

Crim Rev. allowed  
No ATA : Returned to TC

183

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

**CRIMINAL REVISION NO. S-164 OF 2022**  
**SALEEM KAZI AND OTHERS VS THE STATE**

**CRIMINAL REVISION NO. S-135 OF 2022**  
**JAVEED ALI VS MOLADAD & OTHERS**

SINDH HIGH COURT, CIRCUIT COURT HYDERABAD

**COMPOSITION OF BENCH**

**HON'BLE MR. JUSTICE MOHAMMAD KARIM KHAN AGHA**  
**(S.B.)**

Date of last hearing (heard/reserved): 03-02-2023  
Decided on: 10-02-2023

(a) Judgment approved for reporting YES

*[Signature]*

**C E R T I F I C A T E**

Certificate that the Judgment/Order is based upon  
enunciates a principle of law/decide a question of law which  
of first impression/distinguishes over-rules/explains  
previous decision.

Strike-out whichever is not applicable.

- NOTE: -
- (i) This slip is only to be used when some action is to be taken.
  - (ii) If the slip is used, the Reader must attach it to the top  
the first page of the Judgment.
  - (iii) Court Associate must ask the Judge written the judgment  
whether the judgment is approved for reporting.
  - (iv) Those directions which are not to be used should be deleted.

SGP, Kar-L (iii) 773-2000-4-2003-III

7812  
24/11/2022

PRESENTED ON 24.11.2022

Additional Registrar

**IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD**

Criminal Revision Application No. S- 164 of 2022.

1. Saleem Kazi S/O Khuda Bux Kazi. *Khadi*

2. Dr. Hameedullah Kazi S/O Saleem Kazi, *176m Subi*  
Both Adult, Muslim, B/C Kazi, R/O House No. 80,  
Muslim Housing Society, Qasimabad, Hyderabad.

3. Dr. Ghulam Qadir Kazi S/O Ahmed Khan Kazi. *26m Subi*

4. Dr. Ahmed Waliullah Kazi S/O Ghulam Qadir Kazi. *26m*  
Both 3 and 04 Adult, Muslim, B/C Kazi, R/O House No. 72,  
Defence Officers Housing Society, District Hyderabad.

5. Dr. Roshan Bhatti S/O Jumma Khan,  
Adult, Muslim, R/O C-52, Shahbaz Town  
behind Honda Palace, Hyderabad.

6. Ghulam Rasool Kazi S/O Muhammad Bachal Kazi,  
Adult, Muslim, B/C Kazi, R/O House No. B-212, 42,  
Gizri Phase 4, DHA Karachi.

7. Sajjad Ali S/O Ali Bukhsh Kazi,  
Adult, Muslim, B/C Kazi, R/O House No. C-120,  
Muhalla Gulstan Sajjad, Qasimabad, Hyderabad.

7/11/22



8. Muhammad Zafar Bhatti S/O Muhammad Shuaib Bhatti,  
Adult, Muslim, B/C Bhatti, R/O Near Isra University Foundation School,  
House No. B-57, Muhalla Isra Town Housing Scheme, By-Pass,  
Hyderabad City, District Hyderabad.....Applicants

**Versus**

The State.....Respondent

Crime No. 09 of 2022
U/S: U/S 353, 324, 147, 148, 149, 337-H (ii), F-(i), F-(iii) P.P.C
Police Station Hatri, District Hyderabad.

6730  
29/9/2022

PRESENTED ON 29.9.2022

Additional Magistrate  
29.9.22

IN THE HIGH COURT OF SINDH, HYDERABAD CIRCUIT.

Criminal Revision Application No. 135 of 2022.

Javed Ali S/O Shafi Muhammad,  
Muslim, adult, by caste Jaffery,  
R/O Near Malik Petrol Pump,  
Hala Naka, Hyderabad.

