

بہدالت جناب مرزا شاہد بیگ
ایڈیشنل سٹریکٹ اینڈ سیشن جج بوریوالہ

18.09.2024

Present: Accused Kashif Iqbal under police custody.
Javed Iqbal Chishti, learned ADPP on behalf of the State.

Fresh. Be registered.

Copies of requisite documents provided in Section 265-C of Cr.P.C have been delivered to the accused and in this regard thumb impression of the accused has been obtained on the margin of the order sheet. The accused has not yet engaged his counsel and for safe administration of justice, the accused is directed to engage his counsel. The case is adjourned for framing of charge for **21.09.2024**. At this stage, learned ADPP for the State submits that complainant of this case Naeab Ashraf has already passed away. Let SHO PS City, Burewala is directed to submit report regarding death of the complainant Naeab Ashraf.

Announced.
18.09.2024.

Mirza Shahid Baig,
Addl. Sessions Judge,
Burewala.

21.09.2024

Present: Accused Kashif Iqbal under police custody.
Javed Iqbal learned ADPP on behalf of the State.

Let again SHO concerned is directed to submit regarding death of the complainant Naeab Ashraf for **07.10.2024**.

Announced.
21.09.2024.

Mirza Shahid Baig,
Addl. Sessions Judge,
Burewala.

POLICE DEPARTMENT

DISTRICT VEHARI

ARREST OF WANTED CRIMINALS FROM OVERSEAS COUNTRIES WITH THE HELP OF INTERPOL

Sr. No.	Name of P.O arrested with the help of Interpol	Particulars of case	Decision of court with date	Reasons of Acquittal	Name of PWs
2	Rao Habib ur Rehman s/o Abdul Qayyum caste Rajput r/o Chak No. 331/EB, Burewala	FIR No.438 dated 29.10.2014 u/s 11-EE/ATA PS Fateh Shah, District Vehari	The accused Rao Habib-ur-Rehman is acquitted of the charges of this case by extending him benefit of doubt by Anti-Terrorism Court-II, Multan on 24.07.2024.	➤ Notification dated 27.02.2024 was not communicated to the accused person for submission of bond as per 1(A) of section 11-EE of ATA 1997. ➤ PW-5 Muhammad Akram retired Inspector/IO of the case has admitted during cross examination that he did not collect any evidence regarding communication of listing of accused in 4th schedule after the alleged notification of 4th schedule. ➤ Latif Ullah (PW-1) himself admitted that surety bond was not submitted by accused Habib-ur-Rehman in pursuance of said notification. The consequence of non-submission of surety bond have been provided in proviso of clause (a) of Subsection 2 of Section 11-EE of ATA 1997 in the form of detention but despite non-submission of bond till the registration of FIR on 29.10.2014 despite of lapse of period of 8 months, no evidence regarding steps or attempt to arrest the accused for his detention is available on the record. ➤ Clause (b) of Subsection 2 of section 11-EE requires permission of officer Incharge of the police station of the concerned area before moving from the permanent place of residence when the proscribed person moves for any period of time to visit some place and meet with some person during the stay, whereas ordinary movement introduced in clause (c) does not require permission of the SHO, however, the movement of the proscribed person may be restricted to any place or area specified. The prosecution has only alleged absence of the accused person from his residence and not	SI Latif Ullah (PW-1) (Complainant), Constable Ulfat 112/C (PW-2), Inspector Muhammad Akram (PW-5) (I.O)

POLICE DEPARTMENT

DISTRICT VEHARI

ARREST OF WANTED CRIMINALS FROM OVERSEAS COUNTRIES WITH THE HELP OF INTERPOL

Sr. No.	Name of P.O arrested with the help of Interpol	Particulars of case	Decision of court with date	Reasons of Acquittal	Name of PWs
1	Rao Habib ur Rehman s/o Abdul Qayyum caste Rajput r/o Chak No. 331/EB, Burewala	FIR No.22 dated 08.01.2015 u/s 11-F(2)(6)/ATA & 16-MPO PS City Burewala, District Vehari	The accused Rao Habib-ur-Rehman has been acquitted of the charges of this case by extending him benefit of doubt by Anti-Terrorism Court-II, Multan on 24.07.2024.	➤ During cross examination Abdul Sattar (PW-1) has stated that no document or evidence regarding status of accused as District President or his connection with any proscribed organization was available with him. ➤ Inspector Muhammad Afzal (PW-5), Investigating Officer has also not collected any evidence regarding connection of accused person with any proscribed organization. ➤ The Prosecution has also not opted to produce any notification listing the accused in the 4th schedule of ATA 1997 in this case.	ASI Abdul Sattar (PW-1)
				➤ The prosecution has examined PW-I ASI Abdul Sattar and PW-4 Shahid Saleem 474/C to prove the speech against the government but they have also not uttered the words of the speech against the government.	IP Muhammad Afzal (PW-5) (I.O)
				➤ No video regarding said speech has been brought on the record for purpose of determination of the nature of the speech.	ASI Abdul Sattar (PW-1)
				➤ The document of rough site plan Ex.PC is not showing the audience, stage, chairs, tent or other items for delivering the speech to public for stirring up their emotions against the government.	Inspector Muhammad Afzal (PW-5) (I.O)

			➤ So far as the press conference is concerned, the complainant has not mentioned the date and time of the episode of press conference in the FIR.	ASI Abdul Sattar (PW-1)
			➤ No press reporter/journalist was produced to prove this press conference against the accused person. There is also mention of publication of press conference in Daily Islam on 01.01.2015 but no reporter/journalist or editor or press reporter was produced to prove this publication in newspaper Daily Islam. The prosecution failed to prove the press conference and publication of the press conference in newspaper Daily Islam.	Inspector Muhammad Afzal (PW-5) (I.O)
			➤ PW-1 ASI Abdul Sattar also admitted that he has not collected any document pertaining to press conference of accused Habib-ur-Rehman during investigation with him.	ASI Abdul Sattar (PW-1) Inspector Muhammad Afzal (PW-5) (I.O)

(FAROOQ AHMAD ANWAR)
SP-Investigation
Vehari

IN THE COURT OF MUHAMMAD AKRAM, DISTRICT AND SESSIONS
JUDGE/JUDGE, ANTI-TERRORISM COURT-I, MULTAN.

