

In the Court of XLIX Additional City Civil & Sessions Judge  
[Special Court for trial of NIA Cases] at Bengaluru

Present: Sri Muralidhara Pai B., B.Com., LL.B.,  
XLIX Additional City Civil & Sessions Judge  
and Judge, NIA Special Court, Bengaluru.

Date: 15<sup>th</sup> day of September 2016

**Spl. C.C. No.52/2013**

Complainant : State of Karnataka  
represented by  
National Investigating Agency,  
Hyderabad.

(By Sri Arjun Ambalapatta,  
Public Prosecutor, NIA)

Vs

Accused No.1 : Shoaib Ahmed Mirza @ Chotu,  
S/o Abdul Rauf Mirza,  
aged 23 years,  
r/o No.22, 2<sup>nd</sup> Floor, 1<sup>st</sup> Main,  
Kempaiah Block, J.C. Nagar,  
Bangalore.

Permanent Address:  
No.57, Mulla-Oni, Near Dakappa Circle,  
Hubli, Karnataka.

Accused No.2 : Abdul Hakeem Jamadar @ Abdul @  
Abdullah @ AK,  
S/o Abdul Sattar,  
aged 26 years,  
r/o House No.20/3, 2<sup>nd</sup> Floor, 1<sup>st</sup> Cross,  
Marappa Garden,  
Near Masjid-e-Aqsa, J.C. Nagar,  
Bangalore -06.

Permanent Address:  
Desai-Oni, Opp. Giri Malleshwar Temple,  
Hubli -20, Karnataka.

Accused No.4 : Riyaz Ahmed Byahatti @ Saleem,  
S/o Ghoususaheb Byahatti,  
aged 28 years,  
r/o No.22, 2<sup>nd</sup> Floor, 1<sup>st</sup> Main,  
Kempaiah Block, J.C. Nagar,  
Bangalore.

Permanent Address:  
Mohammed Colony, Veerapur Oni,  
Patil Galli, Sureban Plot, Hubli City.

Accused No.7 : Mohammad Akram @ Khaled @  
Imran Khan,  
S/o Mohammad Akbar,  
aged 23 years,  
r/o House No.20/3, 2<sup>nd</sup> Floor, 1<sup>st</sup> Cross,  
Marappa Garden,  
Near Masjid-e-Aqsa, J.C. Nagar,  
Bangalore -06.

Permanent Address:  
Opp: Masjid Tableghai- Markaz,  
Islampura, Degloor Naka, Nanded,  
Maharashtra.

Accused No.8 : Ubedullah Bahadur @ Sameer @ Imran,  
S/o Mohammad Jafer,  
aged 24 years,  
r/o No.76, Vasanthnagar, Kusugal Road,  
Keshwapur, Hubli, Karnataka.

Accused No.9 : Wahid Hussain Kanakyanavar @ Sahil @  
Ibraheem Sayed,  
S/o Abdul Munaf Kanakyanavar,  
aged 27 years,

r/o H. No.117, Aroodha Nagar,  
Near Ashrafi School,  
Gurunath Nagar, Hubli.

Accused No.10 : Zafar Iqbal Sholapur @ Zameer,  
S/o Rafeeq Ahmed Sholapur,  
aged 27 years,  
r/o House No.27/A, 2<sup>nd</sup> Cross,  
New Badami Nagar,  
Hubli -580023.

Accused No.11 : Mohammad Sadiq Lashkar @ Raju,  
S/o Mohammad Yousuf Lashkar,  
aged 29 years,  
r/o Koulpet,  
Near Akbariya Madarasa,  
Hubli, Karnataka.

Accused No.12 : Mehboob Bagalkote @ Baba,  
S/o Saifuddeen,  
aged 28 years,  
r/o Yallapur Oni,  
Mehboob Nagar,  
Hubli, Karnataka.

Accused No.14 : Obaid-Ur-Rehman @ Obaid @ Harris,  
S/o Late Mohammad Hamaid,  
aged 22 years,  
r/o No.18-1-350/11/8,  
Gulshan Iqbal Colony,  
Chandrayanagutta, Hyderabad,  
Andhra Pradesh - 500 005.

