JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Revision No.175 of 2025

SULEMAN KHAN

VERSUS

THE STATE AND ANOTHER

Petitioner by:	M/s Dr. Babar Awan and Barrister Abdullah Babar Awan and Barrister Moosa Fazal, Advocates.
Respondents by:	Mr. Kashif Hussain Shah, SPP along with Touqeer Abbas Jafri, ASI.
Date of Hearing:	**24.12.2025.**

INAAM AMEEN MINHAS, J.- Through the instant criminal revision, the petitioner has assailed the order dated 08.11.2025 **("Impugned Order")**, passed by the learned Sessions Judge, Islamabad (West), Islamabad, whereby case FIR No. 254, dated 19.04.2023, under section 302, PPC, police station Margalla, Islamabad was transferred to the Admin Judge Anti-Terrorism Courts, Islamabad for trial.

2. The brief facts leading to the filing of the instant criminal revision are that the aforementioned FIR was registered against the petitioner under section 302, PPC on 19.04.2023. The petitioner was arrested on the same day. The case was being heard by the learned Sessions Judge, Islamabad, in which charge was framed on 14.10.2023 and the prosecution evidence was being recorded, when the prosecution moved an application for transfer of the case to the Anti-Terrorism Court for trial. After hearing arguments from both sides, the learned Sessions Judge allowed the said application vide the Impugned Order and transferred the matter to the learned Administrative Judge, Anti-Terrorism Courts, Islamabad.

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3. The learned counsel for the petitioner contended that the facts of the case do not constitute an offence under ATA 1997 in light of judgment of Hon'ble Supreme Court reported as *Ghulam Hussain and others vs. The State and others, (PLD 2020 SC 61)*; that the FIR, the report submitted under section 173, Cr.P.C, the taking of cognizance by the Court under section 190(2), Cr.P.C, the framing of charge and the recording of the entire prosecution evidence, including the statement of the Investigating Officer, do not attract the provisions of ATA 1997; that according to site plan Exh.PE, the occurrence took place in a public street of a commercial area right in front of Qureshi Computer Composing and Aneeza Nasir, Advocate's chamber, therefore, section 7 of ATA 1997 is not attracted and that the learned Sessions Judge while passing the Impugned Order erroneously relied upon the judgments reported as *2025 SCMR 1552, 2019 SCMR 1362* and *PLD 2017 SC 661*.

4. Conversely, the learned SSP contended that the occurrence took place within the Court premises, therefore, the murder of a person by the petitioner inside the Court premises constitutes a scheduled offence under the Third Schedule of ATA 1997 and is triable by the Anti-Terrorism Court. It was further argued that the Impugned Order has been passed in accordance with law and does not call for any interference by this Court.

5. I have heard arguments of the learned counsel for the parties and perused the record.

6. The learned Sessions Judge, while passing the Impugned Order, observed that the murder took place in the Court premises by firing, which act is heinous and sensational one. Two aspects are of importance in the learned Sessions Judge's observations. Firstly, the learned Sessions Judge proceeded on the premise that the matter falls within the ambit of the Anti-Terrorism Court, as the alleged offence took place in the Court premises and thus falls under Entry No. 4 of Schedule III of ATA 1997. Secondly, the offence was held to be heinous and sensational, for which reliance was placed upon

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Muhammad Yamin and another vs. The State, (2025 SCMR 1552). This Court shall now address whether the alleged offence falls under Entry No. 4 of Schedule III of the ATA 1997. Perusal of the record reflects that the complainant Azhar Iqbal/HC got registered the FIR with the following allegations:-

"آج مورخہ 19.04.2023 کو میری ڈیوٹی بیل عدالت مجاز پیش کرنے پر تھی وقت قریب 1:30 بجے دن میں معہ ہمراہی وقار احمد 8590C ہتھکڑی ڈیوٹی اشفاق احمد 8147 گن مین SMG ملزمان (1)سجاد(2)حذیفہ(3)شہباز(4)سلیم(5)زوار علی کو بخشی خانہ سے لیکر اپنی اپنی عدالت میں پیش کرنے کے لیے جارہے تھے کہ وقت قریب 35:بجکر.. منٹ بیل انیزہ ناصر ایڈووکیٹ کے چیمبر کے سامنے گلی میں پہنچی تو ملزم زوار علی ولد سریر مقدمہ 680/21 مورخہ 31.07.21 بجرم PPC436/452/427/34 تھانہ کورال اسلام آباد جسکو بعدالت جناب ڈسٹرکٹ جوادجوڈیشل مجسٹریٹ اسلام آباد کی عدالت میں پیش کرنا تھا بیساکھیوں پر چلنے کی وجہ سے پیچھے پیچھے چل رہا تھا کہ اچانک ایک شخص نے پیچھے سے فائرنگ کرتے ہوئے حملہ کردیا حملہ آور کو فوری طور پر بر موقع قابو کر لیا زوار حسین حوالاتی اسلحہ آتشیں کی فائرنگ سے بر موقع جاں بحق ہوگیا۔ "

7. The allegations referred above clearly and unequivocally establish that the deceased Zawar Ali was allegedly killed by the petitioner's firing in front of chamber of Aneeza Nasir, Advocate. There is no doubt that firing in the Court premises is a schedule offence under the Third Schedule of ATA 1997. The relevant provision is reproduced herein below:-

> *"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 fire arms 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 premises."*

8. The deceased, Zawar Ali, along with other accused persons, was being escorted to the concerned Court, when the alleged occurrence

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took place in front of chamber of *Aneeza Nasir, Advocate*, which is situated in a public alley of a semi-commercial area. The place of occurrence, therefore, was neither the Court building nor within the immediate vicinity of the Court building, which could be recognized as "Court premises". By no stretch of imagination can this location be construed as falling within the ambit of Court premises so as to attract Entry No.4 of Schedule III of ATA 1997. This distinction is of vital legal significance and goes to the root of the matter. The jurisdiction of Anti-terrorism Court can only be invoked, where the act complained of squarely falls within the statutory parameters prescribed under ATA 1997. The mere fact that the deceased was being escorted to Court and was allegedly killed in front of an advocate's chamber does not *ipso facto* convert the incident into an act committed "in Court premises."

