

JUDGMENT SHEET

IN THE GILGIT BALTISTAN CHIEF COURT, GILGIT

JUDICIAL DEPARTMENT

Before: *Justice Wazir Shakeel Ahmed Chief Judge*
Justice Ali Baig Judge

* * * * *

Writ Pet. No.153/2018.

Rehmat Jan s/o Ghulam r/o Gohar Abad District Diamer.

Petitioner/Complainant

VERSUS

1. Wali ur Rehman.
 2. Noshwan sons of Hassan
 3. Gohar Rehman s/o Wali-ur-Rehman
 4. Hafeez Ahmed s/o Noshwan, resident of Gohar Abad Diamer.

Respondents/Accused.

**CRIMINAL WRIT PETITION UNDER ARTICLE 199
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN
READ WITH THE ENABLING ARTICLES OF GILGIT
BALTISTAN (EMPOWERMENT AND SELF GOVERNANCE
2009) FOR INSERTION OF SECTION 6/7 OF THE ANTI
TERRORISM 1997 TO MEET THE ENDS OF JUSTICE.**

Present: - M/S Shoukat Ali and Wasal Khan, Advocates for petitioner.
Assistant Advocate General alongwith Jehanzaib Khan, Advocate for respondents.

Date of hearing:- 12-04-2019
Date of pronouncement of Judgment 18-04-2019

JUDGMENT

Justice Ali Baig ---J)--This writ petition has been filed by the petitioner/complainant namely Rehmat Jan s/o Ghulam Jan resident of Goharabad District Diamer under Article 199 of the Islamic Republic of Pakistan 1973 read with the enabling Articles of Gilgit-Baltistan (Empowerment and self Governance) order 2009 seeking the following relief:-

2. It is therefore, humbly prayed that by accepting this writ petition, Section 6/7 of the Anti Terrorism Act may be allowed to add/insert in the above said FIR and concerned police officials may kindly be directed to submit the case by adding the above mentioned Section before the Anti Terrorism Court for Trial according to law to meet the ends of justice and equity.

3. Precisely, facts of the case leading to the filing of the instant writ petition are that the petitioner had got registered a criminal case against the unknown person / persons/culprits at police stations Goharabad District Diamer vide FIR No. 11/2017 under sections 324/34 PPC on 3-8-2017 and later on the said Section was converted into Section 302 PPC as one injured person had succumbed to his injuries. Thereafter one real brother of the deceased namely Hashmatullah had filed an application before the learned Anti Terrorism Court Gilgit on 15-8-2017 for insertion of Section 6/7 ATA 1997 in the case which, was allowed by the learned Anti Terrorism Court Gilgit and SSP Diamer was directed to insert Section 6/7 of ATA 1997 in the case vide judgment/ order dated 15-8-2017.

4. Feeling aggrieved by the afore said order of the learned Anti Terrorism Court the present respondents/ accused had filed a criminal revision petition under Sections 435/439 Cr.P.C in this court for setting aside the order /judgment of the learned Anti Terrorism Court dated 15-8-2017.

5. A Division Bench of this Court after hearing arguments on behalf of both the parties had allowed the aforesaid criminal revision petition of the present respondents/ accused and case of the present respondents/ accused was transmitted to the learned Sessions Judge Diamer for further proceeding vide judgment dated 22-11-2017 mainly holding that the Anti Terrorism Court had no jurisdiction to insert Section 6/7 of ATA 1997 in the case of the respondents/ accused.

6. Now, the complainant has again filed the instant writ petition in this court for insertion of Section 6/7 of ATA 1997 in the case of the present respondents/accused.

7. The learned counsel for the petitioner contented that the respondents/accused have opened indiscriminate fires at the house of the complainant party and have committed murder of the deceased in a brutal manner. The learned counsel for the petitioner further argued that the accused/respondents had created fear and terror in the area while opining indiscriminate firing at the house of the deceased, hence Section 6/7 of ATA is clearly attracted to the case of the respondents/accused.

8. Conversely, the learned counsel for the respondents/accused controverted the arguments advanced by the learned counsel for the petitioner/complainant by contending that the occurrence was a result of personal enmity and family dispute between the parties which does not attract the provisions of Section 6/7 of ATA 1997. The learned counsel for the respondents further argued that this Court vide order/judgment dated 22-11-2017 has already held that Section 6/7 of ATA 1997 does not attract to the case of the respondents/accused hence, this writ petition is not maintainable and liable to be dismissed.

9. We have given our anxious consideration to the arguments advanced by the learned counsel for the parties and with their able assistance, we have gone through the record.

10. From perusal of record it reveals that initially FIR was lodged against unknown person/persons and the present respondents/accused were arrested later on. During investigation it was surfaced/revealed that the due to some family dispute the present respondents/accused have committed murder of the deceased and accordingly the case was registered by the police under ordinary law i.e under Section 302/34 PPC and remand of the accused /respondents was also obtained from the Court of learned Judicial Magistrate Chilas.

11. It is pertinent to mention here that terrorism has been defined in Section 6 of Anti Terrorism Act 1997, we have gone through the contents of Section 6 of ATA 1997 and

we have come to the conclusion that Section 6/7 ATA 1997 does not attract to the case of the respondents, therefore, a Division Bench of this Court vide judgment dated 22-11-2017 has already directed the police officials to delete Section 6/7 of ATA 1997 from the case of respondents which was inserted later on in the case on the direction of Anti terrorism Court Gilgit-Baltistan, hence this writ petition is not maintainable and liable to be dismissed.

12. For what has been discussed above, we do not find any force and substance in this writ petition which is hereby dismissed. File.

Announced.

18-04-2019.

Chief Judge

Judge