

## IN THE HIGH COURT OF SINDH AT KARACHI

Present:  
Mr. Justice Omar Sial  
Mr. Justice Miran Muhammad Shah

**Spl. Cr. Anti-Terrorism Jail Appeal No. 120 of 2024**  
[Muhammad Shahzad Vs. The State]

Appellant : Muhammad Shahzad  
through Mr. Ameet Kumar,  
Advocate

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

Date of Hearing : 28.10.2025

Date of Judgment : 28.10.2025

### **J U D G M E N T**

**Omar Sial, J.:** Naveed-ur-Rehman, the Complainant, reported at Police Station Madina Colony that on 09.05.2023, he along with his Friend Javed was sitting in front of his house when at 10:10 PM, two accused persons duly armed with pistols came there on motor cycle and on the show of weapons they robbed Cash Rs.100,000/- and mobile phone from complainant and Cash Rs.1600/- and mobile phone from his friend Javed. While the accused persons were trying to escape from there, Naveed fired on them from his licensed pistol. In the meanwhile, police party of P.S. Madina Colony also reached there and there was an encounter wherein both accused persons sustained fire arm injuries, however, one of them made his escape good from there. Muhammad Shahzad, the present appellant, was arrested at the spot in injured condition and one pistol was recovered from his possession. Hence, on the report of complainant FIR No. 128 of 2023 was registered under sections 392, 397, 353, 324, 412, 34

PPC read with Section 7 of Anti-Terrorism Act, 1997 at P.S. Madina Colony. A separate FIR No. 130 of 2023 was also registered under Section 23(i) (a) of Sindh Arms Act, 2013 against the present appellant regarding recovery of unlicensed pistol.

2. After a full-dress trial, on 30.09.2024, the learned Ant-Terrorism Court No. 18 at Karachi convicted and sentenced the appellant as follows:

- (a) convicted under section 392 P.P.C. and sentenced him to suffer 03 years R.I. and to pay fine of Rs.25,000/- and in default of payment of fine further undergo for 02 months S.I.
- (b) He was further convicted under sections 353, 324, 34 PPC read with Section 7 (1) (h) of Anti-Terrorism Act, 1997 and sentenced him to suffer 05 years RI and to pay fine of Rs.25,000/- and in default of payment of fine further undergo for 02 months S.I.
- (c) He was further convicted under section 412 P.P.C. and sentenced him to suffer 02 years R.I. and to pay fine of Rs.10,000/- and in default of payment of fine further undergo for 02 months S.I.
- (d) The appellant was acquitted from the charges for the offence under Section 23(I)(A) Sindh Arms Act, 2013. Benefit of Section 382-B Cr.P.C. was also given

3. The learned counsel for the appellant submitted that the case against the appellant was not one of terrorism and that he would not argue the case on merits; however, he requested that the sentence already undergone by the appellant be treated as his final sentence. Learned Additional Prosecutor General agrees that 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 appellant received fire arm injury during encounter. 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 05 years, 06 months and 17 days out of five years six months 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 Pakistan Penal Code are upheld, however, the sentences awarded to the appellant is reduced to the one which he has already undergone. This will also include imprisonment instead of 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