

P L D 2018 Supreme Court 178**Present: Mian Saqib Nisar, C.J., Sardar Tariq Masood and Faisal Arab, JJ****PROVINCE OF PUNJAB through Secretary Punjab Public Prosecution Department and another---Appellants****Versus****MUHAMMAD RAFIQUE and others---Respondents**

Civil Appeals Nos.955 and 956 of 2014, decided on 22nd December, 2017.

(Against the judgment dated 16-4-2014, passed by the Lahore High Court, Rawalpindi Bench, in Writ Petitions Nos.3054 and 3275 of 2012).

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

---S. 6 & Preamble---Cases not attracting the provisions of Anti-Terrorism Act, 1997--
-Scope---Personal vendetta or enmity---Preamble of the Anti-Terrorism Act, 1997 clearly indicated that the said Act was promulgated for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences---In cases of the terrorism, the mens rea should be an object to accomplish the act of terrorism and carrying out terrorist activities to overawe the state, the state institutions, the public at large, destruction of public and private properties, assaulting the law enforcing agency and even at the public at large in sectarian matters---Ultimate object and purpose of the offending act must be to terrorize the society but in ordinary crimes committed due to personal vendetta or enmity, such elements were always missing, so the crime committed only due to personal revenge could not be dragged into the fold of terrorism and terrorist activities.

Mehram Ali v. Federation of Pakistan PLD 1998 SC 1445 ref.

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

---S. 6 & Preamble---Cases attracting the provisions of Anti-Terrorism Act, 1997---
Pre-requisites---Creating terror or sense of insecurity in the general public---Courts while deciding the question of attraction of the provisions of the Anti-Terrorism Act, 1997 had to see the manners in which the incident had taken place including the time and place and should also take note of whether the act created terror or insecurity in the general public---Where the action of the accused resulted in striking terror or creating fear, panic and sense of insecurity among the people in a particular vicinity, it amounted to terror within the ambit of S.6 of the Act---Courts were required to see whether the terrorist act was such that it would have the tendency to create the sense of fear or insecurity in the minds of the general public as well as psychological impact created in the mind of the society---Courts could form their opinion after going through the facts, circumstances and material so collected by the police in the case.

(c) Constitution of Pakistan---

---Art. 185(3)---Leave grating/refusing order by the Supreme Court---Scope---Such order could be issued on the basis of the pleadings of the parties simpliciter, without any appraisal of the underlying factual or legal aspect of the case, as such, it could not be considered as definitive and conclusive declaration of law.

Cantonment Board, Rawalpindi through its EO and others v. Lt. Col (Retd) Allah Dad Khan and another 2015 SCMR 832 and Haji Farman Ullah v. Latif-ur-Rehman 2015 SCMR 1708 ref.

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

---Ss. 6 & 23---Transfer of case from Anti-Terrorism Court to court of ordinary jurisdiction---Scope---Personal enmity over property---Admittedly there was a dispute of a plot where the occurrence took place---Prosecution's own case was that the complainant had filed a civil suit and on his application for initiation of contempt proceedings against the accused persons, a bailiff of the Court was appointed---Application of contempt of court and appointment of bailiff triggered the enmity which resulted in the present occurrence---Allegedly five persons fired specifically at complainant's wife (deceased) hitting on her legs, but till that time there was no allegation of creating terror and insecurity in the general public---Subsequently, it was alleged that 26 persons, in order to create terror and insecurity in the general public, made indiscriminate firing, but, such allegation was not supported from any source as neither any crime empty was recovered from the place of occurrence nor anybody else received even a scratch on his person due to said indiscriminate firing---Due to the alleged indiscriminate firing not a single bullet hit on the walls of the plot in question which were 2.3 feet high---Furthermore, according to the complainant party, two police constables, who were guarding the complainant, were present at the place of occurrence, but it was not alleged by the prosecution that they were restrained by the accused persons to discharge their duties or anybody fired upon them or threatened them---Bailiff of the court and police constables, never claimed that they were fired at or they were threatened by the accused persons, instead they were subsequently introduced as accused persons in the case for abatement---Perusal of the allegations levelled in the FIR, the material so collected by the investigating officer and other surrounding circumstances of the case, showed that the present case was not triable under the provisions of the Anti-Terrorism Act, 1997---Appeal was dismissed accordingly.