Spl. Case No.107/1/ATC-1/MN/2015

The State

versus

Rao Habib ur Rehman son
of Abdul Qayyum Caste Rajput
resident of Chak No. 331/EB,
Police Station City Burewala
District Vehari.

Case FIR No.438/14, dated 29.10.2014,
U/S 11-EE (4) of Anti-Terrorism Act, 1997,
Police Station Fateh Shah Vehari.

JUDGMENT:-

[Signature]
District Police Office
Vehari

The accused Rao Habib ur Rehman was tried U/S 19(10) of Anti-Terrorism Act, 1997 in his absence in offence U/S 11-EE(4) of Anti-Terrorism Act, 1997 in case FIR No. 438/14 dated 29.10.2014 Police Station Fateh Shah, District Vehari.

2. The matter was reported to police by Latif Ullah SI (PW1) through Ex.PA complaint address to SHO. It is in complaint that on 29.10.2014, SI/ complainant alongwith Muhammad Ulfat, Muhammad Nawaz, Muhammad Tariq and PQR Muhammad Mohsin was present within limits of Chak No.331/EB. The accused Rao Habib ur Rehman vide letter No. 51270-73/SW dated 17.10.2014 and order No. SO(IS-I)4-10/2011(Vehari) dated 27.02.2014 has been notified for three years as 4th schedule person. He was checked but was found absent from his residence without intimation. He was contacted on his mobile No. 0313-3588457 but the mobile phone was powered off. Hence, the said accused has committed an offence U/S 11-EE(4) & 7 of Anti-Terrorism Act, 1997. He prepared complaint Ex.PA and sent it to Police

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3. The case was investigated by Ray Muhammad Akram Inspector (PW6). He was member of Joint Investigation Team District Vehari on 29.10.2014 when investigation was entrusted to him. He took the complaint and eyewitnesses from the Police Station and went to the house of accused situated in Chak No. 313/EB Police Station Fateh Shah, inspected the place of occurrence and prepared rough site plan Ex.PB and recorded the statements of witnesses U/S 161 Cr.P.C and searched the accused but could not find. On 11.11.2014, he received Robkar from this court. The accused joined the investigation and admitted the fact that he is member of 4th schedule but due to fear he had left his residence without permission. He found the accused involved in the occurrence and collected 4th schedule notification Ex.PC.

4. The challan against accused was prepared and submitted before this court and the accused was summoned but he never appeared, was declared ~~as~~ proclaimed offender and was tried in absentia U/S 19(10) of Anti-Terrorism Act, 1997 after publication of the proclamation in one Urdu and two English dailies and as required under (proviso-I) to section 19(10) and Malik Shehzad Hassan Advocate was appointed ^{for} ~~from~~ defence of accused.

5. Vide order dated 18.02.2016, the charge U/S 11-EE(4) of Anti-Terrorism Act, 1997 was framed and it was presumed that accused pleaded not guilty. The prosecution witnesses were summoned and six witnesses have been examined. The prosecution evidence is as under:-

6. Latif Ullah SI complainant appeared as PW1 and deposed that on 29.10.2014 with Muhammad Ulfat, Muhammad Nawab, Muhammad Tariq constables and Muhammad Mohsin PQR was on official vehicle driven by Muhammad Sajjad constable and was present at Chak No. 331/EB for

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... dated 27.02.2014. The accused was checked at his house in presence of Lumberdar Rao Abdul Rehman and respectable Rao Jameel ur Rehman in Chak No. 331/EB but was found not at home. The accused's cell No. 0313-3588457 but the cell phone was powered off. The accused Rao Habib ur Rehman did not submit personal as well as surety bonds and violated the provision of section 11-EE of Anti-Terrorism Act, 1997. He drafted the complaint Ex.PA and sent it to Police Station for registration of case.

His cross examination will be discussed later on.

7. Nawab Ali constable was examined as PW2. On 29.10.2014, he alongwith PW1 and Muhammad Ulfat, Muhammad Tariq constable and Muhammad Mohsin PQR was on official vehicle with driver Muhammad Sajjad on checking duty of 4th schedule member at Chak No. 131/EB. The accused was mentioned in 4th schedule vide notification No. 51270-73/SW dated 17.10.2014 and order No. SO(IS-I)4-10/2011(Vehari) dated 27.02.2014. The accused was checked at his house in presence of Rao Abdul Rehman Lumberdar and Rao Jameel ur Rehman respectable but was not found there, the police contacted him at his cell No. 0313-3588457 and found powered off. The accused did not submit personal as well as surety bonds and violated the provision of section 11-EE of Anti-Terrorism Act, 1997. Latif ullah SI prepared

complaint Ex.PA and submit it through Muhammad Mohsin PQR to Police Station.

The cross examination on this witness will be discussed later on.

8. Muhammad Mohsin PQR was examined as PW3. On 29.10.2014, he with Latif ullah SI, Muhammad Tariq, Nawab Ali was present at Chak No.

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dated 27.12.2014. The accused was arrested at his house in presence of Lumberdar Rao Abdul Rehman and respectable Rao Jameel ur Rehman in Chak No. 331/EB but was found not at home. The accused was contacted at his cell No. 0313-3588457 but the cell phone was not answered. The accused Rao Habib ur Rehman did not submit personal as well as surety bonds and violated the provision of section 11-EE of Anti-Terrorism Act, 1997. He drafted the complaint Ex.PA and sent it to Police Station for registration of case.

His cross examination will be discussed later on.

