

**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. 09/2018

In

Cr. PLA No. 46/2017

Rehmat Jan son of Ghulam Jan R/o Goharabad **Petitioner.**

Versus

Wali-ur-Rehman & others **Respondents.**

PRESENT:-

1. Mr. Shoukat Ali senior Advocate for petitioner.
2. Mr. Jahanzeb Khan Advocate for respondents.

DATE OF HEARING: - 27.06.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Criminal petition has arisen out of the impugned judgment dated 22.11.2017 in Cr. Revision No. 19/2017 passed by the learned Chief Court whereby the said Cr. Revision filed by the respondents was accepted. The petitioner being aggrieved by and dissatisfied with, filed this petition for leave to appeal. This court vide order dated 23.05.2018 granted leave to appeal, notices were issued to the respondents for their appearance and the case was heard on 27.06.2018.

2. Briefly, the facts of the prosecution story is that on the application of complainant an FIR No. 11/2017 under Sections 302/324/109/34 PPC against the respondents was lodged in Police Station Goharabad District Diamer. After registration of the case,

the respondents were arrested and they were sent to the Court of Judicial Magistrate Chilas for judicial remand on 09.08.2017 to 16.08.2017. During the pendency of the case, one Hashmatullah son of Ghulam Jan (real brother of deceased) filed an application before the learned Administrative Judge Anti-Terrorism Court at Gilgit for insertion of Section 6/7 of Anti-Terrorism Act, 1997 in FIR No. 11/2017 which upon hearing was accepted vide order dated 15.08.2017. The respondents being aggrieved by and dissatisfied with the said order of Anti-Terrorism Court filed Criminal Revision No. 19/2017 in the learned Chief Court which was accepted vide impugned judgment dated 22.11.2017, hence, this petition for leave to appeal.

3. The learned counsel for the petitioner submits that the FIR was chalked against some unknown assailants who opened indiscriminating fire at the residence of the complainant. He also submits that as a result of which some family members of the complainant were injured who later on succumbed to injuries. This act of the assailants spread fear and insecurity in the area. Per learned counsel, during the investigation of the case, an application for constitution of Joint Investigation Team (JIT) was filed which was allowed. The case was accordingly investigated by the JIT who unearthed the real culprits. He adds that the respondents voluntarily confessed their guilt before the Superintendent of Police and their statement was recorded under Section 21-H Anti-Terrorism Act, 1997. He further submits that after completion of

challan, the report under Section 173 Cr. PC was submitted in the learned Anti-Terrorism Court by mentioning sections 302, 324/34, 109 PPC read with Section 6/7 of Anti-Terrorism Act, 1997. He reiterates that since the provisions of Anti-Terrorism Act, 1997 were incorporated in the challan, therefore, the question arises that why a separate application was submitted by the complainant to the learned Judge Anti-Terrorism Court Gilgit for insertion of Section 6/7 Anti-Terrorism Act, 1997 in the FIR. He submits that the order passed by the learned Anti-Terrorism Court is in consonance with the peculiar circumstances of the case. The brutality displayed by the respondents fully attracts the provisions of Section 6/7 of Anti-Terrorism Act, 1997 as the act of the respondents created fear and terror in the area. He submits that the learned Chief Court fell in error while passing the impugned judgment and the same is not tenable in law. He prays that the impugned judgment passed by the learned Chief Court may graciously be set aside by maintaining the order dated 15.08.2017 passed by the Anti-Terrorism Act Court at Gilgit.

4. On the other hand, Mr. Jahanzeb Khan Advocate appearing on behalf of the respondents supports the impugned judgment passed by the learned Chief Court. He contends that the occurrence was the result of personal enmity which does not attract the provisions of Anti-Terrorism Act, 1997. He also contends that the Anti-Terrorism Law does not confer any powers upon the Anti-Terrorism Judge to pass an order on the application of any party

when FIR under ordinary law has already been registered. Per learned counsel, the orders and directions issued to SSP Diamer for insertion of Section 6/7 of Anti-Terrorism Act, 1997 are/were illegal, unwarranted, without lawful authority and beyond the jurisdiction of Anti-Terrorism Court. He submits that the learned Chief Court has rightly accepted the Cr. Revision filed by the respondents vide impugned judgment dated 22.11.2017. He prays that the said impugned judgment may pleased be maintained being well reasoned and well founded.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned judgment passed by the learned Chief Court as well as the contents of the FIR and the Charge Sheet submitted on 03.08.2017 in which the provisions of Anti-Terrorism Act, 1997 were already inserted. We are in agreement with the learned counsel for the respondents that the orders and directions issued to SSP Diamer for insertion of Section 6/7 of Anti-Terrorism Act, 1997 are/were illegal, unwarranted, without lawful authority and beyond the jurisdiction of Anti-Terrorism Court. The careful perusal of the case transpires that there was some family dispute between the parties prior to the occurrence which provoked the respondents to commit the alleged offence. Further, the learned Anti-Terrorism Judge has no powers and jurisdiction to insert Section 6/7 of Anti-Terrorism Act, 1997 on application of any party. The learned counsel for the petitioner also could not point out any infirmity or

illegality in the well reasoned impugned judgment passed by the learned Chief Court, hence, no interference is warranted into it by this court.

6. In view of the above discussions, we dismissed this appeal vide our short order dated 27.06.2018. Consequently, the impugned judgment dated 22.11.2017 in Cr. Revision No. 19/2017 passed by the learned Chief Court was maintained. These were the reasons of our said short order.

7. The Appeal is dismissed in above terms.

Chief Judge.

Judge.