..... APPLICANT/  
COMPLAINANT

VERSUS

1. Moladad S/O Bilawal,  
Adult, Muslim, by caste Awan,
  2. Rizwan S/O not known,  
Adult, Muslim, by caste Pathan,
  3. Wajid S/O Ghulam Qadir,  
Adult, Muslim, by caste Bhalai,
  4. Majid S/O Ghulam Qadir,  
Adult, Muslim, by caste Bhalai,
  5. Makhan S/O not known,  
Adult, Muslim, by caste Bhalai,
- all R/O Isra Hospital,  
Hyderabad.

..... RESPONDENTS/  
ACCUSED.

SECTION 116 429 Cr.P.C R/W

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

Cr. Revision Application No.S-164 of 2022

DATE ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objections.
2. For hearing of main case.
3. For hearing of M.A No.10734/22.

03.02.2023.

M/S. Sajjad Ahmed Chandio, Asad Shakil Khan and Barrister Zain Mustafa Soomro, Advocate for applicant(s).

Mr. Aijaz Shaikh, Advocate for PW Shoaib-ul-Hassan.

Mr. Ayaz Hussain Tunio, Advocate for PW Moula Dad.

Mr. Ghulamullah Chang, Advocate for injured Javed Ali.

Ms. Sana Memon, Assistant Prosecutor General, Sindh.

I have heard the learned counsels for the applicants as well as learned Asst. Prosecutor General assisted by learned counsels for aggrieved party.  
Reserved for orders.

  
JUDGE

*\*Hafiz Fahad\**



Crim Rev. Allowed  
No ATA : Returned to TC

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

Cr. Rev. Appl. No.S- 164 of 2022

Cr. Rev. Appl. No.S- 135 of 2022.

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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1. For orders on office objection(s).
2. For hearing of the main case.
3. For hearing of M.A- 10734 of 2022 (Stay application)

Date of hearing: 03.02.2023

Date of order: 10.02.2023

M/s. Sajjad Ahmed Chandio, Asad Shakil Khan and Barrister Zain Mustafa Soomro, Advocates for the applicants.

Mr. Aijaz Shaikh, Advocate for PW Shoaib-ul-Hassan.

Mr. Ayaz Hussain Tunio, Advocate for PW Moula Dad.

Mr. Ghulamullah Chang, Advocate for injured/PW/applicant Javed Ali in Cr. Rev. A. No.S- 164/2022 and Cr. Rev. A No.S- 135/2022, respectively.

Ms. Sana Memon, Addl: P.G Sindh

**ORDER**

**MOHAMMAD KARIM KHAN AGHA, J.**-Through instant criminal revision application, applicants have challenged the order dated 19.11.2022, passed by learned 7<sup>TH</sup> Additional Sessions Judge, Hyderabad in Sessions Case No.634 of 2022, whereby the learned Judge in the concluding para has passed the following directions:-

*"So, under these circumstances, I am of this humble view that this case squarely falls within the exclusive domain of Anti Terrorism Court and resultantly, this court cannot take cognizance of the matter. I.O of this case/DSP Hala is directed to collect the R&Ps and submit the same before competent authority i.e Anti Terrorism Court for passing appropriate Order as to who would be charged as accused and tagged as witness. Office is directed to communicate this order to I.O for*



collection of record for compliance of Order. Accused persons are directed to appear before Anti-Terrorism Court and are no more required before this Court and their bail bonds are discharged under these circumstances."

2. Being aggrieved by the said order, the applicants have preferred instant revision applications along with one aggrieved party.
3. The facts of the case in brief as per FIR lodged on behalf of the State by SIP Aftab Memon are as under:-