Accused No.15 : Nayueem Siddique@ Amitabh @ Lambu,  
S/o Abdul Mutallib Katagi,  
aged 28 years,

r/o No.828, 2<sup>nd</sup> Main, 1<sup>st</sup> Cross,  
Near Bellary Sidamma Park,  
K.B. Extension, Davangere - 02.

Accused No.22 : Dr. Imran Ahmed,  
S/o Late Mumtaz Ahmed,  
aged 35 years,  
r/o Flat No.403, 4<sup>th</sup> Floor,  
Comfort Arizona, Yelechenahalli,  
Kanakapura Road, Bangalore.

Accused No.25 : Syed Tanzeem Ahmed @ Tanzeem,  
S/o Syed Altaf Ahmed,  
aged 23 years,  
r/o No.29/9, 9<sup>th</sup> A Cross,  
Near Referral Hospital,  
J.J.R. Nagar, Padarayanapura,  
Bangalore -26.

(A1, A2, A4, A7 to A12, A14, A15 & A25 -  
by Sri Hasmath Pasha, Advocate

A22 – by Sri Younous Ali Khan, Advocate)

|    |                               |                                                                                                                                                                    |
|----|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01 | Nature of Offence             | u/S.120B, 153A, 399 of<br>IPC, S.10, 13, 17, 18, 38<br>of UAP Act 1967, S.3 &<br>S.25 of Arms Act 1959 and<br>S.3, S.5(1), S.9 of the<br>Official Secrets Act 1923 |
| 02 | Date of Commission of Offence | 29.08.2012                                                                                                                                                         |
| 03 | Date of F.I.R.                | 30.08.2012                                                                                                                                                         |
| 04 | Date of Arrest of the Accused | A1, A2, A4 29.08.2012<br>A8 to A12 30.08.2012<br>A14 31.08.2012<br>A7 01.09.2012<br>A15 02.09.2012<br>A25 04.11.2012<br>A22 28.11.2013                             |

|    |                                   |                                                                                     |
|----|-----------------------------------|-------------------------------------------------------------------------------------|
| 05 | Date of Commencement of Evidence  | 23.06.2014                                                                          |
| 06 | Date of Closure of Evidence       | N.A.                                                                                |
| 07 | Date of Pronouncement of Judgment | 15.09.2016                                                                          |
| 08 | Result of the Case                | Acting under S.229 of Cr.P.C., Accused are convicted based on their plea of guilty. |

(Muralidhara Pai B.)  
XLIX Additional City Civil & Sessions Judge  
and Judge, NIA Special Court,  
Bengaluru

### JUDGMENT

Initially National Investigating Agency, Hyderabad had laid charge sheet on 20.2.2013 only against Accused Nos.1, 2, 4 and 7 to 15 for the offences punishable under S.120B, 153A, 399 of India Penal Code (for short 'IPC'), S.10, 13, 17, 18, 38 of the Unlawful Activities (Prevention) Act, 1967 (for short 'UAP Act') and S.3 and 25 of the Arms Act, 1959.

2. As on the date of filing the charge sheet, Accused No.3, 5 and 6 were also in judicial custody. The prosecution filed a memo stating that Accused No.3 and 5 were not sent up for trial. In view of such memo, Accused No.3 and 5 were released from judicial custody forthwith. At that time, the prosecution had claimed that

some evidence was available against Accused No.6. As such Accused No.6 was released on default bail. Later, the prosecution clarified that even Accused No.6 was not sent up for trial for lack of sufficient evidence against him. Thus, Accused No.3, 5 and 6 were not sent up for trial.

3. After holding further investigation, Investigating Agency has filed supplementary charge sheet against Accused No.25 on 2.5.2013 for the offences punishable under S.120B, 153A of India Penal Code (for short 'IPC'), S.10, 13, 18, 38 of the Unlawful Activities (Prevention) Act, 1967 (for short 'UAP Act').

4. They have filed supplementary charge sheet against Accused No.22 on 27.5.2014 for the offences punishable under S.120B, 465 r/w S.34, 466, 471 of India Penal Code (for short 'IPC'), S.18 of the Unlawful Activities (Prevention) Act, 1967 (for short 'UAP Act').

