

IN THE ANTI-TERRORISM COURT NO.XIII AT KARACHI.  
(CENTRAL PRISON KARACHI).

(BEFORE MR. ABDUL KARIM ANSARI)  
Special Case No.347/2018

Tariq Raheem s/o Fazal Raheem.....Applicant/accused  
Versus  
The State.....Respondents.

FIR No. 16/2018  
u/s 302/34 PPC  
r/w Section 7 ATA, 1997  
P.S. Darakhshan

Mr. Aamir Mansoob Qureshi advocate for the applicant/accused.  
Mr. Salahuddin Panhwar advocate for the complainant.  
Mr. Zulfiqar Haider Memon, learned APG for the State.

**ORDER.**

**Dated:26.04.2018**

By this order I intend to dispose of application u/s 23 of ATA 1997 moved by defence counsel on behalf of accused Tariq Raheem with prayer to transfer the above mentioned case to Ordinary Court having jurisdiction, as the offence has no nexus with terrorism of Sections 6 and 7 of Anti-Terrorism Act, 1997, therefore, this Court being constituted under above statute lacks the jurisdiction to proceed with the case.

Pithily facts of the prosecution case are that on 13.01.2018 at 2355 hours statement of Ishtiaq Ahmed s/o Khalil Ahmed u/s 154 Cr.P.C has been recorded by SIP Raja Muhammad Tanveer at PS Darakhshan, lateron same was incorporated into FIR bearing No.16/2018 as verbatim, wherein he stated that his son namely Intezar Ahmed aged about 19 years, who was student at Malaysia. On 29.11.2017 son of complainant returned back to home "Karachi". On 13.01.2018 at about 05-30 pm, son of complainant went to his friends in car bearing No.BLE-254 Maker Toyota Grandy in Defence, when complainant was present at his house at about 08-00 pm one neighbourer namely Fahad appeared at house of complainant and informed that Intezar Ahmed has received a bullet injury and shifted to Jinnah Hospital Karachi, thereafter, complainant alongwith his brother and other relatives reached in hospital, where doctors informed the complainant that his son has succumbed to injuries and dead body was lying in mortuary, thereafter, postmortem of dead body was conducted by MLO and complainant received death certificate. On inquiry complainant came to know that on above mentioned date at 0715



hours at Lane-5, Cattle Line Bukhari Commercial Phase VI DHA Karachi some unknown assailants made firing upon his son for unknown motives as a result of firing on his son and he expired.

Learned Defence Counsel for accused has argued that the Court of Anti-Terrorism if only having the jurisdiction, if facts of the case falls within the definition of (TERRORISM), as defined in Section 6 of ATA and the entire case of the applicant/accused hinges upon such definitions therefore, for just decision of the case the definition of Section 6 of Act provides three definition of (TERRORISM), which appears in Sections 6(1) (2) & (3). According to Section (1) & (2) two conditions should be fulfilled (a) Action and (b) Design or Intention and in case if any action within the meaning of Subsection 6(2)(a) to (n), with the Intention to Coerce and Intimidation or Overawe the Government of Public or Create Sense of Fear or Insecurity in Society "Then it will be Terrorism and become an offence , which is exclusively tribal by the Court of ATA by Virtue of Section 6 of Act, otherwise and in case the ingredients from the facts and Circumstances of the case is lacking then the case to be tried by the Courts of having Ordinary Jurisdiction. He further contended that initially FIR was registered u/s 302/34 PPC and on the instruction of DDPP Section 7 of ATA was inserted in the charge sheet. Learned counsel for accused pointed out that during investigation its been substantiate that no act of terrorism is made which is evident from record. He submitted that neither applicants/accused have intended nor instigated at all. He further argued that the subject scenario explicitly disclosed that this case is triable by the Court of ordinary jurisdiction and not by the Special Court, hence, the instant application may be allowed. In support of his contention, the learned advocate for the accused has relied upon case laws reported in 2005 P.Cr.L.J 957, 2008 SCMR 1631, 2012 SCMR 59, 2017 SCMR 1572 and PLD 2016 SC 951.