"On behalf of State it is complained that I am posted as SIP/acting SHO at PS Hatri. Today on 15.01.2021, I was present at Police Station where 15 command base had noted through mobile phone and informed that the firing is taking place inside and outside of Isra University. On such information staff namely PC-2058 Rustam Zaman, PC-4646 Shahnawaz Khosa, PC-381 Abdul Qadeer, PC-1187 Muhammad Hakim, PC-7162 Rasheed Ahmed, PC-2811 Ali Hassan along with arms and ammunition, vide roznamcha entry No.29 at 1755 in police mobile No.SPC-605 proceeded towards Isra University from PS. PC Ali Hassan was driving and we reached at Isra university at 1755. Firing was taking place inside and outside of the Isra University and many people were gathered there. **Wherein the information taken what was known that there is a conflict between 02 groups of Isra University.** In the meanwhile we entered in the Isra University wherein the people informed us that one person has been shot which is lying at the gate in injured condition. Where we proceeded towards him and saw that one person was injured that from which we inquired about name and parentage who told his name as **Javed S/o Shafi Muhammad**, B/C Jaffery, R/O permanently residing at Village Waryam Khan PO Shikarpur Taluka and District Shikarpur, Presently at Ali Abad Colony Hyderabad. He was sent to Civil Hospital after giving letter for treatment. We were going towards Administration Block where unknown persons with intention to commit murder made straight firing at us where in our self-defense made fires and for about 10/15 minutes firing was continued. We tried to arrest the accused but managed to escape through aerial firing. We narrated such information to our high ups and after some time police force arrived to help us, whom we put on duty in different places. As enough number of unknown accused in order to make hindrance in our lawful duty commits offences U/S 353, 324, 147, 148, 149, 337H(2) PPC. Where public mashir not arranged timely we appoint PC Rustam Zaman and PC Shahnawaz as Mashir and check the place of incident where we secured 08 empty of TT pistol, 15 empty cartridge of 12 bore fired by accused, and 05 empties of SMG, 07 empties of G-3 rifle fired by us. Where the empties of TT Pistol and 12 bore Cartridge fired by accused and empties of SMG and G-3 rifle fired by police party by sealing for FSL prepared mashirnama of



recovery and took signatures of above mashirs. By placing recovered property in safety and assigned staff on duty returned at PS Hatri. **As already there have been clashes to gain control over administrative matters between 02 groups of Isra University. This time too there has been a clash due to which Javed Ali Jaffery has been injured due to a bullet. Both groups had clashed previously and there was also firing, whose such cases were also registered.** As unknowns accused with their common intention by committing rioting hindered in our lawful duty with intention to murder us made straight fires where on behalf of state above case has been registered against unknown accused. We saw unknown accused clearly and identify them on seeing. I made 10 fires from SMG, staff will show in their statements.(bold added)

Sd/-

SIP, P.S Hatri, Hyderabad"

4. After hearing the learned counsels for the parties, learned 7<sup>th</sup> Additional Sessions Judge, Hyderabad, has passed the impugned order which is now under challenge.

5. Learned counsel for the applicants and one aggrieved party the injured Javed contended that that the court had no jurisdiction to pass the impugned order; that the counsel for the applicants were not heard and not put on notice; that as this was a case of personal enmity and vendetta between two rival groups the case did not fall within the purview of the ATA which was supported by most of the documents on record including the FIR and both challans and that even other wise the mens rea to convert this case in to one of terrorism as set out in S.6(1) (b) and (c) had not been proven and as such the case could not fall within the purview of the ATA. In support of their contentions they placed reliance on the cases of **Ghulam Hussain and others V The State and others** (PLD 2020 SC 61), **Ali Gohar and others V Pervaiz Ahmed and others** (PLD 2020 SC 427), **Bashir Ahmed V Muhammad Siddique and others** (PLD 2009 SC 11), **Allahyar and another V Judge, Anti-Terrorism Court Naushahro Feroze and 2 others** (2019 PCr.LJ 549), **Basharat Ali V Special Judge, Anti-Terrorism Court-II, Gujranwala** (PLD 2004 Lahore 199), **Farooq Ahmed V The State and another** (2020 SCMR 78), **Ahmed Jan V Nasrullah and others** (2012 SCMR 59), **Shahbaz Khan alias Tippu and others V Special**



**Judge, Anti-Terrorism Court No.3, Lahore and others** (PLD 2016 SC 1), **Waris Ali and 5 others V The State** (2017 SCMR 1572), **Malik Changez Khan V The State through P.G Sindh and 11 others** (2020 PCr.LJ 1639) and **Muhammad Akbar Khan and 3 others V SHO P.S. Garhi Khairo, District Jacobabad and others** (2017 PCr.LJ 1280).