(e) Criminal Procedure Code (V of 1898)---

---S. 173---Joint Investigation Team (JIT) formed to probe into a crime---Report of JIT---Evidentiary value---Said report, which was an opinion of the members of JIT, could at the most be considered, as a report under S.173 Cr.P.C.---Report under S.173 Cr.P.C. was inadmissible in evidence.

Syed Saeed Muhammad Shah and another v. The State 1993 SCMR 550 ref.

(f) Constitution of Pakistan---

---Art. 4(1)---Right "to be treated in accordance with law"---Scope---Phrase "to be treated in accordance with law" under Art. 4(1) of the Constitution, included that every citizen must be dealt with in accordance with the law applicable to him, subject to, of course, the facts and circumstances of the case---Where any person was triable under the ordinary penal law then treating him under special law, not clearly applicable to him, would be a violation of the command of the Constitution.

(g) Interpretation of statutes ---

---Penal statute---Interpretation---Whenever a penal statute required interpretation, it shall be interpreted in a way which favoured the accused person and not the prosecution or the State---Two interpretations of a statute should be interpreted in such manner that the interpretation favouring the accused should be adopted.

Ch. Muhammad Sarwar Sidhu, Addl. PG and Riaz-ul-Haq, DSP for the State (in C.A. No.955 of 2014).

Kh. Haris Ahmed, Senior Advocate Supreme Court and Tariq Aziz, Advocate-on-Record for Appellant (in C.A.No.956 of 2014).

Syed Zahid Hussain Bokhari, Advocate Supreme Court for Respondents Nos.1-4 (in C.A.No.955 of 2014).

Nemo for Respondent No.11 (in C.A.No.955 of 2014).

Raja Abdul Ghafoor, Advocate on Record for Respondents No.1, 2, 18-19 (in C.A.No.956 of 2014).

Nemo. for Respondent No.6 (in C.A.No.956 of 2014).

Nemo for other Respondents.

Date of hearing: 23rd November, 2017.

JUDGMENT

SARDAR TARIQ MASOOD, J.---The instant civil appeals, by leave of the Court, arise from a common judgment of the Division Bench of the Lahore High Court, Rawalpindi Bench, dated 16.04.2014, wherein the order passed by the learned Special Judge Anti Terrorism Court-II, Rawalpindi, dated 23.11.2012, was upheld and writ petitions filed by the appellants were dismissed.

2. The facts giving rise to the instant proceedings relate to a dispute over a plot of land. Raja Muhammad Yaqoob (complainant/appellant in Civil Appeal No. 956 of 2014) filed an application for contempt of court in civil court, pursuant to which a local commission was appointed. The local commission visited the disputed plot on the day of the occurrence. Complainant and his wife Mst. Sabira Bibi were present there

alongwith their Advocate and two police guards, when this occurrence took place. The wife of the appellant (complainant) namely Mst. Sabira Bibi got firearm injuries on her legs at the hands of five accused persons. It was alleged in the FIR that 26 persons including respondents fired indiscriminately to create fear and sense of insecurity in general public. Allegedly respondents Nos.2 to 4 fired at the Car of the Advocate of the complainant hitting on left and right side of door glasses of the Car. In consequence thereof, the complainant lodged FIR No. 643/2012 under Sections 324, 427 and 147, P.P.C. at Airport Police Station, District Rawalpindi. Mst. Sabira Bibi later succumbed to her injuries, leading to Section 302, P.P.C. being added. Further, during the investigation, Section 7 of the Anti Terrorism Act, 1997 [hereinafter referred to as "the Act, 1997"] was also added. During trial the respondents filed an application under Section 23 of the Act, 1997 which was allowed by the ATA Court-II, Rawalpindi, vide order dated. 23.11.2012, and the case was transferred to an ordinary court of jurisdiction, by observing that the circumstances of the case do not invite Section 7 of the Act, 1997. The State and the appellant (Raja Muhammad Yaqoob) filed separate writ petitions before the learned Lahore High Court, Rawalpindi Bench, which were dismissed vide the impugned judgment, dated 16.04.2014. The learned High Court held that the contents of FIR suggested that the incident transpired under the backdrop of a personal enmity or vendetta and as such do not fall under the purview of Section 6 of the Act, 1997. Being aggrieved, the State and appellant filed two separate petitions before this Court, in which leave to appeal was granted on 09.06.2014, and the following order was passed;--

