

ANTI TERRORISM ACT, 1997



ANTI-TERRORISM ACT, 1997

(Act No. XXVII of 1997)

AMENDMENT UP TO DATE WITH CASE LAWS

Last Amendment (Fed Act No XXXII of
2020) dated; 24th Sep, 2020

By

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CONTENTS

1. Short title, extent and commencement.	5
2. Definitions	5
[3. Declaration of intent* * * * *]	8
4. Calling in of armed forces and civil armed forces in aid of civil powers.	8
5. Use of armed forces and civil armed forces to prevent terrorism.	9
[6. Terrorism.	10
[7. Punishment for acts of terrorism.....	16
[7-A Creation of civil commotion * * * * *]	23
8. Prohibition of acts intended or likely to stir up sectarian hatred.	23
9. Punishment for offence under section 8.–	24
10.Power to enter or search.–	24
11.Power to order forfeiture.....	25
[11A. Organizations concerned in terrorism. –	25
[11B. Proscription of organizations.–	25
[11C. Right of Review	26
[11D. Observation Order.....	26
[11E. Measures to be taken against a proscribed organization.	27
[11EE.] [Proscription of person].	28
[11EEE. Power to arrest and detain suspected persons.–	30
[11EEEE. Prohibition on disposal of property.–	32
[11F. Membership, support and meetings relating to a Proscribed Organization	32
[11G. Uniform.	33
[11H. Fund raising.	33
[11-I. Use and possession.....	34
[11J. Funding Arrangements. –	34
[11K. Money-laundering.–	34
[11N. Punishment under Section 11H to 11K.–	36
[11O. Seizure, freeze and detention.....	36
[11OO. Access to services, money or other property.	37
[11OOO. Violation of UN Security Council Resolution.	37
[11P. Application by investigating officer to Court.....	38
[11Q. Forfeiture.	38
[11R. Evidentiary standard for forfeiture.	39
[11S. Appeal against forfeiture order	40

[11T. Deposit of [money or other property] in a fund.–	40
[11U. De-proscription.	40
[11V. Directing terrorist activities.	40
[11X. Responsibility for creating civil commotion.–.....	43
12. Jurisdiction of [Anti-terrorism Court].–	44
[13. Establishment of Anti-terrorism Court.–.....	46
[14. Composition and appointment of presiding officers of Anti-terrorism Courts. – .	47
15. Place of sitting.–.....	47
16. Oath by.....	47
17. Powers of [Anti-terrorism Courts] with respect to other offences.....	48
Case Law;	48
18. Public Prosecutors.–.....	48
19. Procedure and Powers of [Anti-terrorism Court].....	48
[19B. Pre-trial scrutiny.	52
[19C. Application of investigation techniques	52
[20. Punishment * * * * *]	53
[21. Protection to Judges, 212[* * * *] Counsel, Public Prosecutor, witnesses and persons concerned with court proceedings.	53
[21A. Cordons for Terrorist Investigation.	54
[21B. Terrorist investigation.	55
[21C. Training. – (1) Weapons Training:	56
[21D. Bail.....	58
[21E. Remand.–	60
[21EE. Power to call information etc.–.....	62
[21F. Remissions.–.....	63
[21G. Trial of offences.	64
[21H. Conditional admissibility of confession.–.....	64
[21I. Aid and abetment.	65
[21J. Harboursing. –.....	66
[21K. Offences triable by way of summary procedure.	67
[21L. Punishment for an Absconder.–	67
[21M. Joint Trial.–.....	69
22. Manner and place of execution of sentence.	69
23. Power to transfer cases to regular courts.–	69
25. Appeal.	71
[26. Admissibility of confession made before police. – * * * * *].....	72

27. Punishment for defective investigation [and reward for successful investigation].–	72
.....	
[27A Presumption of proof against accused.	73
[27AA. Punishment for false implication.–	74
27B. Conviction on the basis of electronic or forensic evidence etc.–	74
28. Transfer of cases.–	75
Case Law;-	75
[28A. Impounding of passport of person charge-sheeted under the Act.–	76
29. Trial before [Anti-terrorism Court] to have precedence.....	76
30. Modified application of certain provisions of the Code.....	77
31. Finality of Judgment.	77
32. Overriding effect of Act.–	77
33. Delegation.	77
34. Power to amend the schedule.	77
[35.Powers to make rules.	78
36. Savings.–.....	78
[37.Contempt of Court.	78
38. Punishment for terrorist act committed before this Act	78
39. Indemnity.....	78
[39A. Removal of difficulties.–	78
[39B. Repeal and savings.....	78
40. Amendment of the Criminal Law Amendment Act, 1908 (XIV of 1908). –	79
[THE FIRST SCHEDULE]	80
THE SECOND SCHEDULE	80
THE THIRD SCHEDULE.....	80
THE FOURTH SCHEDULE.....	81

THE ANTI-TERRORISM ACT, 1997

(XXVII of 1997)

Amendment up to date (24th September 2020)

[20th August, 1997]

An Act

to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences;

WHEREAS it is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:—

- 1. Short title, extent and commencement.** – (1) This Act may be called the Anti-terrorism Act, 1997.
 - (2) It extends to the whole of Pakistan.
 - (3) It shall come into force at once.

- 2. Definitions.** – In this Act, unless there is anything repugnant in the subject or context,—
 - (a) “armed forces” means the Military, Naval and Air Forces of Pakistan and the Reserves of such Forces;
 - (b) “civil armed forces” means Frontier Constabulary, Frontier Corps, Pakistan Coast Guards, Pakistan Rangers or any other civil armed force notified by the Federal Government as such;
 - (c) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);
 - ¹[(d) “child” means a person who at the time of the commission of the offence has not attained the age of eighteen years;
 - (e) “court” means an Anti-terrorism Court established under section 13;
 - (f) “explosives” means any bomb, grenade, dynamite, or explosive substance capable of causing an injury to any person or damage to any property and includes any explosive substance as defined in the Explosives Act, 1884 (IV of 1884);
 - (g) “firearms” means any or all types and gauges of handguns, rifles and shotguns, whether automatic, semi-automatic or bolt action, and shall include all other fire-arms as defined in the Arms Ordinance 1965 (W.P. Ord. XX of 1965);
 - (h) “fine” means a pecuniary amount to be determined by the Court having regard to the facts and circumstances of the cases;]

¹ Substituted for the Clauses (d) to (h) by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 15.8.2001, s.2.

- ²[(ha) “freeze” means to prohibit the transfer, conversion, disposition or movement of any money or other property;]
- ³[(i) “Government” means the Federal Government or, as the case may be, the Provincial Government;
- (j) “grievous”, in relation to bodily injury, means emasculation, mutilation, incapacitation, disfigurement or severe harm or hurt; and in relation to property, means severe loss, damage or destruction;
- (k) “High Court” means the High Court having territorial jurisdiction in respect of the area for which an Anti-terrorism court has been established;
- (l) “hijacking” means any unlawful seizure or exercise of control, or any attempt at unlawful seizure or exercise of control, of an aircraft, by force, violence, threat or any form of obstruction, directly or through any other person, from within or outside the aircraft;
- (m) “hostage-taking” means the holding of a person captive with threats made to kill or harm that person if demands are not met;
- (n) “kidnapping for ransom” means the action of conveying any person from any place, without his consent, or by force compelling or by any deceitful means inducing him, to go from any place, and unlawfully detaining him and demanding or attempting to demand, money, pecuniary or other benefit from him or from another person, as a condition of his release;
- (o) “meeting” means a meeting of two or more persons, whether in public or private;]
- ⁴[(oa) “money” includes coins or notes in any currency, postal orders, money orders, bank credits, bank accounts, letter of credit, travelers cheques, bank cheques, bankers draft, in any form, electronic, digital or otherwise and such other kinds of monetary instruments or documents as the Federal Government may by order specify;]
- ⁵[(p) “Organization” means any group, combination or body of persons
⁶[***];]
- ⁷[(pa) “person” means any natural, legal person or body corporate”;
- ⁸ [(pa) “property” means property of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes shares, securities, bonds and deeds and instruments evidencing title to, or an interest in, property of any kind and money;]

² Inserted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) *w.e.f.* 21.6.2014, s.2.

³ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 15.8.2001, s.2.

⁴ Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.2.

⁵ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 15.8.2001, s.2.

⁶ Omitted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.03.2013, s.2.

⁷ Inserted & Re-Numbered by Act. No. XX of 2020, s.2

⁸ Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.03.2013, s.2.

- ⁹[(q) “proscribed organization” means any organization which is listed in the First Schedule under section 11B;]
- ¹⁰[(qa) “proscribed person” means any individual who is listed in the Fourth Schedule under section 11EE;]
- ¹¹(r) “Public servant” shall have the same meaning as in Section 21 of the Pakistan Penal Code, 1860, or law for the time being in force;
- (s) “Schedule” means a Schedule to this Act;
- (t) “Scheduled offence” means an offence as set out in the Third Schedule;
- (u) “sectarian” means pertaining to, devoted to, peculiar to, or one which promotes the interest of a religious sect, or sects, in a bigoted or prejudicial manner;
- (v) “sectarian hatred” means hatred against a group of persons defined by reference to religion, religious sect, religious persuasion, or religious belief;]
- ¹²[(va) “seize” means to take custody or control of money or other property in order to prohibit its transfer, conversion, disposition or movement;]
- ¹³[(w) “serious” means dangerous to life or property;
- (x) “terrorism” or “act of terrorism” act has the meaning as assigned to it in section 6;
- (y) “terrorist” has the meaning as assigned to it in section 6(5);
- (z) “terrorist investigation” means an investigation of:
- (a) the commission, preparation or instigation of acts of terrorism under this Act;
 - (b) an act which appears to have been done for the purposes of terrorism;
 - (c) the resources of a proscribed organization;
 - (d) the commission, preparation or instigation of an offence under this Act; or
 - (e) any other act for which investigation may be necessary for the purposes of this Act.
- (aa) “terrorist property” means:
- (i) (a) money or other property which is used or is likely to be used for the purposes of terrorism (including any resources of ¹⁴[an organization concerned in terrorism or a terrorist];
 - (b) proceeds the commission of acts of terrorism;

⁹ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.2.

¹⁰ Inserted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.2.

¹¹ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 15.8.2001, s.2.

¹² Inserted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.2.

¹³ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 15.8.2001, s.2.

¹⁴ Substituted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.2.

- (c) proceeds of acts carried out for the purposes of terrorism; and
- (ii) In sub-section (i) above:
 - (a) a reference to proceeds of an act, includes reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments of other rewards in connection with the commission);¹⁵[and]
 - (b) the reference to an organization’s resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organization ¹⁶[and includes assets of any kind, whether tangible or intangible, movable or immovable, and legal documents or instruments in any form whether written, electronic or digital, and shares, securities, bonds, drafts and letters of credit;]

¹⁷[(c) * * * * * * * * * *]

- (bb) “weapon” means any item which can be used to injure or cause bodily harm, and includes any type of fire-arm, explosive, sword, dagger, knuckle-duster, stengun, bomb, grenade, rocket launcher, mortar or any chemical, biological weapon or any other thing which can be used for causing injury, hurt, harm or destruction of person or property, and includes „illicit arms“ as defined in the Surrender of Illicit Arms Act, 1991 (XXI of 1991); and
- (cc) all other terms and expressions used but not defined in this Act, shall have the meanings as are assigned to them in the Pakistan Penal Code, 1860, or the Code of Criminal Procedure, 1898.]

¹⁸[3. Declaration of intent* * * * * * * * * *]

4. Calling in of armed forces and civil armed forces in aid of civil powers. –

(1) It shall be lawful for the Federal Government to order, and subject to sub-section (2), for the Provincial Government to secure, the presence of armed forces and civil armed forces in any area for the prevention and punishment of terrorist acts and scheduled offences in accordance with the provisions of this Act.

(2) If, in the opinion of the Provincial Government, the presence of armed forces, or civil armed forces, is necessary in order to prevent the commission of terrorist acts or scheduled offences in any area, it may request the Federal Government to direct the presence or posting of units or personnel of the armed forces, or civil armed forces, in such numbers as may be deemed necessary for the prevention or control of terrorist acts or scheduled offences.

(3) The Federal Government may decide whether the requirements of the situation call for the deployment of– (i) the civil armed forces; or

(ii) the armed forces, and on so deciding shall, by means of a notification in the official Gazette issued under clauses (i) or (ii) or both, authorize and direct the posting thereof.

¹⁵ Added by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.2.

¹⁶ Substituted and omitted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.2.

¹⁷ Omitted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.2.

¹⁸ Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.3.

Case Law: -

S. 4--Anti-Terrorism Act (XXVII of 1997), S. 7(g), Criminal Procedure Code (V of 1898), S. 340(2), Making or keeping explosives with intend to endanger life or property, connections with a terrorist organization, The accused who did not opt to appear for his own defence to brush aside the prosecution evidence while availing legal recourse in the shape of statement under S. 340(2), Cr.P.C. rather produced a witness in his defence, the statement of such witness was found to be nothing but an afterthought. Said witness had never appeared before the investigating officer during the course of investigation of the case in the defence of the accused. Conviction and sentence awarded to accused was maintained. Jail petition was dismissed. **Muhammad Yaqoob vs. State (2020 SCMR 853) [para no.7 (D)]**

5. Use of armed forces and civil armed forces to prevent terrorism.—(1) Any police officer, or member of the armed forces, or civil armed forces, who is present or deployed in any area may, after giving sufficient warning, use the necessary force to prevent the commission of terrorist acts or scheduled offences, and, in so doing shall, in the case of an officer of the armed forces or civil armed forces, exercise all the powers of a police officer under the Code.

(2) In particular and without prejudice to generality of the provisions of subsection (1), an officer of the police, armed forces and civil armed forces may--

- (i) after giving prior warning use such force as may be deemed necessary or appropriate, bearing in mind all the facts and circumstances of the situation, against any person who is committing,¹⁹[*** *] a terrorist act or a scheduled offence,²⁰[****]²¹[it shall be lawful for any such officer, or any senior officer],²²[after forming reasonable apprehension that death or grievous hurt may be caused by such act or offence] to fire, or order the firing upon any person or persons against whom he is authorized to use force in terms hereof²³[:]

²⁴[Provided that an order to open fire in such circumstances shall be given by a police officer not below the rank of BS-17 and equivalent rank in the case of a member of Armed Forces or civil Armed forces or by a Magistrate on duty:

Provided further that the decision to fire or order firing shall be taken only by way of last resort, and shall in no case extend to the inflicting of more harm than is necessary to prevent the terrorist act or scheduled offence which has given rise to the reasonable apprehension of death or grievous hurt:

Provided further that all cases of firing which have resulted in death or grievous injury shall be reviewed by an internal inquiry committee constituted by the head of the law enforcement agency concerned.]

- (ii) arrest, without warrant, any person who has committed an act of terrorism or a scheduled offence or against whom a reasonable suspicion exists that he has committed, or is about to commit, any such act or offence; and

¹⁹ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.4.

²⁰ Substituted by the Anti-terrorism (Amendment) Ordinance, 2000 (XXIX of 2000) w.e.f. 24.7.2000, s.2.

²¹ Substituted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.4.

²² Substituted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.6.2014, s.2.

²³ Substituted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.6.2014, s.2.

²⁴ Added by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.6.2014, s.2.

(iii) enter and search, without warrant, any premises to make any arrest or to take possession of any property, fire-arm, weapon or article used, or likely to be used, in the commission of any terrorist act or scheduled offence.

(3) Nothing contained in sub-section (1) or (2) shall affect the provisions of Chapter IX of the Code and the provisions of section 132 of the Code shall apply to any person action under this section.

²⁵[**6. Terrorism.** – (1) In this Act “terrorism” means the use or threat of action where:

- (a) the action falls within the meaning of sub-section (2) , and
- (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 ²⁶[or a foreign government or population or an international organization] or create a sense of fear or insecurity in society; or

Case Law: -

The motive of the crime was previous enmity because of murder allegedly committed by the deceased. There is nothing on the record to show that the accused wanted to create fear or insecurity or terror in or around the Court premises. It appears that after shooting the petitioner did not offer resistance and was arrested by the police along with the weapon of offence. The only provision in the ATA, 1997 that may have relevance here is section 6(b) which reads:
Farooq Ahmed versus the State and another 2020 S C M R 78

Anti-Terrorism Act (XXVII of 1997), Ss. 6 & 7, Kidnapping or abduction for extorting property, valuable security etc., causing disappearance of evidence of offence, common intention, acts of terrorism. Appreciation of evidence-Benefit of doubt. Complainant and his nephew/witness were not eye witnesses of the incident. Evidence of the abductee remained in field, but his evidence was contradictory, which was dubious. Document produced by the accused-appellants in their statement under S. 342, Cr.P.C. regarding their confinement prior to arrest falsified the version of prosecution. Defense witness was not shattered by the prosecution. Circumstances established that prosecution had failed to establish its case beyond any shadow of doubt. Appeal was allowed and accused were acquitted by setting aside conviction and sentence recorded by the Trial Court, in circumstances. **Hassan vs. State (2020 PCRLJN 14 Karachi-High-Court-Sindh) [Para.17 of the Judgment]**

Thus, turning to the particular facts and circumstances of this case it appears that the act against the police officials took place in two separate areas. Firstly, at the picket where they were allegedly directly fired upon by the accused which admittedly is a secluded area which is not surrounded by any member of the public. Thus, in our view there is no evidence to suggest that this action was taken with any design, intention and mens rea of causing terrorism and since it was a secluded area it did not have the impact of causing intimidation, awe, fear and insecurity in the public or society since there were no members of the public around this secluded spot to witness or even hear the action. The second aspect of the case was when the police officials were confined in a room and where they were made to be photographed in the company of some ladies. Again this incident took place in a closed room so the same considerations as to

²⁵ Substituted by the Anti-terrorism (Amendment) Ordinance, 2001(XXXIX of 2001) w.e.f. 14.8.2001, s.5.

²⁶ Substituted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.3.

the attack on them apply vis-a-vis the applicability of the Anti-Terrorism Act, 1997. Although the actions against the police are of a very serious nature and must be discouraged and thus dealt with by an iron hand as in effect they are attacks on society as a whole such attacks can only be dealt with under the relevant and applicable law. In this case in our view it is quite apparent that based on the facts and circumstances of this particular case that the actions allegedly taken by the accused against the police do not fall within the ambit of the ATA since the material/evidence which we have briefly considered does not meet the requirements of section 6(1) (b) or (c) ATA which are lacking in all respects. **Murad Ali Bangalani vs. State (2019 PCRLJ 95 Sindh) (para no.10, 11, 12, 13).**

- (c) the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause ²⁷[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].

²⁸["Provided that nothing herein contained shall apply to a democratic and religious rally or a peaceful demonstration in accordance with law.]

Case Law: -

Accused were aggrieved of order passed by Anti-Terrorism Court, declining to transfer the case to court of ordinary jurisdiction. Validity, No evidence was available to suggest that action was taken by accused with any design, intention and mens rea of causing "terrorism" "Area of incident was a secluded area and it did not have impact of causing intimidation, awe, fear and insecurity in public or society. No members of public were around to witness or even hear the action. Actions against police were though of very serious nature and were to be discouraged and dealt with iron hand as in effect such were the attacks on society as a whole, yet such attacks could only be dealt with under the relevant and applicable law. Actions allegedly taken by accused against police did not fall within the ambit of Anti-Terrorism Act, 1997. Material/evidence did not meet the requirements of S. 6(1) (b) or (c) of Anti-Terrorism Act, 1997. High Court set aside the order passed by Anti-Terrorism Court and the trial was transferred to criminal court of competent jurisdiction. Revision was allowed in circumstances. **Murad Ali Bangalani Vs State (2019 PCRLJ 95 Karachi-High-Court-Sindh) [Para.no.10, 11, 12, 13 &14]**

S. 498-A---Penal Code (XLV of 1860), Ss. 302, 365-A, 452, 114, 147, 148 & 149---Anti-Terrorism Act (XXVII of 1997), Ss. 6 & 7 Bail, refusal of, Applicants/accused belonging to police department sought bail in the FIR lodged against them for killing the son of complainant at the instance of one of the accused persons, Applicants/accused contended that the deceased was killed in encounter with the police; they had been declared innocent during investigations and the Investigating Officers had recommended the case for its disposal under "B" class, Senior Superintendent of Police who conducted the inquiry had found the alleged encounter as "fake" and Trial Court after trial had also acquitted the accused of the encounter. Essential requirements for grant of pre arrest bail were lacking in the case. Mere recommendation for disposal of the case under cancel class was not sufficient for extraordinary relief of pre arrest bail, in view of the fact that all the applicants/accused were police officials, Sufficient material

²⁷ Added by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.2.

²⁸ *Ibid.*

was available on the record to connect the applicants with the commission of alleged offence falling within the prohibitory clause of S. 497, Cr.P.C. Application was dismissed, in circumstances. **Abdul Qadir vs. State (2020 YLRN 29 Karachi-High-Court-Sindh) [para no.8 & 9 of the Judgment]**

- (2) An “action” shall fall within the meaning of sub-section (1), if it:
- (a) involves the doing of anything that causes death;
 - (b) involves grievous violence against a person or grievous bodily injury or harm to a person;
 - (c) involves grievous damage to property ²⁹ [including government premises, official installations, schools, hospitals, offices or any other public or private property including damaging property by ransacking, looting or arson or by any other means];
 - (d) involves the doing of anything that is likely to cause death or endangers a person’s life;
 - (e) involves kidnapping for ransom, hostage-taking or hijacking;

Case Law: -

The abductee massively improved upon his previous statements; he was duly confronted with his deviations; he also admitted his acquaintance with Abdul Haq petitioner, his co-villager while evasively avoiding a query regarding pendency of different civil and criminal cases instituted by Abdul Ghani petitioner against him as well as his brother. Similarly, in his examination-in-chief, the abductee did not name Muhammad Yousaf petitioner as being one of the culprits; while denying litigation between the two families, he however, admitted that both the petitioners, real brothers inter se, lived in the same neighborhood. In this backdrop, no importance can be attached to the identification parade, conducted under magisterial supervision. In the totality of circumstances, the prosecution case is not free from doubt, doubts deducible from stated prosecution positions, otherwise inherently improbable. Petitioners' convictions and life time sentences consequent thereupon cannot be sustained merely on the basis of some superficial healed wounds, genesis whereof is also shrouded in the mystery of time and space. Petitions are converted into appeals; allowed; impugned judgment is set aside. The petitioners/appellants are acquitted of the charge; they shall be released forthwith, if not required in any other case. **Abdul Haq vs. State (2020 SCMR 116)**

Ss. 365-A & 34-Anti-Terrorism Act (XXVII of 1997), S. 6(2)(e) -Kidnapping for ransom, common intention, act of terrorism, Appreciation of evidence, Benefit of doubt, Identification parade was conducted belatedly and containing discrepancies. Statement of complainant and other witnesses were totally contradictory in respect of time, place of identification and procedure of identification Judicial Magistrate categorically stated that he had not asked any questions to the minors to test their competency for identification test parade. Memo of the identification parade showed that at the time of identification there were only nine dummies amongst them, three accused persons were mixed up, meaning thereby that the ratio of accused and dummies was only 1: 3, which was far more less than the required ratio. Accused was not identified by one of the witnesses. Another aspect requiring consideration was that the accused persons were arrested on 30 October, 2006 and it had also come on the record that the alleged abductees were produced in police station on 8th November, 2006, such identification parade

²⁹ Added by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.2.

did not improve the case of prosecution. [Para. 8 of the judgment] **Dhani Bux vs. State (2019 PCRLJN 128 Karachi-High-Court-Sindh)** [para no.6,7,8 & 10 of the Judgment]

³⁰[(ee) involves use of explosives by any device including bomb blast]³¹[or having any explosive substance without any lawful justification or having been unlawfully concerned with such explosive];

(f) incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;

³² [(g) involves taking the law in own hand, award of any punishment by an organization, individual or group whatsoever, not recognized by the law, with a view to coerce, intimidate or terrorize public, individuals, groups, communities, government officials and institutions, including law enforcement agencies beyond the purview of the law of the land;]

(h) involves firing on religious congregations, mosques, imambargahs, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship;

(i) creates a serious risk to safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civic life;

(j) involves the burning of vehicles or any other serious form of arson;

(k) involves extortion of money (bhatta) or property;

(l) is designed to seriously interfere with or seriously disrupt a communications system or public utility service;

(m) involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties;

³³[* * * *]

(n) involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant.

³³[(o) involves in acts as part of armed resistance by groups or individuals against law enforcement agencies; or

(p) involves in dissemination, preaching ideas, teachings, and beliefs as per own interpretation on FM stations or through any other means of communication without explicit approval of the government or its concerned departments.]

(3) The use or threat of use of any action falling within sub-section (2) which involves the use of firearms, explosives or any other weapon, is terrorism, whether or not subsection 1(c) is satisfied.

³⁰ Inserted by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.2.

³¹ Added by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.2.

³² Substituted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.2.

³³ Omitted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.2. ³³ Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.2.

