record had shown that a dispute of personal nature existed between the parties for the determination of ownership of leased area---For cases of terrorism, falling under Ss.6 & 7 of the Anti-Terrorism Act, 1997, there must be not only Scheduled Offence under S.6 of the Anti-Terrorism Act, 1997, but also mens rea for creating intentional sense of terror or fear or insecurity in the society---Cases having background of personal enmity and taking private revenge, did not fall within the ambit of Ss.6 & 7 of the Anti-Terrorism Act, 1997---Special Judge, was not justified to reject application of accused for sending matter to the Court of Sessions Judge---Order of Special Judge was illegal as matter in question was within the domain of the regular courts---Cases were ordered to be withdrawn from the court of Special Judge and transferred to the court of Judicial Magistrate concerned for disposal in accordance with law, in circumstances.*

10. From a meticulous perusal of the record, it unequivocally appears that the incident in question arose out of a pre-existing personal enmity between the parties. This fact is not only evident from the material on record but has also been expressly admitted by the complainant in the First Information Report (FIR) and further affirmed during the course of his deposition

before the learned trial court. In light of these circumstances, and by placing reliance on the authoritative judgment reported as *Haji Allah Nazar and others v. Special Judge Anti-Terrorism Court-II, Quetta and others* (2012 P Cr.L J 178), it is settled law that where the underlying motive of the offence is private vengeance or personal enmity, such matters do not fall within the ambit of Sections 6 and 7 of the Anti-Terrorism Act, 1997. The Hon'ble Court in the cited case laid down that for an offence to qualify as terrorism under the ATA, not only must the act fall within the Schedule appended to the Act, but it must also be accompanied by the requisite ***mens rea*** to create terror, fear, or insecurity in the general public or society at large. In the absence of any material on record demonstrating that the alleged offence was committed with the intent to cause public terror or insecurity beyond the immediate parties involved, the invocation of the provisions of Sections 6 and 7 of the ATA appears to be legally untenable. The dispute being of a personal nature, involving private revenge, is more appropriately triable by a court of ordinary jurisdiction. Therefore, the continued trial of the case before the learned Anti-Terrorism Court is without lawful justification. The matter, in view of its factual and legal matrix, squarely falls within the domain of the regular Sessions Court.

11. In view of the above the impugned order passed by the learned trial is hereby set aside and the case be withdrawn from the Anti-Terrorism Court, Mirpurkhas, and transfer to the competent Sessions Court having jurisdiction for adjudication in accordance with law. Accordingly, instant Criminal Revision Application is hereby allowed.

**JUDGE**

**JUDGE**

***\*Adnan Ashraf Nizamani\****