

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Sial

Mr. Justice Miran Muhammad Shah

Special Criminal Anti-Terrorism

Jail Appeal No. 218 of 2023

[Abbas Ali vs. The State]

Appellant : Abbas Ali through Ms. Anum
Salman Jamali, advocate a/w
Ms. Mehwish, advocate.

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

Date of Hearing : 29.10.2025

Date of Decision : 29.10.2025

J U D G M E N T

Omar Sial, J.: A police party led by A.S.I. Mumtaz Hussain was on routine patrol duty on 11.05.2023, when it signaled a motorcycle to stop on which two suspicious persons were riding. They opened fire on the police party. The police fired in retaliation and one accused sustained firearm injury on his right leg at below of his knee and fell down. Police apprehended him who disclosed his name as Abbas Ali and one unlicensed 30 bore pistol along with magazine containing three live bullets was recovered. F.I.R. No. 302 of 2023 was registered under sections 353, 324, 411, and 34 P.P.C., read with section 7 of the Anti-Terrorism Act, 1997 against the accused. F.I.R. No. 303 of 2023 was also registered for an offence under section 23(1)(a) of the Sindh Arms Act, 2013 against him.

2. After a full-dress trial, on 18.10.2023, the learned Anti Terrorism Court No.13 at Karachi convicted and sentenced the appellant as follows:

- (a) Two years imprisonment for an offence under section 353 P.P.C. read with section 34 P.P.C.
- (b) Ten years imprisonment for an offence under section 324 P.P.C. read with section 34 P.P.C. The whole property of the accused was forfeited to the Government.
- (c) Seven years imprisonment for an offence under section 23(1)(a) of the Sindh Arms Act;
- (d) Ten years imprisonment for an offence under section 7(h) of Anti-Terrorism Act, 1997.
- (e) Various fines were also imposed.

3. The learned counsel for the appellant submitted that the case against the appellant was not one of terrorism and that she would not argue the case on merits; however, she requested that the sentence already undergone by the appellant be treated as his final sentence. Learned Additional Prosecutor General agrees it is not a terrorism case and that he would concede if the sentence is reduced to the one the appellant has already undergone.

4. We have heard the learned counsel for the appellant and the learned Additional Prosecution General. Our findings and observations after re-appraising the evidence are as follows.

5. **In Ghulam Hussain vs The State (PLD 2020 SC 61)**, the Supreme Court held:

“For what has been discussed above it is concluded and declared that for an action or threat of action to be accepted as terrorism within the meanings of section 6 of the Anti-Terrorism Act, 1997 the action must fall in subsection (2) of section 6 of the said Act and the use or threat of such action must be designed to achieve any of the objectives specified in clause (b) of subsection (1) of section 6 of that Act or the use or threat of such action

must be to achieve any of the purposes mentioned in clause (c) of subsection (1) of section 6 of that Act. It is clarified that any action constituting an offence, howsoever grave, shocking, brutal, gruesome or horrifying, does not qualify to be termed as terrorism if it is not committed with the design or purpose specified or mentioned in clauses (b) or (c) of subsection (1) of section 6 of the said Act. It is further clarified that the actions specified in subsection (2) of section 6 of that Act do not qualify to be labeled or characterized as terrorism if such actions are taken in furtherance of personal enmity or private vendetta.”

6. In the current case, no evidence was produced at trial to establish that the ingredients of section 6(1)(b) or (c) were satisfied. No witness was called at trial to prove the alleged insecurity. It is also evident from the very facts of the case that no design or intent was established for the offence to be categorized as a terrorism offence. An on-the-spot occurrence took place, which was not pre-planned or premeditated. We also find it unusual that none of the police party was hit by the alleged indiscriminate firing of accused persons, but the police still managed to injure one person. Insufficient evidence was led at trial to establish a charge under the terrorism legislation. The conviction and sentence under section 7 of the ATA 1997 is thus set aside.

7. The case against the appellant falling outside the ambit of terrorism would mean he would be entitled to section 382-B remissions. A jail roll was called for that showed that the appellant had completed seven years, five months and 29 days of the sentence awarded to him.

8. Given the above, the appeal is allowed only to the extent of the conviction for section 7 of the ATA 1997. The convictions and sentences awarded to the appellant for the offenses under the Penal Code and the Sindh Arms Act, 2013 are upheld, however, the sentence awarded to the appellant is reduced to

the one which he has already undergone. This will also include imprisonment instead of a fine. The appellant may be released if not required in any other custody case.

9. The appeal stands disposed of in the above terms.

JUDGE

JUDGE

Saleem/PS