Case Laws: -

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. **Ghulam Hussain vs. State (2020 PLD 61 Supreme-Court) (e).**

³⁴[(3A) Notwithstanding anything contained in sub-section (1), an action in violation of a convention specified in the Fifth Schedule shall be an act of terrorism under this Act;]

(4) In this section “action” includes an act or a series of acts.

(5) In this Act, terrorism includes any act done for the benefit of a proscribed organization.

(6) A person who commits an offence under this section or any other provision of this Act, shall be guilty of an act of terrorism.

(7) In this Act, a “terrorist” means:

(a) ³⁵[any person] who has committed an offence of terrorism under this Act, and is or has been concerned in the commission, preparation ³⁶[facilitation, funding] or instigation of acts of terrorism;

(b) ³⁷[any person] who is or has been, whether before or after the coming into force of this Act, concerned in the commission, preparation ³⁸[facilitation, funding] or instigation of acts of terrorism, shall also be included in the meaning given in clause (a) above.]

Case Law: -

Through this amendment the legislature seems to have finally appreciated that mere shock, horror, dread or disgust created or likely to be created in the society does not transform a private crime into terrorism but terrorism as an 'ism' is a totally different concept which denotes commission of a crime with the design or purpose of destabilizing the government, disturbing the society or hurting a section of the society with a view to achieve objectives which are essentially political, ideological or religious. This approach also appears to be in harmony with the emerging international perspective and perception about terrorism. The international perception is also becoming clearer on the point that a violent activity against civilians that has

³⁴ Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.3.

³⁵ Substituted by the Anti-terrorism (Amendment) Act, 2020 (XXIII of 2020) w.e.f. 22.8.2020, s.2.

³⁶ Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.3.

³⁷ Substituted by the Anti-terrorism (Amendment) 2020 (XXIII of 2020) w.e.f. 22.8.2020, s.2..

³⁸ Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.3.

no political, ideological or religious aims is just an act of criminal delinquency, a felony, or simply an act of insanity unrelated to terrorism. This metamorphosis in the anti-terrorism law in our country has brought about a sea change in the whole concept as we have understood it in the past and it is, therefore, of paramount importance for all concerned to understand this conceptual modification and transformation in its true perspective. **Ghulam Hussain vs. State (2020 PLD 61 Supreme-Court) [para no.14 of the Judgment] H**

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. **Ghulam Hussain vs. State (2020 PLD 61 Supreme-Court) [para no.16 of the judgment] M &N**

It was not an act of sudden reaction but a premeditated and preplanned act on the part of applicants and others. The manner in which the applicant and others have acted prima facie was not to settle some personal score but seems to leave a message to people of neighborhood, thereby conveying them lethal consequences in objecting/questioning their wrongful and/or unlawful act. Such object, prima facie is appearing from date, time and place the applicants and others have chosen for committing the offence, which obviously created a sense of insecurity amongst the people of neighborhood and/or society. As such the act on the part of applicants and others obviously was falling within ambit of section 6 of the Anti-Terrorism Act, 1997. In these circumstances learned Judge ATA Sukkur was right to dismiss application under section 23 of ATA Act of the applicants for transfer of their case from his court to court of ordinary jurisdiction for its trial. **Majid Alias Dodo Vs State (2019 PCRLJ 201 Karachi-High-Court-Sindh)**

Thus, in our view there is no evidence to suggest that this action was taken with any design, intention and mens rea of causing terrorism and since it was a secluded area it did not have the impact of causing intimidation, awe, fear and insecurity in the public or society since there were no members of the public around this secluded spot to witness or even hear the action. The second aspect of the case was when the police officials were confined in a room and where they were made to be photographed in the company of some ladies. Again, this incident took place in a closed room so the same considerations as to the attack on them apply vis-a-vis the applicability of the Anti-Terrorism Act, 1997. Although the actions against the police are of a very serious nature and must be discouraged and thus dealt with by an iron hand as in effect they are attacks on society as a whole such attacks can only be dealt with under the relevant and applicable law. In this case in our view it is quite apparent that based on the facts and circumstances of this particular case that the actions allegedly taken by the accused against the police do not fall within the ambit of the ATA since the material/evidence which we have briefly considered does not meet the requirements of section 6(1)(b) or (c) ATA which are lacking in all respects. Thus, this criminal revision application is allowed and special case No.1

of 2017 State v Bakshan and others pending before learned Judge ATC Mirpurkhas Division Mirpurkhas is ordered to be transferred with immediate effect to the competent court of jurisdiction for disposal in accordance with law. **Murad Ali Bangalani Vs State (2019 PCRLJ 95 Karachi-High-Court-Sindh)**

Sentence of death awarded to accused by Trial Court was altered by High Court into imprisonment for life. It is important to note that from the evidence of Doctor the victim was a child of 8 years, but the dead body was not decomposed. There was no discoloration of skin or the body was swollen. All the internal organs were normal. There was no foul smell. All these conditions clearly show that the death did not take place about 2 days back, but they show that the body appeared to be fresh. As per Modi's Medical Jurisprudence the decomposition of body of a child starts much earlier than the adult. Thus, it appears that the evidence has been manipulated to fit in the circumstances of the case. After considering the material available on record, I am of the considered view that the prosecution has failed to prove the case against the appellant beyond any reasonable doubt, Therefore, the convictions and sentences awarded to the appellant under the impugned judgment are set aside. He is acquitted of the charges and set at liberty. He is in judicial custody and be released forthwith, if not required in any other custody case. **Zafar Abbas vs. State (2010 SCMR 939) (f)**

³⁹[7. Punishment for acts of terrorism. – ⁴⁰[(1)] whoever commits an act of terrorism under Section 6, whereby–

- (a) death of any person is caused, shall be punishable, on conviction, with death or with imprisonment for life, and with fine; or

Case Law: -

S. 7---Penal Code (XLV of 1860), S. 302(b), Murderous assault upon a police contingent-Reappraisal of evidence, Absence of accused from law for a considerable span of time (1 year 8 months) and his involvement in other criminal cases did not reflect well upon his credentials. Analysis of prosecution's evidence did not allow space to admit any other hypothesis other than guilt of accused. Petition for leave to appeal was dismissed and leave was refused. **Munir Ahmad vs. State (2020 SCMR 968) (a) [para.no.4, A, B, C &D]**

Ss. 4 & 5---Sindh Arms Act (V of 2013), S. 23(1)(a)---Anti-Terrorism Act (XXVII of 1997), S. 7-Possession of arms and ammunition, attempt to cause explosion, or making or keeping explosive with intent to endanger life or property, making or possessing explosives under suspicious circumstances, act of terrorism. Appreciation of evidence, Benefit of doubt, Prosecution case was that the police found the accused persons on a motorcycle in a suspicious condition and stopped them. In criminal cases the burden of proving its case lies on the prosecution and the prosecution is duty bound to prove the case against the accused through reliable evidence, direct or circumstantial and that too beyond reasonable doubt. Besides, this, it is settled principle of law, that if there is an element of doubt as to guilt of an accused, the benefit of that doubt must be extended to him. The doubt of course must be reasonable and not imaginary or artificial. The rule of benefit of doubt, which is described as the golden rule, is essentially a rule of prudence which cannot be ignored while dispensing justice in accordance with law. In presence of such lacunas in the prosecution case we are of the considered view

³⁹ Substituted by the Anti-terrorism (Amendment) Ordinance, 2001(XXXIX of 2001) w.e.f. 15.8.2001, s.6.

⁴⁰ Renumbered by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.3.

that the conclusion drawn and reasons recorded by the learned trial Court do not show fair evaluation of evidence, which is not in accordance with the settled principle in circumstances, therefore, impugned judgment is a result of erroneous and unreasonable lines of reasoning and merits interference by this Court owing to the fact of miscarriage of justice. **Muhammad Ahsan Kamal Vs State (2020 PCRLJN 12 Sindh) [paras.10, 11 & 14 of the Judgment]**

Prosecution case was that the appellants with rest of the culprits while committing robbery were confronted by complainant/Police Constable and other Police Constable, they deterred police from discharging their lawful duty as public servants by making fires at them with intention to commit their murder, No robbed article was secured from any of the appellants by the police even on their arrest. Police Constable/witness who came on the incident on hearing of fire shot reports was fair enough to admit that when deceased received bullet injury, he did not see the accused with his own eyes. Such admission on the part of witness was enough to draw a conclusion that he came at the place of incident when it was over, thus, he could hardly be said to be the witness of the incident Appellants could not be held to be guilty for the alleged offence only on the basis of recovery of crime weapons, which allegedly was affected from them on the 4th day of their arrest, that too in presence of no independent witness. Prosecution had not been able to prove its case against the appellants beyond shadow of doubt. Appeal was allowed and accused were acquitted by setting aside conviction and sentence recorded by the Trial Court, in circumstances. **Zameer Vs State (2020 PCRLJN 5 Sindh) [para.11 of the Judgment]**

In so far as appellant's conviction under section 7(a) of Anti-Terrorism Act, 1997, it warrants reconsideration. We have noted predominant purpose behind the crime as robbery, no doubt on gunpoint; a situation cropped up wherein the venture went violent, certainly un-condonable, nonetheless having no nexus with the situations enumerated in section 6 of the Act *ibid*. Occurrence took place inside the shop impact whereof though grievously devastating for the witnesses, however cannot be said to have spilled over to the public at large. Therefore, in the peculiar facts and circumstances of the case, appellant's conviction under section 7 of the Act *ibid* is not sustainable and set aside accordingly. Similarly, in our view, that in the totality of the circumstances, alternate penalty of imprisonment for life would meet the ends of justice. Consequently, penalty of death is altered into imprisonment for life; these shall run concurrently with benefit under section 382-B of the Code of Criminal Procedure, 1898. With the above modification, Criminal Appeal is dismissed. **Muhammad Faisal Abbas vs. State (2019 SCMR 1285) (b) [para .no 2 of the Judgment] (B)**

Anti-Terrorism Act (XXVII of 1997), S. 7(a), Qatl-i-amd, attempt to commit qatl-i-amd, robbery, act of terrorism-Plea of accused that he had been implicated in the crime on account of previous enmity-Held, that the accused had not been named in the FIR, an opportune course to engage him in the crime, if the complainant at all, had an axe to grind-Test identification parade, under magisterial supervision, was another piece of evidence, pointing towards the culpability of the accused-Accused had been rightly convicted by the Trial Court, which finding was upheld by the High Court-Appeal was dismissed, in circumstances. **Muhammad Faisal Abbas vs. State (2019 SCMR 1285) (a) [para .no 2 of the Judgment] (A)**

Ss.324, 353 & 34---Pakistan Arms Ordinance (XX of 1965), S. 13---Explosive Substances Act (VI of 1908), S. 5---Anti-Terrorism Act (XXVII of 1997), S. 7---Attempt to commit qatl-i-amd, assault or criminal force to deter public servant from discharge of his duty, common intention, possession of illegal weapons, making or possessing explosives under suspicious circumstances, acts of terrorism. The eyewitnesses produced by the prosecution were public servants who had no ostensible reason to falsely implicate the appellants in a case of this nature. The said public servants had made consistent statements before the trial court pointing their accusing fingers towards the present appellants as some of the persons who had fired at the raiding police party and at whose instance explosive substance had been recovered after they had been apprehended red-handed. All the reports of the experts submitted in this case had been received in the positive. All the crime-empties recovered from the scene of the crime had matched with the respective weapons recovered from the appellants' possession. Both the courts below had undertaken an exhaustive analysis of the evidence available on the record and had then concurred in their conclusion regarding guilt of the appellants having been proved to the hilt and upon our own independent evaluation of the evidence we have not been able to take a view of the matter different from that concurrently taken by the courts below. The sentences passed against the appellants have been found by us to be appropriate. Although separate sentences ought to have been passed against the appellants for the offence under section 7 of the Anti-Terrorism Act, 1997 yet the State has not sought such enhancement from this Court as no petition/appeal has been filed by the State before this Court in that regard Appeals were dismissed and convictions and sentences of accused persons were maintained.

Asif vs. State (2020 SCMR 610) [Para.No.4]

It is strange enough to mention here that the petitioner opted to adduce defence evidence during the course of trial before learned trial court but he did not opt to appear himself as a witness under section 340, Cr.P.C. to disprove the allegation against him. A person who do not opt to appear for his own defence to brush aside the prosecution evidence while availing legal recourse in the shape of statement under section 340, Cr.P.C. rather produce a witness in his defence, the statement of such witness has been taken into consideration by us and found to be nothing but an afterthought reason being that this witness had never appeared before the investigating officer during the course of investigation of this case in the defence of the petitioner. In view of the facts and circumstances narrated above while analyzing the evidence adduced by the prosecution witnesses and while evaluating the probative value of the same, if juxtaposed with the evidence adduced by the defence, we found that the evidence adduced by the prosecution is straight-forward, confidence inspiring and while satisfying all the legal requirements to prove the case to the hilt, resulting into dismissal of petition before this Court.

Muhammad Yaqoob vs. State (2020 SCMR 853) [P.857] D

S. 302(b) Anti-Terrorism Act (XXVII of 1997), S. 7- Accused and co-accused persons were convicted by an Anti-Terrorism Court for launching a murderous attack on a police party which resulted in the death of a police official, Held, that hot pursuit by the police contingent for the arrest of accused and co-accused persons in a case of homicide was a circumstance antedated in point of time, therefore, beyond doubt, Receipt of injuries by one of the accused, his arrest at the spot and admission in the hospital, under a police docket, were also circumstances hard to deny. In such backdrop, presence of police officials, for a purpose mandated by law, at the crime scene, stood fully established. Subsequent recoveries from accused and co-accused

persons squarely corroborated the ocular account. Acquittal of one of the co-accused seemingly out of abundant caution, did not adversely reflect upon the case qua the other accused persons, Said co-accused was assigned a general role and in his case crime empties were dispatched subsequent to his arrest, which would not qualify to the required standard of proof so as to view presence of intention beyond reasonable doubt. Accused and co-accused persons had been rightly convicted by the Anti-Terrorism Court. Appeal was disposed of in circumstances. **Muhammad Sharif vs State (2019 SCMR 1368) [para. no.2 of the judgment] A**

Ss. 4 & 5---Sindh Arms Act (V of 2013), S. 23(1)(a)---Anti-Terrorism Act (XXVII of 1997), S. 7-Possession of arms and ammunition, attempt to cause explosion, or making or keeping explosive with intent to endanger life or property, making or possessing explosives under suspicious circumstances, act of terrorism. Appreciation of evidence, Benefit of doubt, Prosecution case was that the police found the accused persons on a motorcycle in a suspicious condition and stopped them. In criminal cases the burden of proving its case lies on the prosecution and the prosecution is duty bound to prove the case against the accused through reliable evidence, direct or circumstantial and that too beyond reasonable doubt. Besides, this, it is settled principle of law, that if there is an element of doubt as to guilt of an accused, the benefit of that doubt must be extended to him. The doubt of course must be reasonable and not imaginary or artificial. The rule of benefit of doubt, which is described as the golden rule, is essentially a rule of prudence which cannot be ignored while dispensing justice in accordance with law. In presence of such lacunas in the prosecution case we are of the considered view that the conclusion drawn and reasons recorded by the learned trial Court do not show fair evaluation of evidence, which is not in accordance with the settled principle in circumstances, therefore, impugned judgment is a result of erroneous and unreasonable lines of reasoning and merits interference by this Court owing to the fact of miscarriage of justice. **Muhammad Ahsan Kamal Vs State (2020 PCRLJN 12 Karachi-High-Court-Sindh) [paras.10, 11 & 14 of the Judgment]**

Petitioner contended that his case fell under further inquiry as bail had already been granted to one of the co-accused with almost similar attribution---Petitioner was behind the bars for the last two years. Question of vicarious liability of the petitioner with regard to his common intention for committing alleged offence would be determined at the trial. Tentative assessment of record called the case of the petitioner as one of further inquiry as envisaged under S. 497(2), Cr.P.C. Record revealed that another co-accused had been admitted to bail; said co-accused was identified by the witnesses during the identification parade and Kalashnikov was allegedly recovered from his possession. Case of the petitioner was at par with the said co-accused therefore, principle of consistency also applied in the case of petitioner, which demanded equal treatment to the petitioner. Bail was granted to the petitioner, in circumstances. **Atta Mohammad Vs State (2019 PCRLJN 48 Karachi-High-Court-Sindh) [para no.7 of the judgment]**

- (b) he does anything likely to cause death or endangers life, but death or hurt is not caused, shall be punishable, on conviction, with imprisonment of either

description for a term which shall be not less than ⁴¹[ten years] but may extend to⁴²[imprisonment for life] and with fine;

- (c) grievous bodily harm or injury is caused to any person, shall be punishable, on conviction, with imprisonment of either description for a term which shall not be less than ⁴³[ten years] but may extend to imprisonment for life and shall also be liable to a fine; or
- (d) grievous damage to property is caused, shall be punishable on conviction, with imprisonment, of either description for a term not less than ten years ⁴⁴[but may extend to imprisonment for life], and shall also be liable to a fine; or
- (e) the offence of kidnapping for ransom or hostage-taking has been committed, shall be punishable, on conviction, with death or imprisonment for life ⁴⁵[* * * *]; or

Case Law: -

Abduction or kidnapping for ransom is a heinous offence but the scheme of the Anti-Terrorism Act, 1997 shows that an ordinary case of abduction or kidnapping for ransom under section 365-A, P.P.C. is merely triable by an Anti-Terrorism Court but if kidnapping for ransom is committed with the design or purpose mentioned in clauses (b) or (c) of subsection (1) of section 6 of the Anti-Terrorism Act, 1997 then such offence amounts to terrorism attracting section 7(e) of that Act. **Ghulam Hussain Vs State (2020 PLD 61 SC) [Para no.13 of the judgment] (D)**

It has been clarified by this Court in those cases that such specified heinous offences are only to be tried by an Anti-Terrorism Court and that court can punish the person committing such specified heinous offences only for commission of those offences and not for committing terrorism because such offences do not constitute terrorism. For the purposes of further clarity on this issue it is explained for the benefit of all concerned that the cases of the offences specified in entry No. 4 of the Third Schedule to the Anti-Terrorism Act, 1997 are cases of those heinous offences which do not per se constitute the offence of terrorism but such cases are to be tried by an Anti-Terrorism Court because of their inclusion in the Third Schedule. It is also clarified that in such cases of heinous offences mentioned in entry No. 4 of the said Schedule an Anti-Terrorism Court can pass a punishment for the said offence and not for committing the offence of terrorism. It may be pertinent to mention here that the offence of abduction or kidnapping for ransom under section 365-A, P.P.C. is included in entry No. 4 of the Third Schedule and kidnapping for ransom is also one of the actions specified in section 7(e) of the Anti-Terrorism Act, 1997.

⁴¹ Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁴² Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁴³ Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁴⁴ Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁴⁵ Omitted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) *w.e.f.* 26.03.2013, s.3.

Murder committed due to personal enmity-Provisions of Ss. 6 & 7 of the Anti-Terrorism Act, 1997 would not be attracted if the murder was committed to avenge private enmity. **Farooq Ahmed-Petitioner versus the State and another-Respondents, 2020 S C M R 78**

Anti-Terrorism Act (XXVII of 1997), Ss. 6 & 7, Kidnapping or abduction for extorting property, valuable security etc., causing disappearance of evidence of offence, common intention, acts of terrorism. Appreciation of evidence-Benefit of doubt. Complainant and his nephew/witness were not eye witnesses of the incident. Evidence of the abductee remained in field, but his evidence was contradictory, which was dubious. Document produced by the accused-appellants in their statement under S. 342, Cr.P.C. regarding their confinement prior to arrest falsified the version of prosecution. Defense witness was not shattered by the prosecution. Circumstances established that prosecution had failed to establish its case beyond any shadow of doubt. Appeal was allowed and accused were acquitted by setting aside conviction and sentence recorded by the Trial Court, in circumstances. **Hassan vs. State (2020 PCRLJN 14 Sindh)**

In the former case the convicted person is to be convicted and sentenced only for the offence under section 365-A, P.P.C. whereas in the latter case the convicted person is to be convicted both for the offence under section 365-A, P.P.C. as well as for the offence under section 7(e) of the Anti-Terrorism Act, 1997. The same may also be said about the other offences mentioned in entry No. 4 of the Third Schedule to the Act pertaining to "Use of firearms or explosives by any device, including bomb blast in a mosque, imambargah, church, temple or any other place of worship, whether or not any hurt or damage is caused thereby", "Firing or use of explosive by any device, including bomb blast in the court premises", "Hurt caused by corrosive substance or attempt to cause hurt by means of a corrosive substance" and "Unlawful possession of an explosive substance or abetment for such an offence under the Explosive Substances Act, 1908 (VI of 1908)". Such distinction between cases of terrorism and other heinous offences by itself explains and recognizes that all heinous offences, howsoever serious, grave, brutal, gruesome, macabre or shocking, do not ipso facto constitute terrorism which is a species apart. Through an amendment of the Third Schedule any heinous offence not constituting terrorism may be added to the list of offences which may be tried by an Anti-Terrorism Court and it was in this context that the Preamble to the Act had mentioned "Whereas it is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences". **Ghulam Hussain Vs State (2020 PLD 61 SC) [para no.14 of the judgment] E, F, G, H&I**

S. 365-A- Anti-Terrorism Act (XXVII of 1997), S. 7(e), Kidnapping or abduction for extorting property, valuable security etc., act of terrorism, Reappraisal of evidence, Case based on confessional statement of accused. Once prosecution opted to rely upon a confessional statement of an accused to his detriment it must come forward with the disclosure above all suspicions and taints. Occurrence took place in February 2002, whereas the appellant statedly made his confessional statement months later on 27-6-2002, Confessional statement spreading over four hand written pages was strangely elaborate and exhaustive; it was more of an elaborative statement to cater for the needs of the prosecution than a declaration of guilt by a remorseful or repentant offender. Argument that such a detailed narrative could neither be voluntary nor spontaneous was

not entirely without substance. Confessional statement of accused could not be favourably received without being imprudent for another reason; it had been disbelieved qua eight co-accused persons. Furthermore, findings recorded by the medical officer with regard to cause of death were not in line with the details purportedly furnished by the accused. Prosecution case against the appellant was not free from doubt and thus it would be un-safe to maintain his conviction. Appeal was allowed and accused was acquitted of the charge. **Wazir vs. State (2019 SCMR 1297)** [para no.3 of the judgment] A,B,C &E]

It may be pertinent to mention here that the offence of abduction or kidnapping for ransom under section 365-A, P.P.C. is included in entry No. 4 of the Third Schedule and kidnapping for ransom is also one of the actions specified in section 7(e) of the Anti-Terrorism Act, 1997. Abduction or kidnapping for ransom is a heinous offence but the scheme of the Anti-Terrorism Act, 1997 shows that an ordinary case of abduction or kidnapping for ransom under section 365-A, P.P.C. is merely triable by an Anti-Terrorism Court but if kidnapping for ransom is committed with the design or purpose mentioned in clauses (b) or (c) of subsection (1) of section 6 of the Anti-Terrorism Act, 1997 then such offence amounts to terrorism attracting section 7(e) of that Act. In the former case the convicted person is to be convicted and sentenced only for the offence under section 365-A, P.P.C. whereas in the latter case the convicted person is to be convicted both for the offence under section 365-A, P.P.C. as well as for the offence under section 7(e) of the Anti-Terrorism Act, 1997. The same may also be said about the other offences mentioned in entry No. 4 of the Third Schedule to the Act pertaining to "Use of firearms or explosives by any device, including bomb blast in a mosque, imambargah, church, temple or any other place of worship, whether or not any hurt or damage is caused thereby", "Firing or use of explosive by any device, including bomb blast in the court premises", "Hurt caused by corrosive substance or attempt to cause hurt by means of a corrosive substance" and "Unlawful possession of an explosive substance or abetment for such an offence under the Explosive Substances Act, 1908 (VI of 1908)". Such distinction between cases of terrorism and other heinous offences by itself explains and recognizes that all heinous offences, howsoever serious, grave, brutal, gruesome, macabre or shocking, do not ipso facto constitute terrorism which is a species apart. Through an amendment of the Third Schedule any heinous offence not constituting terrorism may be added to the list of offences which may be tried by an Anti-Terrorism Court and it was in this context that the Preamble to the Act had mentioned "Whereas it is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences". **Ghulam Hussain vs. State (2020 PLD 61 Supreme-Court) (d).** [para no...13 of the judgment] C &D

Anti-Terrorism Act (XXVII of 1997), Ss. 6 & 7, Kidnapping or abduction for extorting property, valuable security etc., causing disappearance of evidence of offence, common intention, acts of terrorism. Appreciation of evidence-Benefit of doubt. Accused were charged for committing abduction of nephew of complainant for ransom. Complainant and his nephew/witness were not eyewitnesses of the incident. Evidence of the abductee remained in field, but his evidence was contradictory, which was dubious. Document produced by the accused-appellants in their statement under S. 342, Cr.P.C. regarding their confinement prior to arrest falsified the version of prosecution. Defense witness was not shattered by the prosecution. Circumstances established that prosecution had failed to establish its case beyond any shadow of doubt. Appeal was allowed and accused

were acquitted by setting aside conviction and sentence recorded by the Trial Court, in circumstances. **Hassan vs. State (2020 PCRLJN 14 Karachi-High-Court-Sindh) (a)**

- (f) the offence of hijacking, has been committed, shall be punishable, on conviction, with death or imprisonment for life, ⁴⁶[* * * *] and fine;
- ⁴⁷[(ff) the act of terrorism committed falls under section 6 (2) (ee), shall be punishable with imprisonment which shall not be less than fourteen years but may extend to imprisonment for life;]
- (g) the act of terrorism committed falls under section 6(2) (f) and (g), shall be punishable, on conviction, with imprisonment of not less than ⁴⁸[two years] and not more than ⁴⁹[five years] and with fine; or
- (h) the act of terrorism committed falls under clauses (h) to (n) of subsection (2) of Section 6, shall be punishable, on conviction, to imprisonment of not less than ⁵⁰[five years]⁵¹[but may extend to imprisonment for life] and with fine; and
- (i) any other act of terrorism not falling under clauses (a) to (h) above or under any other provision of this Act, shall be punishable, on conviction, to imprisonment of not less than ⁵²[five years] and not more than ⁵³[ten years] or with fine or with both.]