5. Further, they have filed supplementary charge sheet against Accused No.8 on 15.12.2014 for the offences punishable under S.3, 5(1)(c) and 9 of the Official Secrets Act, 1923.

6. The Investigating Agency is investigating the case against other accused i.e, A16 to 21, 23 and 24, who are

absconding. As such proceeding against these accused is continued in original number i.e, RC No.04/2012/NIA/HYD.

7. Brief facts of the case are as under:

The City Crime Branch, Bengaluru (in short 'CCB') received credible information that members of banned terrorist organizations i.e, Lashkar-e-Taiba(L-e-T) and Harkat-ul-Jehad-e-Islami(Huji) have hatched a conspiracy to indulge in subversive activities like target killings of important personalities of Hindu Community in Bangalore and Hubli and thereby to disturb communal harmony. Accordingly surveillance was arranged by CCB over the activities of the suspected members at Hubli and Bangalore and finally on 29.8.2012 Accused Nos.1 and 2 were arrested with possession of illegal weapon when they had reached near the house where their target Sri Pratap Simha, a well known columnist of Kannada Prabha, a daily newspaper used to visit. A case was registered in Basaveshwara Nagar Police Station on 29.8.2012 as Crime No.384/2012 under S.120B, 121m, 121A, 122, 153A, 153B, 307, 379 of IPC, S.3 and 25 of the Arms Act, 1959 and S.10, 12, 13 of UAP Act on the complaint of Sri K.N. Jithendranath, ACP, Bangalore City.

8. During the investigation of the said case, the investigating agency found a larger conspiracy hatched by the accused in Riyadh and Dammam in Kingdom of Saudi Arabia. Having regard to the gravity and seriousness of the case, the Government of India passed orders to transfer the case to National Investigation Agency (for short 'NIA') for investigation. As per the Orders of Ministry of Home Affairs, Government of India vide No.1-11011/55/2012-IS-IV dated 16<sup>th</sup> November, 2012, NIA took over the investigation of the case and re-registered the case as RC No.04/2012/NIA/HYD and case was investigated by NIA Field Office, Hyderabad.

9. The prosecution claims that the investigation conducted by the Karnataka Police and the NIA revealed that the accused being members of terrorist organization Lashkar-e-Taiba (L-e-T), in order to further the activities of L-e-T and to associate with it, entered into a criminal conspiracy to commit terrorist activities by way of target killings of important personalities by using illegal lethal weapons like pistols and ammunition and thereby to strike terror in the people, to disturb communal harmony, to raise funds for terrorist activities, made preparations by procuring implements and in order to execute the said criminal conspiracy Accused No.1 and 2 had

reached near the house of Sri Sheshachala on 29.8.2012 at 12.30 p.m. to kill one of their targets namely Sri Pratap Simha, a prominent columnist and that on their way Accused No.1 and 2 were arrested by Sri Jithendranath, ACP and his team with possession of stolen motor cycle bearing registration number KA-27-E-1035 and illegal pistol, live rounds and other incriminating articles.

10. The Investigating Agency has contended that the investigation has revealed following facts in the case, which constitute and prove commission of alleged offences: Accused No.13 was the main handler in India, who motivated other accused persons from September, 2010 onwards. Accused No.2 and 10 had visited Pakistan during 2011-12 with the help of Accused No.13 in furtherance of their Jihadi activities, where they met some senior ISI Officials, L-e-T Operatives and others, who motivated Accused No.2 and 10 to collect intelligence and carryout espionage activities in India. Further, Accused No.2 and 10 received training in collection of intelligence, cyber crime, handling and shooting of weapons. Accused No.1 received three illegal firearms i.e, pistols and ammunition at Bangalore in the first week of June, 2012 and also funds as per the instructions of Accused No.13 for target killings and

