

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Asif Saeed Khan Khosa  
Mr. Justice Gulzar Ahmed  
Mr. Justice Dost Muhammad Khan

**Criminal Appeal No. 337 of 2015**

(Against the judgment dated 25.05.2015 passed by the High Court of Balochistan, Quetta in Criminal Revision No. 32 of 2015)

***Khuda-e-Noor***

*...Appellant*

***versus***

***The State***

*...Respondent*

For the appellant:

Mr. Kamran Murtaza, ASC

For the State:

Mr. Tahir Iqbal Khattak, Additional  
Prosecutor-General, Balochistan

On Court's call:

Mr. Sohail Mehmood, Deputy  
Attorney-General for Pakistan

Date of hearing:

11.11.2015

**JUDGMENT**

**Asif Saeed Khan Khosa, J.:** The appellant is an accused person in case FIR No. 19 registered at Levies Station Dasht, District Mastung on 16.06.2014 in respect of an offence under section 302, PPC read with section 34, PPC. According to the allegation leveled in the FIR the appellant and his co-accused had murdered one Mst. Samreen, a sister of the appellant, because she was living with her mother after her mother had obtained a divorce from the deceased's father which factor had annoyed the accused party. After completion of the investigation a Challan in respect of this case was submitted before the learned Sessions Judge,

Mastung and during the trial the prosecution improved its case *vis-à-vis* the motive and it was alleged that Mst. Samreen deceased was not enjoying good moral character as she had developed illicit relations with one Atta Ullah and due to that reason she had been done to death by the appellant and his co-accused. On the basis of such factor having become available on the record the learned Sessions Judge, Mastung formed an opinion that the case in hand was one of honour killing and such killing amounted to "terrorism" within the purview of section 6(2)(g) of the Anti-Terrorism Act, 1997 and, thus, the case against the appellant and his co-accused was transferred to an Anti-Terrorism Court. While forming such view the learned Sessions Judge, Mastung had been influenced by the law declared by the High Court of Balochistan, Quetta in the case of Gul Muhammad v. The State (PLD 2012 Balochistan 22). The said order passed by the learned Sessions Judge, Mastung was assailed by the appellant through a revision petition filed before the High Court of Balochistan, Quetta which revision petition was dismissed by the High Court through the impugned order dated 25.05.2015. Hence, the present appeal by leave of this Court granted on 12.08.2015.

2. We have heard the learned counsel for the appellant, the learned Deputy Attorney-General for Pakistan and the learned Additional Prosecutor-General, Balochistan appearing for the State and have gone through the record of the case with their assistance.

3. The crucial question involved in this appeal is as to whether the learned Sessions Judge, Mastung was justified in holding that the case in hand was one of honour killing and, thus, it was a case of "terrorism" attracting the exclusive jurisdiction of an Anti-Terrorism Court or not. It also needs to be examined as to whether the High Court of Balochistan, Quetta was justified in declaring in the case of Gul Muhammad (*supra*) that by virtue of the provisions of section 6(2)(g) of the Anti-Terrorism Act, 1997 all cases of honour killing are to be tried by an Anti-Terrorism Court. We have minutely gone through the said judgment passed by the High

Court of Balochistan, Quetta and have found that for holding that all cases of honour killing attracted the definition of "terrorism" the High Court had only relied upon the provisions of section 6(2)(g) of the Anti-Terrorism Act, 1997 without appreciating that by virtue of the provisions of section 6 of the Anti-Terrorism Act, 1997 any action falling within any of the categories of cases mentioned in subsection (2) of section 6 of the Anti-Terrorism Act, 1997 could not be accepted or termed as "terrorism" unless the said action was accompanied by a "design" or "purpose" specified in section 6(1)(b) or (c) of the said Act. If the interpretation of section 6(2)(g) of the Anti-Terrorism Act, 1997 advanced by the High Court of Balochistan, Quetta in the said judgment were to be accepted as correct then all cases of a person taking the law in his own hands are to be declared or accepted as cases of terrorism but that surely was not the intention of the legislature. The provisions of section 6 of the Anti-Terrorism Act, 1997 which define "terrorism" clearly show that the said section is divided into two main parts, i.e. the first part contained in section 6(1)(b) and (c) of the said Act dealing with the *mens rea* mentioning the "design" or the "purpose" behind an action and the second part falling in section 6(2) of the said Act specifying the actions which, if coupled with the *mens rea* mentioned above, would constitute the offence of "terrorism". This scheme of section 6 of the Anti-Terrorism Act, 1997 had unfortunately not been considered by the High Court of Balochistan, Quetta while rendering the judgment mentioned above and, thus, we have every reason to declare that the said judgment passed by the High Court of Balochistan, Quetta had not laid down the law correctly and had in fact misconceived the legal position contemplated by section 6 of the Anti-Terrorism Act, 1997.

4. The case in hand was a case of a private motive set up in the FIR and during the trial the motive set up in the FIR was changed by the prosecution and an element of honour killing was introduced but even that did not change the character of the offence which was nothing but a private offence committed in the privacy of a home with no design or purpose contemplated by

section 6(1)(b) or (c) of the Anti-Terrorism Act, 1997. We have, thus, entertained no manner of doubt that the allegations leveled against the appellant and his co-accused in the present criminal case did not attract the jurisdiction of an Anti-Terrorism Court, the learned Sessions Judge, Mastung was not justified in transferring the case to an Anti-Terrorism Court and the High Court was also not legally correct in dismissing the appellant's revision petition. This appeal is, therefore, allowed, the impugned orders passed by the learned Sessions Judge, Mastung as well as the High Court of Balochistan, Quetta are set aside and it is declared that the appellant's case is to be tried by a court of ordinary jurisdiction.

Judge

Judge

Judge

Islamabad  
11.11.2015  
Approved for reporting.

*Arif*