7. Nawab Ali constable was examined as PW2. On 29.10.2014, he alongwith PW1 and Muhammad Ulfat, Muhammad Tariq constable and Muhammad Mohsin PQR was on official vehicle with driver Muhammad Sajjad on checking duty of 4th schedule member at Chak No. 131/EB. The accused was mentioned in 4th schedule vide notification No. 51270-73/SW dated 17.10.2014 and order No. SO(IS-I)4-10/2011(Vehari) dated 27.02.2014. The accused was checked at his house in presence of Rao Abdul Rehman Lumberdar and Rao Jameel ur Rehman respectable but was not found there, the police contacted him at his cell No. 0313-3588457 and found powered off. The accused did not submit personal as well as surety bonds and violated the provision of section 11-EE of Anti-Terrorism Act, 1997. Latif ullah SI prepared complaint Ex.PA and submit it through Muhammad Mohsin PQR to Police Station.

The cross examination on this witness will be discussed later on.

8. Muhammad Mohsin PQR was examined as PW3. On 29.10.2014, he with Latif ullah SI, Muhammad Tariq, Nawab Ali was present at Chak No.

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notification No. 51270-73/SW dated 17.10.2014 and order No. SO(IS-I)4-10/2011(Vehari) dated 27.02.2014. The accused was checked at his house in presence of Rao Abdul Rehman Lumberdar and Rao Jameel ur Rehman respectable of Chak No.331/EB but was not found there. They contacted him at cell No. 0313-3588457 but was powered off. The accused did not submit personal as well as surety bonds and he violated the provision of section 11-EE of Anti-Terrorism Act, 1997. Latif Ullah SI prepared complaint Ex.PA and submit it through Mohsin PQR to Police Station for registration of FIR.

His cross examination will be discussed later on.

9. Muhammad Ashfaq Head constable (PW4) on 29.07.2014, received complaint Ex.PA through Mohsin Ali PQR and drafted formal complaint Ex.PA/1.

He has refuted the suggestion of defence counsel that on the day of occurrence he participated in the valima ceremony of the brother of accused.

10. Muhammad Ulfat (PW5) has stated that on 29.07.2014 with Muhammad Nawaz, Muhammad Tariq, Mohsin and driver Sajjad was on patrolling duty on official vehicle at Chak No. 331/EB. Accused Rao Habib ur Rehman resident of 331/EB was notified in 4th schedule vide notification No. 51270-73/SW dated 17.10.2014 and order No. SO(IS-I)4-10/2011(Vehari)

dated 27.02.2014. The accused was checked at his house in presence of Rao Abdul Rehman Lumberdar and Rao Jameel ur Rehman respectable of chak No. 331/EB but was not found there. They contacted him at cell No. 0313-3588457 but it was found not active. Accused had submitted his personal as well as surety bonds in concerned Police Station but he left his residence

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without permission. On this Latif Ullah SI drafted complaint and sent the same through Mohsin PQR for registration of case.

His cross examination will be discussed later on.

11. Evidence of the last witness Ray Muhammad Akram Inspector (PW6) has already been produced while narrating the facts. His cross examination will be discussed later on.

12. The prosecution examined all witnesses mentioned in calendar and on 25.02.2016 the learned DPG closed the evidence.

13. The evidence was put to the accused through his counsel in statement recorded U/S 342 Cr.P.C. which he refuted. To specific question that why this case against you and why the PWs deposed against you, he replied as under:-

“Police has malafide involved the accused. He is innocent and Hon'ble High Court has deleted his name from 4th schedule vide order dated 19.10.2011 passed in W.P No.6544/2011. After this, the accused was not bound by his sureties bonds and from 11-EE of Anti-Terrorism Act, 1997 is crystal clear that no one would remain in 4th schedule for term more than three years. So accused is innocent and charge is baseless. All the PWs are interested witnesses and police officials. The accused don't belong to any proscribed organization. The accused has contested election of MNA and due to political rivalry, police has malafide involved him in this case on the direction of sitting MNA who belongs to PML(N).”

The accused, through his counsel produced in his defence evidence photocopy of notification No. SO(IS-1)04.10.2011 Vehari dated 27.02.2014 issued by Government of the Punjab Home Department Mark-A, photocopy of Nikah Nama of Rao Abdul Rehman brother of accused Mark-B, invitation card Ex.DA, seven photographs of marriage FY DR/1 7 2014

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...prosecution version, on 29.10.2014, the accused was allegedly checked by the police with Lumbardar Rao Jameel ur Rehman a Rao Abdul Rehman son of Rao Abdul Raheem but was found not at his residence but these two witnesses were not examined by prosecution and it is in prosecution evidence that the accused did not submit surety bond meaning thereby that he was not bound to obey the order of government and security good behaviour u/s 11-EE of Anti-Terrorism Act, 1997 may be obtained for three years and the observation period u/s 11-EE of Anti-Terrorism Act, 1997 is also three years and the Hon'ble High Court in writ petition No. 6544/2011 has deleted the name of accused from 4th schedule and vide order Mark-A the name of accused was deleted from the 4th schedule. It is argued further that the occurrence is dated 10.04.2014 the accused was present at his residence in valima of his brother and the invitation card and Nikah Nama is available in defence evidence and the accused was not bound down U/S 11-EE of Anti-Terrorism Act, 1997 and he did not file surety bond, therefore, section 11-EE of Anti-Terrorism Act, 1997 is not attracted and had the accused been concerned with any banned organization he must have been kept under observation for six months u/s 11-EE(b) of Anti-Terrorism Act, 1997, therefore, the accused deserves acquittal.

15. Learned DPG has argued that name of accused in this case was mentioned in notification No. 51270-73/SW dated 17.10.2014 and order No. SO(IS-I)4-10/2011(Vehari) dated 27.02.2014 Ex.PC. On 29.10.2014, the police checked the accused at his house but found him absent. The accused willfully absented from his residence to avoid the submission of personal as well as surety bonds. According to section 11-EE of Anti-Terrorism Act, 1997 when the name of person mentioned in the list of 4th schedule, he is bound to

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...willful absence of accused.

