IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Revision Application No. D-08 of 2025
(Niaz Muhammad v. The State & Another)
Criminal Revision Application No. D-48 of 2025
(Hidayatullah & Another v. The State)

Before:
Justice Miran Muhammad Shah
Justice Muhammad Hassan (Akber)

Syed Tarique Ahmed Shah, Advocate for applicants in Criminal Revision Application No. D-48 of 2025

Mr. Wali Muhammad Khoso, Advocate for applicants in Criminal Revision Application No. D-08 of 2025

Mr. Ghulam Abbas Dalwani, Deputy Prosecutor General Sindh

Mr. Muhammad Sabir, Deputy Attorney General for Pakistan.

Complainant is present in person.

Date of Hearing : 17.03.2026

Date of Decision : 07.04.2026

ORDER

MIRAN MUHMMAD SHAH, J: - Through this consolidated judgment, we intend to adjudicate upon Criminal Revision Application Nos. D-08 & D-48 of 2025, both arising out of the same FIR and impugning the common order dated 23.10.2025 passed by the Special Judge, Anti-Terrorism Court, Mirpurkhas Division, at Mirpurkhas, whereby the applicants in both revision applications have expressed their dissatisfaction with the said order.

2. The prosecution case, in substance, is that Dr. Shahnawaz, who was serving as a Senior Medical Officer at District Hospital Umarkot in BPS-18, became embroiled in a blasphemy-related allegation, whereafter serious public agitation and unrest arose in District Umarkot. According to the complainant, who is the brother-in-law of the deceased

and a practicing Advocate of the High Court, an FIR was registered against Dr. Shahnawaz on 17-09-2024, following which certain religious elements allegedly incited the public and demanded his arrest. It is further alleged that, owing to threats to his life, the deceased left Umarkot and uploaded a video statement denying the allegations.

3. It is the case of the complainant that, on the directions of senior police officials, a police party proceeded to Karachi and apprehended Dr. Shahnawaz from Pak Qatar Hotel, Lyari, where he was present along with Advocate Junaid Ali. The allegation is that instead of producing him before a court of law and proceeding in accordance with due process, the police officials, in alleged collusion with one another and under pressure from certain quarters, unlawfully detained him, subjected him to torture, and ultimately killed him in a staged police encounter within the jurisdiction of P.S. Sindhri, Mirpurkhas. In this regard, FIR No. 45 of 2024 was registered, portraying the incident as a police encounter, wherein several police officials, including the present applicants, were shown in different capacities.

4. It has further been alleged that the dead body of Dr. Shahnawaz was shifted to DHQ Hospital, Mirpurkhas, and thereafter handed over to his family. According to the complainant, multiple marks of injuries, apart from firearm wounds, were visible on the body, indicating that the deceased had been subjected to custodial torture prior to his death. The matter was further aggravated when, during the transportation of the dead body to the native village for burial, an enraged mob allegedly intercepted the ambulance, prevented funeral rites, and ultimately snatched and burnt the body, resulting in registration of another criminal case.

5. Subsequently, in pursuance of directions issued by this Court in CP NO. D-1346 of 2024 vide order dated 21-10-2024, the investigation was transferred to the Federal Investigation Agency. The FIA registered the present FIR bearing Crime No. 21 of 2024 at P.S. FIA Composite Circle, Mirpurkhas, under sections 201, 364, 302, 34, 147, 148, 149 and 120-B, P.P.C., read with sections 6 and 7 of the Anti-Terrorism Act, 1997, as well as sections 8 and 9 of the Torture and Custodial Death (Prevention

and Punishment) Act, 2022. After completing the investigation, the Investigating Officer submitted a report under section 173 Cr.P.C. before the Anti-Terrorism Court, which took cognizance of the matter vide order dated 13-02-2025.

6. The applicants, however, raised a specific objection before the trial Court that the case, in essence, pertains to allegations of custodial torture and death, for which a special statute, namely the Torture and Custodial Death (Prevention and Punishment) Act, 2022, provides a distinct legal framework and confers exclusive jurisdiction upon the Court of Sessions. It was contended that despite the inclusion of provisions of the Anti-Terrorism Act, 1997 in the FIR, the dominant nature of the allegations attracts the jurisdiction of the Court of Sessions, and therefore the Anti-Terrorism Court lacked lawful authority to try the case.

7. It was further contended that the trial Court failed to properly appreciate the legal position regarding overlapping special statutes, particularly where both enactments contain overriding clauses. According to the applicants, the later statute in point of time, i.e., the Act of 2022, would prevail and govern the field, especially where it expressly vests exclusive jurisdiction in a specific forum. The applicants also asserted that the trial Court misdirected itself by relying upon the general background of public reaction and media attention, instead of examining whether the essential ingredients of section 6 of the Anti-Terrorism Act, 1997 were, in fact, attracted to the allegations against the present applicants.