Accused No.1, 2, 4, 8, 9, 11 and 12 tested the weapons on the outskirts of Hubli and Dandeli. The accused had also planned to commit robbery/dacoity of certain jewellery shops at Hubli and intended to use the money looted for terrorist and jihad activities and during the month of August, 2012 Accused No.1 and 8 visited Mumbai for procuring the implements required for committing dacoity like lock pickers, cutters, pepper spray cans, torches and tyre spikes, purchased a car for using it as an escape vehicle and rented a house for conducting conspiracy meetings and to store materials required for commission of dacoity. Further, on the instruction of Accused No.10, Accused No.15 purchased Ketamine, a sedative drug at Davanagere and provided the same to other accused persons, who were given the task of committing dacoity. Accused No.7 went to Saudi Arabia with the help of Accused No.19, who introduced him to Accused No.23, working for L-e-T, who motivated Accused No.7 to carryout jihadi activities in India. During his stay at Saudi Arabia, Accused No.7 along with Accused No.19, 23, 16, 17, 22, 21, 18, 13 and 24, had two conspiracy meetings at Riyadh and Dammam to carryout target killings and terrorist activities in India. It is stated that A1, A2, A4, A7 to A12, A14, A15, A22 and A25 identified prominent persons for target killings so as to

create religious animosity and that on the instruction of Accused No.1, Accused No.25 located and surveyed movements of target Pratap Simha for killing him. Accused No.22 had participated in conspiracy meetings held at Bangalore as well as in Riyadh and in the year 2011 he obtained passport fraudulently by enclosing his forged Voter ID Card. In addition to it, Accused No.8 was in possession of information pertaining to Government of India, which was confidential and sensitive data about deployment of Military and Armed Forces etc., which may assist directly or indirectly an enemy or the disclosure of which was likely to affect the sovereignty and integrity of Government of India.

11. It is alleged that in pursuance of criminal conspiracy, the accused have performed following specific tasks that were assigned to them:

|        |                                                                                                                                                                                                                                                                                                                                                                                               |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A1, A2 | Collected weapons, recruited men, practiced firing, identified targets for killing to incite communal disharmony, made preparations by procuring implements for committing robbery/dacoity to raise funds for terrorist activities, procured multiple mobile connections through fake/managed Ids, exchanged emails through encrypted messages for concealing the design to commit the crime. |
| A4     | Practiced firing, identified targets for killing to incite communal disharmony, made preparations by procuring implements for committing robbery/dacoity to raise funds for terrorist activities, the part played by him was exchanged in emails through encrypted messages for concealing the design to commit the crime.                                                                    |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| A7  | Came to Bangalore with specific task of killing the targets, procured weapons, identified targets for killing to incite communal disharmony, made preparations by procuring implements for committing robbery/dacoity to raise funds for terrorist activities, the part played by him was exchanged in emails through encrypted messages for concealing the design to commit the crime.                                                                                                                                                                                                                                                                                                                                                                                          |
| A8  | <p>Collected weapons, recruited men, practiced firing, identified targets for killing to incite communal disharmony, made preparations by procuring implements for committing robbery/dacoity to raise funds for terrorist activities, procured multiple mobile connections through fake/managed Ids, exchanged emails through encrypted messages for concealing the design to commit the crime.</p> <p>He also came in possession of data/images highly confidential and sensitive in nature pertaining to the Government of India, the contents of which may assist directly or indirectly to an enemy or the disclosure of which is likely to affect the sovereignty and integrity of Government of India, prejudicial to the safety, security and interest of the State.</p> |
| A9  | Practiced firing, identified targets for killing to incite communal disharmony, made preparations by procuring implements for committing robbery/dacoity to raise funds for terrorist activities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| A10 | Made preparations by arranging Ketamine for committing robbery/dacoity to raise funds for terrorist activities, the part played by him was exchanged in emails through encrypted messages for concealing the design to commit the crime.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| A11 | Recruited men, identified targets for killing to incite communal disharmony, participated in firing practice, made preparations by procuring implements for committing robbery/dacoity to raise funds for terrorist activities, procured multiple mobile connections through fake/managed Ids.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| A12 | Identified targets for killing to incite communal disharmony, made preparations by procuring implements for committing robbery/dacoity to raise funds for terrorist activities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A13 | Organized/procured weapons, recruited men, practiced firing, identified targets for killing to incite communal disharmony, made preparations by procuring implements for committing robbery/dacoity to raise funds for terrorist activities, exchanged emails through encrypted messages for concealing the design to commit the crime.                                                                                                                                                                                                                                          |
| A14 | Helped to identify targets for killing, to incite communal disharmony.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| A15 | Purchased Ketamine in a fake name and thereby participated in the preparations for committing robbery/dacoity to raise funds for terrorist activities.                                                                                                                                                                                                                                                                                                                                                                                                                           |
| A22 | During his visit to Bangalore in 2010-11, he held conspiracy meetings with A13 and during his stay in Riyadh, Saudi Arabia he was in close contact with A16, A19, A13 and others, participated in the conspiracy meetings to carry out target killings and other terrorist activities in India, stayed for 40 days with A7 in a rented room and motivated A7 to carry out target killings at Hubli and Bangalore, wantonly obtained a passport having Mysore address by obtaining a forged Voter ID card using the same as genuine document to obtain his passport fraudulently. |
| A25 | Agreed to do the tracking of the target Pratap Simha and associated himself with other accused with common intention to kill him, associated with A1 in planning and carried out such tracking along with A2 as per the directions of A1.                                                                                                                                                                                                                                                                                                                                        |