9. Adverting the second observation that the alleged offence is heinous and sensational in nature, this Court observes that such a conclusion is neither borne out from the record nor supported by any legal reasoning. The characterization of an offence as "heinous" or "sensational," howsoever grave, cannot by itself confer jurisdiction upon Anti-terrorism Court unless the essential ingredients of terrorism as defined under ATA 1997 are persuasively established. The definition of "Terrorism" has been provided in section 6 of the ATA 1997, which is reproduced as under:-

> ***"6. Terrorism.-(****1) In this Act, "terrorism means the use or threat of action where:*
>
> *(a) the action falls within the meaning of subsection (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 or a foreign government or population or an international organization or create a sense of fear or insecurity in society; or*
>
> *(c) The use of threat is made for the purpose of advancing a religious, sectarian or ethnic cause or intimidating and terrorizing the public, social sectors, media persons, business community or attacking the civilians, including damaging property to ransacking, looting, arson or by any*

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means, government officials, installation security forces or law enforcement agencies."

10. The Honourable Supreme Court of Pakistan interpreted the definition of terrorism in the case ***Ghulam Hussain and others vs. The State, (PLD 2020 SC 61)***, wherein it was held that:-

"16. For what has been discussed above it is concluded and declared that for an action or threat of action to be accepted as terrorism within the 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.

17. Before parting with this judgment we may observe that the definition of 'terrorism' contained in section 6 of the Anti-Terrorism Act, 1997 as it stands at present is too wide and the same includes so many actions, designs and purposes which have no nexus with the generally recognized concept of what terrorism is. Apart from that including some other heinous offences in the Preamble and the Third Schedule to that Act for trial of such offences by an Anti-Terrorism Court when such other offences do not qualify to be included in the definition of terrorism puts an extra and unnecessary burden on such courts and causes delay in trial of actual cases of terrorism."

11. The upshot of the above authoritative judgment is that an offence falls under section 6 of ATA 1997 only if it both falls within section 6(2) and is committed with the specific purpose described in clauses (b) or (c) of section 6(1). Mere gravity, brutality, or sensational nature of an offence does not by itself make it an act of terrorism and acts arising out of personal enmity or private vendetta, even if heinous, fall outside the scope of terrorism under ATA 1997. This Court observes that

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jurisdiction cannot be inferred mechanically on the basis of perception or severity of the offence but must strictly flow from the statute.

12. Similarly, the alleged killing of the deceased Zawar Ali does not come within definition of terrorism as the offence was not committed with the design or purpose specified or mentioned in clauses (b) or (c) of subsection (1) of section 6 of ATA 1997 rather the alleged killing was due to personal enmity. It is evident from the FIR that on his arrest, the petitioner told the police that he has killed the deceased Zawar Ali due to personal enmity in the following manner:-

"وجہ عناد سابقہ ذاتی دشمنی ہونا بتایا۔"

13. There exists nothing on record to reflect that the occurrence created terror, panic or sense of insecurity among people. This criteria has been reaffirmed by the Honourable Supreme Court in cases of similar nature. In case of ***Farooq Ahmed vs. The State and another, (2020 SCMR 78)*** the accused along with co-accused persons fired at the deceased and killed him at a point between the Sessions Court and its canteen. The accused was arrested on the spot and the weapon of offence was also recovered from him. There was nothing available on the record to show that the accused wanted to create fear or insecurity or terror in or around the Court premises. The alleged motive for the crime was that the deceased had murdered a brother of one of the co-accused. The Court held that since the accused had committed the offence to avenge the murder committed by the deceased, his action would not fall within the ambit of section 6 of ATA 1997. Further reference may be made to cases of ***Bashir Ahmed vs. M. Siddique, (PLD 2009 SC 11), Ahmad Jan vs. Nasrullah and others, (2012 SCMR 59)*** and ***Farooq Ahmed vs. State and another, (2020 SCMR 78)***.

14. It is a settled law that preamble is always key to interpret the statute and the very object to promulgate ATA 1997 was to control the acts of terrorism, sectarian violence and other heinous offences as

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defined in section 6 of the Act and their speedy trial to bring the offences within the ambit of the Act. It is essential to note that the alleged offences must have a direct nexus with the object of the Act and must fall within the offences contemplated by its relevant provisions, including section 6. ATA 1997 being a special law with drastic consequences, its provisions are required to be construed strictly and not expansively. Any casual or mechanical application of its provisions burdens the Anti-Terrorism Courts.

15. In view of the foregoing discussion, the instant criminal revision is ***allowed*** and the Impugned Order is hereby ***set aside***. The learned Sessions Judge is directed to decide the case expeditiously, in view of the statement made by learned counsel for the petitioner that, at the time of transfer of the case, the evidence was near completion. A copy of this judgment shall also be sent to the learned Administrative Judge, Anti-Terrorism Court, Islamabad, for sending back the case file to the learned Sessions Judge (West), Islamabad.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 28.01.2026.

JUDGE

R.ANJAM/YAHYA KHAN NIAZI, L.C.

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