8. It is in these circumstances that the Special Judge, Anti-Terrorism Court, Mirpurkhas, dismissed the application under section 23 of the Anti-Terrorism Act, 1997 vide impugned order dated 23-10-2025, thereby affirming its jurisdiction to proceed with the trial. Being aggrieved by the said order, the applicants have invoked the revisional jurisdiction of this Court under sections 435 and 439 Cr.P.C., seeking setting aside of the impugned order and transfer of the case to the competent Court of Sessions in accordance with law.

9. The counsel appearing on behalf of the applicants in both connected revision applications contended, in a forceful and elaborate manner, that the impugned order passed by the Special Judge, Anti-Terrorism Court, Mirpurkhas, is patently illegal, without lawful authority and suffers from serious misapplication of law as well as non-reading and misreading of the material available on record. It was argued that the trial Court gravely erred in assuming jurisdiction under the Anti-Terrorism Act, 1997 without first satisfying itself that the essential ingredients of section 6 of the said Act were prima facie attracted. counsel submitted that the entire prosecution case, even if taken at its face value, revolves around allegations of custodial abduction, torture and subsequent death of the deceased, which squarely fall within the ambit of sections 8 and 9 of the Torture and Custodial Death (Prevention and Punishment) Act, 2022, a later and special enactment that not only creates specific offences but also expressly vests exclusive jurisdiction in the Court of Sessions in terms of section 6 thereof, coupled with an overriding clause under section 16 of the Act.

10. It was vehemently contended that where two special statutes appear to overlap, the settled principle of statutory interpretation is that the later enactment in point of time prevails over the earlier one, particularly where both contain non obstante clauses. In this regard, counsel placed reliance upon authoritative pronouncements of the Honourable Supreme Court of Pakistan, including the case of *Syed Mushahid Shah and others vs. Federation of Pakistan and others*(2017 SCMR 1218), to contend that the Act of 2022, being subsequent in time and having overriding effect, would govern the field in respect of custodial torture and death, thereby ousting the jurisdiction of the Anti-Terrorism Court. It was further argued that the trial Court misconstrued the scope of section 21-M of the Anti-Terrorism Act, 1997 relating to joint trial, as the same cannot override a later special statute conferring exclusive jurisdiction upon another forum.

11. The counsel further submitted that the trial Court failed to appreciate the well-settled law laid down by the Honourable Apex Court in the case of *Ghulam Hussain vs. The State* (PLD 2022 SC 61), wherein it

has been categorically held that mere gravity or brutality of an offence does not ipso facto bring it within the ambit of "terrorism" unless the prosecution is able to establish the requisite *mens rea* and *actus reus* in terms of section 6 of the Anti-Terrorism Act, 1997, namely the design or purpose to create fear, panic or insecurity in society. It was contended that in the present case, there is not even a whisper of any such design or purpose attributable to the applicants; rather, the allegations, at their highest, disclose a case of custodial misconduct, which, though serious, does not amount to terrorism within the meaning of the statute.

12. It was further argued that the trial Court erroneously relied upon extraneous considerations, such as media coverage and public reaction, to infer the element of terrorism, whereas the law requires that such element must emanate from the conduct and intention of the accused themselves, and not from the subsequent reaction of the public. In support of this proposition, counsel also relied upon judgments of this Court, including *Qamar Hussain Shah vs. The State* (PLD 2006 Karachi 331) and *Ketno vs. Judge, Anti-Terrorism Court* (2005 MLD 353), to emphasize that even where offences fall within the schedule of the Anti-Terrorism Act, they may still be triable by another competent forum where a special law so provides, particularly where the later statute creates a separate procedural regime and exclusive jurisdiction.

13. It was lastly contended that the trial Court failed to properly distinguish between "jurisdiction" and "powers," and incorrectly assumed that the Anti-Terrorism Court, by virtue of having powers akin to a Court of Sessions under section 19(14) of the Anti-Terrorism Act, 1997, could also assume jurisdiction over offences exclusively triable by the Court of Sessions under another special enactment. Such an approach, according to counsel, is legally flawed and contrary to the settled principles of law. On these premises, it was urged that the impugned order be set aside and the case be transferred to the Court of Sessions, Mirpurkhas, being the only competent Court having exclusive jurisdiction under the Torture and Custodial Death (Prevention and Punishment) Act, 2022.