12. On being satisfied as to prima facie materials and proper sanctions from the competent authority to prosecute the case, this Court took cognizance for the aforesaid offences. All the charge sheeted accused except Accused No.13 are in judicial custody. A split up case in Spl.C.C. No.526/2014 has been registered against Accused No.13 as he is absconding and chance

of securing his presence in near future is less. The copies of prosecution papers were furnished to the accused before the Court as required under S.207 of Cr.P.C. Subsequently, after giving opportunity of hearing, charges were framed against Accused Nos.1, 2, 4, 7 to 12, 14, 15 and 25 on 3.5.2014 and against Accused No.22 on 9.6.2014. When the said charges were read over and explained to the accused, all of them pleaded not guilty and claimed to be tried. In the above circumstances, the prosecution was asked to adduce evidence to prove the accusation made against the accused.

13. During the trial of the case, so far the prosecution has examined 13 witnesses i.e, CW1 to CW4, CW7, CW9, CW11, CW12, CW15, CW17, CW20, CW21 and CW24 as PW4, PW1, PW2, PW9, PW3, PW5, PW7, PW6, PW10, PW8, PW11, PW12 and PW13 respectively, got marked documents as Ex.P1 to P123 and MOs as MO 1 to MO 128. The accused have got marked few documents as Ex.D1 to D28 by confronting the same to the prosecution witnesses.

14. In the course of the trial i.e, on 30.8.2016 each of the accused facing trial filed separate petition pleading guilty for all the offences charged against him. On questioning the accused persons

submitted that they have voluntarily filed such petitions, after consulting their family members as well as their counsel. Even this Court appraised them to consequences of pleading guilty in the case and adjourned the case to 1.9.2016 so as to give them time to reflect, with a specific direction to re-think over the matter.

15. On 1.9.2016 this Court has framed additional charges against Accused No.8 for the offences under S.3 and 5(1) of the Official Secrets Act, read over and explained said charges to him. Accused No.8 has pleaded guilty for said charges. Thereafter, this Court has once again questioned all the accused persons separately and individually regarding their petitions filed on 30.8.2016. At that time each of the accused persons has reiterated that he has voluntarily come forward to plead guilty for all the charges framed against him and that there is no force, coercion or any assurance of reduction in sentence that would be passed against him. Even the Counsel appearing for the accused have filed memos before the court stating that they have explained to each of the accused persons about the charges framed against them as well as consequences of pleading guilty in the case.

16. In State of Maharashtra Vs Sukhdeo Singh reported in 1992 SCC (Cri) 705, Hon'ble Apex Court has categorically held that

there is nothing in Chapter VIII of the Code of Criminal Procedure which prevents an accused from pleading guilty at any subsequent stage of the trial after framing of charge. Thereby it becomes clear that plea of guilty can be advanced by an accused at any stage of the trial after framing of charge. Further, it is well settled that the Court must act with caution and circumspection before accepting and acting on the plea of guilty and the plea must be clear, unambiguous and unqualified. Further, the Court must be satisfied that the accused has understood the nature of the allegations made against him and admits them. In the above circumstances, it is required for this Court to examine as to whether the plea of guilty of the accused can be accepted? If so, whether conviction can be based on such plea of guilty?

