

138  
11/01/2022

PRESENTED ON

11/1/2022  
Additional Registrar

IN THE HIGH COURT OF SINDH, HYDERABAD CIRCUIT

D.02  
Criminal Revision Application No. of 2022

Liaquat Ali Soomro  
S/O Akbar Khan Soomro,  
Muslim, adult,  
R/O Muhallah MCP,  
Wapda Colony, Jamshoro

..... APPLICANT

VERSUS

01. The State
02. SHO Police Station  
Jamshoro
03. Investigation Officer  
crime No.192 of 2021  
Police Station Jamshoro
04. Ghulam Qadir  
S/O Jumo Faquir Jakhrani  
Muslim, adult, by caste Jakhrani  
R/O Islamia Colony,  
near Saima Plaza, Hyderabad
05. Muhammad Hussain  
S/O Muhammad Ameen Jakhrani  
Muslim, adult, by caste Jakhrani  
R/O Makrani Goth, Tando Jam,  
Taluka and District Hyderabad

..... RESPONDENTS

Rev. Branch

*ORDER SHEET*  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.

**Cr. Revision Application. No. D — 02 of 2022.**

DATE	ORDER WITH SIGNATURE OF JUDGE[S]
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26.01.2022.

FOR ORDERS ON OFFICE OBJECTION.  
FOR HEARING OF MAIN CASE.  
FOR HEARING OF M.A. 253/2022.

Mr. Mumtaz Alam Leghari Advocate for petitioners.  
Mr. Shahzado Saleem Nahiyoon, Addl.P.G. for State.

**NAIMATULLAH PHULPOTO, J:** Through this Criminal Revision Application applicant / complainant Liaquat Ali Soomro of Crime No.192 of 2021, registered at Police Station Jamshoro for offences under sections 452m 395, 365-A, 337-H(ii), 342 PPC 6/7 ATA has called in question order dated 3.1.2022 whereby learned Judge ATC-I Hyderabad, transferred the case bearing No.53 of 2021 to the court of ordinary jurisdiction by holding that provisions of Anti-Terrorism Act 1997 are not attracted. However, through the same order connected ATC case No.54 of 2021 bearing crime No.201 of 2021 registered under sections 3/4 Explosive Substances Act 1908 read with section 6/7 ATA against accused Noor Ahmed Abro was ordered to be tried by learned Judge ATC-I Hyderabad.

2. Notice of this revision application was issued to the respondents / accused Ghulam Qadir and Muhammad Hussain it was served upon them through Superintendent Central Prison Hyderabad, but none appeared on their behalf.

3. Learned Advocate for the applicant / complainant mainly contended that section 365-A PPC is a scheduled offence and it is triable under the provisions of Anti-Terrorism Act 1997 and submitted that learned Judge ATC-I Hyderabad while passing the impugned order ignored the legal position.

Learned Advocate for the respondents / accused did not support the impugned order and

*"For what has been discussed above, and respectfully relying upon case laws referred above, I am of the humble view that ingredients of alleged offence has no nexus with the object of the case as contemplated under sections 6, 7 and 8 of the Act 1997 and no evidence in respect of sub-section 2(e) of Section 6 of ATA is covered and purpose behind the act was not create terrorism. Mere gathering of mob and covering the situation through media neither manifest the act of terrorism nor created a sense of fear or insecurity in the public or any section of the public. It also manifests from the allegation in the FIR that robbery was committed and inmates were overpowered by the malefactors establish to be tried the same before ordinary court of law. Accordingly, the instant application is allowed and case is transferred to the learned Sessions Court Jamshoro for disposal according to law. The Arms Act cases bearing NOs. 44 to 48 of 2021 pertains to all above five accused separately challaned are also transferred to the same Sessions Court Jamshoro FIR disposal according to law. Accused Qadir Bux, Ali Jan, Muhammad Hussain, Noor Ahmed and Ghulam Qadir are produced from Central Prison Hyderabad, remanded them to the same jail with direction to the jail Superintendent to produce them before the transferee court as and when required through P.Os."*

6. We have heard learned Advocate for the applicant / complainant, Additional P.G. perused the impugned order.


7. In order to determine the jurisdiction of Anti-Terrorism Court under the provisions of Anti-Terrorism Act 1997, trial court was required to go through the contents of the FIR, 161 Cr.P.C. statements and other material collected during investigation so also the final report but in this case trial court has failed to determine the jurisdiction as provided by the law. In the FIR it is clearly mentioned that accused kidnapped the cousin of the complainant namely Ali Muhammad for ransom of Rs.50,00000/- and in the FIR section 365-A PPC has been applied. In the 161 Cr.P.C. statements of P.Ws so also in the final report allegations of kidnapping for ransom have been alleged. Investigation officer submitted challan against the accused under sections 453, 395, 365-A, 342 PPC and 7 ATA. It may be mentioned here that section 365-A PPC is a

Learned Judge ATC-I Hyderabad is directed to proceed with the case under the provisions of Anti-Terrorism Act 1997, expeditiously and decide the same in accordance with law.

Revision application is allowed in the above terms.



JUDGE



JUDGE

A.