⁵⁴[(2) An accused, convicted of an offence under this Act shall be punishable with imprisonment of ten years or more, including the offences of kidnapping for ransom and hijacking shall also be liable to forfeiture of property.]

⁵⁵[7-A Creation of civil commotion * * * * *] ⁵⁶[7-B Punishment for creating civil commotion * * * * *]

- 8. Prohibition of acts intended or likely to stir up sectarian hatred.** – A person who--
- (a) uses threatening, abusive or insulting words or behavior; or
 - (b) displays, publishes or distributes any written material which is threatening, abusive or insulting; or
 - (c) distributes or shows or plays a recording or visual images or sounds which are threatening, abusive or insulting; or

⁴⁶ Omitted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) *w.e.f.* 26.03.2013, s.3.

⁴⁷ Inserted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁴⁸ Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁴⁹ Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁵⁰ Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁵¹ Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁵² Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁵³ Substituted by the Anti-terrorism (Second Amendment) Act,2004 (II of 2005) *w.e.f.* 11.1.2005, s.3.

⁵⁴ Added by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) *w.e.f.* 26.03.2013, s.3.

⁵⁵ Inserted by the Anti-Terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999 and omitted by the Antiterrorism (Amendment) Ordinance, 2000 (XXIX of 2000) *w.e.f.* 24.7.2000.

⁵⁶ Inserted by the Anti-Terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999 and omitted by the Antiterrorism (Amendment) Ordinance, 2000 (XXIX of 2000) *w.e.f.* 24.7.2000.

- (d) has in his possession written material or a recording or visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another, shall be guilty of an offence if—
- (i) he intends thereby to stir up sectarian hatred; or
 - (ii) having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.

9. Punishment for offence under section 8.— Whoever contravenes any provision of section 8 shall be punished with ⁵⁷[* * * *] imprisonment for a term which may extend to ⁵⁸[five] years, ⁵⁹[and with fine].

Case Law: -

S. 9---Possession of pamphlets containing content inciting violence against a particular sect. Police witnesses, credibility of-Police officials, being functionaries of the State, were no less credible witnesses to drive home the charge. Police officials were as good witnesses as any other and their evidence was subject to the same standard of proof and principles of scrutiny as applicable to any other category of witnesses. In the absence of any animus, infirmity or flaw in their depositions, their statements could be relied upon without demur. Officials who testified in the witness-box had seemingly no axe to grind against the accused and were in comfortable unison with one another. Appeal against conviction was dismissed with the observation that people in the society generally preferred to recuse behind safety instead of coming forward in aid of justice. **Qari Muhammad Ishaq Ghazi vs State (2019 SCMR 1646) [Para No. of the Judgment] B & C**

10. Power to enter or search.— If any officer of the police, armed forces or civil armed forces is satisfied that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 8 he may enter and search the premises where it is suspected the material or recording is situated and take possession of the same⁶⁰[:]

⁶¹[Provided that the concerned officer first record in writing his reasons for such belief and serve a copy thereof either on the person or on the premises]

Case Law: -

Ss.7 & 10(11-A) -Constitution of Pakistan, Arts. 9, 10(1) & 10-A-Act of terrorism. Accused was declared proclaimed offender and he was convicted by Trial Court in his absence. Trial of accused was conducted in absentia without providing him opportunity of hearing. Such conviction and sentence awarded to accused by Trial Court was not sustainable under law and was violative of provisions of the Constitution. High Court set aside the conviction and sentence awarded to accused and case was remanded to Trial Court for trial afresh. Appeal was

⁵⁷ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.8.

⁵⁸ Substituted by the Anti-terrorism (Amendment) Ordinance, 2001(XXXIX of 2001) *w.e.f.* 14.8.2001, s.7.

⁵⁹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.8.

⁶⁰ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.9.

⁶¹ Added by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.9.

allowed accordingly. **Umedoo vs State (2020 PCRLJ 1170 Karachi-High-Court-Sindh)** [para no.6, 7, 11 & 13 of the judgment]

11. Power to order forfeiture. – (1) ⁶²[An Anti-Terrorism Court] by which a person is convicted of an offence under section 9 shall order to be forfeited any material or recording referred to therein.

(2) Where the person who collected the material or recording cannot be found or identified ⁶³[the Anti-Terrorism Court] on the application of the officer seizing the material or recording, shall forfeit the material or recording to the State to be disposed of as directed by it.

⁶⁴[11A. Organizations concerned in terrorism. – ⁶⁵[(1)] For the purposes of this Act, an organization is concerned in terrorism if it:

- (a) commits ⁶⁶[, facilitates] or participates in acts of terrorism;
- (⁶⁶b) prepares for terrorism;
- (c) promotes or encourages terrorism;
- (d) supports and assists any organization concerned with terrorism;
- (e) patronize and assists in the incitement of hatred and contempt on religious, sectarian or ethnic lines that stir up disorder;
- (f) fails to expel from its ranks or ostracize those who commit acts of terrorism and presents them as heroic persons; or (g) is otherwise concerned in terrorism.

⁶⁷[(2) An organization shall fall within the meaning of sub-section (1) if it–

- (a) is owned or controlled, directly or indirectly, by a terrorist or an organization referred in sub-section (1); or
- (b) acts on behalf of, or at the direction of, a terrorist or an organization referred in sub-section (1).]

Case Law: -

Ss.7 & 10(11-A) -Constitution of Pakistan, Arts. 9, 10(1) & 10-A-Act of terrorism. Accused was declared proclaimed offender and he was convicted by Trial Court in his absence. Trial of accused was conducted in absentia without providing him opportunity of hearing. Such conviction and sentence awarded to accused by Trial Court was not sustainable under law and was violative of provisions of the Constitution. High Court set aside the conviction and sentence awarded to accused and case was remanded to Trial Court for trial afresh. Appeal was allowed accordingly. **Umedoo vs State (2020 PCRLJ 1170 Karachi-High-Court-Sindh)**

⁶⁸[11B. Proscription of organizations.– (1) The Federal Government may, by order published in the official Gazette, list an organization as a proscribed organization in the First Schedule on an ex parte basis, if there are reasonable grounds to believe that it is–

⁶² Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

⁶³ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

⁶⁴ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.8.

⁶⁵ Renumbered by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.4.

⁶⁶ Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.4.

⁶⁷ Added by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.4.

⁶⁸ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.3.

- (a) concerned in terrorism; or
- (b) owned or controlled, directly or indirectly, by any individual or organization proscribed under this Act; or
- (c) acting on behalf of, or at the direction of, any individual or organization proscribed under this Act.

Explanation.— The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions.

(2) The grounds shall be communicated to the proscribed organization within three days of the passing of the order of proscription.]

⁶⁹**11C. Right of Review.**— ⁷⁰[(1) Where any proscribed organization is aggrieved by the order of the Federal Government, made under section 11B, it may, within thirty days of such order, file a review application, in writing, before the Federal Government, stating the grounds on which it is made and the Federal Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.]

(2) An organization whose review application has been refused under subsection (1) may file an appeal to the High Court within thirty days of the refusal of the review application.]

⁷¹[(3) * * * * *]

⁷²**[11CC. Proscription Review Committee.**— The Federal Government shall constitute a Proscription Review Committee, comprising three Government officers, including a representative of the Ministry of Law and Justice, with the Chairman of the Committee being a person not below the rank of a Joint Secretary to the Federal Government, to decide, within thirty days, review applications filed under section 11C and 11EE.]

⁷²**11D. Observation Order.** – Where the Federal Government, has ⁷³[reasonable grounds] to believe that an organization is acting in a manner that it may be concerned in terrorism:

- (1) The organization may be kept under observation, if:
 - (a) the name of the organization is listed in the Second Schedule by order of the Federal Government; or
 - (b) it operates under the same name as an organization listed in the second Schedule.
- (2) An organization or a person aggrieved by the observation order passed under sub-section (1) may file a review application before the Federal Government, which shall, after hearing the applicant, decide the matter within sixty days.

⁶⁹ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.8.

⁷⁰ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.4.

⁷¹ Omitted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.4 ⁷²Inserted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.5

⁷² Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.8.

⁷³ Substituted for “reason” by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.6.

- (3) Where the organization is under observation, the Federal Government may further extend the period of observation, only after giving the organization an opportunity of being heard.
- (4) Each observation period shall be for six months and may be extended by the Federal Government only after giving an opportunity of being heard to the organization concerned.]

⁷⁴**11E. Measures to be taken against a proscribed organization.** – Where any organization shall be proscribed:

- (2) Amongst other measures to be taken by the Federal Government–
 - (a) its offices, if any, shall be sealed;
 - ⁷⁵[(b)] ⁷⁶[* * * * *]
 - (c) all literature, posters, banners, or printed, electronic, digital or other material shall be seized; and
 - (d) publication, printing or dissemination of any press statements, press conferences or public utterances by or on behalf of or in support of a proscribed organization shall be prohibited.

⁷⁷[(1A) Upon proscription of an organization if the office bearers, activists, or the members or the associates of such organization are found continuing the activities of the proscribed organization, in addition to any other action under this Act or any other law for the time being in force to which they may be liable,–

- (a) they shall not be issued any passport or allowed to travel abroad;
 - (b) no bank. or financial institution or any other entity providing financial support shall provide any loan facility or financial support to such persons or issue the credit cards to such persons; and
 - (c) the arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited: forthwith in the nearest Police Station, failing which such arms shall be confiscated and the holders of such arms shall be liable for the punishment provided under the Pakistan Arms Ordinance, 1965 (WP-XX of 1965) No fresh license, to such persons for any kind of weapon, shall be issued]
- (3) The Proscribed Organization shall submit all accounts of its income and expenditure for its political and social welfare activities and disclose all funding sources to the competent authority designated by the Federal Government.]

⁷⁴ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.8.

⁷⁵ Substituted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) w.e.f. 19.3.2013, s.5.

⁷⁶ Omitted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.7.

⁷⁷ Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.5.

⁷⁸ [11EE.] ⁷⁹ **Proscription of person.**— ⁸⁰ [(1) The Federal Government may, by order published in the official Gazette, list a person as a proscribed person in the Fourth Schedule on an ex-parte basis, if there are reasonable grounds to believe that such person is—

- (a) concerned in terrorism.
- (b) an activist, office bearer or an associate of an organization kept under observation under section 11D or proscribed under section 11B; and
- (c) in any way concerned or suspected to be concerned with such organization or affiliated with any group or organization suspected to be involved in terrorism or sectarianism or acting on behalf of, or at the direction of, any person or organization proscribed under this Act:

Explanation.— The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions.]

⁸¹[(1A) The grounds shall be communicated to the proscribed person within three days of the passing of the order of proscription.]

(2) Where a person's name is listed in the Fourth Schedule, the Federal ⁸²[****], as the case may be, without prejudice to any other action which may lie against such person under this Act or any other law for the time being in force, may take following actions and exercise following powers, namely:—

- (a) require such person to execute a bond with one or more sureties to the satisfaction of the District Police Officer in the territorial limits of which the said person ordinarily resides, or carries on business, for his good behavior and not to involve in any act of terrorism or in any manner advance the objectives of the organization referred to in sub-section (1) for such period not exceeding three years and in such amount as may be specified:

Provided that where he fails to execute the bond or cannot produce a surety or sureties to the satisfaction of the District Police Officer order him to be detained and produced within twenty-four hours before a court which shall order him to be detained in prison until he executes the bond or until a satisfactory surety or sureties if required, are available or, failing that the term of the order under clause (a) expires:

Provided further that where he is a minor, the bond executed by a surety or sureties only may be accepted;

- (b) require any such person to seek prior permission from the officer incharge of the Police Station of the concerned area before moving from his permanent place of residence for any period of time and to keep him informed about the place he would be visiting and the persons, he would be meeting during the stay;
- (c) require:

⁷⁸ Inserted by the Anti-Terrorism (Amendment) Ordinance, 2002 (CXXV of 2002) w.e.f.15.11.2002, S.2.

⁷⁹ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.8.

⁸⁰ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.8.

⁸¹ Inserted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.8.

⁸² Omitted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.8.

- (i) that his movements to be restricted to any place or area specified in the order;
 - (ii) him to report himself at such times and places and in such mode as may be specified in the order;
 - (iii) him to comply with both the directions; ⁸³[...]
 - (iv) that he shall not reside within areas specified in the order;
 - (v) ⁸⁴[no bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to proscribed person or issue credit cards to proscribed person; and
 - (vi) the arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited forthwith in the nearest Police Station, failing which such arms shall be confiscated and the holder of such arms shall be liable for the punishment provided under the Pakistan Arms Ordinance. 1965 (W.P. Ord. XX of 1965). No fresh license shall be issued to such person for any kind of weapons;]
- (d) direct that he shall not visit or go within surroundings specified in the order including any of the under mentioned places, without the written permission of the officer incharge of the Police Station within whose jurisdiction such place is situated, namely: –
- (i) schools, colleges and other institutions where persons under twenty-one years of age or women are given education or other training or are housed permanently or temporarily;
 - (ii) theatres, cinemas, fairs, amusement parks, hotels, clubs, restaurants, tea shops and other place of public entertainment or resort;
 - (iii) airports, railway stations, bus stands, telephone exchanges, television stations, radio stations and other such places;
 - (iv) public or private parks and gardens and public or private playing fields; and
 - (v) the scene of any public meeting or procession of any assemblage of the public whether in an enclosed place or otherwise in connection with any public even festival or other celebrations;
- (e) check and probe the assets of such persons or their immediate family members i.e., parents, wives and children through police or any other Government agency, which shall exercise the powers as are available to it under the relevant law for the purposes of the investigation, to ascertain whether assets and sources of income are legitimate and are being spent on lawful objectives:
- Provided that no order under clause (d) or (e) above shall be made operative for a period of more than three years; and

⁸³ The word “and” omitted by Act. No. XXIII of 2020 S. 3(a) w.e.f. 22.8.2020

⁸⁴ Added. by Fed. Act. No. XXIII of 2020 S. 3(b) w.e.f. 22.8.2020

- (f) monitor and keep surveillance over the activities of such person through police or any other Government agency or any person or authority designated for the purpose.

⁸⁵[(3) Where any person is aggrieved by the order of the Federal Government made under sub-section (1), he may, within thirty days of such order, file a review application, in writing, before the Federal Government stating the grounds on which it is made and the Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.]

⁸⁶[(3A) A person whose review application has been refused under subsection (3) may file an appeal to the High Court within thirty days of the refusal of the review application.]

(4) Any person who violates any direction or order of the Federal ⁸⁷[****] or any terms of bond referred to in sub-section (2), shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

⁸⁸**[11EEE. Power to arrest and detain suspected persons.]**— (1) Government if satisfied that with a view to prevent any person whose name is included in the list referred to section 11EE, it is necessary so to do, may, by order in writing, direct to arrest and detain, in such custody as may be specified, such person for such period as may be specified in the order, and Government if satisfied that for the aforesaid reasons it is necessary so to do, may, extend from time to time the period of such detention for a total period not exceeding twelve months.

(2) The provisions of Article 10 of the Constitution of the Islamic Republic of Pakistan shall *mutatis mutandis* apply to the arrest and detention of a person ordered under sub-section (1).]

⁸⁸**[11EEEE. Preventive detention for inquiry.]**— ⁸⁹ [(1) The Government or, where the provisions of section 4 have been invoked, the armed forces or civil armed forces, as the case may be, subject to the specific or general order of the Government in this regard, for a period not exceeding three months and after recording reasons thereof, issue order for the preventive detention of any person who has been concerned in any offence under this Act relating to the security or defence of Pakistan or any part thereof, or public order relating to target killing, kidnapping for ransom, and extortion/bhatta, or the maintenance of supplies or services, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned, for purpose of inquiry:

Provided that the detention of such person, including detention for further period after three months, shall be subject to the provisions of Article 10 of the Constitution.]

(2) The inquiry under sub-section (1) may be conducted by a police officer not below the rank of Superintendent of Police or through a Joint Interrogation Team (JIT) to be notified by the Government comprising a police officer not below the rank of Superintendent of Police and officers of other investigation agencies And the powers of the inquiry officer will be vested as per section 5 of the Federal Investigation Agency Act, 1974 (VIII of 1975) ⁹⁰[:]

⁸⁵ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.8.

⁸⁶ Inserted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.8.

⁸⁷ Omitted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.8.

⁸⁸ Inserted by the Anti-Terrorism (Amendment) Ordinance, 2002 (CXXV of 2002) w.e.f. 15.11.2002, s.3.

⁸⁹ Substituted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.6.2014, s.3.

⁹⁰ Substituted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.6.2014, s.3.

⁹¹[Provided that where the detention order has been issued by the armed forces or civil armed forces under sub-section (1), the inquiry shall be conducted by the JIT comprising members of armed forces or Civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies, including a police officer not below the rank of Superintendent of Police.]

⁹²[(2A) The provision of sub-section (1) and (2) shall remain in force for such period as may be notified by the Government from time to time:

Provided that such period shall not exceed two years from the Commencement of the Anti-terrorism (Amendment) Act, 2014 (of 2014).]

(3) The detenu shall be produced in camera before the presiding officer of the court or in his absence before the District and Sessions Judge or the Magistrate appointed under the Shariah Nizam-Adl Regulation, 2009, within twenty 88—

four hours of his detention, and before the presiding officer of the court if and when any extension in the period -of detention is requested.

(4) During inquiry the concerned police officer not below the rank of Superintendent of Police or equivalent officer of the law enforcement agencies or the members of Joint interrogation Team (JIT) as the case may be, shall have all the powers relating to search, arrest of persons and seizure of property, and other relevant material connected with the commission of offence and shall have all the powers as a Police Officer has in relation to the investigation of offences under the Code or any other law for the time being in force:..

Provided that the detenu shall be kept in a detention center so notified by the Government and the presiding officer of the court or the Magistrate, as the case any be referred in sub-section (3) shall have the authority to inspect the detention centres to ensure that the custody is in accordance with the law for the time being in force.]

⁹³[(5) Any person detained under this section shall be provided facility of medical checkup as may be prescribed by rules.]

Case Law: -

Ss. 7 & 11-EEEE-Constitution of Pakistan, Art. 199-Constitutional petition-Blind FIR--- Investigation-No Objection Certificate--Petitioner was detained by Rangers Force for over 90 days and was being interrogated in blind FIRs where after, Rangers Authorities had issued "No Objection Certificate" regarding non-involvement of petitioner in other cases. Here, it would be advantageous to clarify that for purpose of investigating a suspect 'NO OBJECTION CERTIFICATE' is not the requirement of law rather such right shall always be available to investigate a suspect. No person would be a suspect unless there are some circumstances which make him a suspect. Further, it is clarified that where the circumstances justify arrest of a suspect/accused in some other case crime the same shall also not require 'NO OBJECTION FROM OTHER LAW ENFORCING AGENCY' rather the investigation officer of other case crime may proceed further with request of formal arrest of suspect and even may proceed for obtaining the body (remand) of such suspect. It is also needless to clarify that if during course

⁹¹ Inserted by Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.6.2014, s.3.

⁹² Inserted by Ant- terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.6.2014, s.3.

⁹³ Inserted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.6.2014, s.3.

of an investigation there comes facts of commission of another cognizable offence then police shall be under an obligation to resort to such course (section 154, Cr.P.C.) even without permission/no objection of anybody unless lodgment of such FIR demands so. Such legal position is sufficient to make the prayer, made in petition, with reference to NO OBJECTION CERTIFICATE, as redundant. In short, the petitioner is seeking restraining order from this Court that no investigation be carried out in all murder cases which, as observed above, legally can't be granted. No investigation can be stopped in the writ of certiorari and in writ of mandamus. On the contrary writ of mandamus states that official respondents shall act strictly in accordance with the law. What law provides to hear these FIRs, which according to learned counsel were disposed of in 'A' Class, hence, official respondents are bound to investigate all FIR(s) and ensure that all culprits are arrested and arraigned. **Ahmed Saeed Alias Bharam Alias Nagori Vs Inspector General of Police (Sindh) (2020 PCRLJ 395 Karachi-High-Court-Sindh) [para.5 &6 of the Judgment]**

⁹⁴**11E. Prohibition on disposal of property.**– (1) If during the course of inquiry or investigation, the police officer not below the rank of Superintendent of Police or the Joint Investigation Team, as the case may be has sufficient evidence to believe that any property which is subject matter of the inquiry or investigation is likely to be removed transferred or otherwise disposed of before an order of the appropriate authority for its seizure is obtained, such officer or the team may, be order in writing, direct the owner or any person who is, for the time being, in possession thereof not to remove, transfer or otherwise dispose of such property in any manner except with the previous permission of such officer or the team, as the case may be, and such order shall be subject to any order made by, the Court having jurisdiction in the matter.

(2) Any contravention of an order made under sub-section (1) shall be punishable with rigorous imprisonment for a term which may extend to two years, or with fine, or with both.]

⁹⁵**11F. Membership, support and meetings relating to a Proscribed Organization :**(1) A person is guilty of an offence if he belongs or professes to belong to a proscribed organization.

(2) A person is guilty of an offence under sub-section (1) shall be liable on conviction to a term not exceeding six months imprisonment and a fine.

(3) A person commits an offence if he:

- (a) solicits or invites support for a proscribed organization, and the support is not, or is not restricted to, the provision of money or other property; or
- (b) arranges, manages or assists in managing, or addressing a meeting which he knows is:
 - (i) to support a proscribed organization;
 - (ii) to further the activities of a proscribed organization; or
 - (iii) to be addressed by a person who belongs or professes to belong to a proscribed organization.

(4) A person commits an offence if he addresses a meeting, or delivers a sermon to a religious gathering, by any means whether verbal, written, electronic,

⁹⁴ Inserted by Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.6.

⁹⁵ Inserted by Anti-Terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.8.

digital or otherwise, and the purpose of his address or sermon, is to encourage support for a proscribed organization or to further its activities.

(5) A person commits an offence if he solicits, collects or raises ⁹⁶[money or other property] for a proscribed organization.

(6) A person guilty of an offence under sub-sections (3), (4) and (5) shall be liable on conviction to a term of imprisonment not less than one year and not more than five years and a fine.]

⁹⁷[**11G. Uniform.** – (1) A person commits an offence if he–

(a) wears, carries or displays any article, symbol, or any flag or banner connected with or associated with any proscribed organization; or

(b) carries, wears or displays any uniform, item of clothing or dress in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organization.

⁹⁸[(2) A person who commits an offence under sub-section (1) shall be liable to imprisonment for a term which may extend to five years, or with fine, or with both.]

⁹⁹[**11H. Fund raising.** – (1) A person commits an offence if he:

(a) invites another to provide money or other property, and

(b) intends that it should be used or has reasonable cause to suspect that it may be used, for the purpose of terrorism ¹⁰⁰[or by a terrorist or organization concerned in terrorism.]

(2) A person commits an offence if:

(a) he receives money or other property, and

(b) intends that it should be used or has reasonable cause to suspect that it may be used, for the purposes of terrorism ¹⁰¹[or by a terrorist or organization concerned in terrorism.]

(4) A person commits an offence if he:

(a) provides money or other property; and

(b) knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism ¹⁰² [or by a terrorist or organization concerned in terrorism.]

(5) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.]

⁹⁶ Substituted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.6.

⁹⁷ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.8.

⁹⁸ Substituted by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) *w.e.f.* 11.1.2005, s.4.

⁹⁹ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.8.

¹⁰⁰ Inserted by Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.7.

¹⁰¹ Inserted by Anti-Terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.7.

¹⁰² Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.7.

¹⁰³**[11-I. Use and possession.** – (1) A person commits an offence if– (1) he uses money or other property for the purposes of terrorism; or

(2) he–

(a) possesses money or other property; and

(b) intends that it should be used or has reasonable cause to suspect that it may be used, for the purposes of terrorism.]

