

**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. 01/2015

In

Cr. PLA. No. 04/2014.

1. The State

Petitioner.

Versus

1. Bilal Ahmed & 03 others

Respondents.

PRESENT:-

1. The Advocate General alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
2. Mr. Haji Peer Muhammad Advocate alongwith Mr. Johar Ali Khan Advocate-on-Record on behalf of the respondents.

DATE OF HEARING: - 03.11.2016.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has been arisen out of the impugned judgment dated 10.12.2013 in Criminal Appeal No. 21/2013 passed by the learned Gilgit-Baltistan Chief Court whereby the impugned judgment dated 26.08.2013 of Anti-Terrorism Court was set aside and the case of the respondents was sent for trial in the court of competent jurisdiction i.e. the learned Sessions Judge Gilgit. The petitioner being aggrieved filed this petition for leave to appeal. This court vide order dated 27.03.2015 granted leave to appeal and the case was heard today on 03.11.2016.

2. Briefly facts of the case are that a Criminal case was registered at Police Station Jutial Gilgit regarding escape of a

convict offender of death sentence namely Arifudin alongwith another under trial accused Shakirullah Khan from Cheetah Jail Jutial Gilgit, under Sections 221, 222, 223, 224, 225 PPC read with Section 21 (1) 21-L and Section 6/7 of the Anti-Terrorism Act 1997 against the respondents who were reportedly on duty on the day of occurrence. The convicts/respondents faced trial before ATA where the prosecution managed to adduce 14 PWs and after examining them under Section 342 Cr. PC. The accused did not opt to record their statements under Section 340 Cr. PC and to produce witnesses in their favour. The learned Trial Court convicted the respondent No. 01 imprisonment for 7 & 14 years in offences under Section 221 & 222 PPC respectively and 5 years under Section 7 (h) of ATA while the other accused respondents were awarded sentence for 01 year under Section 223 PPC and a fine of Rs. 50,000/- each with another period of further six (06) months imprisonment in case of default.

3. The learned Advocate General appearing on behalf of the petitioner submits that the accused/respondents were on duty with the prisoners in Cheetah Jail. He also submits that the lock of the barrack was opened by accused Mohsin Iqbal in the morning in front of PW (prisoner) Waqas Ahmed. He submits that accused Mohsin Iqbal in his confessional statement recorded under Section 21- H ATA has accepted to have done the same on the basis of religious association with escaped prisoners. He further submits that the this case falls under the jurisdiction of the learned Special

Court i.e. the learned Anti-Terrorism Court Gilgit who has rightly convicted the respondents/accused for their negligence in escaping the high profile Criminals from Cheetah Jail Jutial Gilgit. He also submits that the learned Gilgit-Baltistan Chief Court fell in error while passing the impugned judgment dated 10.12.2013 in Criminal Appeal No. 21/2013 which is not tenable being passed contrary to the law and facts of the case. He referred Section 6 (2)(i) of the Anti-Terrorism Act 1997. According to the learned Advocate General this case falls under the jurisdiction of the Anti-Terrorism Act.

4. On the other hand, Mr. Haji Peer Muhammad learned counsel for the respondents supports the impugned judgment dated 10.12.2013 in Criminal Appeal No. 21/2013 passed by the learned Gilgit-Baltistan Chief Court. He contends that the Chief Court has rightly set aside the judgment of the learned Anti-Terrorism Court which was not sustainable being passed without jurisdiction as the special law does not attract in this case. He prayed that the impugned judgment of the learned Chief Court may graciously be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned judgment dated 10.12.2013 in Criminal Appeal No. 21/2013 passed by the learned Gilgit-Baltistan Chief Court as well as the judgment dated 26.08.2013 passed by the learned Anti-Terrorism Court No. II Gilgit-Baltistan. We have also

gone through the relevant provisions of the Anti-Terrorism Act 1997. We are in agreement with the findings of the learned Gilgit-Baltistan Chief Court as provisions of Section 6 & 7 of the Anti-Terrorism Act do not attract & applicable in this case. The learned Gilgit-Baltistan Chief Court has rightly held that the case is triable under the ordinary jurisdiction of the competent court of law i.e. the learned Sessions Court Gilgit. Furthermore, the learned Advocate General could not point out any illegality & infirmity in the impugned judgment which in our considered view is well reasoned and well founded.

6. In view of the above discussions, we dismiss this appeal. Consequently, the impugned judgment dated 10.12.2013 in Criminal Appeal No. 21/2013 passed by the learned Gilgit-Baltistan Chief Court is affirmed. The learned Sessions Court Gilgit is required to hear and dispose the case in its own merits without being influenced by the observations, if any, of this court or by the learned Gilgit-Baltistan Chief Court.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is fit to be reported or not?