To prove the case, the prosecution has produced six witnesses who deposed about willful abscondance of accused when his name was mentioned in notification. Prior to this notification, the accused was member of 4th schedule and in the year 2009, he had submitted his surety as well as personal bonds which expired after three years. It is in the evidence of PW6 I.O that prior to Ex.PC the name of accused was deleted from 4th schedule vide writ petition No.8644/2011 but according to statement of I.O, the accused involved himself in the activities of banned organization, therefore, his name was again enlisted in 4th schedule Ex.PC. Mark-A produced by the defence is not the true copy of any notification issued by the Government as it does not contain any official stamp as well as monogram of Government of the Punjab on the face of it and it cannot be discussed in the judgment as it has no legal value. Furthermore, in Sr. No.1 of Mark-A, in the last column the order number with date are mentioned as SPL1/2006 dated 04.03.2009 meaning thereby that if in any case the court draw inference even then Mark-A cannot be relied upon. Similarly, invitation card and other photographs and Nikah Nama of accused's brother in defence evidence are not relevant as these documents do not prove the presence of accused in the country till to date. The conduct of accused is evident and observed by this court as inspite of publication in newspaper, he did not appear to surrender before the court and is willfully absconding and violated the term of section 11-EE of Anti-Terrorism Act, 1997, therefore, he deserves punishment in accordance with law.

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17.

Latif Ullah SI (PW1) is the complainant of the case and during his cross examination he remained firm to his deposition as well as complaint Ex.PA. He has refuted the defence suggestion that the name of the accused is not mentioned in the notification and have also refuted the suggestion that his name has been deleted from the 4th schedule vide order mentioned in examination in chief.

18.

PW2 Nawab Ali the witness of the occurrence has deposed in cross examination that no person appeared during investigation that the accused is present outside the jurisdiction of Police Station. It is not understandable that why such question was put to the witness by learned defence counsel whereas U/S 11-EE of Anti-Terrorism Act, 1997 the accused was required to take prior permission to leave the territorial jurisdiction of concerned Police Station. He also denied the suggestion that the name of accused did not find mentioned in the 4th schedule and it was deleted from the 4th schedule notification.

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The cross examination on Muhammad Mohsin PQR (PW3) is the same as on PW1 and PW2.

19.

Interesting question was put to Muhammad Ashfaq Muharrar (PW4) that on the day of occurrence, he participated the Valima Ceremony of the brother of accused. Perhaps, question was put as in photograph Ex.DB submitted in defence there is a person in police uniform shaking hand with another person perhaps the accused of this case. However, from this Ex.DB and inference cannot be drawn that the photograph was taken on 29.10.2014 a specific date when the accused was checked and found absent from his

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residence. As the accused never appeared before this court, therefore, may not give opinion about identification in Ex.DB photograph.

20. Muhammad Ulfat Constable (PW5) another witness occurrence has denied the defence suggestion in his cross examination that on the day of occurrence valima ceremony was being celebrated in the same village and the accused was present there being organizer of said ceremony. From this suggestion and the photographs Ex.DB and the invitation card Ex.DB, it cannot be presumed that factually the accused never absented himself from his residence.

21. PW6 Ray Muhammad Akram Investigator of the case has deposed in cross examination that the accused did not submit the personal as well as surety bonds inspite of the fact his name is mentioned in 4th schedule. He perused the FIR when the case was entrusted to him for investigation. It was written in the FIR that the accused left his house after submitting surety bonds and in the year 2009 the accused submitted surety bond which expired after three years and his name was not mentioned in 4th schedule. He has admitted it correct that prior to the notification Ex.PC the name of accused was deleted from the 4th schedule vide writ petition No. 6544 of 2011 but clarified that after deletion of his name he did activities of the banned organization therefore, his name was again listed in the 4th schedule. He has denied the suggestion that according to Ex.PC the name of accused was deleted from the 4th schedule, according to notification dated 24.02.2014 No.SO(IS-I)4-10/2011(Vehari) placed at Sr. No.1.

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[Signature]
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22. In prosecution evidence, Ex.PC is order dated 27.02.2014. Vide this order, Rao Habib ur Rehman accused in this case was held an activist of SSP proscribed organization under subsection (1) of 11-B of Anti-Terrorism

U/S 11-EE was required to execute a bond and under clause "1" was required to seek prior permission of the incharge Police Station of the concerned police station. In view of the prosecution evidence Ex.PC, it is established on record that the accused was activist of SSP and his name was notified in the 4th schedule. He was required to execute a bond for his good behaviour U/S 11-EE of Anti-Terrorism Act, 1997 but he did not execute the bond and without seeking prior permission U/S 11-EE(b) of Anti-Terrorism Act, 1997, he moved from permanent place of residence and when checked by the PWs was not found there.

23. During the arguments, Malik Shehzad Advocate appearing for the accused has submitted that the name of the accused was deleted from 4th schedule at the order of the Hon'ble High Court, therefore, his name may not be included again. For his defence, he submitted Mark-A, photocopy of order No. SO(IS-I) 04.10.2011 (Vehari) dated 27.02.2014 issued by Government of the Punjab Home Department with the signature of Irfan Ali Cheema, Section Officer. Vide this order Mark-A, names of 40 persons were excluded from the 4th schedule including that of Habib ur Rehman accused mentioned at Sr. No.1. I have very minutely examined these two documents Ex.PC in prosecution evidence & Mark-A in defence evidence and plea taken by his counsel during trial and in statement U/S 342 Cr.P.C. It appears from Ex.PC that the diary number of this order is 6547 dated 10.03.2014 meaning thereby that name of accused was again included in the 4th schedule, this assumption of ~~Ex.PC~~ is fortified from the last column of Mark-A produced in defence because heading of this column is "order number with date". Underneath this column, the number has been mentioned as under:-

" 9-103-H.Spl.1/2006 dated 04.03.2009"

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... wording of the last column indicates that it was so notification of the year 2009 vide which the name of accused was notified the 4th schedule and not order dated 27.02.2014 Ex.PC to hold that 1 accused was no more 4th schedule person therefore, he could move from residence and thus has not violated section 11-EE of Anti-Terrorism Act, 1997. Thus, the accused has failed in his defence. Another arguments of learned defence counsel that lumberdar Rao Jameel ur Rehman and another person Rao Abdul Rehman mentioned in Ex.PA were not examined as prosecution witnesses and all PWs in this case are police officials, therefore, the case of prosecution is not proved from independent evidence is contrary to law because in the cases under Anti-Terrorism Act, 1997, it is not necessary for the police to join the private witnesses with investigation and examine ^{them} at trial.