¹⁰⁴**[11J. Funding Arrangements.** – ¹⁰⁵[(1)] A person commits an offence if he–

(a) enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and

(b) has reasonable cause to suspect that it will or may be used for the purposes of terrorism.]

¹⁰⁶[(2) Any person in Pakistan or a Pakistani national outside Pakistan shall commit an offence under this Act, if he knowingly or willfully makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person.]

¹⁰⁷[(3) A person commits an offence if he knowingly or willfully pays for or provides money or other property or facilitate in any manner the travel of a person anywhere for the purpose of perpetrating, participating in, assisting or preparing for a terrorist act or for the purpose of providing or receiving training for terrorist related activities.

(4) The provisions of sub-section (2) shall also apply to-

(a) organizations owned or controlled, directly or indirectly, by proscribed organizations or proscribed persons; and

(b) persons or organizations acting on behalf of, or at the direction of, proscribed organizations or proscribed persons.]

¹⁰⁸**[11K. Money-laundering.**– (1) A person commits an offence if he enters into or becomes concerned in any arrangement which facilitates the retention or control, by or on behalf of another person, of terrorist property:

(a) by concealment,

(b) by removal from the jurisdiction,

(c) by transfer to nominees, or

(d) in any other way.

¹⁰³ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.8.

¹⁰⁴ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.8.

¹⁰⁵ Renumbered by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) *w.e.f.* 21.6.2014, s.9.

¹⁰⁶ Added by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) *w.e.f.* 21.6.2014, s.9.

¹⁰⁷ Added. by Fed, Act No. XXIII of 2020 S. 4 *w.e.f.* 22.8.2020

¹⁰⁸ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.8.

(2) It is a defense for a person charged with an offence under sub-section (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.]

¹⁰⁸**[11L. Disclosure of Information.** – (1) Where a person–

- (a) believes or suspects that another person has committed an offence under this Act; and
- (b) bases his belief or suspicion on information which comes to his attention in the course of a trade, profession, business or employment, he commits an offence if he does not disclose to a police officer as soon as is reasonably practicable his belief or suspicion, and the information on which it is based.

(2) It is a defense for a person charged with an offence under sub-section (1) of this section to prove that he had a reasonable excuse for not making the disclosure:

Provided that this sub-section does not require disclosure by a professional legal advisor of any information which he obtains in privileged circumstances.

(3) A person may disclose to a police officer:

- (i) a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property; or (ii) any matter on which the suspicion is based.

(4) Sub-section (3) shall have effect notwithstanding any restriction on the disclosure of information imposed by any law for the time being in force.]

¹⁰⁹**[11M. Cooperation with Police.**– (1) A person does not commit an offence under sections 11H to 11K, if he is acting with the express consent of a police officer not below the rank of a Deputy Superintendent; and

(2) Subject to sub-sections (3) and (4) under this section, a person does not commit an offence under Sections 11H to 11K by involvement in a transaction or arrangement relating to money or the property if he discloses to a police officer:

- (a) his suspicion or belief that the money or other property is terrorist property, and
- (b) the information on which his suspicion or belief is based.

(3) Sub-section (2) under this section applies only where a person makes a disclosure–

- (a) after he becomes concerned in the transaction concerned;
- (b) on his own initiative; and
- (c) as soon as is reasonably practicable.

(4) Sub-section (2) under this section does not apply to a person if–

- (a) a police officer forbids his to continue his involvement in the transaction or arrangement to which the disclosure relates, and (b) he continues his involvement.

(6) It is a defence for a person charged with an offence under Section 11H to 11K to prove that:

- (a) he intended to make a disclosure, and

- (b) there is reasonable excuse for his failure to do so.]

¹⁰⁹[11N. **Punishment under Section 11H to 11K.**– ¹¹⁰[(1)] Any person who commits an offence under sections 11H to 11K, shall be punishable on conviction with imprisonment for a term not less than ¹¹¹[five years] and not exceeding ¹¹²[ten years] and with fine ¹¹³[not exceeding twenty-five million rupees]

¹¹⁴[(2) If a legal person commits an offence under sections 11H to 11K such person shall be liable on conviction to a fine not exceeding fifty million rupees.

(3) Every director, officer or employee of such legal person found guilty shall be punishable on conviction with imprisonment for a term not less than five years and not exceeding ten years and with fine not exceeding twenty-five million rupees:

Provided that the punishment of the director, officer or employee shall be effective and in due proportion to his rule.]

¹¹⁵[11O. **Seizure, freeze and detention.** – (1) On proscription made under section 11B or, as the case may be, section 11EE, –

- (a) the money or other property owned or controlled, wholly or ¹¹⁶[jointly], directly or indirectly, by a proscribed organization or proscribed person shall be frozen or seized, as the case may be ¹¹⁷[, without any prior notice and without delay];
- (b) the money or other property derived or generated from any property referred in clause (a) shall be frozen or seized, as the case may be ¹¹⁸[, without any prior notice and without delay];
- (c) no person shall use, transfer, convert, dispose of or remove such money or other property with effect from proscription; ¹¹⁹[...]
- (d) ¹²⁰[within forty-eight hours of any freeze or seizure, the person carrying out the freeze or seizure or any action under clause (c) shall set out the steps taken to ensure that no money, property or services are made available, directly or indirectly, wholly or jointly for the benefit of the proscribed organization or person and shall submit a report containing details of the property and the persons affected by the freeze or seizure to such office of the Federal Government as may be notified in the official Gazette; and]
- (e) ¹²¹[the money or other property of any person acting on behalf of, or at the direction of, proscribed persons or organizations shall be frozen or seized, as the case may be, without any prior notice and without delay;]

¹⁰⁹ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.8.

¹¹⁰ Re-numbered as sub-section (1) by Fed. Act No. XXIII of 2020 S. 5(a) w.e.f. 22.8.2020

¹¹¹ Substituted for “six months” by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f.11.1.2005, s.5.

¹¹² Substituted for “five years” by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f.11.1.2005, s.5.

¹¹³ Inserted. by Fed. Act No. XXIII of 2020 S. 5(b) w.e.f. 22.8.2020

¹¹⁴ Added. by Fed. Act No. XXIII of 2020 S. 5(c) w.e.f. 22.8.2022

¹¹⁵ Substituted by Anti-Terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.10.

¹¹⁶ Subs. by Fed. Act No. XXIII of 2020 S. 6 (i)(a) w.e.f. 22.8.2020

¹¹⁷ Added. by Fed. Act No. XXIII of 2020 S. 6(i)(a) w.e.f. 22.8.2020

¹¹⁸ Inserted. by Fed Act No. XXIII of 2020 S. 6(b) w.e.f. 22.8.2020

¹¹⁹ The word “and” omitted by Fed Act No. XXIII of 2020 S. 6(c) w.e.f. 22.8.2020

¹²⁰ Subs. by Fed. Act No. XXIII of 2020 S. 6(d) w.e.f.22.8.2022

¹²¹ Added. by Fed. Act No. XXIII of 2020 S. 6(e) w.e.f. 22.8.2020

¹²²[2] Any natural person not connected with a legal person or body corporate, who violates any provision of sub-section (1) shall be liable, on conviction to imprisonment for a term not exceeding ten years or with fine not exceeding twenty-five million rupees or with both.”

(3) If a legal person violates any provision of sub-section (1), such person shall be liable ¹²³["on conviction to fine not exceeding fifty million rupees and every director, officer or employee of such person found guilty of the violation shall be liable on conviction to imprisonment for a term not exceeding ten years or with fine not exceeding twenty five million rupees or with both"]

¹²⁴“(3A)” Notwithstanding anything contained in sub-section (2), if any public servant is found negligent in complying with the provision of sub-section (1) such public servant shall be proceeded against under respective service rules for administrative action.”

(4). On an application made by any affected person, the Federal Government shall inquire into the ownership and control of any money or other property that has been frozen or seized and, if it is satisfied that the money or other property has ¹²⁵[wrongly] been frozen or seized, the same shall be ordered to be released immediately.

(5). No prosecution, suit or other proceedings shall lie against the government or any other person complying or purporting to comply with sub-section (1) for anything done in good faith to effect freeze or seizure.

1100. Access to services, money or other property. – (1) The Federal Government may permit a person to make available to a proscribed organization or proscribed person such services, money or other property as may be prescribed, including such money as may be ¹²⁶[basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources or such money as may be required for meeting extraordinary expenses,] and such person shall not be liable for any offence under this Act on account of provision of the prescribed services, money or other property.

(2) On an application made by a proscribed organization or proscribed person, the Federal Government may authorize such organization or person to access such money or other property or avail such services as may be prescribed.]

¹²⁷[**11000. Violation of UN Security Council Resolution.** ----- (1) A person is guilty of an offence if he, in any way whatsoever, refuses or fails to comply with the orders of the Federal Government under section 2 of the United Nations (Security Council) Act, 1948 (XIV of 1948)

¹²² Subs by Act. No. XX of 2020, s.3(a), w.e.f. 30.07.2020

¹²³ Subs by Act. No. XX of 2020, s.3(b) w.e.f. 30.07.2020

¹²⁴ Subs by Act. No. XX of 2020, s.3(b) w.e.f. 30.07.2020

¹²⁵ Subs. by Fed. Act No. XXIII of 2020 S. 6(ii) w.e.f. 22.8.2020

¹²⁶ Subs. by Fed. Act No. XXIII of 2020 S. 8 w.e.f. 22.8.2020

¹²⁷ Ins.by Act XX of 2020, s.4, w.e.f. 30.07.2020

(2) A person guilty of an offence under sub-section (1), shall be liable on conviction to imprisonment for a term not exceeding ten years or with fine not exceeding twenty-five million rupees or with both.

(3) If a legal person or body corporate, commits an offence under sub-section (1), such person or body corporate shall be liable on conviction to fine not exceeding fifty million rupees and every director, officer or employee of such legal person or body corporate found guilty of the violation shall be liable on conviction to imprisonment for a term not exceeding ten years or with fine not exceeding twenty five million rupees or with both.

(4) Notwithstanding anything contained in sub-section (2), of section 11000, if any public servant is found negligent in complying with the provisions of sub-section (1), such public servant shall be proceeded against under respective service rules for administrative action. “including such money as may be required for meeting necessary medical and educational expenses and for subsistence allowance, and such person shall not be liable for any offence under this Act on account of provision of the prescribed services, money or other property.

(2) On an application made by a proscribed organization or proscribed person, the Federal Government may authorize such organization or person to access such money or other property or avail such services as may be prescribed.]

¹²⁸**11P. Application by investigating officer to Court.** – (1) An investigating officer may apply to a court for an order under this section for attachment of a terrorist property.

(2) An order under this section, shall–

- (a) provide for attachment of the terrorist property for a period specified in the order or pending completion of the investigation; and
- (b) require notice to be given to the person from whom such property was attached and to any other person who is affected by and specified in the order.

(3) Any cash attached under this section shall be held in a profit and loss account and the profit and loss so earned shall be added to it on its release or forfeiture.]

¹²⁹**[11Q. Forfeiture.** – (1) The Court by or before which a person is convicted of an offence under any of the sections 11H to 11M may make a forfeiture order in accordance with the provisions of this section.

(2) Where a person is convicted of an offence under section 11H (1) or (2) or section 11-I, the Court may order the forfeiture of any money or other property:

- (a) which, at the time of the offence, he had in his possession or under his control; and
- (b) which, at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.

(3) Where a person has been convicted under Section 11H (3), the court may order the forfeiture of any money or other property:

¹²⁸Substituted by Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.12.

¹²⁹ Inserted by Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) 14.8.2001, s.8

(a) which, at the time of the offence, he had in his possession or under his control, and

(b) which, at the time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(4) Where a person is convicted of an offence under section 11J, the court may order the forfeiture of the money of other property:

(a) to which the arrangement in question related; and

(b) which, at the time of the offence, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(5) Where a person is convicted of an offence under section 11K, the court may order the forfeiture of the money or other property to which the arrangement in question related.

(6) Where a person is convicted of an offence under any of the sections 11H to 11K, the Court may order forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence ¹³⁰[:]

¹³¹[Provided that in case of a jointly owned property, the shares of a person in the said property who is not convicted, shall not be subject to such order of forfeiture.]

¹³²[(6A) Where the court is satisfied that property subject to forfeiture under this section cannot be forfeited, it may order the forfeiture of any other property of the accused of an equivalent value to the property subject to forfeiture which stands identified or located in another jurisdiction.]

¹³³[(7) A person other than an accused, claiming the ownership or interest in any property or assets, suspected to be terrorist property, may within a period of fifteen days of freezing of account or of taking in to possession or control of such property or assets, as the case may be or within such extended period as the court may, for reasons to be recorded, allow file his claim before the court. The court after giving notice to the prosecution and hearing the parties, shall decide the claim.]

¹³⁴[**11R. Evidentiary standard for forfeiture.**– (1) The court may pass an order for forfeiture under section 11Q upon conviction and only if satisfied on reasonable grounds that the money or other property is a terrorist property and before so doing must give an opportunity to be heard to any person,— (a) who is not a party to the proceedings; and

(b) who claims to be the owner of or otherwise interested in any of the money or other property which can be forfeited under this section.

(2) An order may be made under section 11Q, whether or not proceedings are brought against all the persons for an offence with which the money or other property is connected.]

¹³⁰ Subs. for the full stop by Fed. Act No. XXIII of 2020 S. 7 w.e.f. 22.8.2020

¹³¹ Added. by Fed. Act No. XXIII of 2020 S. 7 w.e.f. 22.8.2020

¹³² Inserted. by Fed. Act No. XXIII of 2020 S. 9 w.e.f. 22.8.2020

¹³³ Added by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.8.

¹³⁴ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.13.

¹³⁵[**11S. Appeal against forfeiture order** ¹³⁶[* ***].– (1) Any party to the proceedings in which a forfeiture order is made under ¹³⁷[section 11Q]¹²²[****], may appeal to the High Court against such an order.

(2) An appeal must be brought before the end of the period of thirty days beginning with the dated on which the forfeiture order was made.]

¹³⁸[**11T. Deposit of 139[money or other property] in a fund.**– (1) Any ¹⁴⁰[money or other property] to which a forfeiture order under section 11R and 11S applies, along with ¹⁴¹[any addition, return,] profit and loss accrued, shall be deposited into a special fund to be notified by the Federal Government–

- (a) after the expiry of the limitation period within which an appeal against the forfeiture order may be brought under Section 11S (2), or
- (b) Where an appeal brought under section 11S has been determined and disposed of.

(2) Any fund constituted by the Federal Government under sub-section (1) may also be used to compensate victims of acts of terrorism or in the case of deceased victims, their dependents.]

¹⁴²[(3) The Federal Government may, by rules made under this Act, prescribe the manner of administration of the fund and management or disposal of the money or property forfeited under this Act.]

¹⁴³[**11U. De-proscription.**– (1) The Federal Government may, by notification in the official Gazette, at any time remove any organization or person from the First Schedule or Fourth Schedule, as the case may be, on the basis that no reasonable ground for proscription exists.

(2) After three years of the disposal of appeal, if any, or where no appeal was filed, from the date of the order of proscription, or from the date of any refusal of an application of de-proscription, –

- (a) the Federal Government shall conduct review of the proscriptions to determine whether any proscription may be cancelled on the basis provided for under sub-section (1); and
- (b) until a proscription is cancelled, any money or other property frozen or seized on account of the proscription shall remain frozen or seized, as the case may be.

(3) On cancellation of the proscription under this Act, any money or other property that has been frozen or seized shall be released in a timely manner.]

¹⁴⁴[**11V. Directing terrorist activities.** – (1) A person commits an offence if he:

¹³⁵ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.8.

¹³⁶ Omitted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.11

¹³⁷ Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.11 ¹²² Added by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) *w.e.f.* 21.6.2014, s.14

¹³⁸ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.8.

¹³⁹ Substituted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.12

¹⁴⁰ Substituted by Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.12

¹⁴¹ Substituted by Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.12

¹⁴² Added by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.12

¹⁴³ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) *w.e.f.* 21.6.2014, s.15

¹⁴⁴ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.8

- (a) directs, at any level, whilst resident in Pakistan or abroad, activities of an organization concerned with the preparation, instigation or commission of acts of terrorism; or
- (b) directs, from within the country or abroad, activities connected with the commission, preparation or instigation of an act of terrorism.

(2) A person guilty of an offence under sub-section (1) shall be liable on conviction to ¹⁴⁵[imprisonment for life] and to forfeiture or confiscation of his assets within or outside Pakistan.]

¹⁴⁶[**11W.** (1) Printing, publishing, or disseminating any material to incite hatred or giving projection to any person convicted for a terrorist act or any proscribed organization or an organization placed under observation or anyone concerned in terrorism.– (1) A person commits an offence if he prints, publishes or disseminates any material, whether by audio or video-cassettes ¹⁴⁷[or any form of data, storage devise, FM radio station or by any visible sign]or by written, photographic, electronic, digital, wall-chalking or any other method ¹⁴⁸[or means of communication] which ¹⁴⁹[glorifies terrorists or terrorist activities or] incites religious, sectarian or ethnic hatred or gives projection to any person convicted for a terrorist act, or any person or organization concerned in terrorism or proscribed organization or an organization placed under observation:

Provided that a factual news report, made in good faith, shall not be constructed to mean “projection” for the purposes of this section.

Case Law:-

I have also perused reply of show cause notice. The appellant has not specifically replied any of the charge in para-4 of the show-cause notice. However, I found only para 6 relevant for referring in the judgment. It is reproduced below:-Thirdly and most importantly, please note that the militant anti-state organizations such Tehreek-e-Taliban Pakistan, have always threatened the journalists, reporters and anchorpersons of Pakistan for giving them proper coverage and to broadcast/ air/publish their statements on the national media. Apparently the above quoted reply to show-cause notice was the only compelling reason if not any other hidden mischievous reason for airing the interview of proscribed leader of TTP. The appellant seems to have obliged the proscribed organization to avoid the threat and if that is the case the appellant has no moral justification to continue in the noble business of journalism both in print and electronic media. The alleged act of the appellant is not short of aiding and abetting of the terrorist and their failure to legally justify it does attract the provisions of section 11-W of the Anti-Terrorist Act, 1997. It is reproduced below: -**Independent Media Corporation (Pvt.) Limited Vs Pakistan Electronic Media Regulatory Authority (2019 PCRLJ 262 Karachi-High-Court-Sindh) [para no.7 & 8 of the Judgement] A**

S. 497(2) Anti-Terrorism Act (XXVII of 1997), S. 11-W Printing, publishing or disseminating any material to incite hatred or giving projection to any person convicted for a terrorist act or any proscribed organization or an organization placed under observation or anyone concerned

¹⁴⁵ Substituted for the word “imprisonment for the maximum term of seven years” by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.6.

¹⁴⁶ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) 14.8.2001, s.8

¹⁴⁷ Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.9.

¹⁴⁸ Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.9.

¹⁴⁹ Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.9.

in terrorism. Held! So far as there is not a single iota of evidence on the police file to connect the applicant/accused with the proscribed organization. At the most, allegation against the applicant/accused is that pamphlets were recovered from him but there is nothing to show that either the police party saw the accused while distributing such material or even heard conversation of the accused which could establish his link with such proscribed organization. No private person has been examined by the I.O. to satisfy the Court that accused was actually distributing the pamphlets, to incite hatred or giving projection to any person convicted for a terrorist act or any proscribed organization. It is argued that accused is a student and police has challaned him in a false case. In the given circumstances, prima facie, applicability of section 11-W of the Anti-Terrorism Act, 1997 against the applicant/accused makes his case open to further inquiry. Even otherwise, offence with which the accused is charged is not covered by the prohibitory clause. As such, applicant/accused is admitted to bail subject to his furnishing solvent surety in the sum of Rs.75,000/- (Rupees Seventy Five Thousand only) and P.R. bond in the like amount to the satisfaction of the trial Court. Needless to mention here that the observations are tentative in nature and the trial Court shall not be influenced while deciding the case on merits. **ABDUL HADI---Applicant versus the STATE and another--- Respondents, 2016 P Cr. L J Note 70**

S. 11-W, Constitution of Pakistan, Art.184 (3) Constitutional petition under Art.184 (3) of the Constitution concerning law and order situation in Balochistan Province, Incidents of killing of innocent persons. Newspapers publishing news of taking responsibility by different organizations for committing such incidents, Legality, Contentions on behalf of Frontier Corps (FC) were that publication of such news increased sense of insecurity among the people of the Province, and that such publication was contrary to the provisions of S.11-W of the Anti-Terrorism Act, 1997. Validity-Restraint order in such behalf had been passed by the Provincial High Court, Supreme Court confirmed said order of High Court and directed that in future provisions of S.11-A of Anti-Terrorism Act, 1997 should be followed strictly both by the electronic and print media. **President Balochistan High Court Bar Association Versus Federation of Pakistan and others, 2012 SCMR 1958[KK]**

¹⁵⁰[(2) Any person ¹⁵¹[guilty] of an offence under sub-section (1) shall be punishable on conviction with imprisonment which may extend to five years and with fine.]]

Case Law: -

Petitioner moved this petition for the grant of post arrest bail in this case registered under sections 11-EE(4)/ 11-F(2) / 11-F(5) / 11-F(6) / 11-J / 11-N / 11-H / 11-I/11-W(2) of Anti-Terrorism Act, 1997 by Counter Terrorism Department (CTD),. Multan on the allegation of collecting funds from the people at large in the name of a proscribed organization, namely, 'Lashkar-e-Jhangvi'.Held! As per allegation petitioner was issuing receipts to the people after receiving money in the name of defunct organization ('Lashkar-e-Jhangvi') involving in terrorism activities but not a single person from public was associated with the investigation who could say that petitioner was collecting money in the name of said proscribed organization. Even not a single person from the vicinity who gave money to the petitioner came forward to support prosecution version. In this backdrop, it is yet to be

¹⁵⁰ Substituted by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.7.

¹⁵¹ Misprinted in the gazette as "quality".

determined by the trial court after recording evidence as to whether alleged money recovered from the petitioner was to be spent on terrorism or anti-State activities. In the circumstances guilt of the petitioner requires further probe and his case falls within the ambit of section 497(2), Cr.P.C. Moreover, the offences with which the petitioner has been charged do not fall within the prohibitory clause. For the reasons recorded above, we allow this petition. Petitioner is directed to be released on bail subject to his furnishing bail bonds in the sum of Rs. 1,00,000/- with one surety in the like amount to the satisfaction of the trial court. **Muhammad Junaid Ur Rehman versus the State and another 2020 P Cr. L J 310[para no.3 & 4 of the order]**

Ss. 9 & 11-W (2), Sectarian hate speech and propagating banned organizations. Accused was convicted by Trial Court on sectarian hate speech, propagating banned organizations and was variously sentenced to imprisonment and fine. Held! Detail of audio files, graphic files and multimedia files was provided in accompanying DVD-I, DVD-II and DVD-III by Punjab Forensic Science Laboratory. Investigating officer also received Verisys verification regarding ownership of SIM Card recovered from mobile phone, which was in name of accused. Prosecution witnesses gave each and every detail of prosecution case and were cross-examined at length. Nothing fruitful cropped up during cross-examination. Tenor of cross-examination also revealed that facts in issue were not challenged seriously. Trial Court rightly appreciated evidence and had rightly found accused guilty of charge levelled against him. Prosecution had successfully proved its case beyond shadow of doubt by producing relevant and admissible evidence. High Court maintained conviction of accused but taking into account mitigating circumstances reduced sentence of imprisonment to that of already undergone but quantum of fine was maintained. Appeal was dismissed accordingly. **Asim Nawaz ALIAS Kaleem Nawaz Versus The State and another 2019 P Cr. L J 920[A &D]**

¹⁵²[**11X. Responsibility for creating civil commotion.**– (1) A person commits an offence if he makes any call for action or shut-down, imposed through the use of threats or force resulting in damage or destruction of property or injury to person, to intimidate citizens and prevent them from carrying out their lawful trade or business activity.

(2) A person guilty of an offence under sub-section (1) shall on conviction be punishable with imprisonment for a term not less than ¹⁵³[five years] and not more than ¹⁵⁴[ten years] and shall pay compensation as may be determined by the Court, from the funds of the organization to which he belongs or from his own personal resources or assets for the hurt or damage or destruction caused as result of the commission of the offence under sub-section (1).

(3) A person commits an offence if he addresses a meeting or gathering or delivers a sermon to a religious gathering by any means whether verbal, written, electronic, digital or otherwise to incite religious, sectarian or ethnic hatred and contempt, and shall, on conviction, be punishable with imprisonment not less than ¹⁵⁵[five years] and not more than ¹⁵⁶[ten years] or fine or with both.]

¹⁵² Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.8

¹⁵³ Substituted for “six months” by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.8

¹⁵⁴ Substituted for “five years” by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.8

¹⁵⁵ Substituted for “six months” by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.8

¹⁵⁶ Substituted for “three years” by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.8

12. Jurisdiction of 157[Anti-terrorism Court].– (1) Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in an area in a province ¹⁵⁸[or the Islamabad Capital Territory] shall be tribal only by the ¹⁵⁹[the Anti-terrorism Court] exercising territorial jurisdiction in relation to such area.