14. Conversely, the Deputy Prosecutor General, representing the State, filed a detailed written reply, which was taken on record and treated as his contentions, wherein he vehemently opposed the instant criminal revision applications and supported the impugned order. It was contended that the present case arises out of FIR No. 21 of 2024 registered by the FIA, Mirpurkhas, involving serious allegations of custodial torture and murder by public servants, which, by their very nature, have far-reaching consequences beyond an individual act, as the same not only resulted in the death of a citizen in custody but also created a sense of fear, panic, and mistrust among the public at large against law enforcement agencies. It was argued that such acts strike at the very root of the rule of law and erode public confidence in State institutions, thereby squarely attracting the provisions of section 6 of the Anti-Terrorism Act, 1997.

15. DPG further contended that the test for applicability of the Anti-Terrorism Act is not confined merely to the motive or locality of the offence but extends to its impact and consequences upon society and State institutions. According to him, the custodial killing of a detainee by police officials constitutes grievous violence coupled with an element of institutional intimidation, which is fully covered under clauses (i), (m) and (n) of subsection (2) of section 6 of the Anti-Terrorism Act, 1997. It was emphasized that when acts committed by uniformed personnel generate fear, insecurity and loss of confidence amongst the general public, the same cannot be treated as an ordinary offence but fall within the mischief of terrorism.

16. In support of his submissions, DPG placed reliance upon a number of authoritative pronouncements of the Honourable Supreme Court, including *The State vs. Zahid Hussain* (PLD 2020 SC 366), *Muhammad Tariq vs. The State*(2022 SCMR 1685), *Mst. Sughran Bibi vs. The State* (PLD 2018 SC 595), *Lal Khan vs. The State* (PLD 2003 SC 704), *Ghulam Hussain vs. The State* (PLD 2016 SC 137), and *State vs. Jameel Ahmed* (2021 SCMR 1806), to contend that any act which creates fear, panic, or undermines the credibility of State institutions falls within the ambit of terrorism, irrespective of whether it may otherwise appear to be

an ordinary criminal offence. He further relied upon judgments of the Lahore High Court, including *Zubaida Qureshi vs. Ex-Officio Justice of Peace* (Criminal Revision No. 1359/2024, decided on 06-03-2024) and *Aftab Mahmood vs. The State* (Crl. Misc. Application No. 81211-B/2024, decided on 28-04-2025), to submit that the question of applicability of the Anti-Terrorism Act is not to be conclusively determined at a pre-trial stage unless it is demonstrably clear that no element of terrorism is involved.

17. It was further contended that the Anti-Terrorism Act, 1997, being a special law designed to ensure speedy trial of heinous offences affecting public order and institutional integrity, has been rightly invoked in the present case, particularly when the allegations involve misuse of authority by State functionaries leading to custodial death. DPG submitted that section 9 of the Anti-Terrorism Act empowers the Anti-Terrorism Court to try all connected and ancillary offences once the principal offence falls within its jurisdiction, and therefore, the inclusion of provisions of the Torture and Custodial Death (Prevention and Punishment) Act, 2022 does not oust the jurisdiction of the Anti-Terrorism Court at this stage. It was lastly contended that the present revision applications are misconceived, legally untenable and aimed merely at delaying the trial, as the question of jurisdiction has already been rightly determined by the trial Court after due consideration of the facts and law. It was, therefore, prayed that the instant revision applications be dismissed in limine, the impugned order be maintained, and the jurisdiction of the Anti-Terrorism Court, Mirpurkhas, be affirmed so that the trial may proceed in accordance with law.

18. Similarly, the Deputy Attorney General, appearing on behalf of the Federation/Respondent No.1, also filed a comprehensive written reply, which was taken on record and treated as his contentions. He supported the impugned order dated 23-10-2025 in its entirety and contended that the same is a well-reasoned, speaking order passed strictly in accordance with law after proper appreciation of the facts, statutory provisions and case law. It was argued that the trial Court has rightly held that although offences under the Torture and Custodial Death (Prevention and Punishment) Act, 2022 are exclusively triable by the

Court of Sessions, however, in the present case the challan has not been submitted solely under the said Act, rather provisions of the Anti-Terrorism Act, 1997 have also been invoked, which, by virtue of section 21-G thereof, are exclusively triable by the Anti-Terrorism Court. It was further contended that the Anti-Terrorism Court, in terms of section 19(14) of the Act, is deemed to be a Court of Sessions for the purpose of trial and is fully empowered under sections 17 and 21-M of the Anti-Terrorism Act, 1997 to try all connected and ancillary offences along with the principal offence.

19. The Deputy Attorney General further submitted that there is no contradiction or conflict between the provisions of the Anti-Terrorism Act, 1997 and the Act of 2022 in the present case, as both statutes have been validly invoked on the basis of the material collected during investigation. According to him, the overriding effect of section 16 of the Act of 2022 does not exclude the jurisdiction of the Anti-Terrorism Court where offences under the Anti-Terrorism Act are independently made out. It was argued that once sections 6 and 7 of the Anti-Terrorism Act, 1997 are attracted, the Anti-Terrorism Court becomes the competent forum, and by virtue of its extended powers, it can also try offences under any other law for the time being in force.