17. Perusal of the record reveals that majority of the accused (except Accused No.11 and 12) are well educated, who have either completed or were pursuing MCA, B.Com., BCA, B.A., NTTF, MBA, MBBS, MD/MS, BDS, etc. They had services of a counsel from the beginning. The charges were framed on 3.5.2014/9.6.2014 and trial was commenced on 23.6.2014. Till date the prosecution has examined altogether 13 witnesses including evidence of the Informant/I.O. – CW1 and got marked documents –

Ex.P1 to P123 and MO1 to MO128. The witnesses have deposed before the Court elaborately and the deposition of CW1/PW4 itself runs into 344 pages till date. It is to be noted that on 18.8.2016 itself the accused had prayed time before the Court on the ground that they want to re-think as to how they want to proceed in the case. Again on 26.8.2016 Counsel for the Accused prayed time on the ground that the accused wants to consult their parents and to make necessary submissions to the Court. Then only the accused have come up with the petitions pleading guilty for all the charges framed against them. In addition to the above, in spite of the time given by the Court for reflection as well as separate and individual questioning, the accused have reiterated that they have voluntarily come forward to plead guilty for the charges framed against them, knowing nature of allegations made against them and consequence of pleading guilty. Even the Counsel appearing for the accused have filed memo before the Court stating that they have explained to each of the accused consequences of pleading guilty and that they have discharged their professional duty to the best of their ability. Thereby, there are sufficient materials on record to satisfy the Court that the accused have opted to plead guilty for the

charges framed against them, after fully understanding the nature of the allegations made against them and consequences thereof.

18. It is also important to note that initially when the charges were framed, read over and explained to the accused, they had pleaded not guilty and claimed to be tried. They have chosen to plead guilty after 2 years from the date of framing charges against them. The accused have explained their conduct by contending that on earlier occasion they had not properly understood the charges framed against them. The probability of such contention cannot be ruled out. More importantly, this Court has to satisfy itself that the accused have understood nature of allegations made against them and that their plea of guilt is clear, unambiguous and unqualified. The facts and circumstances of the case and the contents of the petitions filed on 30.8.2016 satisfy the above requirements for accepting and acting on the plea of guilt. Such satisfaction permits this Court to accept and act on plea of guilt. Further, the plea of guilt amounts to an admission of all the fact constituting the offence. In view of the same, the plea of guilt by the accused vide their petitions dated 30.8.2016 is accepted.

19. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

Acting under S.229 of Code of Criminal Procedure, 1973 this Court convicts –

Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 - for the offences punishable under S.120B, S.153A, S.399 of Indian Penal Code, S.10(a), S.13(1)(b), S.18, S.38 of the Unlawful Activities (Prevention) Act, 1967 and S.17 of the Unlawful Activities (Prevention) Act r/w S.120B of Indian Penal Code;

Further, Accused No.1, 2 and 7 - for the offences punishable under S.3(1) r/w S.25(1-B)(a) of the Arms Act, 1959;

Accused No.8 - for the offences punishable under S.3 and S.5(1) of the Official Secrets Act, 1923;

Accused No.22 - for the offences punishable under S.465, S.466 and S.471 of Indian Penal Code.

[Typed by the Stenographer to the dictation, corrected and then pronounced in the Open Court on this the 15<sup>th</sup> day of September, 2016.]

(Muralidhara Pai B.)  
XLIX Additional City Civil & Sessions Judge  
and Judge, NIA Special Court,  
Bengaluru.

### ORDER REGARDING SENTENCE

20. Heard the Accused, Sri Hasmath Pasha, Advocate learned for Accused Nos.1, 2, 4, 7 to 12, 14, 15 and 25 and Sri Arjun Ambalapatta, learned Public Prosecutor for NIA regarding sentence to be imposed on the accused.

21. The accused persons and learned Counsel for the Accused have submitted that the accused are young and educated persons, having no criminal background and they want to return to the society and lead a normal life. It is submitted that accused have already suffered sufficiently as they are in judicial custody for past four years. As such the accused have prayed to pass lenient sentence against them, so that they can come out of jail and re-build their carrier and lead a normal life with their family members.