(2) Notwithstanding anything contained in sub section (1), if, in respect of a case involving a scheduled offence committed in any area, the Government, having regard to the facts and circumstances of the case, is satisfied that in order to ensure a fair trial, or for the protection and safety of witnesses, that such offence should be tried by ¹⁶⁰[an Anti-terrorism Court] established in relation to any other area, the Government may make a declaration to that effect.

Explanation.– Where ¹⁶¹[an Anti-terrorism Court] is established in relation to two or more areas, such ¹⁶²[Anti-terrorism Court] shall be deemed, for the purpose of this sub-section, to have been established in relation to each of such areas.

(3) Where a declaration is made in respect of an offence committed in an area in a Province, ¹⁴⁸[or the Islamabad Capital Territory] any prosecution in respect of such offence shall be instituted only in ¹⁶³[the Anti-terrorism Court] established in relation to such area, and, if any prosecution in respect of such offence is pending immediately before such declaration in any other Court, the same shall stand transferred to such ¹⁶⁴[Anti-terrorism Court] and such ¹⁶⁵[Anti- terrorism Court] shall proceed with such case from the stage at which it was pending at that time without the necessity of recalling any witnesses.

Case Laws: -

In our view this case falls within the purview of the ATA for the following reasons; that there was a plan by the applicants to rob Mr. Chandar at his shop with firearms; that the robbery took place in broad day light; that the robbery took place in a bazar where members of the public were present; that when Mr.Chander resisted the robbery he was shot in cold blood in front of members of the public; when other members of the public tried to intervene they were warned off by the applicants threatening them with pistols in front of the public; one person Dileep who did try to intervene was again shot dead in cold blood by the applicants in front of members of the public; that whilst making their escape good the applicants deliberately made aerial firing in order to scare off and terrorize the public and in particular the minority community to whom the victims belonged. In this respect reliance is placed on the case of Kashif Ali v. The Judge Anti-Terrorism Court II (PLD 2016 SC 951) where a 5-member bench of the Supreme Court at P.957 Para 12 held as under: **Nazar Muhammad Vs State (2019 YLR 1260 Karachi-High-Court-Sindh) [para no.7 of the Judgment] A &B**

In the instant matter, prima facie, the Magistrate has neither taken the cognizance onto the matter nor has ordered for cancellation of the case crime but has simply come of the view that facts of case involves application of section 6 of the ATA which is to be tried by a 'Special

¹⁵⁷ Substituted by Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

¹⁵⁸ Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.10.

¹⁵⁹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

¹⁶⁰ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

¹⁶¹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

¹⁶² Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2 ¹⁴⁸Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.10.

¹⁶³ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

¹⁶⁴ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

¹⁶⁵ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

Court' hence has only returned the papers (charge sheet) back to investigating officer (police) for its presentation before competent court (ATA Court), having jurisdiction. **Mir Ali Vs State (2020 PCRLJ 1060 Karachi-High-Court-Sindh) [para. 8 of the judgment]**

We have seen two FIRs which show that the motive of this incident is prima facie old blood feud between the parties which has always been considered as one of the circumstances to bring a case out of scope of terrorism because normally in such like matter the prime object is always to settle personal score rather than creating a sense of terrorism. Exception to this however can well be if the accused designs their act in such a manner or fashion. The question of jurisdiction shall never be dependant upon consent or wish of a party but shall always be decided/determined on defined criterion. An act of compromise for promoting harmony between two is always worth appreciating but this alone would never be decisive for determining question of jurisdiction of Special Court. Worth to add here that each and every case of murders are not required to be sent to the Anti-Terrorism Court because, as already stated, it is not the whims and wishes of a party but defined criterion, therefore, the Anti-Terrorism Court is required to examine minutely the ingredients of terror and terrorism. Since, in the instant case it came to surface that fact of old enmity/private vendetta was deliberately concealed by complainant so as to give jurisdiction to Special Court hence in such eventuality no objection, given by complainant at such stage, may be taken as one of the circumstances for determining jurisdiction. Further, the exceptions defined for taking cognizance by Special Court even in existence of private vendetta between parties prima facie are not available. Accordingly, we, in view of touch stone laid down by apex court in unreported case (supra), the other FIRs, lodged by the applicant party and compromise between the parties as well place of the incident and the manner in which the incident has happened, hold that this is not a case of terrorism. The instant criminal revision application is allowed accordingly. Anti-Terrorism Court shall return the case to the ordinary court having its jurisdiction. **Allahyar Vs Judge, Anti-Terrorism Court Naushahro Feroze (2019 PCRLJ 549 Karachi-High-Court-Sindh) [para no.7 of the judgment]**

S. 6 & Third Sched. Entry No.4-anti-terrorism court, Jurisdiction of -Scope---Heinous of fences specified under Entry No.4 to Third Sched. Of the anti-terrorism Act, 1997, that did not constitute terrorism-Such heinous of fences did not per se constitute the offence of terrorism but were to be tried by an anti-terrorism court because of their inclusion in the Third Sched. In such cases an anti-terrorism court could punish the person committing such specified heinous of fences only for commission of those offences and not for committing terrorism because such offences did not constitute terrorism-Supreme court observed that definition of 'terrorism' contained in S. 6 of the anti-terrorism Act, 1997 ('the Act') as it stood at present was too wide and the same included many actions, designs and purposes which had no nexus with the generally recognized concept of what terrorism was; that including some other heinous of fences in the Preamble and the Third Sched. to that Act for trial of such offences by an anti-terrorism court when such other offences did not qualify to be included in the definition of "terrorism" put an extra and unnecessary burden on such court s and caused delay in trial of actual cases of terrorism; that the Parliament may consider substituting the present definition of 'terrorism' by a more succinct definition bringing it in line with the international perspectives of that of fence and focusing on violent activities aimed at achieving political, ideological or religious objectives and that the Parliament may also consider suitably amending the Preamble to the Act and removing all those offences from the Third Sched. to the Act which of fences had no nexus with the offence of terrorism. **Ghulam Hussain Vs State (2020 PLD 61 Supreme-Court)) [para no.17 of the judgment] O**

¹⁶⁶[13. Establishment of Anti-terrorism Court.– (1) for the purpose of providing for the speedy trial of the cases ¹⁶⁷[under this Act] and of scheduled offences, the Federal Government, or if so directed by the Government, the Provincial Government may establish by notification one or more anti-terrorism courts in relation to ¹⁶⁸[each territorial area as specified by the High Court concerned]

(2) Where more anti-terrorism courts than one have been established in any area, the Government in consultation with the Chief Justice of the High Court shall ¹⁶⁹[designate a Judge of any such Court to be an administrative judge] and all cases triable under this Act pertaining to the said area shall be filed before the ¹⁷⁰[said court and such judge may either try the case himself] or, assign any case, or cases, for trial to any other anti-terrorism court at any time prior to the framing of the charge. The cases shall be assigned to a court one case at a time:

Provided that in order to ensure that the time of the Court is not wasted if for some reason a given case cannot proceed more than one case can be assigned to it at any time or from time to time.

(3) In respect of a case assigned to a court under sub-section (2), all orders made or proceedings taken before the assignment shall be deemed to have been made or taken by the court to which the case has been assigned.]

¹⁷¹[(4) Notwithstanding anything contained in sub-section (2) and sub-section (3), the Federal Government or if so directed by the Government, the Provincial Government shall in addition to the existing ¹⁷²[Anti-terrorism Courts] or such other ¹⁷³[Anti-terrorism Courts] as may be established in the area, establish one such additional¹⁷⁴[Anti-terrorism Court] under this Act at the Principal seat of the ¹⁷⁵[each High Court] and appoint a Judge of such High Court as a Judge of ¹⁷⁶[Anti-terrorism Court] in consultation with the Chief Justice of the High Court concerned, and where a Judge of High Court is appointed as a Judge for any area under this Act he shall be the administrative judge for that area and such administrative Judge may, in addition to the powers exercisable under this Act, either *suo motu* or on the application of any party, at any stage of the proceedings whether before or after the framing of charge, for sufficient cause including as mentioned in sub-section (1) of section 28, transfer, withdraw or recall any case pending before any other ¹⁷⁷[Antiterrorism Court] in that area and may either try the case himself or make it over for trial to any other ¹⁷⁸[Anti-terrorism Court] in that area.

(5) The ¹⁷⁹[Anti-terrorism Court] to which a case is transferred or recalled for trial under sub-section (4), shall proceed with the case from the stage at which it was pending immediately before such transfer or recall and it shall not be bound to recall or rehear any witness who has given evidence and may act on the evidence already recorded.]

¹⁶⁶ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.10.

¹⁶⁷ Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.11.

¹⁶⁸ Substituted for "each area" by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2

¹⁶⁹ Substituted by the Anti-Terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002) w.e.f. 23.11.2002, s.2

¹⁷⁰ Substituted by the Anti-Terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002) w.e.f.23.11.2002, s.2

¹⁷¹ Added by the Anti-Terrorism (Third Amendment) Ordinance, 1999 (XX of 1999) w.e.f. 02.12.1999 s.2.

¹⁷² Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2.

¹⁷³ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2.

¹⁷⁴ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2.

¹⁷⁵ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2.

¹⁷⁶ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2.

¹⁷⁷ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2.

¹⁷⁸ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2.

¹⁷⁹ Substituted by Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2.

¹⁸⁰[14. Composition and appointment of presiding officers of Anti-terrorism Courts. –

(1) An Anti-terrorism Court Shall consist of a Judge, being a person who–

- (i) is a Judge of High Court, or is or has been a Sessions Judge or an Additional Sessions Judge; or
- (ii) is Judicial Magistrate First Class vested with powers under section 30 of the Code; or
- (iii) has for a period of not less than ten years been an advocate of a High Court.

(2) The Federal Government or the Provincial Government, if directed by the Federal Government to establish a court under this Act, shall, after consultation with the Chief Justice of the High Court, appoint a Judge of each court.

(3) A Judge shall hold office for a period of two and a half years but may be appointed for such further term or part of term as the Government appointing the Judge may determine.

(4) A Judge may be removed from his office prior to the completion of the period for which he has been appointed after consultation with the Chief Justice of the High Court.

(5) In case a Judge is on leave, or for any other reason temporarily unable to perform his duties, the Government making appointment of such Judge may, after consultation with the Chief Justice of the High Court, authorize the Sessions Judge, having jurisdiction at the principal seat of the Anti-terrorism Court, to conduct proceedings of urgent nature so long as such Judge is unable to perform his duties.

(6) The Anti-terrorism Courts existing immediately before the commencement of the Anti-terrorism (Second Amendment) Ordinance, 2002, and the Judges appointed to such Courts, shall, subject to the provisions of this Act, as amended, continue to function and try offences under this Act.]

15. Place of sitting.– (1) Subject to sub-sections (2) and (3), ¹⁸¹[an Anti-terrorism] shall ordinarily sit at such place or places ¹⁸²[including cantonment area or jail premises] as the Government may, by order, specify in that behalf.

(2) The Government may direct that for the trial of a particular case the Court shall sit at such place including the place of occurrence of an offence as it may specify.

(3) Except in a case where a place of sitting has been specified under subsection (2), ¹⁸³[an Anti-terrorism Court] may, if it considers it expedient or desirable so to do either *suo motu* or on the application of the public prosecutor sit, for holding the trial of a case at any place including a mosque other than the ordinary place of its sitting.

16. Oath by ¹⁸⁴[Anti-terrorism Courts].– A ¹⁸⁵[Judge] of ¹⁸⁶[an Anti-terrorism Court] shall, at the commencement of a proceeding under this Act, make oath, in the case of a Muslim,

¹⁸⁰ Substituted by Ant-Terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002) w.e.f. 23.11.2002, s.3.

¹⁸¹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

¹⁸² Inserted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.4

¹⁸³ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

¹⁸⁴ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2

¹⁸⁵ Substituted by the Anti-Terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002) w.e.f. 23.11.2002, s.4.

¹⁸⁶ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

on the Holy Quran, to the effect that he shall decide the case honestly, faithfully and considering himself accountable to Almighty Allah, and in case of a non-Muslim in accordance with ¹⁸⁷[the constitution, law and his conscience].

17. Powers of ¹⁸⁸[Anti-terrorism Courts] with respect to other offences.—When trying any scheduled offence, ¹⁸⁹[an Anti-terrorism Court] may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial.

Case Law;-

Section 17 of Act 1997 empowers the Anti-Terrorism Court to try any scheduled offence and also try any offence other than the scheduled offence with which the accused may be charged at the same trial. Section 23 of the Act 1997 provides that after taking cognizance of an offence, Anti-Terrorism Court if of the opinion that offence is not a scheduled offence, it shall notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any court having jurisdiction under the Code of Criminal Procedure and the court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence. In 'other words section 17 provides that Anti-Terrorism Court will have power to try nonscheduled offence only when it is trying scheduled offence i.e. scheduled and non-scheduled offence can be tried together in one and the same trial. Power to try non-scheduled offence will not be available to the Anti-Terrorism Court under section 17 when it is not trying any scheduled offence. Reference can be made to the case of Muhammad Bilal a Sullethan v. Federation of Pakistan through Secretary Ministry of Law Justice and Human Rights Divisions and 3 others (2011 PCr.LJ 411). **The State Versus Muhammad Arif and 3 others P L D 2012 Sindh 119[para no.15 of the Judgment]**

18. Public Prosecutors.— ¹⁹⁰[(1) The ¹⁹¹[***] Government shall appoint in relation to each Anti-terrorism court or a High Court and Supreme Court of Pakistan a proficient, diligent and professionally competent Public Prosecutors or Law Officers and may also appoint one or more Additional Prosecutors or Law Officers:

Provided that the Government may also appoint for any case or class of cases, a Special Prosecutor.]

(2) Every Person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor shall be deemed to be a Public Prosecutor within the meaning of section 492 of the Code, and the provisions of the Code shall have effect accordingly.

19. Procedure and Powers of ¹⁹²[Anti-terrorism Court].— ¹⁹³[(1) ¹⁸⁰[An investigating officer under this Act shall be an officer or Police Officer not below the rank of Inspector or equivalent or, if the Government deems necessary Joint Investigation Team“ to be constituted by the Government shall be headed by an Investigation officer of Police not below the rank of

¹⁸⁷ Substituted for “his faith to the effect that he will decide the case honestly, faithfully according to his conscience and belief” by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.12.

¹⁸⁸ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.2

¹⁸⁹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

¹⁹⁰ Substituted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.6.

¹⁹¹ Omitted by the Anti-Terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.4.

¹⁹² Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

¹⁹³ Substituted by Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.12

¹⁸⁰ Substituted by Anti-Terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.5.

Superintendent of Police, (BS-18) and other officers of JIT may include equivalent rank from Intelligence Agencies, Armed Forces and Civil Armed Forces. The JIT shall comprise five members and for the meeting purposes the quorum shall consists of three members.

The investigating officer to the JIT, as the case may be, shall complete the investigation in respect of cases triable by the court within thirty working days. The report under section 173 of the Code shall be signed and forwarded by the investigating officer of police directly to the court:

Provided that where the provisions of sections 4 and 5 have been invoked, the investigation shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies including an investigating officer of police not below the rank of Inspector who shall sign the report under section 173 of the Code and forward it to the Court:

Provided further that, where investigation is not completed within a period of thirty days from the date of recording of the first information report under section 154 of the code, the investigating officer or the JIT shall, within three days after expiration of such period, forward to the Court through the Public Prosecutor, an interim report under section 173 of the code, stating therein the result of investigation made until then and the court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the Court decides that the trial may not so commence. The interim report shall be signed by the investigating officer of police;]

¹⁹⁴[(1A) Notwithstanding anything contained in any other law for the time being in force, the Federal Government may, in respect of any case registered by or under investigation with, the police or any other investigation agency or authority, by order in writing, entrust inquiry or such investigation to such agency or authority as it may deem fit and thereupon the Police, or any other investigation agency or the authority shall transfer the record of the case to such agency or authority.]

¹⁹⁵[(1B) Where any person has been arrested by the armed forces or civil armed forces under section 5, he shall be handed over to the investigating officer of the police station designated for the purpose by the Provincial Government in each District.]

(2) Any default on the part of an officer-in-charge of a police-station, an investigating officer or any other person required by law to perform any functions in connection with the investigation, that results in, or has the effect of, delaying investigation or submission of the report under sub-section (1), shall be deemed to be a willful disobedience of the orders of ¹⁹⁶[the Anti-terrorism Court] and the person committing the default shall be liable to be punished for contempt of Court.

(3) ¹⁹⁷[The Anti-terrorism Court] may directly take cognizance of a case triable by such court without the case being sent to it under section 190 of the Code.

¹⁹⁸[(4). * * * * *]

¹⁹⁴ Inserted by the Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.12.

¹⁹⁵ Inserted by the Anti-Terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.5.

¹⁹⁶ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

¹⁹⁷ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

¹⁹⁸ Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.9.

(5) Where, in a case triable by ¹⁹⁹[an Anti-terrorism Court], an accused has been released from police custody ²⁰⁰[or custody of any other investigating agency joined in an investigation], under section 169 of the Code, or has been remanded to judicial custody, ²⁰¹[the Anti-terrorism Court]may, on good grounds being shown by a Public prosecutor or a Law officer of the Government, for reasons to be recorded in writing, make an order for placing him in police custody ²⁰²[or custody of any other investigating Agency joined in investigation] for the purpose of further investigation in the case.

(6) ²⁰³[An Anti-terrorism Court] shall be deemed to be a Magistrate for purpose of ²⁰⁴[sub-section] (5).

¹⁹²[¹⁹³[(7) The Court shall, on taking cognizance of a case, proceed with the trial from day-to-day and shall decide the case within seven days, failing which the matter shall be brought to the notice of the Chief Justice of the High Court concerned for ²⁰⁵²⁰⁶appropriate directions, keeping in view the facts and circumstances of the case.]

²⁰⁷[(8) An anti-terrorism Court shall not give more than two ²⁰⁸[adjournments during the trial of the case and that also imposition of exemplary costs]. If the defense counsel does not appear after two consecutive adjournments, the Court may appoint a State Counsel with at least seven years standing in criminal matters for the defense of the accused from the panel of advocates maintained by the Court for the purpose in consultation with the Government and shall proceed with the trial of the case].

²⁰⁹[(8a) Non-compliance with the provisions of sub-section ²¹⁰[(7) or] (8) may render the presiding officer of the court liable to disciplinary action by the concerned High Court.

(8b) Notwithstanding anything contained in section 7 of the Explosive Substances Act, 1908 (VI of 1908), or any other law for the time being in force, if the consent or sanction of the appropriate authority, where required, is not received within thirty days of the submission of challan in the court, the same shall be deemed to have been given or accorded and the court shall proceed with the trial of the case.]

(9) ²¹¹ [An Anti-terrorism Court] shall not, merely by reason of a change in its composition or transfer of a case under sub-section (3) of section 12, be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded.

²¹²[(10) Any accused person may be tried in his absence if the Anti-terrorism court, after such inquiry as it deems fit, is satisfied that such absence is deliberate and brought about with a view to impeding the course of justice:

Provided that the accused person shall not be tried under this sub-section unless a proclamation has been published in respect of him in at least ²¹³[in one daily newspaper

¹⁹⁹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.2.

²⁰⁰ Inserted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) *w.e.f.* 31.1.2002, s.7.

²⁰¹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.2.

²⁰² Inserted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) *w.e.f.* 31.1.2002, s.7.

²⁰³ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.2.

²⁰⁴ Substituted for "sub-section (4) and" by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.9.

²⁰⁵ Substituted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.9.

²⁰⁶ Substituted by the Anti-Terrorism (Amendment) Act, 2014 (VI of 2014) *w.e.f.* 18.06.2014, s.5.

²⁰⁷ Substituted by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) *w.e.f.* 11.1.2005, s.9.

²⁰⁸ Substituted by the Anti-Terrorism (Amendment) Act, 2014 (VI of 2014) *w.e.f.* 18.06.2014, s.5.

²⁰⁹ Inserted by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) *w.e.f.* 11.1.2005, s.9.

²¹⁰ Inserted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) *w.e.f.* 18.06.2014, s.5.

²¹¹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.2.

²¹² Substituted by Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.13.

²¹³ Substituted by Anti-Terrorism (Second Amendment) Act, 2013 (XX of 2013) *w.e.f.* 26.03.2013, s.12.

including Sindhi language] requiring him to appear at a specified place within seven days failing which action may also be taken against him under section 88 of the Code:

Provided further that the Court shall proceed with the trial after taking the necessary steps to appoint an Advocate at the expense of the State to defend the accused person who is not before the Court.

Explanation. – An accused who is tried in his absence under this sub-section shall be deemed not to have admitted the commission of any offence for which he has been charged.]

(11) The Advocate appointed under the second proviso to sub-section (10) shall be a person selected by ²¹⁴[the Anti- terrorism Court] for the purpose and he shall be engaged at the expense of the Government.

²⁰²[(11A) Noting contained in sub-section (10) or sub-section (11) shall be construed to deny the accused the right to consult or be defended by a legal practitioner of his own choice.]

(12) If, within sixty days from the date of his conviction, any person tried under sub-section (10) appears voluntarily, or is apprehended and brought before ²¹⁵[the Anti-terrorism Court], and proves to its satisfaction that he did not abscond or conceal himself for the purpose of avoiding the proceeding against him, ²¹⁶[the Antiterrorism Court] shall set aside his conviction and proceed to try him in accordance with law for the offence with which he is charged:

Provided that ²¹⁷[the Anti-terrorism Court] may exercise its powers under this sub-section in a case in which a person as aforesaid appears before it after the expiration of the said period and satisfies it that he could not appear within the said period by reason of circumstances beyond his control.

²⁰⁶[(13) * * * * *]

(13) Subject to the other provisions of this Act, ²⁰⁷[an Anti-terrorism Court] shall, for the purpose of trial of any offence have all the powers of a Court of Sessions and shall try such offence as if it were a Court of Sessions as far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Sessions.

Case Law: -

Thus, with regard to the 12th May 2007 incident the public has a right to know whether some persons at the helm of affairs in Sindh (in breach of this court's orders) had deliberately put in place a plan to ensure that the then CJP was not allowed to leave Karachi airport and reach Malir District Courts, the City courts and the Sindh High Court and to be received by lawyers and whether the blockades were set up to protect the then CJP during his visit to Karachi or were established with the primary objective of preventing him from carrying out his schedule at the courts and other places in Karachi which lead to both the break down in law and order and access to justice being denied to the people of Karachi. The public has a right to know the command and control structure on and immediately before the 12th May 2007 visit for the

²¹⁴ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

²⁰² Inserted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.13.

²¹⁵ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

²¹⁶ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

²¹⁷ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

²⁰⁶ Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.9

²⁰⁷ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

²⁰⁸ Inserted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.13.

then CJP, who made the security plans, who made the decisions, who gave the relevant orders, why the police and the rangers were virtual spectators whilst the city was overrun by miscreants and complete access to justice was denied to the public and with the legal community being particularly targeted (perhaps for daring to show solidarity with the then nonfunctional CJP), what role, if any, the Federal Government played in the planning or unfolding of the incident, what was the role of the coalition Government in Sindh and was it in league with the Federal Government of which it was a coalition partner at the Centre, was it in fact (as appears from the record) the activists of the MQM or any other political party or group who largely terrorized the public and especially the lawyers on that day, if so, who planned and ordered it or was it a coincidental spontaneous reaction, who gave permission for rival political parties to carry out rallies on the day the then CJP was due to visit Karachi and why were such permissions not cancelled in light of the anticipated law and order situation and what preventive measures were taken in this respect. The object being to fix responsibility, if any, on those at the helm of affairs at that time who failed in their constitutional and legal duties of ensuring the protection of life and property of the citizens of Karachi as well as denying them access to justice and so many other fundamental rights with a view to ensuring that such a situation never arises again and that such persons should never again be entrusted with high office and whether any of them are responsible for negligence, criminal negligence or any other offense under the P.P.C. Prima facie it would appear from the record that most political parties in Karachi were holding a rally in solidarity with the then CJP and the legal community bar the MQM who were holding a rally in support of President General Pervez Musharaff to tie in with a rally in his support in Islamabad on the same day and presumably his decision to file a reference against the then CJP before the SJC and declare him as non-functional. Whether there is any truth in this needs to be discovered. **Syed Iqbal Kazmi Vs Federation of Pakistan (2019 PLD 255 Karachi-High-Court-Sindh)**

²⁰⁸[**19A. Mode of making searches and arrest.**— The provisions of the Code, except that of section 103, shall *mutatis mutandis*, apply to all searches and arrest by police officer and an officer of equivalent rank of the law enforcement agencies made under this Act.]

²¹⁸[**19B. Pre-trial scrutiny.** – Before commencement of the trial, the prosecutor shall scrutinize the case file to ensure that all pre-trial formalities have been completed so that the actual trial proceeds uninterrupted form day-to-day.]