20. It was further contended that the trial Court has correctly appreciated that the nature and manner of the offence, even if committed during night hours or in custody, can still generate fear and panic in society, and that the impact of the act on public confidence is the determinative factor. The Deputy Attorney General emphasized that the custodial death in the present case, coupled with the surrounding circumstances, has created a sense of fear and insecurity amongst the public at large, thereby bringing the case within the ambit of section 6 of the Anti-Terrorism Act, 1997.

21. He further submitted that the FIA conducted the investigation strictly in accordance with law and in compliance with the directions of this Court, and thereafter submitted a detailed final report under section 173 Cr.P.C., containing sufficient incriminating material against the accused persons. It was argued that all codal formalities,

including obtaining necessary permissions and following the procedure prescribed under the FIA Act, 1974 and relevant rules, were duly complied with, and that the registration of FIR No. 21 of 2024 was lawful and proper, even if it reproduced the earlier version of FIR No. 47 of 2024, as part of the investigative mechanism.

22. The Deputy Attorney General also contended that the applicants have failed to demonstrate any illegality, irregularity or jurisdictional defect in the impugned order warranting interference by this Court in its revisional jurisdiction. It was submitted that the trial Court has given due consideration to all the grounds raised by the defence, as well as the relevant case law cited by both sides, and has arrived at a just and lawful conclusion. It was further argued that the material collected during investigation prima facie discloses the existence of design, intention and the resultant fear caused in society, which are sufficient to attract the provisions of the Anti-Terrorism Act, 1997 at this stage.

23. It was, therefore, contended that the instant criminal revision applications are devoid of merit, based on misconceived grounds, and are liable to be dismissed, as no case for interference with the impugned order has been made out. The Deputy Attorney General thus prayed that the impugned order dated 23-10-2025 be maintained and the trial before the Anti-Terrorism Court, Mirpurkhas, be allowed to proceed in accordance with law.

24. Heard the learned counsel for the parties and perused the record. The present consolidated criminal revision applications, invoking the revisional jurisdiction of this Court, call for determination of the following points: whether the case, on the allegations set out in FIR No. 21 of 2024 and the material attendant thereto, falls within the ambit of sections 6 and 7 of the Anti-Terrorism Act, 1997 ("the ATA"); whether the learned Anti-Terrorism Court lawfully assumed jurisdiction to try the matter as a case of "terrorism" or "scheduled offence"; whether the impugned order dated 23.10.2025 suffers from misreading, non-reading, or misapplication of the statutory scheme and binding precedent; and whether the facts disclose terrorism in the legal sense or, conversely,

disclose an ordinary (albeit grave) criminal offence triable by the Court of ordinary jurisdiction, and more particularly by the Court of Session in view of the Torture and Custodial Death (Prevention and Punishment) Act, 2022 ("the 2022 Act").

25. The record (and the parties' submissions) reflects that the events surrounding the death of Dr. Shahnawaz generated multiple FIRs at different police stations. For contextual clarity—without conflating distinct occurrences—the FIR landscape may be summarised thus:

FIR NO./ YEAR	POLICE STATION	CORE ALLEGATION	STATUTORY PROVISIONS
42/2024	PS Umerkot (City)	Alleged blasphemy allegation against the deceased	s. 295-C, PPC
191/2024	PS Umerkot (City)	Violence/disturbance linked to the same day's events	PPC sections with ss. 6/7 ATA invoked
45/2024	PS Sindhri	Alleged "encounter" narrative relating to death of the deceased	PPC sections (as per chart)
46/2024	PS Sindhri	Arms-related allegation attributed to deceased	Sindh Arms Act provisions
44/2024	PS Umerkot (Taluka)	Mob interference with funeral/burial and desecration/burning of the body	PPC sections read with ss. 6/7 ATA
47/2024	PS Sindhri	Counter-version relating to alleged custodial death/abduction	PPC + ss. 6/7 ATA + TCDA 2022
21/2024	FIA Composite Circle Mirpurkhas	Custodial torture and death investigated by FIA under TCDA 2022	PPC + ss. 6/7 ATA + TCDA 2022

This comparative table serves a limited purpose: it demonstrates that the overarching episode spawned discrete, factually separable occurrences (blasphemy FIR; alleged encounter FIR; mob-related FIR; and custodial-death-related FIRs). It is entirely possible, as a matter of law,

that some occurrences may disclose the statutory "design" and public-facing intimidation element contemplated by section 6, Anti-Terrorism Act, 1997 (for example, mob violence targeting a community and preventing burial), whereas another occurrence, though heinous, may remain an "ordinary crime" (however grave) in the sense used by the Supreme Court (as seen in ***Province of Punjab and others v. Muhammad Rafique and others; PLD 2018 SC 178),*** if the definitional ingredients of terrorism are missing. It is the present FIR No. 21/2024, and the legal sustainability of the Anti-Terrorism Act invocation therein, that is to be tested.