"On the basis of the facts and circumstances of the case in order to consider whether the trial Court while holding that the case is not triable by the Anti-Terrorism Court had not taken all the factors into account and has ignored the report of the Joint Investigation Team and also the material on the record and the surrounding circumstances and whether the learned High Court has also failed to apply its proper mind to the circumstances of the case and to the law laid down in the judgment reported as Bashir Ahmed v. Muhammad Siddique and others (PLD 2009 SC 11) and also the subsequent judgment in which it has been held that the surrounding circumstances and the other material must also be taken into account while determining and deciding whether the case has been made out within the purview of Anti-Terrorism Act, 1997; whether an offence in terms of the provisions of Section 6(1)(b) of the Anti-Terrorism Act, 1997 had been made out from the contents of the FIR, the statements of the witnesses, the report of the Joint Investigation Team particularly in the circumstances when the offence had been committed in the presence of the Local Commission, who was the representative of the court, the police who were assigned to provide protection to the complainant side, and the counsel of the complainant side whose car was also allegedly smashed on account of indiscriminate firing which caused fear in the mind of public at large and the surrounding areas, leave is granted.

Civil Misc. Applications Nos.3102 and 3104 of 2014

2. The trial court shall not pass the final judgment in the matter, though we are not halting the trial. However, the case be fixed immediately after long summer

vacations."

3. Kh. Haris Ahmed, learned Sr. ASC, representing the appellant in Criminal Appeal No. 956 of 2014, submitted that both the preceding courts had not interpreted the provisions of Sections 6 and 7 of the Act, 1997, in accordance with law and had not taken into consideration the findings of the JIT; that 26 persons resorted to indiscriminate firing with the sole object of frustrating the due process of law and administration of justice. That the act of the respondents created fear and insecurity in the society at large and, therefore, were liable to be tried under the Act, 1997. The presence of personal motive, in itself, is not sufficient to exclude the application of Section 7 of the Act 1997. Further, the Court has to examine the actions and circumstances of a case while interpreting Sections 6 and 7 of the Act, 1997 and not solely on the personal motive of the incident. Learned counsel, in this behalf, relied upon the cases of Kashif Ali v. The Judge, Anti-Terrorism, Court No. II, Lahore and others (PLD 2016 SC 951), Nazeer Ahmed and others v. Nooruddin and another (2012 SCMR 517), State through Advocate-General, NWPF, Peshawar v. Muhammad Shafiq (PLD 2003 SC 224), Mst. Najam-un-Nisa v. Judge, Special Court Constituted under Anti-Terrorism Act, 1997 (2003 SCMR 1323), Muhammad Mushtaq v. Muhammad Ashiq and others (PLD 2002 SC 841), Mst; Raheela Nasreen v. The State and another (2002 SCMR 908), Abdul Ghafoor Bhatti v. Muhammad Saleem and others (2003 SCMR 1934), Mirza Shaukat Baig and others v. Shahid Jamil and others (PLD 2005 SC 530) and Shahbaz Khan alias Tippu and others v. Special Judge Anti-Terrorism Court No.3, Lahore and others (PLD 2016 SC 1).

4. Ch. Muhammad Sarwar Sidhu, learned Additional Prosecutor General, representing the State in Civil Appeal No. 955 of 2014, adopted similar arguments as those advanced by the learned counsel for the appellant in Civil Appeal No. 956 of 2014.

5. Syed Zahid Hussain Bukhari, learned counsel appearing on behalf of Respondents Nos. 1 to 4 in Civil Appeal No. 955 of 2014, contended that there was an ongoing dispute of land and civil litigation and that no firing was directed at the local commissioner or the advocate of the appellant/complainant. The shots fired by Respondents 2 to 4 merely damaged the front door's windows of a vehicle present at the scene and that not a single person was harmed or injured, despite indiscriminate firing from 26 other individuals. The injuries sustained by the Complainant's wife were on non-vital parts of her body and attributable to shots fired by five persons alone. Further, the allegation of indiscriminate firing is also unsubstantiated since no crime empties were recovered from the place of occurrence. As such, the actions of the Respondents have not in any manner hampered due process of law and allegation of such is absent from the concerned FIR. Further, the JIT report cannot be considered as evidence and is inadmissible. Further still, the constables/guards of the Complainant and the local commissioner have not supported the prosecution case due to which they have been named as co-accused in the instant case. Lastly, the trial of the Respondents has already been concluded before the learned Additional Sessions Judge Rawalpindi, and sending / transferring the case to special Court, for de-novo trial, will prejudice the case of both the parties. Learned counsel, in this behalf, relied upon the cases of Khuda-e-Noor v. the State (PLD 2016 SC 195), Sajid Qureshi v. Manawar and others (2017 SCMR 162), Ch. Shaukat v. Haji Jan Muhammad and others (2017 SCMR 533),