²¹⁹[**19C. Application of investigation techniques.**—(1) The investigating officer may with the permission of Court, within sixty days of such permission, use techniques including undercover operation, intercepting communications, accessing computer system and controlled delivery for investigation of financing of terrorism under the law in force. The aforementioned period of sixty days may be extended upto further period of sixty days by the Court on a request made to it in writing. The Court may grant extension, if it is satisfied, on the basis of situation or reasons given in the written request. The provisions of this sub-section shall be in addition to and not in derogation of any other law for the time being in force.

(2). The Federal Government may make rules to regulate the procedure and execution of

²¹⁸ Inserted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.6.

²¹⁹ New Section 19C Inserted by the Anti-terrorism (Third Amd) Act, 2020 (XXXII of 2020) w.e.f. 24.09.2020, ref, S. 2.

orders for the purpose of this section.]

²²⁰[20. Punishment * * * * *]

²²¹[21. Protection to Judges, 212[* * * *] Counsel, Public Prosecutor, witnesses and persons concerned with court proceedings. – (1) The Court may, subject to the availability of resources, make such necessary orders or take such ²²²measures, as it deems fit, within available resources, for the protection of a witness, judge, ²²³[* * * *] public prosecutor, counsel and other persons concerned in proceedings for an offence under this Act, which may also include the following measures–

- (a) proceedings may be held in camera, or under restricted entry of members of the public, where necessary for the protection of the judge, ²²⁴[* * * *] witnesses or a victim's family members or to prevent persons from crowding or storming the court to intimidate the judge ²²⁵[* * * *] or to create a threatening atmosphere;
- (b) the names of judges, ²²⁶[* * * *] counsel, public prosecutor, witnesses and persons concerned with court proceedings shall not be published; and
- (c) During any inquiry, investigation or court proceedings, whenever the matter of the identification of the accused arises, adequate protection shall be provided to a witness identifying any accused, in order to protect the identity of the witness from the accused.

(2) For purposes of protection of the judges, ²²⁷[* * * *], accused, witnesses, prosecutors and defence counsel and anyone concerned with the court proceedings, the Government may adopt such other measures as may be appropriate or may be proscribed ²¹⁸[and the Armed Forces shall also provide comprehensive protection and security to the judges, ²²⁸[* * * *] accused, witnesses, prosecutors, investigators, defence counsel and all those concerned in the court proceedings.]

²²⁰[These measures may include the following, namely:–

- (a) screens may be used during trial to shield witnesses, Judges and Prosecutors from public view;
- (b) trial may be held in jail premises or through video link;
- (c) witness protection programmes may be established by the Government through law or rules.

The Provincial Government shall take necessary steps to ensure that prisoners in Jails do not have access to mobile phones.]

²²⁰ Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 15.8.2001.s.10.

²²¹ Substituted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 15.8.2001.s.11.

²²² Omitted by the Anti-terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002), w.e.f. 23.11.2002, s.5.

²²³ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002), w.e.f. 23.11.2002, s.5

²²⁴ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002), w.e.f. 23.11.2002, s.5

²²⁵ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002), w.e.f. 23.11.2002, s.5

²²⁶ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002), w.e.f. 23.11.2002, s.5

²²⁷ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002), w.e.f. 23.11.2002, s.5

²¹⁸ Added by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.8.

²²⁸ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002), w.e.f. 23.11.2002, s.5

²²⁰ Inserted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.7.

(3) The Government shall extend protection to a judge,²²⁹[*** *] a counsel, public prosecutor and the witnesses during investigation of an offence and proceedings under this Act, and thereafter, as may be considered necessary.]

²³⁰[(4) The provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force, including the Qanune-Shahdat, 1984 (P. O. No. 10 of 1984).]

Case Laws: -

Prosecution case was that two police constables were on patrol when they signaled a motorbike to stop but its riders sped away and the constables chased them. Motorbike was chased into a street whereupon four persons came in the way of constables and an exchange of hot words followed whereupon four persons fired at the constables, one of them died. regard to the medical evidence in our view this is only supportive of the fact that the deceased was hit by 3 difference bullets which is contrary to the ocular account of PW 3 eye-witness Fayeaz that the deceased received 10 to 13 bullet injuries all over his body. Thus the medical evidence is of little, if any, assistance to the prosecution which in any event is only supportive in nature and gives further support to the fact that PW 3 eye-witness Fayaz fled the scene before the firing on the deceased. **Afaq Ahmed Vs State (2020 YLR 676 Karachi-High-Court-Sindh(c))**

We have also observed that empties were recovered on the day of the incident and yet these were not sent for ballistic examination immediately but after an unexplained delay of 7 days with no proof of safe custody along with the firearm which had apparently been recovered from the accused at about that time when he was allegedly arrested from a bus stop 7 days after the incident and as such on account of the delay in sending the empties before the firearm was recovered and sending them together (firearm and empties) to ballistics it cannot be ruled out that the empties came from the firearm once it was recovered and then fired and as such the FSL report cannot be safely relied upon which in any event is only supportive evidence. **Afaq Ahmed Vs State (2020 YLR 676 Karachi-High-Court-Sindh(d))**

With regard to motive the alleged motive as put forward by the prosecution in the FIR has not been proven and we do not find that a brief hot exchange of words between the accused and the police whereby the police conceded to the demand of the accused not to enter the Mohalla to be a sufficient motive so as to lead to this extreme reaction of the accused firing on the deceased. **Afaq Ahmed Vs State (2020 YLR 676 Karachi-High-Court-Sindh (e))**

²³¹[**21A. Cordons for Terrorist Investigation.** – (1) An area is a cordoned area for the purposes of a terrorist investigation under this Act, if it is so designated under this section.

(2) A designation may be made only by an officer not below the rank of a ²³²[Deputy Superintendent of Police or a member of a Joint Investigation Team] if he considers it expedient for the purposes of a terrorist investigation.

(3) If a designation is made orally, the officer making it shall confirm it in writing, as soon as is reasonably practicable.

²²⁹ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 2002 (CXXXIV of 2002), w.e.f. 23.11.2002, s.5

²³⁰ Inserted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.7.

²³¹ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

²³² Inserted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.9.

(4) The officer making a designation shall arrange for the demarcation of the cordoned area, so far as is reasonably practicable.

(5) An area may be designated a cordoned area for a maximum period of fourteen days, which may be extended in writing from time to time, with each extension specifying the additional period:

Provided that a designation shall have no effect after 28 days beginning with the day on which it was made.

(6) Where a person knows or has reasonable cause to suspect that a terrorist investigation is being conducted or is proposed to be conducted, a person commits an offence if he—

- (a) discloses to another, or others, anything which is likely to prejudice an investigation; or
- (b) interferes with material which is likely to be relevant to an investigation.

(7) Whosoever commits an offence under sub-section (6) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding two years, and fine.

(8) It is a defence for a person charged with an offence under sub-section (6) to prove—

- (a) that he did not know and had no reasonable cause to suspect that the disclosure or interference was likely to affect a terrorist investigation; or
- (b) that he had reasonable excuse for the disclosure or interference.

(9) For the purposes of this section:

- (a) a reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, or assisting, terrorist investigation; and
- (b) a person interferes with any material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of these things.

²³³[**21B. Terrorist investigation.** – (1) A policeman in uniform ²³⁴[or a member of a Joint Investigating Team] may:

- (a) order a person in a cordoned area to leave immediately,
- (b) order a person immediately to leave the premises which are wholly or partly in or adjacent to a cordoned area,
- (c) order the driver or person in charge of a vehicle in a cordoned area to move it from the area immediately,
- (d) arrange for the removal of a vehicle from the cordoned area,
- (e) arrange for the movement of a vehicle within a cordoned area,
- (f) prohibit or restrict access to a cordoned area by pedestrians or vehicles,

²³³ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

²³⁴ Inserted by Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.10.

- (g) enter and search any premises in a cordoned area if he suspects anyone concerned with terrorism is hiding there,
- (h) search and arrest any person he reasonably suspects to be a person concerned in terrorism;
Provided that any search of a person shall be done by a Police person of the same sex; or
- (i) take possession of any property in a cordoned area he reasonably suspects is likely to be used for the purposes of terrorism.

²³⁵[21C. **Training.** – (1) **Weapons Training:** A person commits an offence if he provides, without valid authorisation from the competent authority, any instruction or training in the making or use of–

- (a) firearms.
- (b) explosives; or
- (c) chemical, biological, and other weapons.

(2) A person commits an offence if he provides without valid authorisation from the competent authority, any instruction or training to any child under subsection (1) and, on conviction, shall be liable to a term of imprisonment of not less than ten years and fine.

(3) A person commits an offence if he receives instruction or training from anyone, without valid authorisation from the competent authority, to give such instruction or training or invites another, specifically or generally, to receive such unauthorised instruction or training in the making or use of–

- (a) firearms;
- (b) explosive; or
- (c) chemical, biological, and other weapons.

(4) A child commits an offence if he provides, without valid authorisation from the competent authority, any instruction or training, or if he receives such unauthorised instruction or training or invites another, specifically or generally, to receive such unauthorised instruction or training in the making or use of

- (a) firearms;
- (b) explosive; or
- (c) chemical, biological, and other weapons.

(5) A child guilty of an offence under subsection (4) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding five years.

(6) A person guilty of an offence under sub-section (1) and (3) shall be liable on conviction to imprisonment for a term not exceeding ten years, or fine or with both.

(7) **Training in Terrorism.** – (a) A person commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism.

²³⁵ Inserted by Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

- (b) A person commits an offence if he receives any instruction or training in acts of terrorism or invites another, specifically or generally, to receive such instruction or training.
 - (c) A person guilty of an offence under sub-section (a) and (b) shall, on conviction, be liable to imprisonment of either description for a term of not less one year and not more than ten years and fine.
 - (d) A person is guilty of an offence if he provides, any instruction or training in acts of terrorism to a child, and on conviction, shall be liable on conviction to imprisonment of either description for a term less than one year and not more than ten years and fine.
 - (e) A child commits an offence if he provides generally or specifically, any instruction or training in acts of terrorism, and on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years;
 - (f) A child commits an offence if he receives, generally or specifically, instructions or training in acts of terrorism, and on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years.
- (8) A court by which a person is convicted of an offence under this section, may order the forfeiture of any thing or property which it considers to have been in the person's possession for purposes connected with the offence, after giving any person, other than the convicted person, who claims to be the owner or is otherwise interested, an opportunity of being heard.

Case Law:-

Accused were convicted by Trial Court and sentenced to various imprisonments extending to 14 years, under section 21-C of Anti-Terrorism Act, 1997, which were ordered to run consecutively. After evaluating the case from all angles, we have come to a definite conclusion that the prosecution has successfully proved its case against the appellants who were caught red-handed and huge quantity of material to be used in the preparation of explosives was recovered from them. There is no element of doubt in the case in hand, the statements of Ayaz Ahmad Inspector/complainant (P.W.6), Muhammad Bin Yamin head constable (P.W.4) and Nasir Ahmad S.I. (P.W.5) inspired confidence and nothing is available on record which could establish that these witnesses deposed against the appellants and implicated them in this case due to previous enmity, grudge or malice or to fulfill some ulterior motive. The ocular evidence is not only corroborated by the recoveries effected on the pointing out of the appellants at the time of their arrest in the instant case, but the data retrieved from their laptop has also strengthened the claim of the prosecution that the appellants were planning to do something extremely inhumane in the shape of terrorist attacks Appeals dismissed.. **Saefer Ahmad and others versus The State 2015 P Cr. L J 1380[Para no.9, 14 &15] A &D**

Bail granted under Ss.11-N, 21-C & 21-J of Anti- Terrorist Act, 1997. Contents of the F.I.R. apparently incriminating the accused, thus, were inadmissible in evidence. Evidence collected in another case could not be used in the present case. Investigating Officer had not yet recorded the statement of any person under S.161, Cr.P.C. to make the said record a part of this case. Entire case hinged upon the evidence of a hostile witness which was yet to be scrutinized by the Trial Court with all the evidence yet to be brought on the record. Accused were admitted to bail in circumstances. **Dr. Akmal Walid and another versus The State 2005 Y L R 1388[Para No. 6, 7 & 10 of the judgment]**

²³⁶[**21D. Bail.** – (1) Notwithstanding the provisions of sections 439, 491, 496, 497, 498, 498A and 561A of the Code, no court, other than an Anti-terrorism Court, a High Court, or the Supreme Court of Pakistan, shall have the power or jurisdiction to grant bail to or otherwise release an accused person in a case triable by an Antiterrorism Court.

(2) All offences under this Act punishable with death or imprisonment ²³⁷[* * * *] exceeding three years shall be non-bailable.

Provided that if there appear reasonable grounds for believing that any person accused of non-bailable offence has been guilty of an offence punishable with death or imprisonment for life or imprisonment for not less than ten years, such person shall not be released on bail.

(3) Subject to sub-section (2), the Court may admit a person to bail, unless satisfied that there are substantial grounds for believing that the person, if released on bail (whether subject to conditions or not), would:

- (a) fail to surrender to custody;
- (b) commits an offence while on bail;
- (c) interfere with a witness; otherwise obstruct or attempt to obstruct the course of justice, whether in relation to himself or another person; or (d) fail to comply with the conditions of release (if any).

(4) In exercising its powers in relation to a person seeking bail under this Act, the court shall have regard to such of the following considerations (as well as to any others which it considers relevant)-

- (a) the nature and seriousness of the offence with which the person is charged;
- (b) the character, antecedents, associations and community ties of the person;
- (c) the time which the person has already spent in custody and the time which he is likely to spend in custody if he is not admitted to bail; and (d) the strength of the evidence of his having committed the offence.

(5) without prejudice to any other power to impose conditions on admission to bail, the Court admitting a person to bail under this section may impose such conditions as it considers:

- (a) likely to result in the person's appearance at the time and place required²³⁸[including very high bail sureties], or
- (b) necessary in the interests of justice or for the prevention of crime²³⁹[including surveillance of the person granted bail to monitor his activities and requiring him to report to the concerned police station at specified intervals as determined by the court]

(6) It shall be lawful for the person to be held in military or police protective custody in accordance with the conditions of his bail. The Government or the Court may, under this section, at any time, in respect of a person charged of an offence under this Act, if it

²³⁶ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

²³⁷ Omitted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.11.

²³⁸ Inserted by Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.14.

²³⁹ Inserted by Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.14.

considers necessary, by special or general order, direct special arrangements to be made as to the place at which the person is to be held in order:

- (a) to prevent his escape; or
- (b) to ensure his safety or the safety of others.

Case Law: _

Accused were arrested on Attempt to commit qatl-i-amd, assault or criminal force to deter public servant from discharge of his duty, rioting armed with deadly weapon, unlawful assembly, terrorism, possession of explosive substances, arms and ammunition. Held! No incriminating material existed to connect the accused persons with the alleged offence except supplementary statement of a witness under S. 161, Cr.P.C.; wherein he stated that accused persons and co-accused persons were fast friends and there was a general rumor that his son and other companions were involved in terrorist activities and his son left the motorcycle on the spot. Mobile data did not disclose accused persons' contact with terrorists at the time of occurrence. Section 21-D (4) of Anti-Terrorism Act, 1997 was not applicable in circumstances. Challan against accused persons was not submitted despite their arrest for seven months. Case of accused persons fell within the ambit of further inquiry as sufficient incriminating material was not available to connect the accused with commission of alleged offence. Bail was granted accordingly. **Rahmatullah Versus the State 2018 P Cr. L J 413[para no. 7, 9 & 11 of the Judgment]**

Application under section 21-D of Anti-Terrorism Act, 1997 read with section 497, Cr.P.C. the applicant seeks his release on post arrest bail, under sections 353/324/427/186/302/34, P.P.C. read with section 7 ATA, 1997. The applicant approached learned trial Court with the same plea which has been declined by learned Judge of Anti-Terrorism Court. Held! Having heard the learned counsel for applicant and learned DPG for the State and perused the record carefully. We are inclined to grant bail to the applicant for the reasons that the investigation has already been completed and case has been challaned; that all the PWs are police officials; that there is no question of tampering with the evidence; that no specific role has been attributed to him in the FIR; that there are general and collective allegations against him in the FIR. The name of the applicant has been disclosed by co-accused Abdul Rasheed, who alleged to have been apprehended by the police at the place of scene. No identification parade of the applicant has been got conducted by the Investigation Officer after his arrest through PWs. The applicant is in custody since last 17 months and trial has not yet been concluded through prosecution has examined only one witness. No other case is pending against applicant. It is settled law that when the case of applicant/ accused call for further inquiry into guilty of accused bail should be allowed to him as a right and such right cannot be refused to him merely on account of his alleged abscondance which is a factor relevant only to propriety. It is well settled law that when the applicant has successfully made out his case for grant of bail the abscondance will not come in his way. **Mohammad Nasir versus the State 2018 Y L R Note 254 Sindh [paras no.7,9 & 10 of the Judgment]**

Anti-Terrorism Act (XXVII of 1997), S. 21-D---Assault or criminal force to deter public servant in discharge of his duty; attempt to commit qatl-i-amd; obstructing public servant in discharge of public functions; common intention; attempt to cause explosion or keeping explosive substance with intent to endanger life or property; making or possessing explosives under suspicious circumstances; acquiring, possessing, carrying or controlling any firearm or

ammunition. Held! Present accused and the co-accused were coming in rickshaw and while seeing the police party they fired upon the police, and the police had also fired in self-defence. Accused person had sustained firearm injuries during the encounter. Two hand grenades had been recovered from the co-accused persons, which had been defused after recovery, and a positive report had been received in that regard. One pistol .30 bore without license had been recovered from possession of present accused. Mashirnama of the arrest and recovery had been prepared. Offence with which the accused had been charged, was punishable for a term exceeding ten years. Even otherwise, having such ammunition was a grave offence, undermining the law and order situation in the city---Present accused prima facie had committed the alleged offence. Contentions raised by the accused required deeper appreciation of evidence, which was not permissible at bail stage. Trial court had already framed the charge in the trial. Bail application was dismissed accordingly. **Afzal-Ur-Rehman alias Aatif Versus the State 2016 M L D 1686[Sindh] [para no.7 of the order]**

²⁴⁰[**21E. Remand.**— (1) where a person is detained for investigation, the investigating officer, within twenty-four hours of the arrest, excluding the time necessary for the journey from the place of arrest to the court, shall produce the accused before the Court, and may apply for remand of the accused to police custody ²⁴¹[or custody of any other investigating Agency joined in the investigation], for which the maximum period allowed may be ²³⁴[not less ²³⁵[fifteen days and not more] than thirty days at one time]:

Provided that, where an accused cannot within twenty-four hours be produced before the Court, a temporary order for police custody ²⁴²[or custody of any other investigating agency joined in the investigation] not exceeding twenty-four hours may be obtained from the nearest Magistrate for the purpose of producing the accused before the Court within that period.

(2) No extension of the time of the remand of the accused in police custody ²⁴³[or custody of any other investigating agency joined in the investigation] shall be allowed, unless it can be shown by the Investigating Officer, to the satisfaction of the Court that further evidence may be available and the Court is satisfied that no bodily harm has been or will be caused to the accused;

Provided that the total period of such remand shall not exceed ²⁴⁴[ninety] days.

(3) The Court shall be deemed to be a Magistrate for purposes of subsection (1) ²⁴⁵[:]

²⁴⁶[Provided that the Magistrates appointed under the Shariah Nizam-e-Adl Regulation, 2009 shall also have the same powers as given to a court under this section.]

Case Law:-

²⁴⁰ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

²⁴¹ Inserted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.12.

²³⁴ Substituted by the Anti-terrorism (Amendment) Ordinance, 2010 (I of 2010), w.e.f. 01.02.2010, s.15

²³⁵ Inserted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.15.

²⁴² Inserted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.12.

²⁴³ Inserted by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.12.

²⁴⁴ Substituted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.15.

²⁴⁵ Substituted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.15.

²⁴⁶ Inserted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.15.

From bare reading of the provisions of section 21-E(1) of A.T.A. 1997, it is clear that the remand of the accused would not be granted less than 15 days. Likewise in clause 2 of said section, it is apparent that remand can be extended if the court is satisfied that no bodily harm has been or will be caused to the accused. Provided that the total period of such remand shall not exceed ninety days. Consequently, after considering the above circumstance and provisions of section 21-E of A.T.A., 1997, we are of the considered view that the trial court has failed to appreciate the request made by the applicant Investigating Officer for grant of further police remand coupled with certain grounds, without following the relevant provisions of section 21-E(1)(2) of A.T.A., 1997, therefore, impugned remand order dated: 12-3-2014 passed by the learned trial Court granting remand of accused Sikandar Ali Lashari in judicial custody instead of police custody is illegal, arbitrary and against the law, which will affect the smooth, investigation of the above crime, hence, the impugned order is hereby set-aside with the direction to the learned Anti-Terrorism Court to decide afresh the request made by the Investigating Agency strictly on merits and in accordance with law after affording fair opportunity of hearing to both sides. The Additional Registrar of this Court is directed to transmit and deliver the copy of this order through special messenger to the trial Court, instantly. **Razi Khan Almani versus Judge, Anti-Terrorism Court, Hyderabad 2014 P Cr. L J 1673[para no.4, 10, 13 & 14]**

We may observe here that grant or refusal of physical custody of an accused must be with judicious application of independent mind. **Zawar Hussain versus The State and 3 others 2009 P Cr. L J 705 [para no. 8 of the judgment]**

While refusing the physical remand, the trial court has not given any cogent reason and perhaps has lost sight of the fact that they after their arrest as suspects were identified as perpetrators of the heinous crime wherein one police constable lost his life while the other was seriously injured. It is pertinent to mention here that at the time of inspection of spot by the Investigating Officer, 125 spent cases of bullets were taken into possession by him but the recovery of weapons of offence was yet to be effected from the accused/respondents Nos.2 and 3. For the said purpose, the Investigating Officer applied for their physical remand while stating in the application that the said respondents/accused were hardened criminals and desperate offenders, so to fetch further evidence, their physical remand was required but, we are of the view, that without considering that aspect of the case physical remand was refused. We may observe here that grant or refusal of physical custody of an accused must be with judicious application of independent mind, which exercise, has not been done in the instant case. **Zawar Hussain versus The State and 3 others 2009 P Cr. L J 705 [para no. 8,9,10 & 11 of the judgment]**

Physical remand of accused, under S.21-E of Anti-Terrorism Act, 1997. Police, on event of refusal of pre-arrest bail to accused persons, by the Trial Court, arrested accused persons and after completion of twenty four hours with the Police; produced accused before the Trial Court with request of their physical remand. Trial Court in two lines order, granted 15-days physical remand of accused persons to the Police. Held! Principles provided in S.167, Cr.P.C., were the guidelines for the court before whom, accused were produced for physical remand; it was mandatory requirement within the view of S.167(3), Cr.P.C., that, the court authorizing under said section detention in the custody of the Police, would record its reasons for so doing. Remand was not to be granted mechanically without application of mind, rather it was to be granted only in case of real necessity; and also that the period of such remand was to be fixed with due regard to reasonable requirements. Remand order, passed by the court, did not reflect

the fact that before handing over accused persons on physical remand to the Police, neither the Police record was consulted by the court, nor even the submission made on behalf of accused persons, were taken into consideration. Trial Court, was mistaken in understanding that while exercising its powers under S.21-E of Anti-Terrorism Act, 1997 was not required to give reasons for the order granting physical remand of accused persons, court's such interpretation, was completely in violation of the provision of S.21-E(3) of Anti-Terrorism Act, 1997. Impugned order was set aside, accused persons were granted post-arrest interim protective bail, in order to enable them to approach the competent forum for their bail by moving application. **Raja Waheed Mehfooz Versus Special Judge, Anti-Terrorism Court-Ii, Rawalpindi and 2 others 2016 P Cr. L J 1773[para no.3 &7 of the Order]**

²⁴⁷[**21EE. Power to call information etc.**– (1) The Superintendent of Police during the course of investigation or an equivalent officer of security forces operating in aid of civil power under section 4 and 5, may by an order in writing, on the request of the Joint Investigation Team,-

- (a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made there under;
- (b) require any person to produce or deliver any document or thing useful or relevant to the inquiry or investigation;
- (c) examine any person acquainted with the facts;
- (d) with the permission of the Anti-terrorism Court, require any bank of financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person, including copies of entries made in the bank's or a financial institution's book, including information of transactions saved in electronic or digital form which are reasonably believed to be connected with commission of an offence under this Act and the keeper of such books or records shall be obliged to certify the copies in accordance with law; and
- (e) require information or obtain record of telephone and mobile phone data, e-mail, MMS and CNIC and encrypted messages or any other information suspected to be linked in any manner with commission of an offence under this Act, from any service provider company of department.

(2) The copies obtained, information received or evidence collected in pursuance of clause (d) and (e) of sub-section (1) shall be kept confidential and shall not be divulged to any un-authorized person or used for any purpose other than the legal proceedings under this Act.

(3) Any contravention of an order made under sub-section (1) shall be punishable with imprisonment which may extend to two years or with fine which may extend to one hundred thousand rupees or with both.]

²⁴⁷ Inserted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.16.