24. Now reverting to the legal position, section 11-EE of Anti-Terrorism Act, 1997 deals with security for good behaviour from the members of the prescribed organization. Government may notify the name of any such person in the list of 4th schedule and name of accused was notified vide Ex.PC. The accused did not challenge this Ex.PC and has referred in his defence the order of Hon'ble High Court ^{passed} in a Writ Petition No.6544/2011 and argued that his name was deleted but as per prosecution evidence his name was included on 27.02.2014 which order he violated, therefore, defence plea cannot be believed in view of prosecution evidence Ex.PC. The accused neither appeared nor produced the said order of Hon'ble High Court excluding his name, however, a photocopy of order dated 19.10.2011 passed in writ petition No. 6544/2011 is available with the file. AAG stated before the Hon'ble High court that the name of petitioner has been deleted from 4th schedule and then the writ petition was dismissed as withdrawn meaning there by that the order dated 27.10.2014 was never set aside and it hold the field. U/S 11-EE(a)

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of Anti-Terrorism Act, 1997, the accused did not execute the surety bond as it appear from the evidence of PWs and particularly of PW6. It is under subsection 2(b) of 11-EE of Anti-Terrorism Act, 1997 that the government may require any such person to seek permission from the officer incharge of the Police Station of the concerned area before moving from his permanent place of residence but the accused did not seek permission which offence has been made punishable U/S 11-EE(4) of Anti-Terrorism Act, 1997. Thus the prosecution has succeeded to prove the violation of direction of the government, therefore, I convict accused Rao Habib ur Rehman tried in absentia U/S 11-EE(4) of Anti-Terrorism Act, 1997 and punish him with three year R.I and fine of Rs.10,000/-, in the case of default in the payment of fine, he will suffer simple imprisonment for one month. The perpetual non-bailable warrant of arrest in his name be issued and SHO Police Station Fateh Shah District Vehari be directed to execute the warrant by way of ^{his} arrest ~~of accused~~ and sent him to jail to serve the sentence awarded to him. Copy of judgment given to learned DPG.

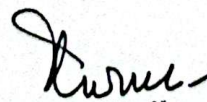
File be consigned to record room.

Announced
13.04.2016
(Fahad)

21/3-4-2016
(Muhammad Akram)
D&SJ/Judge,
Anti-Terrorism Court-I,
Multan

Certified that this judgment comprises of 12 pages which have been dictated, read over, corrected and signed by me.

Dated: 13.04.2016


District Police Officer
Vehari

21/3-4-2016
D & SJ/Judge,
Anti-Terrorism Court-I,
Multan.

Miss Asmat Parveen, learned DPG for the State.
Malik Shehzad Hassan Awan Advocate counsel for accused.

Arguments of learned DPG already heard. Today arguments

Mr. Shehzad Hassan Awan Advocate, learned defence counsel have
heard. Record perused.

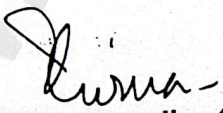
ORDER:-

Vide separate judgment recorded today, accused Rao Habib ur
Rehman (tried in absentia) is convicted U/S 11-EE(4) of Anti-Terrorism Act,
1997 and punish with three year R.I and fine of Rs.10,000/-, in the case of
default in the payment of fine, he will suffer simple imprisonment for one
month. The perpetual non-bailable warrant of arrest in his name be issued and
SHO Police Station Fateh Shah District Vehari be directed to execute the
warrant by way of his arrest and sent him to jail to serve the sentence awarded
to him. Copy of judgment given to learned DPG.

File be consigned to record room.

Announced
13.04.2016
(Fahad)

2/3-2-2016
(Muhammad Akram)
D&SJ/Judge,
Anti-Terrorism Court-I,
Multan


District Police Officer
Vehari

IN THE COURT OF MUHAMMAD AKRAM, DISTRICT AND SESSIONS
JUDGE/JUDGE, ANTI-TERRORISM COURT-I, MULTAN.

Spl. Case No.110/1/ATC-1/MN/2015

The State

versus

Rao Habib ur Rehman son
of Abdul Qayyum Caste Rajput
resident of Chak No. 331/EB,
Police Station City Burewala
District Vehari.

Case FIR No.22/15, dated 08.01.2015,
U/Ss 9-11-F(2)(6) of Anti-Terrorism Act, 1997,
Police Station City Burewala.

JUDGMENT:-

The accused Rao Habib ur Rehman was tried U/S 19(10) of Anti-Terrorism Act, 1997 in his absence for the offence U/Ss 11-F(6), 11-F(2) & 9 of Anti-Terrorism Act, 1997 in case FIR No. 22/15 dated 08.01.2015 Police Station City Burewala.

