

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

**PRESENT:**

Mr. Justice Umar Ata Bandial, CJ  
Mr. Justice Syed Mansoor Ali Shah  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal petition No.1117-L of 2021**

*(Against the judgment dated 23.06.2021 passed by the Lahore high Court Lahore in Crl. A. No.9865/2021*

***Muhammad Irshad***

*.....Petitioner(s)*

**Versus**

***The State through P.G. Punjab, etc.***

*...Respondent(s)*

For the Petitioner(s): Mr. Shahid Tabassum, ASC

For the State: Mr. Ahmed Raza Gillani,  
Addl. Prosecutor General Punjab

Date of Hearing 03.02.2022.

**ORDER**

**Qazi Muhammad Amin Ahmed, J.**- Name of Muhammad Irshad, petitioner, notified as an activist of a Proscribed Organization was placed in the Fourth Schedule to the Anti Terrorism Act, 1997 vide order dated 17.3.2015, pursuant whereeto, he executed a bond with two sureties as contemplated by section 11-EE of the Act *ibid* whereunder he had undertaken to notify his movement to the police; he vanished from the scene in consequence whereof, pursuant to registration of a First Information Report on 27.12.2015, he was declared a proclaimed offender. Finally arrested on 2.9.2020 after his return from Dubai; indicted under sections 11 EE(4) and 21-L of the Act *ibid*, he was returned a guilty verdict and to be respectively sentenced to 2-years and 5-years rigorous imprisonment with concurrent commutation, pre-trial period inclusive, vide judgment dated

03.02.2021; upheld by a learned Division Bench of the Lahore High Court vide judgment dated 23.06.2021, leave to appeal wherefrom is being prayed for on the grounds that there was no occasion for the learned trial Judge to convict and sentence the petitioner under either provision of Anti Terrorism Act inasmuch as through an Amendment introduced by Ordinance 125 of 2002 the expression Provincial Government was omitted and, thus, it was sole prerogative of the Federal Government to list a person as a proscribed person in the Fourth Schedule whereas petitioner's name was placed in the said schedule by the Provincial Government, an exercise void *ab initio*. Second argument raised by the learned counsel is no less ingeniously articulated, according to him, disobedience of the bond did not constitute a substantive offence under Act and, thus, absence of a proscribed person cannot be viewed as absconson, punishable under section 21-L thereof.

2. Heard. Record perused.

3. Though impressive at first sight, nonetheless, submissions made at the bar are entirely beside the mark inasmuch as the Federal Government in exercise of powers vesting in it under section 33 of the Act had already delegated its powers to the Provincial Home Secretaries of the each Province as well as Chief Commissioner Islamabad Capital Territory vide notification dated 29<sup>th</sup> October, 2014; this being so petitioner's placement in the Fourth Schedule by the Home Secretary Punjab on 17-3-2015 was an act well within remit of law.

Subsection 4 of section 11 EE unambiguously provides that any person who violates any direction or order or any term of bond executed thereunder shall expose himself to punishment of imprisonment that may extend to three years or with fine or with both and, thus, any violation of bond clearly constitutes an offence punishable under the Act and, as such, the petitioner committed an offence under the Act and, therefore, was rightly prosecuted and convicted for his willful absence from law. Apart from examination of legal positions taken by the learned counsel at the bar, we have also gone through the record of the case to

find that prosecution successfully drove home the charge against the petitioner on the strength of "*proof beyond doubt*" comprising oral as well as documentary evidence, leaving no space to entertain any hypothesis other than his guilt. Petition fails. Leave declined.

**Chief Justice**

**Judge**

**Judge**

Islamabad, the  
3<sup>rd</sup> February, 2022  
Azmat/-