6. Learned APG and learned counsel for other aggrieved parties supported the impugned order and contended that it had been passed in accordance with law; that all the aggrieved parties were heard; that the case fell squarely within the ambit of the ATA as the actions of the accused met the requirements of S.6(2) (n) and (m) of the ATA which concern (m) serious coercion and intimidation of a public servant in order to force him to discharge or refrain from discharging his lawful duties and (n) concerns serious violence against a member of the police force, armed forces or civil armed forces or a public servant and since it was an attack on a hospital the relevant mens rea had been proven under S.6(1) (b) and (c); that the criminal revision application was not the appropriate remedy at this stage as it was for the applicants to move an application under Section 23 ATA before the ATC where the case had been sent for trial as per the impugned order. In support of their contentions they placed reliance on the cases of **Ghulam Hussain and others V The State and others** (PLD 2020 SC 61), **Nazeer Ahmed and others V Nooruddin and another** (2012 SCMR 517) and **Tariq Ali Jatoti and another V The State and another** (2022 YLR Note 137).

7. I have considered the arguments of learned counsels for the parties, perused the record and the case law cited by them at the bar.

8. Since these Revision Applications in essence challenge the impugned order not to transfer this case from the ordinary court to the Anti-Terrorism Court (ATC) I intend to restrict myself to the basic point whether as a matter of law based on the facts and circumstances of the case the actions of the accused brought their case within the ambit of the Anti Terrorism Act 1997 (ATA).

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9. In order for an act to come within the purview of the ATA two basic requirements need to be met under S.6 of the ATA.

(a) Firstly the act must fall within the meaning of any of the sub clauses set out in S.6 (2) of the ATA. Based on the facts and circumstances of this case it is extremely likely as alluded to earlier by the learned APG/respondents/interveners that the acts of the accused fall at least within S.6 (2) (n) and (m) ATA **and**

(b) Secondly the act must also **either** fall within S.6 (1) (b) **or** (c) of the ATA which are set out below for ease of reference.

(b) the use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or a foreign government or population or an international organization or create a sense of fear or insecurity in society; **or**

(c) the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause or intimidating and terrorizing the public, social sectors, media persons, business community or attacking the civilians including damaging property by ransacking, looting, arson or by any other means, government officials, installations, security forces or law enforcement agencies:

Provided that nothing herein contained shall apply to a democratic and religious rally or a peaceful demonstration in accordance with law.

10. In the case of **Ghulam Hussain V State** (PLD 2020 SC 61) a larger 7 member bench of the Supreme Court after a detailed analysis of the ATA and the law of terrorism both domestically and internationally held as under at P.131 para 16;

*"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 meaning 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.*(bold added).

11. It is quite clear from the above excerpt that the act as defined in Section 6 (a) (2) must be **designed** or its **purpose** must be to create the consequences which follow in Section 6(1) (b) and (c) **and that cases of personal enmity/private vendetta do not fall within the ATA.**

**Did the Acts in this case fall within the purview of the ATA keeping in view Section 6(1) (b) and (c) of the ATA and Ghulam Hussain's case (Supra)?**

12. At the outset as regards the contention that the parties were not heard or given notice in respect of the impugned order this is belied by the names of the counsel and their arguments being reproduced in the impugned order. It may be that the concerned court might have lacked authority to pass the impugned order but in any event none of the counsels wanted the case remanded as in essence it was not in dispute that the ISRA campus Hyderabad had been attacked but rather which court would hear the matter. Namely the ordinary court of law or the ATC. Although I find the impugned order over elaborate on the question of the ATA being applicable and it would have been better to refer this matter as per the required legal procedure the reality is that it has made a detailed finding which might even make a Section 23 ATA application now some what prejudiced/redundant and as such in the interest of justice I have decided to decide this legal issue and avoid further unnecessary delay. Although it is doubtful whether the aggrieved parties had any locus standi to be heard I have allowed them in the interests of justice to assist the learned APG.