2. The matter was reported to police by Abdul Sattar ASI (PW4) through complaint Ex.PA which he addressed to SHO of the above mentioned Police Station. It is in complaint that ASI Abdul Sattar with Muhammad Arif, Muhammad Saleem and Muhammad Safdar constables reached at New Model Town where he saw Rao Habib ur Rehman District President of Ahl-e-Sunnat Wal Jammah Sipah-e-Sahaba, Laskhar-e-Jhagvi Vehari, a defunct organization, against the government and was inciting the hatred among the public. He had previously conducted a press conference in favour of Malik Ishaaq a president of Sipah-e-Sahaba which was published in the Edition Daily Islam of 1st January 2015. He was saying that the government banned Jahadi Tanzeems. He chanted slogans in favour of Malik Ishaaq and Jahadi

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though Muhammad Safdar 536/C to Police Station whereupon Asghar constable entered FIR No.22/15 Ex.PA/1 on 08.01.2015.

3. The case was investigated by Muhammad Afzal Inspector (PW5). On 20.01.2015, he joined the complainant Abdul Sattar ASI and witnesses Arif and Muhammad Shahid constables and the accused Rao Habib ur Rehman on ad-interim bail and on 21.01.2015, produced the file before ASJ but the accused did not appear, he searched him but did not find. On 29.01.2015, he obtained non-bailable warrant of arrest Ex.PD and entrusted to Ishfaq SI for execution who submitted report Ex.PD/1. On 18.02.2015, Muhammad Arif constable alongwith Muhammad Saleem presented before him newspaper Daily Islam P-3/18 containing press conference conducted by Rao Habib ur Rehman titled as Civil Society contains words "Mulk mein hanjamaarai chahti ha malik Ishaq ke khilaf ak or muqadma riasati dehshtgardi". He took the above stated newspaper into possession vide memo Ex.PC attested by witnesses, recorded their statements and also of Ishfaq SI about non-execution of warrants of arrest, obtained proclamation Ex.PE and entrusted to Ishfaq SI for execution who submitted report Ex.PE/1 and on 10.03.2015, he found accused Rao Habib ur Rehman willfully absconding, he prepared challan U/S 512 Cr.P.C. and submitted before court.

4. The accused was summoned but he never appeared and on 09.11.2015, his counsel Malik Shehzad Hassan Awan Advocate informed that accused has gone abroad for treatment then he was summoned through warrants and on 07.12.2015, he was declared P.O and as required under section 19(10) (proviso-I) proclamation in one Urdu and two English dailies was published but he never appeared. It is clarified that under section 9(10) proviso(2) Malik Shehzad Hassan Awan Advocate was provided defence

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18.02.2016, in presence of Malik Shehzad Hassan Awan Advocate, the charge 11-F(6), 11-F(2) & 9 of Anti-Terrorism Act, 1997 was framed and it was presumed that the accused has not admitted the charge, then prosecution evidence was summoned and five witnesses were examined but one witness of calendar was given up by learned DPG being unnecessary. The prosecution evidence is as under:-

5. Asghar Ali 400/HC is the formal witness. On 08.01.2015, he received complaint Ex.PA through Muhammad Safdar constable and recorded formal FIR Ex.PA/1 which bears his signature

This witness was not cross examined by the defence counsel.

6. PW2 Muhammad Saleem 474/C appeared and deposed that on 08.01.2015 with Abdul Sattar ASI, Muhammad Arif and Safdar constables and another police official was on patrolling duty when they saw Rao Habib ur Rehman District president of Ahl-e-Sunnat Wal Jammāt SSP Lashkar-e-Jhangvi was speaking against government and public was there, he flared the public and while seeing police party fled away. Prior, to speech accused had conducted press release of banned organization SSP, Lashkar e Jhangvi where he supported Malik Ishaq by appreciating him and demanding his release from jail and he further appreciated the terrorists and got it published in Roznama Islam dated 01.01.2015. The IO in his presence took into possession the news P-1 of that press release found in newspaper Roznama Islam vide recovery memo Ex.PB, attested by him and Muhammad Arif 641/C. Report about press cutting is P-2. I.O recorded his statement to the above said fact. On 18.02.2015, Muhammad Afzal Inspector took into possession a

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The cross examination on this witness will be discussed later on.

7. Ishfaq Ahmad S.I appeared as PW3. On 29.01.2015, Muharrar handed over to him non-bailable warrant of arrest Ex.PD he executed the same in accordance with law his report is Ex.PD/1. I.O recorded his statement. Then on 10.02.2015, proclamation Ex.PE against accused was handed over to him, he executed the same, his report Ex.PE/1, I.O recorded his statement in this respect.

He was not cross examined by the defence.

8. Abdul Sattar ASI appeared as PW4 and corroborated the contents of complaint Ex.PA and stated that on 08.01.2015, he alongwith Muhammad Arif, Muhammad Saleem and Safdar constables was on patrolling duty and present near Civil Hospital Burewala where he saw the accused Rao Habib ur Rehman president of banned organization Ahl-e-Sunnat Wal Jammat SSP and Lashkar-e-Jhangvi was disseminated hatred speech likely to stir up sectarian hatred. Prior to that he already conducted press conference in favour of Malik Ishaaq in Daily Islam dated 01.01.2015. The accused delivered speech in favour of president of banned organization SSP and other Jahadi organizations and created hatred against other sect. He drafted complaint Ex.PA and sent it through Muhammad Safdar constable to Police Station for registration of case. Then in presence of Muhammad Arif and Saleem constable he took into possession cutting of newspaper daily Islam dated 01.01.2015 in which the accused conducted press conference vide memo Ex.PB attested by Arif and Saleem PWs, he recorded statement of PWs U/S 161 Cr.P.C. the press cutting is P-1 and the press release is P-2. He drafted

On 14.01.2015 he received a

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The cross examination on this witness will be discussed later on.

9. The investigation and other ancillary proceedings completed ! Muhammad Afzal Inspector have already been discussed while narrating the facts. However, his cross examination will be discussed later on.

