

## IN THE HIGH COURT OF SINDH AT KARACHI

Present:  
Mr. Justice Omar Sial  
Mr. Justice Syed Fiaz ul Hassan Shah

**Special Criminal Anti-Terrorism**  
**Jail Appeal No. 183 of 2023**  
[Muhammad Azeem & Rizwan vs. The State]

Appellant : Rizwan through Mr. Habib-ur-Rehman Jiskani, Advocate

Appellant : Muhammad Azeem through Mr. Maaz Ali Maalik Gaddi, Advocate

Respondent : Mr. Muhammad Iqbal Awan,  
Additional Prosecutor General,  
Sindh

Date of Hearing : 04.09.2025

Date of Decision : 04.09.2025

### **J U D G M E N T**

**Omar Sial, J.:** The appellants Muhammad Azeem and Rizwan were nominated as accused in the following F.I.Rs registered at Shah Latif police station:

- (i) F.I.R. No.385/2022 registered under sections 392, 397, 34 PPC r/w section 7 ATA 1997;
- (ii) F.I.R. No.386/2022 registered under sections 353, 324, 186, 34 PPC r/w section 7 ATA 1997;
- (iii) F.I.R. No.387/2022 registered under section 23(i)(a) SAA 2013;
- (iv) F.I.R. No.388/2022 registered under section 23(i)(a) SAA 2013;

2. After a full dress trial, the learned Anti-Terrorism Court No. 4 at Karachi on 30.08.2023 concluded that the accused were guilty and convicted and sentenced them as follows:

- (a) Three years imprisonment for an offence under section 392 P.P.C. to both the appellants;
- (b) Five years imprisonment for an offence under sections 353, 324, and 34 P.P.C., read with section 6(2)(n) of the Anti-Terrorism Act, 1997, to both the appellants;
- (c) Three years imprisonment for an offence under section 23(1)(a) of the Sindh Arms Act 2013 to both the appellants.

3. The learned counsel for the appellants submitted that this is not a terrorism case. Under instructions from their clients, if it is held that this was not a terrorism case, he will not argue the appeal on merits, but that the sentences already undergone by the appellants may be treated as their final sentence.

4. We have heard the learned counsel for the appellants and the learned Additional Prosecutor General and have also re-appraised the evidence. Our findings and observations are as follows.

5. An area of the case we have looked at closely is whether evidence was produced at trial sufficient to prove that a terrorism offence took place. It would be apt to reproduce our observations in a recently decided case (Spl. Cr. Anti-Terrorism Appeal No. 136 of 2024), which are equally applicable in the present case.

*We have come across several cases involving simple spontaneous police shoot-outs, which have been categorized and held as terrorism cases. We respectfully and with humility hold a different view. A judge must decide based on the evidence available to them. In this case, no evidence was presented to support the charge of terrorism. The Section 6*

(1) requirements of the ATA 1997, which enable Section 6(2) offences to be classified as "terrorism" offences, were not established through evidence. A charge of terrorism is a severe charge, and absolute certainty on strict benchmarks should be ensured before a person is convicted for such an offence. Courts must ensure that the requirements of Section 6(1) of the ATA 1997 are satisfied through cogent, confidence-inspiring, and trustworthy evidence. It would be dangerous and detrimental to the image of the country if courts base the existence of the offence on a presumption, which very well may be true but has not been proved in court. The only presumption permitted by the ATA is in Section 27-A, which was not applicable in the present case. When each of the actions listed in section 6(2) is deemed to be standalone terrorism, the number of criminal cases in Pakistan drastically increases, even though what has been committed is a Pakistan Penal Code crime. Learned courts seized of terrorism offences are encouraged to revisit the Supreme Court decision in the **Ghulam Hussain vs The State (PLD 2020 SC 61)** case. It provides authoritative guidance on the interpretation of what constitutes terrorism. Needless to say, all courts are bound by the Supreme Court's judgments on questions of law. The Supreme Court in this case 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. Learned Additional Prosecutor General agrees that the requirements stipulated by the Supreme Court in the *Ghulam Hussain* case were not fulfilled, hence he has no objection if the conviction and sentence awarded to the appellants under the terrorism charges be set aside. We tend to agree with the contention of the learned Additional Prosecutor General.

7. A jail roll was called for which shows that the appellants have completed their sentences including imprisonment in default of payment of fine.

Give the above:

- (a) The appellants are acquitted of the conviction and sentence under section 7 of the ATA 1997.
- (b) The convictions and sentences awarded to the appellants under the Pakistan Penal Code and Sindh Arms Act, 2013 are upheld.
- (c) The appellant may be released forthwith if not required in any other custody case.

JUDGE

JUDGE