26. On the first point—whether the case falls within sections 6 and 7 of the ATA—it is necessary, as a matter of disciplined statutory interpretation, to treat section 6 as the definitional "gatekeeping" provision that alone separates (i) heinous criminality triable by ordinary criminal courts from (ii) terrorism as a *species apart*, carrying with it a distinct procedural and substantive regime. The Honourable Supreme Court of Pakistan, sitting as a larger Bench, has emphasised that the meaning, scope and import of "terrorism" under section 6 have been controversial and have required authoritative settlement; and it has laid down a determinative test whereby an action or threat of action must (a) fall within subsection (2) of section 6, and (b) the use or threat of such action must be designed to achieve the objectives specified in clause (b) of subsection (1) or the purposes mentioned in clause (c) of subsection (1). In other words, neither sheer gravity nor mere public notoriety is a substitute for the statutory "design/purpose" requirement ***(Ghulam Hussain and others v. The State; PLD 2020 SC 61).***

27. On the second point—whether the learned Anti-Terrorism Court lawfully assumed jurisdiction—it is trite that jurisdiction is conferred by statute, not by sentiment, and cannot be assumed on the basis of moral shock or the publicity of an occurrence. The jurisdiction of Anti-Terrorism Courts is exceptional; it is justified by the legislative object of dealing with terrorism and certain scheduled heinous offences expeditiously, but such exceptional jurisdiction is not a roving commission to try every grave offence. The Supreme Court has

repeatedly warned that over-extension of the ATA dilutes its purpose and risks converting special courts into alternate criminal courts, a result impermissible in law and inimical to the constitutional architecture acknowledged in the jurisprudence upholding (with limitations) special anti-terrorism fora. ***(Mehram Ali and others v. Federation of Pakistan and others; PLD 1998 SC 1445).***

28. On the third point—whether the impugned order dated 23.10.2025 is vitiated by misreading, non-reading, or misapplication of law—the revisional court does not sit as a second court of appeal; nevertheless, where the impugned order proceeds upon an erroneous legal premise, or where it overlooks binding precedent and the correct statutory framework, the error is one of jurisdiction and legality, not merely of appreciation. A decision rendered coram non judice is void in law; and a jurisdictional error, once demonstrated, warrants correction lest the trial proceed before an incompetent forum, thereby occasioning further illegality and prejudice.

28. On the fourth point—whether the facts disclose terrorism or merely an ordinary criminal offence—the controlling enquiry is not whether a homicide or custodial death is shocking (it is), but whether, on the allegations, the act was designed to strike terror in the people or a section of the people, or to create a sense of fear or insecurity in society, or to achieve the other objectives and purposes enumerated by section 6(1)(b) and (c). The legal distinction between public terror and private crime has been repeatedly reiterated; and where the substratum indicates a targeted offence arising out of particularised circumstances—however reprehensible—courts must be slow to brand it as terrorism unless the objective element is clearly pleaded and prima facie shown.

29. The meaning of "terrorism" in Pakistan's statutory regime is not left to rhetoric; it is a term of art employed to recognise a particular form of violence and coercion possessing a public dimension: terror as an instrumentality directed at society, the State, or the body politic. The Supreme Court has, in its seminal exposition, traced the historical phenomena associated with "terrorism" across different eras and regions—emphasising that while "terror" and "horror" are ancient

human experiences, "terrorism" in law is the structured deployment (or threat) of violence to achieve broader objectives, often political, ideological, or sectarian, and crucially to overawe or intimidate a population or the writ of the State.

30. The legislative development in Pakistan reflects a gradual evolution from special courts and ad hoc instruments aimed at extraordinary violence, to the consolidated framework of the ATA. The jurisprudence acknowledges that prior to the ATA, the State resorted to specialised measures (including special courts legislation) in response to organised violence; and that the ATA, enacted in 1997, was framed to provide for prevention of terrorism, sectarian violence, and speedy trial of heinous offences, and matters connected therewith and incidental thereto. The preamble thus discloses an object that is preventive and protective of societal security, while also ensuring expedition in adjudication of sufficiently grave categories.