On the other hand, learned counsel for the complainant has opposed the application for transfer of the case while arguing that a ruthless, horrifying and callous act as well as heinous offence adversely affecting the mind and mood of the society and causing adverse effects against the established morality, social ethic prevailing norms and the harmony, certainly comes within the purview of Terrorism in as much as not only a young boy has been callously slain but also an innocent soul aged 19 years has also been done to death, which has of course established the intensity and heinousness of the offence. He further contended that



such news also reporting in newspapers and Televised on different News Channels of the country. Hence, this Court is competent to proceed with the case.

Learned APG for the State opposed the application and adopted the line of arguments of counsel for the complainant.

I have heard counsel for the both parties and given due consideration to their arguments advanced by them and have gone through police papers, and case laws submitted by learned defence counsel in support of his contentions.

It is settled law that in order to determine as to whether an offence would fall within the ambit of Section 6 of Anti Terrorism Act, 1997, it is essential to have a glance over the allegations made in the FIR, record of the case and surrounding circumstances and to examine whether the ingredients of the alleged offence has any nexus with the object of the case and whether the act of the accused is the act of terrorism or not, the motivation; object, design or purpose behind said act, and whether the said act has created a sense of fear and insecurity in the public, or any section of public or community or in any sect is to be seen. Examining the instant case with the above yardstick of law, I am not persuaded to agree with the learned advocate for the accused that this is simple crime having no nexus with the virus of sections 6 & 7 of Anti-Terrorism Act, 1997 or there was no terrorism involved in the subject incident. In this case the alleged incident took place at main road of Lane-V, Cattle Light, Bukhari Commercial Phase-IV DHA, in between Khayaban-e-Muslim and Khayaban-e-Ettihad, the dece ased who was a young man was caused multiple firearm injuries in brutal manner. This incident has not alleged to have taken place in a house or in a place of individual or in a gathering of friends but it took place in an open area of DHA. According to police papers after firing public persons gathered at the place of occurrence and they shifted the injured to Hospital. This act of accused fall within ambit of 6 of Anti-Terrorism Act. This incident also attracted the attention of public at large even residing at remote area. This incident was published in newspapers and televised in all channels by media, therefore, such act created sense of fear and insecurity in the mind of general public and inhabitants of the subject area. Same also destabilized the society at large and the case falls within the ambit Section 6/7 Anti-Terrorism Act, 1997.

In the case of Mst. Najam-un-Nisa versus Judge Special Court constituted under Anti-Terrorism Act, 1997 (2003 SCMR 1323), the



Honourable Apex Court held that "Crime committed even in a remote corner does not remain unnoticed in the area in which it is committed or even in the country on account of the print and electronic media". In the present case the incident took place in the city. In the case of Nazeer Ahmed and others versus Nooruddin and another (2012 SCMR 517) a Two Judges Division Bench of the Honourable Supreme Court laid down following dicta:

*"Neither motive nor intention for commission of the offence was relevant for the purpose of conferring jurisdiction of the Anti-Terrorism Court and it was the act which was designed to create sense of insecurity and/or to destabilize the public at large, which attracted the provisions of S.6 of the Anti-Terrorism Act, 1997".*

In view of above discussion, I am of the view that the instant crime having nexus with section 6 & 7 of Anti-Terrorism Act, 1997, is to be proceeded by this Court having jurisdiction. The application in hand is dismissed. The case laws relied by defence counsel are quite distinguishable from the facts and circumstances of the present case.



Announced in open Court.  
Given under my hand and the seal of this Court,  
Dated this the 26<sup>th</sup> day of April, 2018

Sd. 26.04.2018  
(ABDUL KARIM ANSARI)  
Judge  
Anti Terrorism Court No.XIII,  
Karachi.

**CERTIFIED TRUE COPY**

*(Handwritten signature)*  
21-04-2018

**READER  
ANTI-TERRORISM COURT NO.XIII  
KARACHI**