13. As a preliminary point Order of this court in CP No.D-2725 of 2022 dated 04.10.2022 barred re investigation but **permitted further investigation** which is quite usual under the law and keeping in view that the Sessions Court is not bound by the opinion of the IO or the PG's office as such I find that there was no illegality committed in carrying out a further investigation in the matter and as such the supplementary challan submitted after the further



investigation remains in the field and will be used for the purposes of trial.

14. It is now well settled that actions taken in pursuant to personal enmity and private vendetta do not come within the purview of the ATA. The case record reveals that there is a great rivalry/enmity between the two parties to take over control of the administration of ISRA University Hyderabad and in this regard **as per record a plethora of litigation has passed/is pending between the parties vying over the administration of ISRA University Hyderabad between it appears the Kazi group and the Laghari group.** For example, I reproduce below just two orders in material part dated 05.08.2022 and 12.08.2022 respectively passed in Suit No.1491 of 2022 pending at the High Court at Karachi to illustrate this point;

**ORDER DATED 05.08.2022 IN SUIT NO.NIL OF 2022**

3. Per learned counsel for the plaintiffs, number of Suits/Petitions, are pending in this Court filed either by the Plaintiffs or the Defendants wherein restraining orders have been obtained by the parties. Reference of such litigation is already mentioned in the memo of plaint as well as photocopies of certified copies of such orders passed by this Court are enclosed with the memo of plaint. Learned counsel for the plaintiffs urges that Defendant No.1 has launched a malicious, defamatory and scandalous campaign at the behest of the remaining Defendants in the social, digital and print media. Such defamatory campaign launched by the Defendants is adversely affecting the image of ISRA University and the students of ISRA University Karachi, Islamabad and Hyderabad campuses. **Learned counsel for the plaintiffs has referred to a Notice issued for the attention of the parents and students of ISRA University issued under signature of the Defendant No.1 which contains malicious, defamatory and scandalous contents/material. For the ready reference, some of the operational part of the said Notice is available at Annexure A/1 at Page-39 is reproduced as under:-**

*"An unauthorized group of people who have illegally occupied the Islamabad and Karachi campuses of ISRA University are trying to rob students and destroy their future by issuing fake degrees and are demanding cash from the students to get their degrees. While the fee for the degree is deposited in the form of Demand Draft/Pay Order, in favour of ISRA University, Hyderabad along with the verified documents.*



*At the same, the approved signatories on the degree by the Higher Education Commission of Pakistan, Pakistan Medical Commission, Pakistan Engineering Council, Pakistan Nursing Council, and all Other relevant regulatory authorities are the Vice Chancellor, ISRA University, Prof. Dr. Nazeer Ashraf Leghari, Controller of Examinations, Mr. Tariq Aziz Samoo and Registrar, ISRA University, Mr. Abdul Qadir Memon. Any degree issued other than the legitimate signatories will be illegal and will not be accepted by the HEC, PMC, PEC, PNC and other regulatory bodies."*

**Learned counsel for the plaintiffs then has referred to the same Notice which has been issued in the social media on different dates and also published in daily Dawn Karachi in its issue on 04.08.2022. Copy whereof is enclosed as Annexure 'A/3' at Page-43.**

Let notices to the Application listed at Serial No.3 to be issued to the Defendants through all modes except publication. Till the next date of hearing, the Defendants are restrained from issuing any malicious, defamatory and scandalous statements by publishing or circulating in the social, digital and print media against the plaintiffs/Campuses of Isra University, Karachi, Islamabad and Hyderabad as has been issued by the defendants No.1 as referred above. Let this Suit be fixed along with depending Suits of the ISRA University which are already fixed on 16.08.2022.(bold added)

Sd/-  
Judge"