31. The constitutional legitimacy of anti-terrorism courts was tested early. In ***Mehram Ali v. Federation of Pakistan*** **(PLD 1998 SC 1445),** the Supreme Court upheld the creation of special anti-terrorism fora subject to constitutional parameters—particularly the independence of judiciary and proper appellate oversight—thus reinforcing that special courts are not to become parallel justice systems divorced from constitutional control. The decision is often cited as a reminder that special jurisdiction must remain confined to its statutory charter, and that the raison d'être of such fora is not to supplant ordinary criminal courts but to address a defined menace through a legally delimited mechanism.

32. Subsequent judicial interpretation struggled, for a time, between effect-based and object-based understandings of terrorism: whether the "effect" of an act on public fear could by itself suffice, or whether the "object/design/purpose" behind the act must be demonstrably within the statutory objectives. This tension is captured in the jurisprudence culminating in the larger Bench decision reported as PLD 2020 SC 61 (*Ghulam Hussain and others v. The State and others*), wherein the Supreme Court undertook a comprehensive review of legislative amendments, earlier authorities, and the doctrinal drift, and

then supplied a controlling test anchored in the text of section 6. The Court observed, inter alia, that not all heinous offences ipso facto constitute terrorism; terrorism is a distinct species; and the statutory definition cannot be expanded by judicial sentiment beyond what Parliament enacted.

33. The Lahore High Court's celebrated judgment in ***Basharat Ali v. Special Judge, Anti-Terrorism Court-II, Gujranwala (PLD 2004 Lah 199),*** later relied upon and engaged by higher courts, is jurisprudentially significant for its conceptual demarcation between ordinary criminality and terrorism, emphasising that private vendetta or personal feud—even when pursued violently—is not automatically terrorism unless it crosses the statutory threshold of public intimidation or societal insecurity. This line of reasoning, consonant with the maxim *generalia specialibus non derogant* (general provisions do not derogate from special), underscores that the ATA's extraordinary regime cannot be invoked merely to obtain a procedural advantage or to expedite a prosecution that remains within the ordinary criminal domain.

34. Section 6 is the definitional core. It is structured in a manner that requires, first, identification of an "action" (or threat of action) by reference to subsection (2), and, secondly, a nexus between the action and the "design/object/purpose" enumerated in subsection (1)(b) and (c). This structure is not accidental: it embodies the legislative intent that the ATA attach not to all violence, but to violence (or threat) employed as a means to terrorise, intimidate, coerce, or destabilise beyond the immediate victim. Subsection 6(2) lists categories of actions—such as killings, grievous harm, kidnapping for ransom, and other enumerated forms of violence or intimidation. Subsection 6(1) then supplies the objectives that transform an "action" into "terrorism": striking terror in the people or a section of the people; creating a sense of fear or insecurity in society; coercing or overawing the Government; and other public-facing destabilising purposes. The Supreme Court has authoritatively explained that the two-step requirement must be satisfied: an action, however brutal, is not terrorism unless it is also designed to achieve the objectives/purposes mentioned.

35. Subsection 6(3), which refers to the use or threat of use of any action falling within subsection (2) involving firearms, explosives or other weapons, has been a focal point of interpretive disputes. The settled understanding, post-PLD 2020 SC 61, is that subsection (3) does not dispense with the structural necessity of linking the action to the statutory objectives/purposes; rather, it clarifies that certain weapon-based actions may constitute terrorism even if a particular clause is not satisfied, but the definitional discipline remains anchored in subsection (2) and the overarching design requirement. The judicial consensus, as captured in the larger Bench exposition, is that "striking of terror" is *sine qua non* for the application of section 6 and cannot be determined without examining the nature of allegations, their cumulative societal effects, and the design/purpose behind the act.

36. Section 7 provides punishments for "acts of terrorism" as defined by section 6. It is not an independent jurisdiction-creating provision; it is consequential. Its application therefore rises or falls with the proper application of section 6. The insistence of the Supreme Court that section 7 cannot be invoked by mechanically tagging section 6 without satisfying the definitional threshold is rooted in legality: penal statutes are to be strictly construed, and special penal regimes are not to be extended by analogy.

37. The jurisprudential development is instructive. In ***Muhammad Ajmal v. The State* (2000 SCMR 1682),** the murder of a professor in circumstances designed to create fear among teachers was treated as attracting the ATA because the act was aimed at overawing a class of society. In ***Muhammad Mushtaq v. Muhammad Ashiq* (PLD 2002 SC 841)**, killings near court premises were treated as terrorism because of the public intimidation inherent in the locale and circumstances. In **Naeem Akhtar v. The State (PLD 2003 SC 396)**, abduction and killing of a doctor—motivated by dissatisfaction with treatment—was treated as spreading unrest and panic among the medical community. In ***Sh. Muhammad Amjad v. The State* (PLD 2003 SC 704)**, kidnapping and killing of a barrister for ransom was treated as terrorism, with the Court noticing community outrage and the potential for public disorder. These

exemplars reflect the statutory focus on public intimidation and societal insecurity rather than on private revenge alone.