22. On the other hand, learned Public Prosecutor, NIA submitted that the accused have voluntarily come forward to plead their guilt and thereby they have shown their repentance for their acts. He has submitted that such a move by the accused is a step towards reconnecting to the society. He has stated that Accused Nos.1, 2, 7 and 8 have played a greater role in the crime and

conspiracy involved. As such he has prayed the Court to consider the said aspect while passing the sentence and to pass appropriate sentence against the accused persons.

23. The case papers go to show that though the accused persons associated with a terrorist organization, entered into a criminal conspiracy to commit terrorist activities by way of target killings and made preparations in furtherance of such conspiracy, they have not executed/carried out their intended act. No doubt, Accused No.1 and 2 had reached near the house of Sri Sheshachala on 29.8.2012 at 12.30 p.m. to kill one of their targets but they were arrested before they could attempt to execute their intended act. Thereby, based on materials available in the record it can be held that the acts done by the accused persons are only the acts preparatory to the commission of terrorist and unlawful activities and are of less serious in nature.

24. Admittedly, the accused are aged between 22 years to 35 years. Further, majority of them are educated persons. No doubt, they were members of terrorist organization and associated themselves with its activities. That may be their folly, on account of misguidance and lack of maturity of mind. This Court needs to take into account positive aspect from their act of pleading guilty.

It seems the accused have realized their mistakes and repent for their deeds. In that case, the accused should get an opportunity to reform themselves and be a good citizen of this country. In view of the same, this Court opines that there is necessity of showing some leniency while imposing punishment on the accused but at the same time it should not send a wrong message to the society.

25. Perusal of S.17 and S.18 of the UAP Act makes it clear that the offence under the said provisions attracts minimum imprisonment for a term which shall not be less than five years and shall also be liable to fine. The offences under other provisions do not attract minimum punishment. Accused No.8 has been convicted for the offences under S.3 and 5(1) of the Official Secrets Act, 1923. However, it is to be noted that even according to the prosecution the source of such document was ISI Officials and not by way of any act of espionage on the part of Accused No.8. This aspect needs to be borne in mind while sentencing the accused for the offences under the Official Secrets Act, 1923.

26. At the time of hearing regarding sentence, Accused Nos.1, 4, 7, 8, 10, 11, 12, 14 and 15 have submitted a joint petition praying for a direction to the jail authority to transfer Accused No.1, 4 and 8 to Central Prison, Dharwad and to retain other accused at

Central Prison, Bangalore, for rest of their term. Further, Accused Nos.1, 2, 7, 10, 11 and 12 have filed one more joint petition praying for a direction to provide them proper medical treatment with soft-diet (hospital diet). These are the matters relating to administration of prison and the competent jail authority has to take decision on these aspects. On going through these petitions it becomes clear that the accused have no complaint regarding the facilities provided to them in the prison. As such, the accused are at liberty to approach the concerned in respect of their prayer in these petitions.

27. In addition to the above, Accused Nos.1, 2, 4, 8, 9, 10, 12, 15 and 22 have filed separate petitions praying to release the documents pertaining to them such as education records, driving licence, ATM cards, vehicle registration card, Voter ID as detailed therein. Learned PP, NIA has submitted that the prosecution has no objection for returning such documents to the accused. However, he has opposed returning Passports of the accused on the ground that some proceedings are pending before the Passport Officer in connection with such documents. He has also opposed release of Maruti 800 Car to Accused No.12 on the ground that it was purchased for committed the crime.

28. It is the case of the prosecution that the accused had purchased the car for using it as an escape vehicle. The accused have pleaded their guilt and thereby they have admitted all the facts of the case including purchase of the car for commission of the crime. In view of the same, it is to be held that Accused No.12 is not entitled to seek for release of Maruti 800 Car to his custody. Further, S.51 of UAP Act empowers the Court to impound the passport or the arms licence of a person, for such period as the Court may deem fit. In this case, the accused have been convicted for the offences including offences under UAP Act and they have to serve their sentence. In view of the same, this Court holds that it would be proper to impound the Passports of these accused till the period of their term of sentence. The other documents such as educational records, Voter ID, ATM Cards etc., pertaining to the accused may be released to them by substituting the same with its certified copies.