**ORDER DATED 23.08.2022 IN SUIT NO.NIL ( 1491 ) of 2022**

2) This suit was filed by Isra Islamic Foundation and Isra University through its authorized officer along with other individuals. There is apparently a dispute as to who the lawful Vice Chancellor of Isra University is, which is likely to be resolved in the pending bunch of cases, in particular JCM No.29 of 2020. However, since it requires detailed arguments which perhaps is not possible to be concluded today, learned counsel for defendant No.1, who also claims to be Vice Chancellor of Isra University, has requested to take up on priority basis this application under order XXXIX Rule 4 CPC for some modification in the exparte ad-interim order obtained by the plaintiffs on 12.08.2022, so that degrees which are being awarded at this stage of dispute may not go unscrutinized and unverified. The substance of the said ad-interim order is as under: -

*"Issue notice to the defendants for 16.08.2022, when instant suit will be taken-up alongwith aforesaid suits, which are already fixed on the said date, in the*



*meantime the defendants are restrained from interfering with the degree awarding process of the plaintiffs, and defendant Nos.1 to 3 or their subordinates are restrained from requiring the students of Isra University Karachi and Islamabad campuses from getting their degrees verified, attested etc. from them. Defendants are further restrained from initiating any action and/or from lodging complaints against the plaintiffs in relation to issuance of degrees of Karachi and Islamabad campuses, till the next date of hearing."*

I have heard the learned counsel and perused record. Mr. Arshad Tayebali, learned counsel appearing for defendant No.1, submits that a blanket powers have been given to plaintiff No.2, presently under control of a disputed Vice Chancellor, for admissions and awarding degrees without any process of verification and attestation from anyone including defendants No.1 to 4 out of whom one is Vice Chancellor, as claimed, and the other is HEC. Pending litigation would likely to resolve the controversy as to who the lawful Vice Chancellor of University is.

On this issue alone as to whether there could be a process of verification and attestation of the degrees from any of the defendants arrayed here or should these degrees as awarded by the plaintiff No.2 through its disputed Vice Chancellor be reached to the offices concerned, without any verification or attestation.

By virtue of ad-interim order all defendants including HEC are restrained from interfering with the degree awarding process of the plaintiffs and further defendants No.1 to 3 or their subordinates are restrained from requiring the students of Isra University Karachi and Islamabad Campus from getting their degrees verified and attested etc. from them and also from HEC.

**No doubt a dispute regarding claim of being lawful Vice Chancellor is subject matter of these proceedings and some individuals claiming themselves to be Vice Chancellors are acting and taking actions purportedly for running Isra University, which includes all activities to run a university, but such degree awarding process cannot go un-scrutinized while the litigation would give a concluded picture as to who the lawful Vice Chancellor is. The Isra University, being run by some individuals claiming themselves to be Vice Chancellor and office bearers cannot be given this blanket permission during pendency of this dispute. Hence the contention of learned counsel for defendant No.1 that the degrees as being awarded should not go unattended and at least should get a verification and authentication from the office of HEC is not without reasoning. Defendants No.1 to 3 in view of alleged suspension may not have a role for verification and attestation of the degree but HEC i.e. defendant No.4 does. The future of the students who are getting themselves enrolled as students and as a consequence, are being awarded degrees, cannot go**



unchecked risking the entire system of higher education where degrees are being awarded, hence in all fairness I deem it appropriate that all degrees that are being awarded should be passed through a verification process from HEC, if not from defendants No.1 to 3. With this understanding the ad-interim order dated 12.08.2022 be read and modified accordingly.

Application stands disposed of. **(bold added)**

15. The enmity between the parties is recognized in the FIR in the following terms,

*"wherein the information taken what was known that there is a conflict between 02 groups of Isra University..... As already there have been clashes to gain control over administrative matters between 02 groups of Isra University. This time too there has been a clash due to which Javed Ali Jaffery has been injured due to a bullet. Both groups had clashed previously and there was also firing, whose such cases were also registered".*

16. The enmity between the parties is recognized in both the initial challan and the final supplementary challan (after further investigation) neither of which mention that any offences have been committed under the ATA and even Section 161 Cr.PC statement of injured eye witness Javed Ali who is mentioned in the FIR and both challans states that it was a fight between two groups.

