Judgment Sheet

IN THE HIGH COURT OF SINDH, KARACHI

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Syed Fiaz-ul-Hassan Shah

Spl. Cr. Anti-Terrorism Jail Appeal No.05 of 2025
(Muhammad Sajjad ***vs.*** The State)

Spl. Cr. Anti-Terrorism Jail Appeal No.10 of 2025
(Muhammad Hasnain ***vs.*** The State)

For hearing of main case

Date of hearing
& Judgment : 04.03.2026

Ms. Anum Salman Jamali, advocate for appellant in Spl. Cr. ATJA No.05/2025
Ms. Afsheen Iqbal, advocate for appellant in Spl. Cr. ATJA No.10/2025
Mr. Muhammad Iqal Awan, Additional Prosecutor General Sindh

J U D G M E N T

Muhammad Iqbal Kalhoro, J:- Appellants were tried by the Anti-Terrorism Court No.IV, Karachi Division against the charge of abducting and kidnaping a minor son of the complainant along with co-accused on 07.09.2018, for ransom. They have been convicted and sentenced vide impugned judgment dated 19.12.2024, u/s 365-A/34 Pakistan Penal Code (**PPC**), r/w Section 7(i) (e) of Anti-Terrorism Act, 1997, and u/s 23 (1) (a) of Sindh Arms Act, 2013 to suffer life imprisonment with forfeiture of their properties, and to undergo RI for three years with a fine of Rs.10,000/- (Rupees ten thousand only), and in default to suffer SI for two (02) months in S.C. No.685/2018 and S.C. No.685/A of 2018, arising out of FIR No. 46/2018 and FIR No.389/2018, both registered at Police Stations Sahil/AVCC CIA, Karachi and Darkhshan respectively. All the sentences were ordered to run concurrently with benefit u/s 382-B Cr.P.C.

2. The appellants filed these jail appeals in person and in due course were provided services of learned counsel on State expense, as they had not engaged any advocate on their own.

3. We have heard learned counsel for the appellants at length. After going through the evidence, when they failed to point out to any material contradiction or discrepancy in the evidence of witnesses undermining prosecution case against the appellants, so much so that they are found entitled to

benefit of some doubt, the learned counsel, while referring to the case of *Muhammad Yamin and another*[1] have pleaded that the appellants have wrongly been convicted and sentenced u/s 7(e) of the Anti-Terrorism Act, 1997. In that this was an ordinary case of abduction or kidnaping for ransom, triable u/s 365-A PPC only. There is no evidence to show that the alleged offence was committed by the appellants and co-accused, who were killed in the encounter by the police at the time of recovery of minor, with the design and purpose mentioned in clauses (b) or (c) of subsection (1) of section 6 of the Anti-Terrorism Act, 1997, so as to make them liable to conviction and sentences under provisions of ATC Act, 1997. They have submitted that if the conviction and sentence of the appellants u/s 7(e) of the Anti-Terrorism Act, 1997 is set aside, like in the *ibid* case decided by the Supreme Court, they would be satisfied and would seek disposal of these appeals in the same terms and conditions.

4. Learned Additional Prosecutor General has not opposed the request and has candidly admitted that the prosecution has not produced any evidence establishing that the appellants have committed the offence as defined u/s 7(e) of the Anti-Terrorism Act, 1997.

5. The Supreme Court, in the aforesaid case, has explained in detail the scheme regulating trials of the cases falling under provisions of the ATC Act and the scheduled offence mentioned in the entry No.V of the Third Schedule, in the following terms:

> "In Ghulam Hussain 's case (supra), this court after thorough discussion arrived at the conclusion that reading of the Third Schedule of the Act of 1997 shows that an Anti-Terrorism Court has been conferred jurisdiction not only to try all those offences which attract the definition of terrorism provided by the Act of 1997 but also some other specified cases involving heinous offences which do not fall in the definition of terrorism. For such latter category of cases it was provided that although those offences may not constitute terrorism yet such offences may be tried by Anti-Terrorism Court for speedy trial of such heinous offences. This distinction between cases of terrorism and cases of specified heinous offences not amounting to terrorism but triable by an Anti-Terrorism Court has already been recognized by this Court in the cases of Farooq Ahmed v. State and another (2020 SCMR 78), Amjad Ali and others v. The State (PLD 2017 SC 661) and Muhammad Bilal v. The State and others (2019 SCMR 1362). It has been clarified by this Court in those cases that such specified heinous offences are only to be tried by Anti-Terrorism Court and that court can punish the person committing such specified heinous offences only for commission of those offences and not for committing terrorism because such offences do not constitute terrorism. For the purposes of further clarity on this issue it is explained for the benefit of all concerned that the cases of the offences specified in entry No. 4 of the Third Schedule to the Anti-

[1] Muhammad Yamin and another **vs.** The State (2025 SCMR 1552)

> Terrorism Act, 1997 are cases of those heinous offences which do not per se constitute the offence of terrorism but such cases are to be tried by an Anti-Terrorism Court because of their inclusion in the Third Schedule. It is also clarified that in such cases of heinous offences mentioned in entry No. 4 of the said Schedule an Anti-Terrorism Court can pass a punishment for the said offence and not for committing the offence of terrorism. It may be pertinent to mention here that the offence of abduction or kidnapping for ransom under section 365-A, P.P.C. is included in entry No. 4 of the Third Schedule and kidnapping for ransom is also one of the actions specified in section 7(e) of the Anti-Terrorism Act, 1997. Abduction or kidnapping for ransom is a heinous offence but the scheme of the Anti-Terrorism Act, 1997 shows that an ordinary case of abduction or kidnapping for ransom under section 365-A, P.P.C. is merely triable by an Anti-Terrorism Court but if kidnapping for ransom is committed with the design or purpose mentioned in clauses (b) or (c) of subsection (1) of section 6 of the Anti-Terrorism Act, 1997 then such offence amounts to terrorism attracting section 7(e) of that Act. In the former case the convicted person is to be convicted and sentenced only for the offence under section 365-A, P.P.C. whereas in the latter case the convicted person is to be convicted both for the offence under section 365-A, P.P.C. as well as for the offence under section 7(e) of the Anti-Terrorism Act, 1997."

6. In view of the aforesaid analysis undertaken and conclusion reached by the Supreme Court, we see no reason, legal or otherwise, to deny request of the appellants' counsel. Insofar as, merits of the case are concerned, the prosecution by leading evidence of fourteen (14) prosecution witnesses, who have produced all the relevant documents, has succeeded in brining home guilt of the appellants beyond a doubt regarding their involvement in the abduction/ kidnaping for ransom of the son of the complainant.

7. We, therefore, while accepting request of the appellants' counsel, as above, coupled with merits of the case, set aside the conviction and sentence of the appellants u/s 7(e) of the Anti-Terrorism Act, 1997, and maintain their conviction and sentence under remaining sections viz. u/s 365-A/34 PPC and 23(1) (a) of S.A.A. 2013, alongwith a fine of Rs.10,000/- as determined by the trial Court through the impugned judgment. The appeals are accordingly dismissed and disposed of with aforesaid modification.

The appeals are disposed of in above terms. Office to place a copy of this order in connected appeal.

JUDGE

JUDGE

Rafiq/PA.