

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

**Cr. Appeal No. 07/2018
In
Cr.PLA No. 50/2017.**

The State

Petitioner.

Versus

Doulat Mir & another

Respondents.

PRESENT:-

1. The Advocate General Gilgit-Baltistan alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
2. Mr. Jahanzaib Khan Advocate alongwith Malik Kifayat-ur-Rehman Advocate and Mr. Shakoor Khan Advocate-on-Record for respondents.

DATE OF HEARING: - 16.05.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Criminal petition has arisen out of the impugned order dated 04.12.2017 in Cr. Revision No. 17/2015 passed by the learned Chief Court whereby the Cr. Revision filed by the respondents was dismissed by transferring the case from the Court of learned Anti-Terrorism Court No-01 to the Court of learned Session Judge Gilgit. The petitioner being aggrieved by and dissatisfied with, filed this petition for leave to appeal. This court vide order dated 27.01.2018 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are that an FIR No. 45/2015 was registered in Police Station City Gilgit under Section 302/34 PPC against the accused/respondents on the charge of murder of

deceased Safeer son of Qalam Sher while opening indiscriminate firing in a public place which created fear and terror in the locality. Subsequently Sections 6/7 of the Anti-Terrorism Act, 1997 were added by the learned Anti-Terrorism Court. During investigation police recovered fire arms from the respondents and also registered FIR under Section 13 Arm Ordinance, 1965 against the respondents/ accused. The challan was submitted on 09.06.2015 in the learned Trial Court i.e. Anti-Terrorism Court at Gilgit. During trial of the case, the respondents/accused filed application under Section 23 of Anti-Terrorism Act, 1997 in the learned Trial Court contending therein that the case be transferred from Anti-Terrorism Court to any other Court of ordinary jurisdiction as the alleged offence committed by the respondents was not an act of terrorism. Upon hearing the learned Anti-Terrorism Court at Gilgit dismissed the said application holding that the act of the respondents/accused created sense of fear and insecurity in the minds of the public and the same fall within the ambit of Sections of 6/7 Anti-Terrorism Act, 1997.

3. The respondents/accused being aggrieved by and dissatisfied with the judgment of the learned Trial Court filed Criminal Revision No. 17/2015 in the learned Chief Court which upon hearing was accepted by transferring the case from Anti-Terrorism Court to the Sessions Judge Gilgit vide impugned order dated 04.12.2017, hence, this petition for leave to appeal.

4. The learned Advocate General inter-alia submits that Section 23 of the Anti-Terrorism Act, 1997 itself provides powers to the special Judge of the Anti-Terrorism Court to decide as to whether the offence is triable by himself or the same is to be transferred to the ordinary Court of jurisdiction. He also submits that the learned Judge of the Anti-Terrorism Court has decided to try the case itself which *prima facie* shows that the provisions of 6/7 of the Anti-Terrorism Act, 1997 were attracted. Per learned Advocate General, the alleged offence has been committed in an open public place in front of the Sessions Court, the Civil Courts and to the Chief Court which has created fear and sense of insecurity in the general public, litigants, Judges, lawyers within and outside of the courts premises. He adds that this act of the respondents for opening indiscriminatory firing created fear and sense of insecurity in the minds of general public which attracts the provision of Section 6 & 7 of the Anti-Terrorism Act, 1997. He submits that the learned Chief Court fell in error to consider the above facts and has itself assumed that the murder in question was allegedly committed by the respondents on personal enmity. He reiterates that the learned Chief Court observed that offence inserted under section 6/7 of the Anti-Terrorism Act, 1997 has no nexus with the provisions of special law. The provisions of Section 6/7 of the Anti-Terrorism Act, 1997 was ordered to be deleted by holding that the case is exclusively triable by the Courts of ordinary jurisdiction. Per learned Advocate General, the case

was ordered to be withdrawn from the court of Special Judge of Anti-Terrorism Court and the same be transferred to the learned Sessions Judge at Gilgit for trial. He submits that the observations of the learned Chief Court in circumstances are not tenable in law. He prays that the impugned order passed by the learned Chief Court may graciously be set aside.

5. On the other hand, Mr. Jahanzaib Khan Advocate alongwith Malik Kifayat-ur-Rehman Advocate appearing on behalf of the respondents supports that impugned order passed by the learned Chief Court. They contend that Section 6 of the Anti-Terrorism Act, 1997 is not attracted in the instant occurrence and the murder was neither sectarian nor the alleged offence is committed in a manners which created terror and sense of insecurity in the general public. He reiterates the case in hand is one of personal enmity as such there is no fear or insecurity created in the minds of general public which is not an act of terrorism. They submit that the learned Chief Court has rightly transferred the case to the learned Sessions Judge at Gilgit. They pray that the impugned order passed by the learned Chief Court may pleased be maintained.

6. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order passed by the learned Chief Court. In our considered view, the impugned order passed by the learned Chief Court is well reasoned and well founded,

hence, no indulgence is warranted into it by this court. Further, the learned Advocate General could not point out any illegality or infirmity in the impugned order.

7. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 04.12.2017 in Cr. Revision No. 17/2015 passed by the learned Chief Court is affirmed.

8. The Appeal is dismissed in above terms.

Chief Judge.

Judge.