10. With the aforementioned evidence, the case of prosecution was closed.

11. The statement of Rao Habib ur Rehman U/S 342 Cr.P.C. was recorded through his counsel Malik Shehzad Awan advocate and prosecution evidence was put to him which he has refuted. To specific question, why this case against you and why PWs against you, he replied as under:-

"Police has malafide involved the accused. He is innocent and Hon'ble High Court has deleted his name from 4th schedule vide order dated 19.10.2011 passed in W.P No.6544/2011. After this, the accused was not bound by his sureties bonds and from 11-EE of Anti-Terrorism Act, 1997 is crystal clear that no one would remain in 4th schedule for term more than three years. So accused is innocent and charge is baseless. All the PWs are interested witnesses and police officials. The accused don't belong to any proscribed organization. The accused has contested election of MNA and due to political rivalry, police has malafide involved him in this case on the direction of sitting MNA who belongs to PML(N)."

The accused in his defence produced the documents through his counsel, copy of two photographs Mark-A, Mark-A/1, photocopy of statement of accused dated 01.06.2015 Mark-B, photocopies of 09 affidavits Mark-C/1-9, three daily Islam newspaper dated 03.09.2014 Ex.DA, dated 05.10.2014

attached to Copy

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12. Malik Shehzad Awan learned counsel for accused Rao Habib Rehman has not turned up to submit arguments despite seeking adjournment

13. Learned DPG has argued that the accused belong to banned organization SSP / Lashkar-e-Jhangvi and he delivered speech where he raised the sentiments of participants of meeting against government and other sect and convened a press release P-3 titled as "Civil Society Mulk Main Hangama Arai Chahti Ha, Malik Ishaq K Khilaf Ek Aur Muqadam Riasati Dehashgardi Ha" which was also published in Daily Islam and the cutting is P-1 and the newspaper is P-3/1-8 and press cutting is P-2 and name of accused was mentioned in 4th schedule, therefore, he could not convene a conference and deliver speech in favour of banned organization SSP hence he committed offence U/S 11-F(2)/11-F(6) of Anti-Terrorism Act, 1997 by aiding the banned organization, as it is clearly mentioned in 11-F(3) that a person commits an offence if he invites, support a proscribed organization and support is not restricted to funding, it may be any type of support in favour of banned organization, the accused while convening the conference invited the support of persons in favour of SSP and by using hatred words against other sect committed, offence U/S 9 of Anti-Terrorism Act, 1997, the prosecution produced five witnesses to prove the charges and they all confirmed the fact that accused convened a conference in favour of banned organization, therefore he be convicted in accordance with law as the accused is absconder till to date and proclamation has been published in newspapers.

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14. I have examined the aforementioned submissions and perused the record.

15. The charge against accused Rao Habib ur Rehman was framed

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1997 and to prove the charge

FIR Ex.PA/1 and is the formal witness while Muhammad Saleem constable is the material witness and has signed recovery memo Ex.PB vide which the press release P-1 and press cutting P-2 was taken into possession. He is also attesting witness of recovery memo Ex.PC. Vide this memo, Roznama Islam dated 01.02.2015 consisting of 08 pages P-3/1-8 was taken into possession by I.O. He was cross examined at length by the State counsel for accused and refuted the suggestion that the accused is District Chairman of Mutahida Awami Mahaz and it is Qari Aslam who is president of Ahl-e-Sunnat Wal Jamat and the witness do not know that national flag has been hoisted at the office of accused. He has also denied the defence suggestion that the Jalsa was not conveyed outside the office of accused. Ashfaq Ahmad Inspector (PW3) has simply published the proclamation U/S 87 Cr.P.C for appearance of accused and was not cross examination by the defence at all. PW4 Abdul Sattar complainant is the next important prosecution witness. On 08.01.2015, he was on patrolling duty and saw the accused Rao Habib ur Rehman president of Ahl-e-Sunnat Wal Jamat/SSP Lashkar-e-Jhangvi addressing the public and disseminating hatred speech likely to stir up sectarian hatred among the other sect and he had already conducted a press conference in favour of Malik Ishaq president of SSP. The accused also conducted a press conference. The press cutting is P-1 while the press release is P-2. This witness / complainant was cross examined on behalf of accused but he denied the suggestion that Rao Habib Ur Rehman is member of political party Mutahida Awami Mahaz and he did not know whether the accused is member of any political party or not. He voluntarily stated that the accused is president

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16. Muhammad Afzal Inspector/Investigator (PW5) has found accused guilty during investigation but it is in his cross examination that he did not join any person who participated in Jalsa and he did not obtain the copy of press release from the concerned newspaper nor he joined any reporter of daily "Islam". He also denied the suggestion that accused contested MNA election and secured 23,000 votes.

17. P-3 is edition of Daily Islam dated 01.01.2015, its page No.2 contain the statement issued by Rao Habib ur Rehman accused. P-1 & P-3 are actually the same document. P-1 is cutting from P-3. Rao Habib ur Rehman issued statement in daily Islam. He said in his that statement / press release that nominating Malik Ishaq in a murder case despite court order is "State terrorism" and they condemned it and appeal to the Government that Malik Ishaq be released forthwith and he further issued a statement that Khalid Farooqi be taught a lesson. P-2 is the report in respect of press cutting P-1 & P-3. The case of prosecution based upon on these three documents which were allegedly released by accused to create hatred.

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15-4-16 18. Section 9 of Anti-Terrorism Act, 1997 contains punishment for contravening provision of section 8 of Anti-Terrorism Act, 1997 which reads as under:-

Prohibition of acts intended or likely to stir up sectarian hatred:- A person who---

- (a) uses threatening, abusive or insulting words or behaviour; or
- (b) displays, publishes or distributes any written material which is

(d) has in his possession written material or a recording or vis

or sounds which are threatening, abusive or insulting wit

their being displayed or punished by himself or another,

Shall be guilty of offence if:--

- (i) he intends thereby to stir up sectarian hatred; or
- (ii) having regard to all the circumstances, sectarian hatred likely to be stirred up thereby.