Waris Ali and 5 others v. The State (2017 SCMR 1572) and Zia-ud-Din v. the State etc (Criminal Appeals Nos.246 and 247/ 2012).

6. We have heard the learned counsel for the parties as well as examined the available record and the impugned judgment.

7. The preamble of the Act, 1997 clearly indicates that the Act, 1997 was promulgated for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences. So, in the cases of the terrorism, the mens-rea should be with an object to accomplish the act of terrorism and carrying out terrorist activities to overawe the state, the state institutions, the public at large, destruction of public and private properties, make assault on the law enforcing agency and even at the public at large in sectarian matters. The ultimate object and purpose of such act is to terrorize the society but in ordinary crimes committed due to personal vendetta or enmity, such elements are always missing so the crime committed only due to personal revenge cannot be dragged into the fold of terrorism and terrorist activities. The same was the view in the case of Mehram Ali v. Federation of Pakistan (PLD 1998 SC 1445) passed by a full bench (five members bench) of this Court.

After the amendment the term "design" was used in Section 6 of the Act, which has widened the scope of the Act. The word "design" was substituted to see that if the act is designed to create sense of fear or insecurity in the society then the Anti-Terrorism Court will have the jurisdiction to try the same, The word "design" can be considered the scheme and object in the mind of accused for its subsequent execution. So the Courts while deciding the question of attraction of the provisions of the Act, has to see the manners in which the incident had taken place including the time and place and should also take note of the fact of the act as to create terror or insecurity in the general public where the action of the accused results in striking terror or creating fear, panic and sense of insecurity among the people in a particular vicinity, it amount to terror within the ambit of Section 6 of the Act. The Courts are required to see whether the terrorist act was such that it would have the tendency to create the sense of fear or insecurity in the mind of general public as well as psychological impact created in the mind of the society. The Courts can form opinion after going through the facts, circumstances and material so collected by the police in the case under discussion because the facts are varies from case to case.

8. The judgments relied upon by learned counsel during the proceedings, in particular Mst. Raheela Nasreen v. The State and another (2002 SCMR 908), Najam-un-Nisa v. Judge Special Court Anti-Terrorism Court (2003 SCMR 1323) and Nazeer Ahmed and others v. Nooruddin and another (2012 SCMR 517), were leave refusing orders. Leave granting or refusing orders can be issued on the basis of the pleadings of the parties simpliciter, without any appraisal of the underlying factual or legal aspect of the case. As such, a leave granting or refusing order cannot be considered as definitive and conclusive declaration of law. Reliance in this behalf can be placed on Cantonment Board Rawalpindi through its EO and others v. Lt. Col (Reid) Allah Dad Khara and another (2015 SCMR 332) and Haji Farman Ullah v. Latif-ur-Rehman (2015 SCMR 1708). Therefore, the above cases cited during the instant proceedings, cannot be relied

upon as conclusive precedent or established law with respect to the instant legal controversy.

The facts of the case in hand are distinguishable from the cases cited in Muhammad Mushtaq v. Muhammad Ashiq and others (PLD 2002 SC 841), the accused had committed quadruple murder using kalashnikovs on Court Road, near the District Courts, Lahore. This Court held that the incident had a terrorizing effect on the minds of the people at large and the concerned locality, an element acutely absent from the facts of the instant case. Impugned orders of the Lahore High Court were, therefore, set aside and the case was remanded back to the Anti-Terrorism Court.