17. From the above referred plethora of litigation mentioned above including the orders reproduced above, wording of FIR and wording of both the initial and supplementary challan after further investigation and Section 161 statement of injured eye witness Javed I find that there is enmity and personal vendetta between the respective parties in gaining administrative control of the ISRA University Hyderabad which lead to the incident. This enmity and personal vendetta between the rival parties was even recognized in the impugned order when read in a holistic manner in the following terms;

*"The statements of the witnesses have brought into the notice of this Court that several proceedings are pending before Honorable High Court such as CP No.6529 of 2020, suit No.810 of 2021 & J.C.M No.29 of 2020 **even there are orders restraining both sides i.e. Dr. Laghari & Dr. Kazi from interfering in the domain of each other**".*



"...Statements.....show that the accused persons who have been named by the fresh IO attacked on the ISRA University and Hospital with the **basic motive of taking its control**"

"I do not see a normal person would now attend ISRA University without fear of re-occurrence of this type of incident **when he would think that even the founding members of hospital are fighting for control** and this type of incident can re-occur which may cost lives of innocent people coming there for treatment or visiting any patient." (bold added)

18. As such on account of personal enmity and vendetta I find that this case does **not** fall within the purview of the ATA.

19. **Even otherwise**, ATC No.1 Hyderabad has already considered whether this case falls within the ambit of the ATA which it found it did **not** based on the particular facts and circumstances of the case and the relevant law pursuant to its order dated 07.02.2022 in respect of a direct complainant which had been made in respect of this aspect of the case by one of the aggrieved parties which is reproduced as under for ease of reference in material part;

**"ORDER PASSED BY JUDGE, ANTI-TERRORISM COURT NO.1 HYDERABAD DATED 07.06.2022 ON DIRECT COMPLAINT U/S 19(C) OF ANTI TERRORISM ACT, 1997, FILED BY COMPLAINANT SHOAIBUL HASSAN.**

*Looking to the above subject scenario in order to arrive at truthiness or false hood of the complainant, statement under Section 200 Cr.P.C was recorded through his advocate. This witness introduced the story that on 15.01.2022 at about 05:30 p.m, he was available at his office heard the commotion and voice of firing noticed from the window that so many persons were available having armed with weapons in their hands making fire. **According to this witness, he identified Ahmed Waliullah Kazi, Hameedullah Kazi, Sajjad Kazi, Moulvi Nisar Shar, Ghulam Rasool Kazi, and Zafar Bhatti, who were directing the mob to occupy the University.** On instigation of the above person, the said armed persons entered into I.T Department damaged the I.T System in order to hide their activities. They took laptops, computers and other electronic articles also snatched mobile phones and weapons from the security guards and other staff. The security guards were hostages. The accused also maltreated guard Younus Panhwar. **Due to said act of the accused, the sense of fear and insecurity spread among the employees of University,***



Hospital, Patients and visitors. The shops adjacent to the University started closing because of the said situation. The incident was also witnessed by the University employees and other people. This complainant then intimated the incident to VC and "15". The incident was also captured in CCTV Camera. After some time police arrived and complainant party was rescued. He stated that the accused party also made fires upon the police party and in the result of firing, a person from the accused side was injured. The accused then escaped away. Accordingly, the incident was informed and police asked the complainant party to appear at the P.S. Hatri and when he (the complainant) reached at the P.S the FIR of the subject crime had already lodged in respect of the alleged offence. **The complainant further states that the facts of the FIR were twisted and suppressed by the police as the incident was published, flashed and televised through electronic, social and print media created funk and panic in the society. As per version of the direct complaint, the complainant party obtained direction of the learned Sessions Court in shape of order on application u/s 22-A/B Cr.P.C for recording 161 Cr.P.C statement but police failed to provide them justice finding no hope from the police appeared and filed the said complaint.**