The action of the accused as it appears from the prosecu evidence and P-1 & P-3 amounts to publishing, threatening and insult words against the government prohibited under section 8(a)(b) of A Terrorism Act, 1997. He turned the action of government "State Terrorism his press release P-1 & P-3. The offence committed by him U/S 8 of A Terrorism Act, 1997 is punishable with five years imprisonment and fine.

19. Section 11-F deals with membership, support or meeting rel to a proscribed organization, its subsection (1) reads as under:-

"A person is guilty of an offence if he belongs or profess belong to a proscribed organization."

It is prosecution case that the accused belong to Ahl-e-S Wal Jammāt / SSP Lashkar-e-Jhangvi and is district president whereas defence he has denied his concern with defunct organization and pro the document Mark-A, Mark-A/1 & Mark-B to prove that he belong to Mu Awami Mahaz and not a defunct organization and his defence the ac contested election on the ticket of Mutahida Awami Mahaz and has no c

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... he is president of Ahl-e-Sunn

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press release P-1 & P-3, he might have contested election on Mutahida Awami Mahaz but there is nothing in rebuttal of prosecut evidence that he does not belong to Ahl-e-Sunnat Wal Jammāt / SSP Lashk e-Jhangvi. It stand prove from prosecution evidence that the accused belc to the proscribed organization Ahl-e-Sunnat Wal Jammāt / SSP Lashkar Jhangvi, thus he has committed an offence punishable U/S 11-F(2) of Ar Terrorism Act, 1997.

20. The accused Rao Habib ur Rehman has also been charged U 11-F(6) of Anti-Terrorism Act, 1997 which offence will be attracted if he solic or invite support for a proscribed organization,

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(b) arranges, manages or assists in managing or addressing meeting which he knows is --

(i) to support proscribed organization

"Under subsection 4 of section 11-F of Anti-Terrorism Act, 1997 is that a person commits an offence if he addresses a meeting, or delivers sermons to a religious gathering."

21. It is in evidence of PW2 that on 08.01.2015, PW1 with other P1 saw Rao Habib ur Rehman was speaking against Government and th peoples were present there. He flared the public and while seeing police par fled away. Prior to speech, accused had conducted press release of banne organization SSP, Lashkar e Jhangvi where he supported Malik Ishaq b appreciating him and demanding his release from jail and he furthe appreciated the terrorist and got it published in Roznama Islam date

statement of PW2 that prior to it the accused conducted a press conference in favour of Malik Ishaq president of SSP in Daily Islam dated 01.01.2010. Muhammad Afzal investigator has supported the statements of PW2 & PW4.

22. The accused in his defence has submitted nine photocopies of affidavits Mark-C/1-9, of Rao Abdul Rasheed Mark-C/2-9 of Muhammad Iftikhar, Mark-C/3-9 of Muhammad Khan Langryal, Mark-C/4-9 of Muhammad Aslam Zahid, Mark-C/5-9 of Ghulam Mustafa, Mark-C/6-9 of Pir Mumtaz Hussain Chishti, Lumberdar, Councilor, Niab Nazim, and Nazim of U.C respectively Mark-C/7-9 Shakeel Ahmad Advocate also Nazim of U.C, Mark-C/8-9 of Khalid Mahmood Advocate Mark-C/9-9 of Ashiq Hussain Doga Advocate to prove his good character but the deponents of the aforementioned affidavits were not brought before court in defence of accused neither the original affidavits were submitted. These affidavits further reveals that the accused is record holder and other cases have been registered against him. Thus these affidavits that accused does not belong to proscribed organization does not lend him support. The defence plea and the defence evidence of the accused is nothing but a concoction. It is added that the abscondance of the accused after seeking bail from this court leads this court to draw inference that he is deeply linked with proscribed organization. Thus the prosecution has also succeeded to prove the charge against accused U/S 11-F(6) of Anti-Terrorism Act, 1997.

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Vehari

23. It clarified that on abscondance of the accused this court has directed that the property of accused be attached. He is owner of property measuring 20 Kanals 17 Marlas situated in Khewat No. 39 of Chak No. 331/ District Vehari and vide order dated 28.04.2015 it has been attached

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disposal of the government may be sold out after expiry of six months
date of attachment which period had expired on 09.12.2015 although
way or other the crops has been got detached.

24. For the reason discussed above, the prosecution has succeeded
to prove the case against accused, therefore, I convict the accused Rao Habib
ur Rehman in his absentia as under:-

(a) is convicted U/S 9 of Anti-Terrorism Act, 1997 and punished
with five years rigorous imprisonment and fine
Rs.20,000/-, in the case of default in the payment of fine
will suffer simple imprisonment for two months.

(b) is convicted U/S 11-F(2) of Anti-Terrorism Act, 1997 and
punish with six months simple imprisonment and fine
Rs.5,000/- in the case of default in the payment of fine,
suffer simple imprisonment for one month.

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Vehari

(c) is convicted U/S 11-F(6) of Anti-Terrorism Act, 1997 and
punish with five year rigorous imprisonment and a fine
Rs.20,000/-, in the case of default in the payment of fine
will suffer simple imprisonment for two months.

24. A. Keeping in view the conduct of accused, it is directed that he
not given benefit of section 382 Cr.P.C. and all the sentences shall
consecutively. It is further directed that the property of the accused under
attachment be sold out by the DCO Vehari and the sale proceeds be deposited
in government treasury under intimation of this court.

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judgment delivered to the learned DPG and copy be also sent to ri,

Case property be kept intact and it will be disposed of in accordance with

after decision of appeal or revision if any.

File be consigned to record room.

Announced
15.04.2016
(Fahad)

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(Muhammad Akram)
D&SJ/Judge,
Anti-Terrorism Court-I,
Multan

Certified that this judgment comprises of 13 pages which have been dictated, read over, corrected and signed by me.

Dated: 15.04.2016

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D & SJ/Judge,
Anti-Terrorism Court-I,
Multan.

Attested to be True Copy

A. T. COURT Multan
16 APR 2016

ATTESTED


District Police Officer
Vehari