38. Conversely, where violence is rooted in private enmity or localised disputes, courts have cautioned against "ATA-isation". In ***Province of Punjab through Secretary Punjab Public Prosecution Department v. The State (PLD 2018 SC 178***), the Supreme Court reiterated that offences committed only due to personal revenge cannot be dragged into terrorism, and distinguished cases where the design was to frighten the public from those arising from private rancour. The larger Bench in PLD 2020 SC 61 went further and supplied the doctrinal reconciliation, underscoring that the "design/purpose" requirement is central and that heinousness alone is insufficient; the ATA also accommodates the trial of certain "heinous offences" through the Third Schedule, but such offences do not thereby become "terrorism" unless section 6 is satisfied. The jurisdictional significance of this distinction is profound. An Anti-Terrorism Court may try (i) "terrorism" cases, and (ii) "scheduled offences" within its statutory remit; but for cases lying outside those parameters, section 23 of the ATA provides the corrective mechanism by which jurisdiction may be returned to the ordinary court. Judicial pronouncements have emphasised that when a case is transferred from an Anti-Terrorism Court to ordinary criminal jurisdiction, the trial ordinarily proceeds from the stage it had reached at the time of transfer, thereby avoiding nullification of proceedings while correcting the forum.

39. Applying the above principles, the Court must disentangle public outrage surrounding a sensational incident from the definitional requirements of terrorism. The record and the contemporaneous reporting indicate that the incident produced multiple FIRs capturing distinct strands: the blasphemy allegation (FIR 42/2024), the police's "encounter" narrative and alleged resistance/arms (FIRs 45/2024 and 46/2024), the mob's desecration of the body (FIR 44/2024), and the custodial death / staged encounter allegation implicating officials (FIR 47/2024), later supplemented by the FIA-registered FIR pursuant to High Court directions (the present FIR No. 21/2024).

40. The case at hand—FIR No. 21 of 2024—centres on allegations of unlawful custody, torture, and killing of a single individual, followed by alleged fabrication of an encounter narrative and concealment of evidence. These allegations prima facie constitute offences under the P.P.C. and fall squarely within the conceptual field of custodial torture/custodial death addressed by the 2022 Act. The 2022 Act is not a mere declaratory instrument: it creates a specific investigative and trial architecture, including lodging of complaint with FIA and vesting trial jurisdiction in the Court of Session. The Human Rights Commission of Pakistan's legislative analysis notes, consistent with the statutory text, that jurisdiction to try offences of torture is vested with the Court of Session under section 6 of the 2022 Act and that the Act sets stringent timelines for investigation and trial to prevent delay.

41. The Anti-Terrorism Court, in declining to transfer the matter, appears to have treated the alleged custodial killing as inherently terrorism because of the broader societal volatility and the public agitation in the wake of blasphemy allegations. That approach, with respect, conflates (i) the social context in which the offence occurred with (ii) the legal character of the offence as "terrorism" under section 6. The Supreme Court's test demands that the act be *designed* to achieve the statutory objectives/purposes—striking terror or creating a sense of fear or insecurity in society—rather than being merely a crime that incidentally occurs amidst public agitation. The question is not whether society was frightened or angered after the fact; it is whether the accused's action, as alleged, was designed to terrorise society or coerce the State.

42. It is, therefore, crucial to compare the FIRs, for the comparison itself reveals why the ATA jurisdiction may arguably be attracted in some and not in others. FIR No. 44/2024 (desecration and burning of the body) alleges a mob blocking roads, attacking an ambulance, snatching and burning a corpse, and creating a volatile public order situation; such allegations, by their very nature, implicate public intimidation and widespread fear, and are pleaded as attracting sections 6 and 7 of the ATA. Likewise, the "encounter" narrative FIRs (45/2024 and

46/2024) were registered on the police version of an armed confrontation; while such FIRs were later said to have been found false, their pleaded basis was an alleged attack on the police party, which, depending on circumstances, can sometimes be prosecuted under the ATA where the act is designed to challenge the writ of the State and create public insecurity.

43. By marked contrast, the present FIR No. 21/2024 (and, in substance, the heirs' FIR No. 47/2024) alleges an unlawful custodial killing and subsequent cover-up. These allegations disclose abuse of authority and grave criminality, but they do not, on their face, plead the statutory objective of striking terror in the people or creating fear in society as the design of the accused; rather, the alleged purpose is eliminating a particular person and screening the offence through fabrication. The Supreme Court has been categorical that even brutal killings committed due to personal or localised motives do not become terrorism unless the design/purpose limb of section 6 is satisfied; the mere fact that an incident becomes widely known, or generates fear, does not automatically imprint "terrorism" upon it.