In *The State through AG NWFP Peshawar v. Muhammad Shafiq* (PLD 2003 SC 224) the victim was murdered by being set alight with petrol and being fired at by the accused with a kalashnikov. The body of the deceased was completely charred and the bones of both his hands and forearms were burnt. Death had occurred due to the intense pain and suffocation of immolation, rather than the firearm injury. While the incident had taken place in an isolated place and due to personal animosity between the parties, this Court held that when the charred and mutilated body was brought for its funeral rites at the deceased's residence, it created an unquestionable sense of fear, shock and insecurity among the people in the vicinity. The trial was conducted by the Special Court and appeal was filed before the learned Peshawar High Court, but the case was remanded for re-trial before the ordinary court of jurisdiction, but this Court through the judgment, remanded back the case to the Peshawar High Court to decide the same on merits.

In *Abdul Ghafoor; Bhatti v. Muhammad Saleem and others* (2003 SCMR 1934), six dacoits entered into a house with lethal firearms committed dacoity and also kidnapped two minor children for ransom, without any previous rivalry or enmity. This Court held that the abduction of minors at gunpoint for ransom did have the tendency to terror among reasonable and prudent persons of the society and a sense of insecurity among the general public. More notably, the perpetrators lacked any personal motive towards the victims and harbored a purely terrifying and intimidating object and design. As such, the facts of the case attracted the provisions of the Act, 1997 and the case was entrusted to the Anti--Terrorism Court for decision in accordance with law.

In *Mirza Shaukat Baig and others v. Shahid Jamil and others* (PLD 2005 SC 530), four persons armed with firearms made indiscriminate firing in a crowded bazaar in broad daylight, resulting in four fatalities. The accused also committed dacoity in the tune of rupees two crores. In the case of *Shahbaz Khan alias Tippu and others v. Special Judge, Anti-Terrorism Court No.3, Lahore and others* (PLD 2016 SC 1), the accused brutally killed five unarmed persons on a public street. This Court held that the assailants had no personal grouse against the victims and that the actual design, intent and mens rea was in fact the natural and inevitable consequence of the occurrence, i.e. the spread of terror and insecurity amongst the public via the brutal and gratuitous killing of five unarmed persons amidst a crowded vicinity. In both cases, this Court found the incidents and actions to lack any personal motive or enmity. As such, they fell within the domain of terrorism and under the jurisdiction of the Anti-Terrorist Court.

9. It is pertinent to mention here that all the above said judgments have been passed by two or three members Bench and after the case of Mehram Ali (supra), passed by a five members Bench, this Court has clarified in the case of Kashif Ali v. The Judge Anti-Terrorism Court No.II, Lahore and another (PLD 2016 SC 951) regarding the "act" and "design" mentioned in Section 6 of the Act. Even- in the said case the circumstances mentioned in the FIR, are totally different from the present case as just a day prior to the Election, 04 persons were done to death while chasing their vehicle and many others sustained firearm injuries due to indiscriminate firing of the accused persons. From the circumstances of the case it was gathered by this Court that it was a target killing and the aim was to give a message to the voters and supporter of the deceased and the effect of which, was to create a sense of fear and insecurity in the minds of voters and general public.

10. In the above mentioned case i.e. Kashif Ali (supra) this Court while dealing with the issue of jurisdiction observed in para 12 of the judgment as under:

"In order to determine whether an offence falls within the ambit of Section 6 of the Act, it would be essential to have a glance over the allegations leveled in the FIR, the material collected by the investigating agency and the surrounding circumstances, depicting the commission of offence. Whether a particular act is an act of terrorism or not, the motivation, object, design or purpose behind the said Act has to be seen."

It was also observed by this Court in para 18 of the same judgment that:

"Before parting with this judgment, we would like to observe that this Court cannot lay down any hard and fast rules while interpreting Section 6 of the Act in order to conclude as to which of the cases is triable by the Anti-Terrorism Court, as in many criminal cases, facts of the case are also one of the factors in determining the jurisdiction of a criminal Court. However, we have attempted to generalize the principles which need to be applied by the Courts while deciding the jurisdiction of an Anti-Terrorism Court."

From the above para it was made clear that the observations made in the case of Kashif Ali (supra) were not conclusive and a case to case determination of the applicability of the Act 1997, is imperative.

11. The observation given in the case of Kashif Ali (supra) was not in field at the time when the learned Special Court transferred the case in hand to the ordinary Court on 23.11.2012, as the case of Kashif Ali (supra) was decided on 15.2.2016. Hence, the learned Special Court relied upon the case of Bashir Ahmed v. Muhammad Siddique (PLD 2009 SC 11). Even the case of Kashif Ali (supra) was not in field when the impugned judgment was passed. Although in the case of Bashir Ahmed (supra) leave was refused but, as already discussed, the judgment of 05 members Bench in the case of Kashif Ali (supra), was not in field; hence, the learned Special Court get guidance from the case of Bashir Ahmed (supra) as till that time there were different views given by 2/3 member Benches of this Court in different judgments.