²⁴⁸[**21F. Remissions.**— Notwithstanding anything contained in any law or prison rules for the time being in force, no remission in any sentence shall be allowed to a person, ²⁴⁹[*** *] who is convicted and sentenced for any offence under this Act, ²⁵⁰[*** *] ²⁵¹[:]

²⁵²[Provided that in case of a child convicted and sentences for an offence under this Act, on satisfaction of government, may be granted remission, as deemed appropriate.]

Case Laws: -

Persons who are convicted of acts of terrorism are of the same class and are treated the same in terms of remission. No remission is allowed to such accused and there is no question of any person who is convicted for an offence of terrorism under Anti-Terrorism Act, 1997, and is treated differently. **Junaid Rehman Ansari Vs State (2020 PLD 158 Karachi-High-Court-Sindh) [para 52 of judgment]F**

Act of refusing remission to an accused does not amount to punish him for the same offence more than once. Such accused is only punished for one offence and question of availability of remission is governed by law and is a matter of concession not as of right. Issue of self-incrimination is not relevant in circumstances. **Junaid Rehman Ansari Vs State (2020 PLD 158 Karachi-High-Court-Sindh) [para no.35] e**

Provision of Art.12 (b) of the Constitution has no relevance in cases where a person is given a sentence prescribed under the law at the time when he committed the offence and whether remission was available or not under the statute for the offence which he committed. Provision of S.21F of Anti-Terrorism Act, 1997, is not violative of Art.12 of the Constitution. **Junaid Rehman Ansari Vs State (2020 PLD 158 Karachi-High-Court-Sindh) [para no.33]d**

Every one convicted under Anti-Terrorism Act, 1997, is dealt in the same way in accordance with the law as provided in Anti-Terrorism Act, 1997, including its S.21-F. Provision of S.21F of Anti-Terrorism Act, 1997, is not violative of Art. 4 of the Constitution. **Junaid Rehman Ansari Vs State (2020 PLD 158 Karachi-High-Court-Sindh) [para no.31]C**

Murdering a large number of people does not amount to offence of genocide (although it may amount to extermination or mass murder) unless any of the following acts are committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births with the group; and (e) forcibly transferring children of the group to another group. **Junaid Rehman Ansari Vs State (2020 PLD 158 Karachi-High-Court-Sindh) [para no.66]G**

²⁴⁸ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

²⁴⁹ Omitted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.17.

²⁵⁰ Omitted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.17.

²⁵¹ Substituted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.17.

²⁵² Inserted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.17.

²⁵³**[21G. Trial of offences.** – All offences under this Act shall be tried ²⁵⁴[exclusively] by the Anti-Terrorism Court established under this Act]²⁴⁹[:]

²⁵⁵ ²⁵⁶[Provided that the Courts of Zila Qazi or Azafi Zila Qazi established under the Shariah Nizam-e-Adl Regulation, 2009 shall deemed to be the court and shall try all case so assigned to them by the administrative judge designated under subsection (2) or sub-section (4) of section 13, as the case may be.]

²⁵⁷**[21H. Conditional admissibility of confession.**– Notwithstanding anything contained in the Qanoon-e-Shahdat, 1984 (President’s Order No. 10 of 1984) or any other law for the time being in force, where in any court proceedings held under this Act the evidence (which includes circumstantial and other evidence) produced raises the presumption that there is a reasonable probability that the accused has committed the offence, any confession made by the accused during investigation without being compelled, before a police officer not below the rank of a Superintendent of Police, may be admissible in evidence against him, if the Court so deems fit:

Provided that the Superintendent of Police before recording any such confession, had explained to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and that no Superintendent of Police has recorded such confession unless, upon questioning the person making it, the Superintendent of Police had reason to believe that it was made voluntarily; and that when he recorded the confession, he made a memorandum at the foot of such record to the following effect:

“I have explained to (name), that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.”

(Signed)

Distt. superintendent of police”.]

Case Law:-

Confessional statement of accused recorded under S. 21-H of the Anti-Terrorism Act, 1997. A confession before the police is inadmissible in evidence in normal cases but in cases of terrorism section 21-H of the Anti-Terrorism Act, 1997 has made such a confession before the police conditionally admissible. The condition placed by the said section upon admissibility of such a confession before the police is that there must be some other evidence, including circumstantial evidence, which must reasonably connect the accused person with the alleged offence before a confession made by the accused person before the police is accepted by a court worthy of any consideration. Such conditional admissibility of a confession before the police is contingent upon availability of some other evidence connecting the accused person with the alleged offence but in the present case, as we have already discussed above, all the other pieces of evidence relied upon by the prosecution against the appellant had utterly failed

²⁵³ terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

²⁵⁴ terrorism (Second Amendment) Act,2004 (II of 2005) w.e.f. 11.1.2005, s.10.

²⁵⁵ Inserted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.18.

²⁵⁶ Substituted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.18.

²⁵⁷ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

to connect the appellant with the alleged offences. **Nadeem Hussain Vs State (2019 SCMR 1290) [Para No.3 (B) of the Judgment]**

²⁵⁸[**21I. Aid and abetment.** – Whoever aids or abets any offence, under this Act shall be punishable with the maximum term of same imprisonment provided for the offence or the fine provided for such offence or with both.]

Case Law: -

No semen grouping or DNA, test had been conducted in this case so as to connect the present appellant with the semen found on the vaginal swabs of the alleged victim. Be that as it may, a positive report of the Chemical Examiner in that regard only showed that some sexual activity had taken place with the alleged victim but the perpetrator of that activity or the nature of the activity being against the wishes of the victim had never been established before the trial court through any independent evidence whatsoever. As if this were not enough, the medical evidence had shown no sign of rape having been committed with the alleged victim. For all these reasons it could not be concluded by the courts below that the prosecution had succeeded in proving its case against the appellant beyond reasonable doubt. This appeal is, therefore, allowed, the conviction and sentence of the appellant recorded and upheld by the courts below are set aside and he is acquitted of the charge by extending the benefit of doubt to him. He shall be released from the jail forthwith if not required to be detained in connection with any other case. **Nadeem Hussain Vs State (2019 SCMR 1290)**

Accused persons sought post arrest bail as the Investigating Officer had filed Final Investigation Report in "A" class due to lack of sufficient evidence against the lodged FIR against him under S.497, Penal Code (XLV of 1860), Ss. 201, 202, 216A & 34, Anti-Terrorism Act (XXVII of 1997), Ss. 7, 21I & 21J. Held ! Albeit we are considering the question of bail but even at this stage, the court cannot lightly ignore the opinion of investigating officer but it needs to be considered in collocation. Investigating agency is an imperative instrument of the State and if they are not willing to accentuate that the applicants are guilty, unless there are some strong circumstances otherwise so as to come to another judicious and sagacious conclusion, the court cannot get rid of or brush aside such conclusion for the purpose of bail. The conflicting findings as to the guilt of or innocence of the accused by distinct police officers ought to be resolved in favour of the accused. Where one investigating officer found the accused innocent and the other investigating officer found him involved in the case, disagreement in the opinions of two police officers with regard to question of involvement of accused have come to light therefore even at bail stage, the benefit of doubt will go to the accused persons more particularly when second I.O. declared the investigation of first I.O. defective in the final report. Hyper-technicalities are not to be recognized by courts while dealing the bail applications. The basic conception of the bail is that no innocent person's liberty should be truncated until and unless proved otherwise. Every accused is innocent until his guilt is proved. Certain basic principles regarding grant or refusal of bail are settled i.e. the bail cannot be withheld as punishment, every person is presumed to be innocent unless found guilty by a competent court, every person is entitled to a fair trial which includes a trial without inordinate delay, the basic philosophy of criminal jurisprudence is that the prosecution has to prove its case beyond reasonable doubt and this principle applies at all stages including pre-

²⁵⁸ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

trial and even at the time of deciding whether accused is entitled to bail or not. **Dr. Asim Hussain and others Versus the State 2017 P Cr. L J 631[Sindh] [para no.14 & 20 of the Order}**

²⁵⁹[**21J. Harboursing.** – (1) A person commits an offence if he harbours any person who has committed an offence under this Act.

(2) A person guilty of an offence under subsection (1) shall be liable on conviction to punishment as provided in section 216 and 216A of the Pakistan Penal Code (Act XLV of 1860).]

Case Law:-

Accused persons sought post arrest bail as the Investigating Officer had filed Final Investigation Report in "A" class due to lack of sufficient evidence against the lodged FIR against him under S.497, Penal Code (XLV of 1860), Ss. 201, 202, 216A & 34, Anti-Terrorism Act (XXVII of 1997), Ss. 7, 21I & 21J.**Held !** Albeit we are considering the question of bail but even at this stage, the court cannot lightly ignore the opinion of investigating officer but it needs to be considered in collocation. Investigating agency is an imperative instrument of the State and if they are not willing to accentuate that the applicants are guilty, unless there are some strong circumstances otherwise so as to come to another judicious and sagacious conclusion, the court cannot get rid of or brush aside such conclusion for the purpose of bail. The conflicting findings as to the guilt of or innocence of the accused by distinct police officers ought to be resolved in favour of the accused. Where one investigating officer found the accused innocent and the other investigating officer found him involved in the case, disagreement in the opinions of two police officers with regard to question of involvement of accused have come to light therefore even at bail stage, the benefit of doubt will go to the accused persons more particularly when second I.O. declared the investigation of first I.O. defective in the final report. Hyper-technicalities are not to be recognized by courts while dealing the bail applications. The basic conception of the bail is that no innocent person's liberty should be truncated until and unless proved otherwise. Every accused is innocent until his guilt is proved. Certain basic principles regarding grant or refusal of bail are settled i.e. the bail cannot be withheld as punishment, every person is presumed to be innocent unless found guilty by a competent court, every person is entitled to a fair trial which includes a trial without inordinate delay, the basic philosophy of criminal jurisprudence is that the prosecution has to prove its case beyond reasonable doubt and this principle applies at all stages including pre-trial and even at the time of deciding whether accused is entitled to bail or not. **Dr. Asim Hussain and others Versus the State 2017 P Cr. L J 631[Sindh] [para no.14 & 20 of the Order}**

Bail granted under Ss.11-N, 21-C & 21-J of Anti- Terrorist Act, 1997. Contents of the F.I.R. apparently incriminating the accused, thus, were inadmissible in evidence. Evidence collected in another case could not be used in the present case. Investigating Officer had not yet recorded the statement of any person under S.161, Cr.P.C. to make the said record a part of this case. Entire case hinged upon the evidence of a hostile witness which was yet to be scrutinized by the Trial Court with all the evidence yet to be brought on the record. Accused were admitted

²⁵⁹ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

to bail in circumstances. **Dr. Akmal Walid and another versus The State 2005 Y L R 1388**[Para No. 6, 7 & 10 of the judgment]

²⁶⁰[**21K. Offences triable by way of summary procedure.** – All offences under this Act punishable with imprisonment for a term of not more than six months with or without fine shall be tried by way of summary procedure.]

Case Law:-

Ss. 19(1)(2)(14), 21-K, 25 & 32, Contempt of Court, Summary procedure, Accused being police officer was investigating a criminal case, but he, having not completed investigation within time as provided under S.19(1) of Anti-Terrorism Act, 1997, moved the Trial Court for extension of time which was granted from time to time. Lastly on relevant date accused moved another application for extension of time which was dismissed and accused was simultaneously convicted as he was found guilty of not submitting challan within time which fell within ambit of contempt of Court in terms of S.19(2) of Anti-Terrorism Act, 1997. Accused was convicted and sentenced to suffer simple imprisonment for seven days without issuing him any show-cause notice or framing charge against him and without recording his evidence or statement under provisions of S.32 of Anti-Terrorism Act, 1997. Provisions of Criminal Procedure Code, 1898 were applicable before Anti-Terrorism Court, if those were not inconsistent with the provisions of Anti-Terrorism Act, 1997. Separate procedure in the shape of summary trial had been provided under provisions of S.21-K of Anti-Terrorism Act, 1997 for the trial of offences which were punishable for not more than six months. Accused, in view of said separate procedure, having been sentenced to suffer simple imprisonment for only seven days, procedure of Chap. XXII-A of Criminal Procedure Code, 1898 was not applicable. Anti-Terrorism Court being Court of Session, could invoke provisions of Chap. XXII of Criminal Procedure Code, 1898 for trial of class of cases mentioned in S.21-K of Anti-Terrorism Act, 1997 & Ss.262 to 265 of Chap. XXII of Criminal Procedure Code, 1898 were not inconsistent with any provision of the said Act. No such procedure having been adopted in convicting and sentencing accused, conviction and sentence awarded to him by Trial Court were set aside and case was remanded to Trial Court for further proceedings and trial in accordance with law. **S.-I. Kazi Shahid Ali versus The State 2003 P Cr. L J 1468 Sindh** [Paras no. 2,8,10,12,13,14,15 of the judgment]

²⁶¹[**21L. Punishment for an Absconder.**– Whoever being accused of an offence under this Act, absconds and avoids arrest or evades appearance before any inquiry, investigation or court proceedings or conceals himself, and obstructs the course of justice, shall be liable to imprisonment for a term not less than ²⁶²[five years] and not more than ²⁶³[ten years] or with fine or with both.]

Case Laws: -

Accused persons were convicted by the Trial Court for murdering two persons because of a dispute over plying of public vehicles. In the present case, both the deceased fell victim to a business rivalry and, thus, the accused persons were not actuated by the designs contemplated

²⁶⁰ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.12.

²⁶¹ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.12.

²⁶² Substituted for "six months" by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) *w.e.f.* 11.1.2005, s.11.

²⁶³ Substituted for "five years" by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) *w.e.f.* 11.1.2005, s.11.

under the said Act, therefore, their convictions under Ss. 7(a) & 21-L of the Anti-Terrorism Act, 1997 and sentences consequent thereupon were set aside, whereas the remainder of their convictions as well as sentences were kept intact. **Akhmat Sher Vs State (2019 SCMR 1365) [para No.2(B) of the Judgment]**

Prosecution case was that accused and others abducted three persons of complainant party for ransom. In the instant case, neither any charge for an offence punishable under section 21-L of Anti-Terrorism Act, 1997, was framed against the appellant. No evidence in that respect was recorded. No point for determination in that respect was framed. No decision in that respect was arrived at by learned trial Court. What to talk of reasons? In that situation, the conviction and sentence recorded against the appellant being violative of Section 367, Cr.P.C. could not be sustained. The appellant (in his absentia), indeed has been convicted and sentenced for an offence punishable under section 21-L of Anti-Terrorism Act, 1997 in cursory manner by learned trial Judge by adopting the procedure, which was violative of Sections 9 and 10(1) of Constitution of Islamic Republic of Pakistan and Section 10(11-A) of Anti-Terrorism Act, 1997, which could not be consented. **Qadir Bux Alias Baboo Vs State (2019 MLD 481 Karachi-High-Court-Sindh) [para no.13 of the judgment]**

Prosecution case was that accused and co-accused persons had made aerial firing upon the complainant party and abducted the nephew of complainant for ransom. Police after completion of investigation submitted challan under S. 512, Cr.P.C. against all the accused persons before the Trial Court showing them as absconders. One of the co-accused, later, joined the trial after seeking pre-arrest bail. Charge was framed against the co-accused and absconders, wherein the co-accused pleaded not guilty and claimed to be tried. Trial Court acquitted the co-accused and absconders including accused from the charges by extending them benefit of doubt, but convicted and sentenced the accused in absentia under S. 21-L of the Anti-Terrorism Act, 1997. Record showed that none of the accused including present accused was implicated by the complainant as well as abductee hence, it was case of no evidence. Non-bailable warrants issued against the present accused had showed his address at city 'L', where millions of people resided. Report submitted by the process server's revealed residence of accused at colony 'B' when address of the accused was not mentioned in non-bailable warrants, who informed the process server that the present accused resided in colony 'B' was not understandable. Circumstances suggested that just the formalities were completed by the Trial Court and no proof was produced by the prosecution to believe that the warrants were served upon the accused who willfully remained absconder. Co-accused with almost similar role had already been acquitted by the Court, therefore the present accused was entitled for the same relief. Appeal was allowed and accused was acquitted by setting aside conviction and sentence recorded by the Trial Court. **Bilawal Vs State (2019 PCRLJ 238 Karachi-High-Court-Sindh) [para no.18 & 19 of the Judgment] B & C**

Prosecution case was that the accused party while armed with deadly weapons entered into the house of complainant, made indiscriminate firing upon the inmates of the house and committed murder of five persons and caused fire arm injuries to two persons. The upshot of the above discussion is that the prosecution has successfully established its case against appellants Ranjhan son of Abbas Narejo, Mithal son of Loung Narejo and Munawar alias Munoo son of Loung Narejo through ocular account furnished by eye-witnesses, which is corroborated by medical evidence coupled with circumstantial evidence. Learned Counsel for the appellants has failed to point out any material illegality or serious infirmity committed by the learned trial

Court while passing the impugned judgment against appellant Ranjhan, Mahal and Munawar, which in our view is based on an appreciation of the evidence and the same does not call for any interference by this Court. Thus, the conviction and sentence awarded to appellants Ranjhan, Mithal and Munawar by the trial Court is hereby maintained and the instant appeal to the extent of above three appellants being devoid of merits stands dismissed and Crl. Reference No.D-03 of 2015 to the extent of appellants Ranjhan son of Abbas Nurejo, Mithal son of Loung Narejo and Munawar alias Munoo son of Loung Narejo is answered in AFFIRMATIVE.. **Allahdad Alias Dadan Vs State (2019 YLR 2086 Sindh) [para no.18 of the judgment]**

²⁶⁴[**21M. Joint Trial.**– (1) While trying any offence under this Act, a Court may also try any other offence with which an accused may, under the Code of Criminal Procedure, 1898, be charged, at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Act of any offence it is found that the accused person has committed any other offence under this Act or any other law for the time being in force, the Court may convict an accused for such other offence and pass any sentence authorised by this Act or, as the case may be, such other law, for the punishment thereof.]

Case Law:-

From the above discussion it is manifestly clear that section 21-M of Act 1997 does not give any power to Anti-Terrorism Court to withdraw any case pending within or outside its jurisdiction before a regular court functioning under administrative control of the High Court. Perusal of section 28 of Act 1997 shows that it gives power to the Chief Justice of High Court concerned if he considers it expedient t so to do in the interest of justice or where the convenience or safety of the 'witnesses or the safety of the accused so requires, transfer any case from one Anti-Terrorism Court to other Anti-Terrorism Court within or outside the area. It further provides that an Anti-Terrorism Court to which a case is transferred shall proceed with the case from the stage at which it was pending immediately before such transfer and it shall not be bound to recall and rehear any witness who has given evidence and may act on the evidence already recorded. Provided that nothing contained in such section shall affect the powers of Presiding Officer of the Special Court to call any witness as is available under the law. **The State Versus Muhammad Arif and 3 others P L D 2012 Sindh 119[paras's no.12, 18, 20 & 21 of the Judgment]**

22. Manner and place of execution of sentence. – The Government may specify the manner, mode and place of execution of any sentence passed under this Act, having regard to the deterrent effect which such execution is likely to have.

23. Power to transfer cases to regular courts.– Where, after taking cognizance of an offence, ²⁵⁹[an Anti-Terrorism Court] is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any court having jurisdiction under the Code, and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

²⁶⁴ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.12.

²⁵⁹Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2

²⁶⁰Omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.14.

Case Laws: -

Ss. 6 & 23---Act of terrorism, Transfer of case, Robbery, Double murder, Accused were aggrieved of order passed by Trial Court declining to transfer case to court of ordinary jurisdiction. Accused persons failed to point out any legal infirmity in same as act of terrorism was carried out by accused persons during robbery, murders and aerial firing and same fell within purview of Anti-Terrorism Act, 1997---Revision was dismissed in circumstances. **Nazar Muhammad vs. State (2019 YLR 1260 Karachi-High-Court-Sindh)**

In FIR of the present case, it is clearly mentioned that the complainant party was having an objection against the applicant and others for running narcotic and gambling dens in their neighborhood. The Accused /applicant and others in order to satisfy their ego and to maintain the so called supremacy in their neighborhood, after having formed an unlawful assembly and in prosecution of their common object being armed with deadly weapons, committed murder of deceased Rashid Ali by causing him fire shot injuries and butt blows. It was not an act of sudden reaction but a premeditated and preplanned act on the part of applicants and others. The manner in which the applicant and others have acted prima facie was not to settle some personal score but seems to leave a message to people of neighborhood, thereby conveying them lethal consequences in objecting/questioning their wrongful and/or unlawful act. Such object, prima facie is appearing from date, time and place the applicants and others have chosen for committing the offence, which obviously created a sense of insecurity amongst the people of neighborhood and/or society. As such the act on the part of applicants and others obviously was falling within ambit of section 6 of the Anti-Terrorism Act, 1997. In these circumstances learned Judge ATA Sukkur was right to dismiss application under section 23 of ATA Act of the applicants for transfer of their case from his court to court of ordinary jurisdiction for its trial. **Majid Alias Dodo Vs State (2019 PCRLJ 201 Karachi-High-Court-Sindh) [para no.11 of the judgement] B**

Accused persons had planned and robbed the deceased at his shop with firearms and robbery took place in broad daylight in bazaar where members of public were present and when owner of shop resisted the robbery, he was shot in cold blood in front of members of public, when other members of public tried to intervene, they were warned off by accused persons, threatening them with pistols. Another person who tried to intervene was again shot dead in cold blood by accused persons in front of public. While making their escape good, accused persons deliberately made aerial firing in order to scare off and terrorize public and in particular, minority community to whom victims belonged. High Court declined to interfere in order passed by Trial Court as same was based upon valid and sound reasons and was in consonance with provisions of relevant law. Accused persons failed to point out any legal infirmity in same as act of terrorism was carried out by accused persons during robbery, murders and aerial firing and same fell within purview of Anti-Terrorism Act, 1997. Revision was dismissed in circumstances. **Nazar Muhammad Vs State (2019 YLR 1260 Karachi-High-Court-Sindh) [para no.7 of the Judgment] A**

²⁶⁰[24. Appellate Tribunal. – * * * * * * * * *]

25. Appeal. – (1) An appeal against the final judgment of ²⁶⁵[an Anti-terrorism Court] shall lie to ²⁶⁶[a High Court].

(2) Copies of the Judgment of ²⁶⁷[an Anti-terrorism Court] shall be supplied to the accused and the Public Prosecutor free of cost on the day the judgment is pronounced and the record of the trial shall be transmitted to the ²⁶⁸[the High Court] within three days of the decision.

(3) An appeal under sub-section (1) may be preferred by a person sentenced by ²⁶⁹[an Anti-terrorism Court] to ²⁷⁰[a High Court] within ²⁷¹[fifteen] days of the passing of the sentence.

(4) The Attorney General ²⁷²[Deputy Attorney-General, Standing Counsel] or an Advocate General ²⁷³[or an advocate of the High Court or the Supreme Court of Pakistan appointed as Public Prosecutor, Additional Public Prosecutor or a Special Public Prosecutor] may, on being directed by the Federal or a Provincial Government, file an appeal against an order of acquittal or a sentence passed by ²⁷⁴[an Anti-terrorism Court] within ²⁷¹[thirty] days of such order.

²⁷²[(4A) Any person who is a victim or legal heir of a victim and is aggrieved by the order of acquittal passed by an Anti-Terrorism Court, may, within thirty days, file an appeal in a High Court against such order.

(4B) If an order of acquittal is passed by an Anti-Terrorism Court in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grant special leave to appeal from the order of acquittal, the complainant may within thirty days present such an appeal to the High Court.]

(5) An appeal under this section shall be heard and decided by ²⁷⁵[a High Court] within seven working days.

²⁷⁶[(6) * * * * *]

²⁷⁷[(7) * * * * *]

(8) Pending the appeal ²⁷⁸[the High Court] shall not release the accused on bail.

²⁷⁹[(9) For the purposes of hearing appeals under this section each High Court shall establish a Special Bench or Benches consisting of not less than two Judges.

²⁶⁵ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁶⁶ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁶⁷ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁶⁸ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁶⁹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁷⁰ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁷¹ Substituted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.19
²⁷² Inserted by the Anti-terrorism (Amendment) Ordinance, 2000 (XIX of 2000), w.e.f. 20.08.1997; and published in gazette of Pakistan (Extraordinary), part-I. dated 30.5.2000, s.2.
²⁷³ Inserted by the Anti-terrorism (Amendment) Ordinance, 2000 (XIX of 2000), w.e.f. 20.08.1997; and published in gazette of Pakistan (Extraordinary), part-I. dated 30.5.2000, s.2.
²⁷⁴ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2 ²⁷¹Substituted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.19
²⁷² Inserted by the Anti-terrorism (Amendment) Act, 2004 (X of 2004) w.e.f. 30.11.2004, s.2.
²⁷⁵ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁷⁶ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.15.
²⁷⁷ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.15.
²⁷⁸ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁷⁹ Added by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.12.

(10) While hearing an appeal, the Bench shall not grant more than two consecutive adjournments.]