44. The detailed charge-sheet reported to have been submitted by the FIA to the Anti-Terrorism Court further supports the understanding that the alleged offence is rooted in custody and cover-up rather than in a design to terrorise the general public: the reported narrative is that the deceased remained in police custody, the police encounter account was negated, and weapons were attributed to police personnel rather than to the deceased. While none of these matters are findings binding at this stage, they illustrate that the gravamen is custodial illegality and evidentiary falsification, matters ordinarily triable by ordinary criminal courts. The 2022 Act's scheme further strengthens this conclusion. The Act was enacted to implement Pakistan's obligations under the United Nations Convention against Torture and to criminalise torture and custodial death by public officials, while providing a dedicated investigative channel through the FIA and a trial forum in the Court of Session. It would defeat legislative intent if, whenever an allegation of torture/custodial death arises in a high-profile context, the

case could be re-characterised as terrorism and diverted to an Anti-Terrorism Court, thereby collapsing the special protective architecture built by Parliament to address custodial violence. Such an outcome would be contrary to the interpretive maxim *ut res magis valeat quam pereat*—a statute should be construed so as to make it effective rather than nugatory.

45. At this juncture, it is apt to notice an allied line of authority on jurisdictional conflicts between special statutes. In ***Syed Mushahid Shah and others v. The State and others* (2017 SCMR 1218)**, the Supreme Court reaffirmed that general criminal law yields to special statutory regimes and that courts must give coherent effect to special enactments rather than permitting the general to subvert the special. The snippet available from the reported judgment reflects that the Code and the P.P.C. recognise special laws and indicate that such general laws would cede to special laws. This principle resonates with earlier High Court authority such as PLD 2006 Karachi 331 (where, in the context of juvenile justice, it was recognised that the special protective regime of juvenile law cannot be defeated by sending a juvenile into anti-terrorism jurisdiction merely by tagging ATA provisions), and with 2005 MLD 353 (where the need to prevent inappropriate expansion of anti-terror jurisdiction was emphasised). These authorities, read together, buttress the proposition that jurisdiction must follow legislative design and the protective purpose of special statutes, not prosecutorial labelling.

46. Accordingly, on a sober appraisal, the learned Anti-Terrorism Court's assumption of jurisdiction cannot be sustained. To treat every custodial killing—howsoever egregious—as terrorism merely because it arises in a charged social milieu would be to collapse the distinction between terrorism and ordinary crime, a distinction emphatically preserved by the Supreme Court in PLD 2020 SC 61, and reiterated by it in PLD 2018 SC 178 and by earlier jurisprudence such as PLD 2004 Lah 199. The impugned order, having proceeded on an approach that effectively substitutes "heinousness" and "public reaction" for the statutory design/purpose element, therefore suffers from misapplication of law and non-reading of binding precedent.

47. For the foregoing reasons, this Court answers the points of determination thus: the present case, arising out of FIR No. 21 of 2024, does not, on the allegations and material presently relevant to a jurisdictional enquiry, satisfy the cumulative statutory requirements of section 6 of the Anti-Terrorism Act, 1997 so as to attract section 7 thereof; consequently, the learned Anti-Terrorism Court lacked lawful jurisdiction to retain the case as a terrorism matter; the impugned order dated 23.10.2025 is vitiated by misapplication of the ATA's definitional scheme and by non-reading of binding precedent, particularly the authoritative test laid down by the Supreme Court in PLD 2020 SC 61; and the facts disclose an offence triable by the court of ordinary criminal jurisdiction, and, in view of the express scheme of the Torture and Custodial Death (Prevention and Punishment) Act, 2022, by the Court of Session.

48. Resultantly, the Criminal Revision Applications are allowed. The impugned order dated 23.10.2025 is set aside. The proceedings arising out of FIR No. 21 of 2024 are directed to be transferred forthwith to the competent District Court, Mirpurkhas, i.e., the Court of Session having jurisdiction, for trial and disposal in accordance with law. The learned Anti-Terrorism Court shall transmit the complete record, including all proceedings already undertaken, to the District and Sessions Judge, Mirpurkhas, who shall assign the case to a competent court of ordinary jurisdiction. Consistent with the judicial guidance that, upon such transfer, the trial resumes from the stage at which it stood at the time of transfer, the transferee court shall proceed from the appropriate existing stage, ensuring that no party is prejudiced and that the matter is adjudicated expeditiously, strictly in accordance with law.

JUDGE

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