In view of P.E the facts divulged through the complainant witnesses under Section 202 of Cr.P.C Mouladad and Awan, Nazeer Aki, these both witnesses have supported the version of the complainant from Alpha to Omega **and if compared their versions of the direct complaint with the statements written in sindhi no significant result appear of any terrorism with regard to act of the proposed accused about any psychological impact upon the people created terror, panic or sense of insecurity at large as well as society in particular. Therefore, case against accused for the particular offence of terrorism did not qualify to be a terrorist act within contemplation of Section 6 of Anti-Terrorism Act, 1997. So far serious damage to the hospital property / commodity as alleged in term of Section 2(w) of Anti-Terrorism Act, 1997 is concerned, it does not appear to have taken place in the said scenario and circumstances dilated upon ordinary crime.** It is also to be noted that application under Section 22-A(6)(i)(iii) Cr.P.C achieved no result by the complainant and it was dismissed vide order dated 3/02/2022. So far further development challenging the same order before superior forum could not be had by the complainant, but simply



stated in the arguments about its pendency. Further, the complainant and witnesses have also stated in their respective statements that there was a commotion within precinct of the hospital and they had seen the incident from window of the office lot of variation in the statement of the complainant pointed out cannot be touched at this stage substantially would cause prejudice of the case adjudicate before the court of law but one thing which is noted that the names of the persons shown in the footages produced with the direct complaint nowhere it is shown that the said persons were shown armed with weapons made firing and again mere firing and simply injury the case of terrorism is not made out as mostly persons were empty handed or were seen taking precious articles of the hospital property and on this score the liability of terrorism cannot be judged/assigned that the staff members or patients available in the hospital was in grip of terrorism due to act of the proposed accused. The best forum of the complainant was to take action promptly to approach the high-up against the I.O and approach the concerned court where challan was submitted as this Court without material cannot be assumed to try the cases of likewise nature.

No doubt, the terrorism means for an action or threat of action to be accepted as terrorism within the meaning 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 purpose mentioned in clause (c) of subsection (1) of Section 6 of the said Act. It is further clarified that the action specified in subsection (2) of section 6 of the said Act do not qualify to be labeled or characterized as terrorism if such action are taken in furtherance of personal enmity or private vendetta. It is also fact on record that the fighting took place between the parties given color on administration malpractice of the hospital and record also shows that there are counter cases between them cannot be ignored slightly at this stage.

In view of above discussion it is quite clear, that the factum disclosed by the complainant and his witnesses do not qualify the present incident to be an act of terrorism triable at this forum as the facts focus in the direct complaint admitted to be violent act of irrespective nature cannot be termed that the same took place within frame work of terrorism to achieve any objective and design as defined in the parameters



of sub-section (a)(b)(c) of Section 6 of Anti-Terrorism Act, 1997, hence instant direct complaint is not maintainable and dismissed.

Given under my hand and seal of the court dated this 7<sup>th</sup> day of June, 2022. (bold added)

Judge  
Anti-terrorism Court-1,  
Hyderabad"

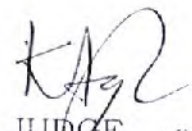
20. Thus, I find that apart from the issue of their being personal enmity/vendetta between the parties which **excluded** the case from the purview of the ATA, that the design, object and purposes to produce certain consequences as set out in S.6 (1) (b) and (c) which would lead to the acts amounting to terrorism are **also absent** in this case and as such even on the facts of the case it does not fall within the purview of the ATA.

21. As such the criminal revision application bearing No.S-164 of 2022 is allowed, impugned Order is set aside and learned Judge ATC No.1 Hyderabad is directed to return the R&P's and case file to the Court of 7<sup>th</sup> Additional Sessions Judge Hyderabad which shall try the case under the ordinary law as laid down in the PPC as mentioned in the last supplementary challan which was submitted after further inquiry which trial should be completed expeditiously.

22. As regard the Cr. Rev. A. No.S-135 of 2022 is concerned, the same in view of my findings (aforementioned) has become infructuous and is disposed of accordingly.

23. A copy of this order shall be shall be sent to Learned Judge ATC No.1 Hyderabad and Learned 7<sup>th</sup> Additional Sessions Judge Hyderabad for compliance.

24. The criminal revision applications are disposed of in the above terms along with all pending applications.

  
JUDGE 10/02/23