²⁸⁰[26. Admissibility of confession made before police. – * * * * *]

27. Punishment for defective investigation ²⁸¹[and reward for successful investigation].–
²⁸²[(1)] If ²⁸³[an Anti-terrorism Court] or ²⁸⁴[a High Court] comes to the conclusion during the course of or at the conclusion of the trial that the investigation officer, or other concerned officers have failed to carry out the investigation properly or diligently or have failed to pursue the case properly and in breach of their duties, it shall be lawful for such Court or, as the case may be, ²⁸⁵[High Court] to punish the delinquent officers with imprisonment which may extend to two years, or with fine, or with both by resort to summary proceedings.

²⁸⁴[(2) Incentive systems shall be introduced by the Provincial Governments providing for appropriate rewards to investigating officers who conduct successful investigation.]

Case Law:-

This criminal appeal by Waqar Ahmad, DSP Pabbi Circle, Nowshera, , is against the judgment learned Judge Anti-Terrorism Court III, Peshawar (respondent No.2), whereby, the appellant was awarded symbolic punishment of fine of rupees four thousand and in case of failure to pay the fine, the appellant was to undergo one month simple imprisonment, under section 27 of ATA, 1997. **Held!** It may be observed at the outset that the appellant has been held responsible for defective/improper investigation under section 27 of the Anti-Terrorism Act, 1997, therefore, he cannot take shelter under statement in the court wherein the so- called abductee exonerated the accused facing trial. The issues raised by the learned counsel for the appellant have no nexus with defective investigation on the basis of record of the case and particularly record of investigation conducted by the appellant. As a result of above observations, the learned court concluded that the appellant failed to take honest steps for investigation to dig out the truth, which was his primary duty under the law as well as 25.2(3) of Police Rule, 1934. The response of the appellant to the aforesaid charges and observations of the learned court were far from satisfactory, as he could not point out a single instance in his defence controverting the above charges/observations of the court. Therefore, there appear no escape from the conclusion that it was a case of defective investigation on the part of the appellant. Having said that, there may be several other factors contributing to defective/improper investigation, but such factors would not absolve and Investigating Officer to conduct a proper investigation, which is his primary duty, and under no circumstances should advance lame excuses for failure to perform his duty. Needless to say that such conduct has eroded confidence of the general public in the police in general and investigating agency in particular, which is touching the lowest ebb of its credibility. It may be stressed that investigation by the police forms backbone of criminal justice system. The investigating officer, undisputedly, enjoys authority in the matter of investigation, and such authority would, unquestionably, demand accountability, which has been envisaged in section 27 of the Anti-Terrorism Act, 1997. It is, indeed, noteworthy that the learned court has already taken into consideration the

²⁸⁰ Omitted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.16.
²⁸¹ Added by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.8.
²⁸² Renumbered by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.8.
²⁸³ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁸⁴ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
²⁸⁵ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2 ²⁸⁴Inserted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.8.

other contributing factors for defective investigation and has, therefore, awarded symbolic punishment of fine of rupees four thousand, which does not call for interference by this court. The appeal is, therefore, dismissed. **Waqar Ahmad Versus The State and another P L D 2016 Peshawar 21[Paras no.7, 8 &9]**

Ss. 25 & 27, Police Rules, 1934, R.25.2 (3), Defective and improper investigation, Awarding of symbolic punishment by Anti-Terrorism Court. Appeal was made before this court against the Symbolic punishment of fine of Rs.10, 000 to appellants/Police Officers for conducting improper and defective investigation in a criminal case of kidnapping for ransom. Accused were acquitted and the Police Officers were punished after giving notices for conducting defective investigation. Held! Record showed that the local police neither registered the FIR nor order of the Magistrate for conducting enquiry was obtained, even record of the enquiry was not made available so as to ascertain as to what proceedings were conducted by the Police Officer who was entrusted with enquiry. Such conduct of the Police Officer gave rise to the suspicion that he might have suppressed material facts and evidence which could lead to conviction of the accused. Zamima and fard khulasa dated 1.3.2012 showed production of accused before the Judicial Magistrate within 8.30 to 1200 hours, wherefrom their judicial remand was obtained and they were handed over to jail authorities. Record of the case falsified the said facts showing the arrest and recovery at 16.40 hours on 1.3.2012, thus created doubt about its authenticity. SHO handed over motorcars to the DSP immediately after the alleged recovery, without a court order or proper procedure. **Handing over the cars to a Police Officer who had nothing to do with investigation of the case was not only misconduct but also a criminal offence by the Police Official.** Police failed to enquire and collect evidence about the fact of abduction of abductee in the area where he was allegedly carrying out business of cloth. Said Officer had failed to bring the enquiry file on the judicial record in order to ascertain the whole proceedings conducted since abduction of abductee till the date of registration of FIR. Circumstances established not only dereliction in duty but also misconduct and commission of criminal offence of breach of trust on the part of the accused Police Officers entrusted with investigation of the case, making them liable not only to summary proceedings, but also disciplinary action. Appeal was dismissed accordingly. **Inspector Syed Rahim versus the State 2019 P Cr. L J 640[Paras No.6,7,8,9 & 10] of the Judgment]**

²⁸⁶[**27A Presumption of proof against accused.**— Any person having in possession any explosive substance with or without explosive devices without lawful justification or having been unlawfully concerned with such explosive substance and devices, shall be presumed, unless contrary is proved, that the explosive substance was for the purpose of terrorism.]

Case Law:-

Keeping in view the same, the direct evidence, which does not suffer from any other inconformity can be relied upon, while the Report of an Expert will be only a corroborative piece of evidence. In present case P.W. Hizbullah, and P.W.2 Shahabuddin are witnesses of the occasion, while their statements are in confirmatory with the case as made up by the prosecution. There are no material contradictions or variations found in the statements of both these witnesses, and any mala fides are asserted on their part. Therefore, in view of the fact

²⁸⁶ Inserted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.20.

that the appellant is only charged to the extent of having in his possession two hand-grenades, and nothing more, therefore, the opinion of the Expert in the circumstances will be a corroborative piece of evidence, and even in its absence the direct evidence can be relied upon. Furthermore, section 27-A of Anti-Terrorism Act, 1997 provides a presumption against a person being found in possession of any explosive substance. In view of material present on record the prosecution has discharged the burden while establishing recovery of explosive substance from possession of the appellant; therefore, the burden shifted on the appellant to establish the contrary. But no specific plea has been taken by the appellant, nor he produced any witness, nor even recorded his statement on oath during course of trial, thus failed to discharge the burden. In view of above discussion, the appellant has failed to make out a case in his favour, therefore, the appeal is dismissed being without merits. **Bilal Ahmed versus The State 2012 P Cr. L J 796**

Ss. 4 & 5 Anti-Terrorism Act (XXVII of 1997), Ss.7 & 27-A, Possessing explosive substances and act of terrorism. Held! Recovery of explosives from the house/rooms in exclusive possession of accused, had been established. Nothing had been brought on record by accused persons to show or demonstrate that the prosecution witnesses had any malice, grudge or ill-will against accused persons to falsely implicate them. Nature of the recovered articles being explosives had been proved at the trial. Defence plea was not consistent and in support of their defence plea, they had failed to bring any material on record-The learned trial Court has already taken lenient view with regard to quantum of sentence. For the above reasons it is concluded that the prosecution has proved the recovery of explosives in huge quantity from the possession of the appellants and the appellants have failed to account for the same and in view of the presumption attached under section 27A of the ATA 1997 the case against the appellants stand proved. The appeal having no force is dismissed and the conviction awarded to the appellants is maintained. **Rahim Khan and another versus The State 2011 P Cr. L J 1889[para no.G of the judgment]**

²⁸⁷[**27AA. Punishment for false implication.**— Where an investigating officer dishonestly and falsely involves, implicates or arrests a person alleged to have committed any scheduled offence shall be punishable with imprisonment for a term which may extend to two years or with ²⁸⁸[fine] or with both:

Provided that action against such investigating officer shall not be taken without the prior approval of the Government.

27B. Conviction on the basis of electronic or forensic evidence etc.— Notwithstanding anything contained in this Act or Qanun-e-Shahdat, 1984 (P. O. No. 10 of 1984) or any other law for the time being in force, a person accused of an offence under this Act may be convicted on the basis of electronic or forensic evidence or such other evidence that may have become available because of modern devices or techniques referred to in Article 164 of the Qanun-e-Shahdat, (P.O. No. 10 of 1984):

Provided that the Court is fully satisfied as to the genuineness of such evidence.]

²⁸⁷ Inserted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.9.

²⁸⁸ Misprinted in the gazette as "line".

Case Law:-

Since the case in hand is being tried by the Anti-Terrorism Court under the provisions of Anti-Terrorism Act, 1997, therefore we have to look in on Section 27-B of Anti-Terrorism Act, 1997 also in which court may convict the accused on the basis of electric or forensic evidence or such other evidence that may have become available because of modern devices or techniques. After analyzing and dissecting the aforesaid provisions of different statutes, we reach to the final that the definition of document is much expanded and any substance by means of letters, figures or marks is document including an inscription on a metal plate. It is quite clear from the definition of CD that it is made by polycarbonate with one or more metal layers capable of storing digital information and audio and visual data is recorded as a series of metallic pits enclosed in PVC. So far as USB (Universal Serial Bus) flash drive is concerned, it is often used for the same purposes for which floppy disks or CDs are used, i.e., for storage, data back-up and transfer of computer files. It is immune to electromagnetic interference (unlike floppy disks), and are unharmed by surface scratches (unlike CDs). The data which may be transferred on CD may also be stored/transferred on USB drives so it is only a medium and vehicle of storage that's why in our view the data stored on CD and USB flash drive is covered in the wide spread definition of document. **Sikandar Ali Lashari Versus the State and another 2016 Y L R 62[para no.7, 8 & 13 of the Order]**

28. Transfer of cases.– (1) Notwithstanding anything in this Act ²⁸⁹[the Chief Justice of High Court concerned ²⁹⁰[on the application of any party to the proceedings or on the application of the Federal Government or a Provincial Government] may, if he] considers it expedient so to do in the interest of justice, or where the convenience or safety of the witnesses or the safety of the accused so requires, transfer any case from one ²⁹¹[Anti-terrorism Court] to another ²⁹²[Anti-terrorism Court] within or outside the area.

Case Law;-

Accused were aggrieved of order passed by Anti-Terrorism Court, declining to transfer the case to court of ordinary jurisdiction. Thus, turning to the particular facts and circumstances of this case it appears that the act against the police officials took place in two separate areas. Firstly, at the picket where they were allegedly directly fired upon by the accused which admittedly is a secluded area which is not surrounded by any member of the public. Thus, in our view there is no evidence to suggest that this action was taken with any design, intention and mens rea of causing terrorism and since it was a secluded area it did not have the impact of causing intimidation, awe, fear and insecurity in the public or society since there were no members of the public around this secluded spot to witness or even hear the action. The second aspect of the case was when the police officials were confined in a room and where they were made to be photographed in the company of some ladies. Again this incident took place in a closed room so the same considerations as to the attack on them apply vis-a-vis the applicability of the Anti-Terrorism Act, 1997. Although the actions against the police are of a very serious nature and must be discouraged and thus dealt with by an iron hand as in effect they are attacks on society as a whole such attacks can only be dealt with under the relevant and applicable law. In this case in our view it is quite apparent that based on the facts and

²⁸⁹ Substituted for the "a High Court may, if it" by the Anti-terrorism (Amendment) Ordinance, 2002 (VI of 2002) w.e.f. 31.1.2002, s.13.

²⁹⁰ Inserted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) w.e.f. 26.03.2013, s.21.

²⁹¹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

²⁹² Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

circumstances of this particular case that the actions allegedly taken by the accused against the police do not fall within the ambit of the ATA since the material/evidence which we have briefly considered does not meet the requirements of section 6(1) (b) or (c) ATA which are lacking in all respects. **Murad Ali Bangalani Vs State (2019 PCRLJ 95 Sindh) [Para.no.10, 11, 12, 13 &14]**

²⁹³[(1A) Where it appears to the Government that it would be in the interest of justice or expedient for protection and safety of judges, witnesses or prosecutors, it may apply to the Chief Justice of the High Court concerned for transfer of a case from, an Anti-terrorism Court falling within its jurisdiction to an Anti-terrorism Court in any other place in Pakistan and for this purpose shall also seek concurrence of the Chief Justice of the High Court concerned.]

(2) ²⁹⁴ [An Anti-terrorism Court] to which a case is transferred under subsection (1) shall proceed with the case from the stage at which it was pending immediately before such transfer and it shall not be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded ²⁹⁵[:

Provided that nothing herein contained shall affect the powers of the presiding officer of the Special Court to call any witness as is available under the law.]

²⁹⁶[(3) The Federal Government may in the interests of justice and for protection and safety of witnesses and investigators, transfer the investigation of any case from one place to any other place in Pakistan.

(4) The investigating officer or the agency to which case is transferred under sub-section (3), may proceed from the stage the inquiry or investigation was left or may proceed with the case as if it had been originally entrusted to him or the agency, as the case may be.

(5) On completion of investigation and before submission of report under section 173 of the Code, the Federal Government may direct that the case falling in the jurisdiction of a particular Anti-terrorism court may be forwarded for trial to another Anti-terrorism court anywhere in Pakistan, as may be specified by the Federal Government in this behalf, in the public interests or for the safety and protection of judges, public prosecutors or witnesses.]

²⁹⁷ **[28A. Impounding of passport of person charge-sheeted under the Act.–** Notwithstanding anything contained in any other law for the time being in force, the passport of a person, who is accused of an offence under this Act, shall be deemed to have been impounded for such period as the Court may deem fit.]

29. Trial before ²⁹⁸[Anti-terrorism Court] to have precedence.– A trial under this Act of an offence by ²⁹⁹[an Anti-terrorism Court], and the appearance of an accused before

²⁹³ Inserted by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.10.

²⁹⁴ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

²⁹⁵ Replaced and Added by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.17.

²⁹⁶ Added by the Anti-terrorism (Amendment) Act, 2014 (VI of 2014) w.e.f. 18.06.2014, s.10.

²⁹⁷ Inserted by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) w.e.f. 11.1.2005, s.13.

²⁹⁸ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

²⁹⁹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.

it, shall have precedence over the trial of any other case against the accused in any other Court, except the High Court on its original side.

30. Modified application of certain provisions of the Code.
 –(1)

Notwithstanding anything contained in the Code or in any other law, every scheduled offence shall be deemed to be a cognizable offence within the meaning of clause (f) of section 4 of the Code and the words “cognizable case” as defined in that clause shall be construed accordingly.

(2) Sections 374 to 379 of the Code shall apply in relation to a case involving a scheduled offence subject to the modification that the references to a “Court of Sessions” and “High Court”, wherever occurring therein, shall be construed as reference to ³⁰⁰“an Anti-terrorism Court” and ³⁰¹[a High Court.]

³⁰²[(3) * * * * *]

³⁰³[(4) * * * * *]

31. Finality of Judgment. – A judgment or order passed, or sentence awarded, by ³⁰⁴[an Anti-terrorism Court], subject to the result of an appeal under this Act shall be final and shall not be called in question in any Court.

32. Overriding effect of Act.– (1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law but, save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before ³⁰⁵[an Anti-terrorism Court]; and for the purpose of the said provisions of the Code, ³⁰⁶[an Anti-terrorism Court] shall be deemed to be a Court of Sessions.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of section 350 of the Code shall, as far as may be, apply to the proceedings before ³⁰⁷[an Anti-terrorism Court], and for this purpose and reference in those provisions to a Magistrate shall be construed as a reference to ³⁰⁸[an Anti-terrorism Court].

33. Delegation. – The Government may, by notification, delegate, subject to such conditions as may be specified therein, all or any of the powers exercisable by it under this Act.

34. Power to amend the schedule. – The Government may, by notification, amend the ³⁰⁹[Schedules]so as to add any entry thereto or modify or omit any entry therein.

³⁰⁰ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
³⁰¹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
³⁰² Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.13.
³⁰³ Omitted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.13.
³⁰⁴ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
³⁰⁵ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
³⁰⁶ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
³⁰⁷ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
³⁰⁸ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) w.e.f. 27.8.1999, s.2.
³⁰⁹ Substituted by the Anti-terrorism (Second Amendment) Act, 2014 (VII of 2014) w.e.f. 21.6.2014, s.16.

³¹⁰**[35. Powers to make rules.** – The Federal Government or a Provincial Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.]

36. Savings.– (1) Nothing contained in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the Naval, Military or Air Forces or any other armed force of the Government.

(2) For the removal of any doubt, it is hereby declared that, for the purposes of any such law as is referred to in sub-section (1), ³¹¹[an Anti-terrorism Court] shall be deemed to be a court of ordinary criminal jurisdiction.

³¹²**[37. Contempt of Court.** – An Anti-Terrorism Court shall have the power to punish with imprisonment for a term which may extend to six months and with fine any person who–

- (a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order or direction of the Court;
- (b) scandalizes the Court otherwise does anything which tends to bring the Court or a person constituting the Court into hatred, ridicule or contempt;
- (c) does anything which tends to prejudice the determination of a matter pending or most likely to come up before the Court;
- (d) does anything which, by any other law, constitutes contempt of court.

Explanation. – In this section, “Court” means anti-terrorism court.

38. Punishment for terrorist act committed before this Act.– Where a person has committed an offence before the commencement of this Act which if committed after the date on which this Act comes into force would constitute a terrorist act hereunder he shall be tried under this Act but shall be liable to punishment as authorized by law at the time the offence was committed.

39. Indemnity. – No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

³¹³**[39A. Removal of difficulties.**– If any difficulty arises in giving effect to any provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purposes of removing the difficulty.

³¹⁴**[39B. Repeal and savings.** – (1) The Suppression of Terrorist Activities (Special Courts) Act, 1975, (XV of 1975) is hereby repealed.

(2) Notwithstanding the repeal of the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975) and the amendment of the Anti-terrorism Act, 1997 (XXVII of 1997), by the Anti-terrorism (Amendment) Ordinance, 2001–

- (a) every order, decision or judgment passed by any Anti-terrorism Court constituted under this Act or Special Court constituted under the Suppression of

³¹⁰ Substituted by the Anti-terrorism (Second Amendment) Act, 2013 (XX of 2013) *w.e.f.* 26.03.2013, s.22.

³¹¹ Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.2.

³¹² Substituted by the Anti-terrorism (Second Amendment) Ordinance, 1999 (XIII of 1999) *w.e.f.* 27.8.1999, s.18.

³¹³ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.15.

³¹⁴ Inserted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) *w.e.f.* 14.8.2001, s.16.

Terrorist Activities (Special Courts) Act, 1975, or any Appellate Court before such repeal or amendment shall remain in force and operative and the repeal or amendment shall not affect the previous operation of the law or anything duly done or suffered or punishment incurred thereunder;

- (b) every case, appeal and legal proceedings whatsoever filed or pending before any court under the Suppression of Terrorist Activities (Special Courts) Act, 1975, including the High Court and the Supreme Court shall continue to be proceeded with in accordance with law before the concerned court of competent jurisdiction, including the court established under this Act, and all orders passed, decisions made and judgments delivered whether in the past or which may be made delivered hereafter by such concerned court whether original, appellate or revisional, shall be deemed to have been validly and competently made;
- (c) all convictions made, punishments or sentences awarded by the Antiterrorism Court or Special Court or an Appellate Court before such repeal or amendment shall be executed as if the said Acts were in force;
- (d) any investigation or inquiry under this Act or the Suppression of Terrorists Activities (Special Courts) Act, 1975 made or instituted before the commencement of the Anti-terrorism (Amendment) Ordinance, 2001, shall continue to be made and proceeded with in accordance with law;
- (e) all cases pending before the Anti-terrorism Court or Special Court immediately before the commencement of the Anti-terrorism (Amendment) Ordinance, 2001, if not covered by this Act or clauses (a) and (b) above, shall stand transferred to the respective Courts of Sessions of the area or such other courts of competent jurisdiction where the cases were registered against the accused and such courts shall proceed with the cases from the stage at which they were pending, without the necessity of recalling any witnesses; and
- (f) the Court of Sessions or, as the case may be, any other court to which a case has been transferred from the Anti-terrorism Court or a Special Court under Clause (d) shall try it in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), and the law applicable to such case.

40. Amendment of the Criminal Law Amendment Act, 1908 (XIV of 1908). –In the Criminal Law Amendment Act, 1908(XIV of 1908), the following amendments shall be made, namely:–

- I In section 15, in clause (2) in sub-clause (a) for the words “violence or intimidation” the words “terrorism, stirring up sectarianism, violence or intimidation which endanger or threaten public order” shall be substituted.
- II For section 16, the following shall be substituted, namely: –

“16. Declaration of an association to be unlawful.– (1) If either the Federal Government or the Provincial Government is of the opinion that an association is an unlawful association it may call upon the association to show cause within fourteen days why it should not be declared as unlawful association for the purpose of this Act.

(2) If after hearing the association, the Federal Government or the Provincial Government is of the opinion that the association is an unlawful association it may declare such association to be an unlawful association.

(3) If the Federal Government or the Provincial Government is of the opinion that in the interest of the maintenance of public order or to prevent injury to the people it is just and necessary to take immediate action, it may, pending passing of order under sub-section (2), by an ad interim order, declare an association to be unlawful.

(4) An association aggrieved by an order under sub-section (2) may file an appeal before a Board appointed by the Chief Justice of the High Court of the Province consisting of a Chairman and two other persons each of whom is or has been a Judge of a High Court.

(5) The Board shall decide the appeal within thirty days and may pass such order as it may deem fit.” III. In section 17, –

- (i) In sub-section (1) for the words “six months” the words “five years” shall be substituted; and
- (ii) In sub-section (2) for the words “three years” the words “seven years” shall be substituted.

IV In sections 17A, 17D and 17E, for the words “Provincial Government” wherever occurring the words “Federal Government or the Provincial Government” shall be substituted.

³¹⁵**[THE FIRST SCHEDULE]**

(List of Proscribed Organizations)

[See section 11B]

THE SECOND SCHEDULE

(List of Organizations under Observation)

[See section 11D (1) (a)]

THE THIRD SCHEDULE

(Scheduled Offences)

[See section 2 (t)]

- (1) Any act of terrorism within the meaning of this Act including those offences which may be added or amended in accordance with the provisions of section 34 of this Act.
- (2) Any other offence punishable under this Act.
- (3) Any attempt to commit, or any aid or abetment of, or any conspiracy to commit, any of the aforesaid offences.]

³¹⁵ Substituted by the Anti-terrorism (Amendment) Ordinance, 2001 (XXXIX of 2001) w.e.f. 14.8.2001, s.17.

³¹⁶[(4) Without prejudice to the generality of the above paragraphs, the Anti-terrorism Court to the exclusion of any other Court shall try the offences relating to the following, namely:

—

- (i) Abduction or kidnapping for ransom;
- (ii) use of firearms or explosives by any device, including bomb blast in a mosque, imambargah, church, temple or any other place of worship, whether or not any hurt or damage is caused thereby; or
- (iii) firing or use of explosives by any device, including bomb blast in the Court premises³¹⁷[;]
- (iv) ³¹⁸[Hurt caused by corrosive substance or attempt to cause hurt by means of a corrosive substance; and
- (v) Unlawful possession of an explosive substance or abetment for such an offence under the Explosive Substances Act, 1908 (VI of 1908)]

³¹⁹THE FOURTH SCHEDULE

(See section 11EE)

³¹⁹[THE FIFTH SCHEDULE]

[see section 6(3A)]

(a) Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on the 16th December, 1970;

³²⁰[(b) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September, 1971;]

(c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including diplomatic Agents, adopted by the General Assembly of the United Nations on the 14th December, 1973;

(d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on the 17th December, 1979;

(e) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on the 24th February, 1988;

³²¹[(ea) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3rd March, 1980.]

³¹⁶ Added by the Anti-terrorism (Second Amendment) Act, 2004 (II of 2005) *w.e.f.* 11.1.2005, s.14.

³¹⁷ Added by Notification No. SO (Judl-I)10(I-36(I)/2010, dated 5th September 2012; and published in the gazette of Punjab, part-I dated 19.9.2012.

³¹⁸ Added by Notification No. SO (Judl-I)10(I-36(I)/2010, dated 5th September 2012; and published in the gazette of Punjab, part-I dated 19.9.2012.

³¹⁹ Added by the Anti-Terrorism (Amendment) Ordinance, 2002 (CXXV of 2002) *w.e.f.* 15.11.2002, s.4 ³¹⁹Inserted by the Anti-terrorism (Amendment) Act, 2013 (XIII of 2013) *w.e.f.* 19.3.2013, s.14.

³²⁰ Substituted by S.R.O. 814(I)/2013, dated 20.09.2013; and published in Gazette of Pakistan (Extraordinary), Part II, dated 24.09.2013.

³²¹ Substituted by S.R.O. 814(I)/2013, dated 20.09.2013; and published in Gazette of Pakistan (Extraordinary), Part II, dated 24.09.2013.

- (f) Convention for the suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on the 10th March, 1988;
- (g) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on the 10th March, 1988;
- (h) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations at New York on the 15th December, 1997; and
- (i) Such other convention as may be specified by the Federal Government by notification in the official Gazette]