As according to the observation given in Kashif Ali's case (*supra*) the surrounding circumstances are to be seen while answering the question of applicability of the provisions of the Act 1997, we have perused the available record and observed that admittedly there was a dispute of the plot where this occurrence took place. It is prosecution's own case that the petitioner had filed a Civil Suit and on his application for initiation of contempt proceedings against the respondents, a bailiff of the Court was appointed. The application of contempt of Court and appointment of bailiff triggered the enmity as such this occurrence took place. Allegedly, 05 persons fired specifically at Mst. Sabira Bibi (deceased) hitting on her legs. Till that time there was no allegation of creating terror and insecurity in the general public. However, lateron, it was alleged that 26 persons, in order to create terror and insecurity in the general public, made indiscriminate firing but, the allegation is not supported from any source as neither any crime empty was recovered from the place of occurrence nor any body else received even a scratch on his person due to said indiscriminate firing. Even due to the alleged indiscriminate firing not a single bullet hit on the walls of the said plot which were 2.3 feet high.

12. The arguments of the learned counsel for the Appellant that administration of justice has been frustrated, has no force as it was never a case of the prosecution that the respondents had, in any way, restrained the bailiff of the Court to visit the said plot/place of occurrence nor even tried to fire shot upon him; even the bailiff was not threatened by the accused persons. Furthermore, according to the complainant party, two police constables, who were the guards of the complainant party, were present at the place of occurrence, but it was not alleged by the prosecution that they were restrained by the accused persons to discharge their duties or any body fired upon them or threatened them. It is also a circumstance that the bailiff of the Court and two constables, never claimed that they were fired at or they were threatened by the respondents. They were subsequently introduced as accused person in the case for abetment.

13. The learned counsel has mainly relied upon the report of JIT and also read certain paragraphs therefrom but the said report is an opinion of the members of JIT, and it can be considered, at the most as a report under Section 173 Cr.P.C. It is settled by now that report under Section 173, Cr.P.C. is inadmissible in evidence, as laid down by this Court in the case of Syed Saeed Muhammad Shah and another v. The State (1993 SCMR 550). The trial Court will appreciate the same if supported by some admissible material/evidence because the Court has to see the material and cannot decide the case upon any opinion of Police Officer/s, even of a high rank of Inspector General of Police.

14. The phrase used "to be treated in accordance with law" under Article 4(1) of the Constitution of the Islamic Republic of Pakistan, 1973, includes that every citizen must be dealt with in accordance with law applicable to him, subject to, of course, the facts and circumstances of the case. If any person is triable under the ordinary penal law then treating him under special law, not clearly applicable to him, would be a violation of the command of the Constitution. It is almost settled by now that Whenever a penal statute requires interpretation, then it shall be so interpreted, which favours the accused person and not the prosecution or the State. Two interpretations of a statute should be

interpreted in such manner that the interpretation favouring the accused, should be adopted.

15. We have also observed that in this case when the case was transferred to the ordinary Court it was entrusted to an Additional Sessions Judge, Rawalpindi, who, according to both the learned counsel, had recorded all evidence as well as the statements of accused persons under Section 342, Cr.P.C. and only after hearing the arguments, the judgment is to be announced. In that eventuality, transferring the case to the learned Special Court for de-novo trial, will highly prejudice the case of either party.

We, after having gone through the allegations leveled in the FIR, the material so collected by the Investigating Officer and other surrounding circumstances of the case, as discussed above, are of the opinion that the present case is not triable under the provisions of the Act, 1997. It is made clear that the observations made above are only meant for determination of the question of jurisdiction and we expect that the trial Court will decide the case without being prejudiced by any other observation made above.

16. For what has been discussed above and from the surrounding circumstance of the case, we find that the impugned judgment of the learned High Court is not open to any exception as such it does not warrant interference. Consequently, both the Appeals Nos.955 and 956 of 2014, being meritless, are dismissed with no order as to costs.

MWA/P-9/S Appeals dismissed.

;