29. During their submission regarding the sentence, some of the accused have expressed their desire to pursue their studies and prayed the Court to make an observation in the Order that the conviction and sentence passed against them in this case should not come in the way of their higher studies. It is needless to state

that this judgment of conviction and sentence cannot be a bar for the accused to acquire more knowledge by way of higher studies and such right of the accused cannot be curtailed, in the absence of any restriction in the rules or regulations governing admission to such courses.

30. In the result, this Court proceeds to pass the following:

ORDER

1. Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 shall undergo Rigorous Imprisonment for a period of 5 (Five) years and pay fine of Rs.3,000/- each for the offence punishable under S.18 of the Unlawful Activities (Prevention) Act, 1967;

2. Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 shall undergo Simple Imprisonment for a period of 5 (Five) years and pay fine of Rs.1,000/- each for the offences punishable under S.120-B read with S.115 of Indian Penal Code.

3. Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 shall undergo Simple Imprisonment for a period of 5 (Five) years and pay fine of Rs.1,000/- each for the offences punishable under S.17 of the Unlawful Activities (Prevention) Act, 1967 read with S.120-B of Indian Penal Code;

4. Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 shall undergo Simple Imprisonment for a period of 2 (Two) years and pay fine of Rs.1,000/- each for the offences punishable under S.10(a) of the Unlawful Activities (Prevention) Act, 1967;

5. Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 shall undergo Simple Imprisonment for a period of 5 (Five)

years each for the offences punishable under S.13(1)(b) of the Unlawful Activities (Prevention) Act, 1967;

6. Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 shall undergo Simple Imprisonment for a period of 5 (Five) years each for the offences punishable under S.38 of the Unlawful Activities (Prevention) Act, 1967;

7. Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 shall undergo Simple Imprisonment for a period of 1 (One) year each for the offence punishable under S.153A of Indian Penal Code.

8. Accused Nos.1, 2, 4, 7 to 12, 14, 15, 22 and 25 shall undergo Rigorous Imprisonment for a period of 3 (Three) years and pay fine of Rs.1,000/- each for the offence punishable under S.399 of Indian Penal Code.

9. Accused Nos.1, 2 and 7 shall undergo Simple Imprisonment for a period of 1 (One) year and pay fine of Rs.1,000/- each for the offences punishable under S.3(1) read with S.25(1-B)(a) of the Arms Act, 1959;

10. Accused No.8 shall undergo Simple Imprisonment for a period of 5 (Five) years for the offence punishable under S.3 of the Official Secrets Act, 1923;

11. Accused No.8 shall undergo Simple Imprisonment for a period of 1 (One) year for the offence punishable under S.5(1) of the Official Secrets Act, 1923;

12. Accused No.22 shall undergo Simple Imprisonment for a period of 6 (Six) months each for the offences punishable under S.465 and S.471 of Indian Penal Code;

13. Accused No.22 shall undergo Simple Imprisonment for a period of 1 (One) year for the offence punishable under S.466 of Indian Penal Code.

Sentences of imprisonment in respect of all the offences shall run concurrently.

The accused are entitled for the benefit of set off under S.428 of Cr.P.C. against the term of imprisonment imposed on them.

The Passports of Accused Nos.1, 2, 8, 9 and 10 are impounded under S.51 of UAP Act for a period i.e, till completion of their respective term of sentence.

The relevant documents mentioned in para 28 of this judgment be released to the accused on proper identification, after substituting said documents with its certified copies furnished by them.

All other properties and documents of this case shall be retained/preserved for the case against Accused No.13 in Spl.C.C. No.526/2014 and for the case against other accused persons, which is under investigation.

Office is directed to furnish free copy of this judgment to each of the convict forthwith.

[Typed by the Stenographer to the dictation, corrected and then pronounced in the Open Court on this the 16<sup>th</sup> day of September, 2016.]

(Muralidhara Pai B.)  
XLIX Additional City Civil & Sessions Judge  
and Judge, NIA Special Court,  
Bengaluru.