

[Supreme Court of Pakistan]

Present: Manzoor Ahmad Malik, Syed Mansoor Ali Shah and Qazi Muhammad Amin Ahmed, JJ

Qari MUHAMMAD ISHAQ GHAZI---Appellant

Versus

The STATE---Respondent

Criminal Appeal No. 310-L of 2017, decided on 27th June, 2019.

(Against the judgment dated 26.10.2016 passed by the Lahore High Court, Lahore in Criminal Appeal No. 608 of 2015)

(a) Anti-Terrorism Act (XXVII of 1997)---

---S. 9---Possession of pamphlets containing content inciting violence against a particular sect---
Reappraisal of evidence---Contents of the pamphlets were repugnant and abhorrent, capable of causing
most grievous offence---Said pamphlets contravened all limits of decency, an obligation sanctimoniously
upheld by every faith---Anti-Terrorism Court had rightly convicted the accused under S. 9 of the Anti-
Terrorism Act, 1997 and sentenced him to 5 years' rigorous imprisonment with fine of Rs.100,000---Appeal
was dismissed accordingly.

(b) Anti-Terrorism Act (XXVII of 1997)---

---S. 9---Possession of pamphlets containing content inciting violence against a particular sect---Whether
mere possession of such pamphlets was sufficient to attract provisions of S. 9 of the Anti-Terrorism Act,
1997---Held, that S. 9 of the said Act, unambiguously, suggested that possession of the inflammatory
material by itself was an offence even before it was distributed---Legislature intended to nip the evil in the
bud given the inflammatory potential of the crime---Anti-Terrorism Court had rightly convicted the accused
under S. 9 of the Anti-Terrorism Act, 1997 for mere possession of the inflammatory pamphlets---Appeal
was dismissed accordingly.

(c) Anti-Terrorism Act (XXVII of 1997)---

---S. 9---Possession of pamphlets containing content inciting violence against a particular sect---
Reappraisal of evidence---Non-association of private witnesses---Police witnesses, credibility of---Police
officials, being functionaries of the State, were no less credible witnesses to drive home the charge---Police
officials were as good witnesses as any other and their evidence was subject to the same standard of proof
and principles of scrutiny as applicable to any other category of witnesses---In the absence of any animus,
infirmity or flaw in their depositions, their statements could be relied upon without demur---Officials who
testified in the witness-box had seemingly no axe to grind against the accused, and were in comfortable
unison with one another---Appeal against conviction was dismissed with the observation that people in the
society generally preferred to recuse behind safety instead of coming forward in aid of justice.

Rai Bashir Ahmad, Advocate Supreme Court for Appellant.

Ch. Muhammad Mustafa, DPG for the State.

Date of hearing: 27th June, 2019.

JUDGMENT

QAZI MUHAMMAD AMIN AHMED, J.---Surprised on 21.1.2015 by a contingent of Police Station A-Division Okara, Qari Muhammad Ishaq Ghazi, appellant herein, was found in possession of pamphlets, fraught with incendiary contents, calculated to incite hatred towards a particular sect; indicted before an Anti-Terrorism Court at Lahore, he was convicted under section 9 of the Anti-Terrorism Act, 1997 and sentenced to 5-years' RI with fine of Rs.100,000/-, to be recovered as arrears of land revenue with benefit of section 382-B of the Code of Criminal Procedure, 1898 vide judgment dated 24-3-2015; his appeal in the High Court met with no better fate on 26-10-2016 vires whereof are being impugned through leave of the Court. The appeal came up before the Court after appellant's release in the wake of completion of sentence, however, the learned counsel has opted to argue the case at full length with a view to vindicate his position.

2. A multipronged tirade includes submissions, both on factual as well as legal aspects of the case; it ranges from denial, non-association of public witnesses as well as prosecution's failure to establish distribution of impugned material in the public, a sine qua non, according to the learned counsel to attract the mischief of section 9 *ibid*.

3. Contents of the impugned pamphlets are repugnant and abhorrent to say the least; too nauseatic to be reproduced; capable of causing most grievous offence; these contravene all the limits of decency, an obligation sanctimoniously upheld by every faith. The argument that mere possession of the impugned material by itself would not attract the mischief of the section *ibid*, without actual distribution, is naively beside the mark. A plain reading of section 9, unambiguously, suggests that possession of the inflammatory material by itself is an offence even before it is distributed; the legislature intended to nip the evil in the bud and rightly so given the inflammatory potential of the crime. Arrested red-handed, objection over non-association of public witnesses to confirm the possession does not hold water either. Police officials, being functionaries of the State, are no less credible witnesses to drive home the charge in a milieu of pervasive apathy towards civic responsibilities; people prefer to recuse behind safety instead of coming forward in aid of justice. The officials who testified in the witness-box had seemingly no axe to grind, otherwise, found by us in a comfortable unison with one another. Police officials are as good witnesses as any other and their evidence is subject to same standard of proof and principles of scrutiny as applicable to any other category of witnesses; in the absence of any animus, infirmity or flaw in their depositions, their statements can be relied without demur. View taken by the Courts below, well within the remit of law, calls for no interference. Criminal Appeal fails. Dismissed.

MWA/M-40/SC Appeal dismissed.