

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL APPELLATE JURISDICTION)**

Present:

Mr. Justice Md. Bashir Ullah

Criminal Appeal No. 1058 of 2025

In the matter of:

An Appeal under Section 31 of the Santrash
Birodi Ain, 2009 (as amended 2013)

And

In the matter of:

Reaz Uddin Shepai

...Convict-Appellant

-Versus-

The State, represented by the Deputy
Commissioner, Dhaka

...Respondent

Mr. Md. Al Amin, Advocate

...For the Appellant

Mr. Md. Mizanur Rahman, D.A.G and
Mr. Md. Sirajul Karim (Rabi), A.A.G

... For the State

**Heard on: 18.08.2026, 19.08.2026 and
20.08.2026**

Judgment on: 25.08.2026

This appeal, preferred under Section 31 of the সন্ত্রাস
বিরোধী আইন, ২০০৯ (Anti-Terrorism Act) (as amended in 2013)
is directed against the judgment and order dated 22.01.2025
passed by the learned Judge (Senior District and Sessions

Judge), Santrash Birodhi Special Tribunal, Dhaka in Santrash Birodhi Bishesh Tribunal Case No. 15 of 2020, arising out of Keranigonj Model Police Station Case No. 16 dated 09.05.2019, corresponding to G.R. No. 199 of 2019 convicting the accused under Section 8 and 9(3) of the সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended in 2013) and sentencing him to suffer rigorous imprisonment for 06 (six) months under Section 8 of the সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended in 2013) and 5(five) years under Section 9(3) of the সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended in 2013) and fine of Taka 50,000/-, in default to suffer rigorous imprisonment for 06(six) months respectively.

The facts, relevant for disposal of the appeal, in short, are that PW 1, Md. Anisur Rahman lodged a First Information Report (FIR) with Keranigonj Model Police Station, Dhaka Metropolitan Police, Dhaka, alleging *inter alia* that based on secret information regarding members of a banned organization, namely Hizb-ut-Tahrir, distributing leaflets, a police party proceeded to the place of occurrence. On 09.05.2019 at about 15.30 hours, when the raiding team

arrived near “Joni Tower” under Keranigonj Model Police Station, Hizb-ut-Tahrir members attempted to flee. With the assistance of police the accused Reaz Uddin Shepai was apprehended. Thereafter, in the presence of witnesses, the police prepared a seizure list and they lodged a First Information Report under Section 8/9 and 10 of সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended 2013) against the accused petitioner and others. Upon receipt of the FIR, Keranigonj Model Police Station Case No. 16 dated 09.05.2019 was registered. The police prepared 03(three) separate seizure lists on 09.05.2019, 13.05.2019 and 24.05.2019 in the presence of seizure list witnesses.

Upon closure of the investigation, the investigating officer submitted a police report being charge sheet No. 124 dated 14.03.2020 against the convict appellant and others under Sections 8/9 and 10 of the সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended in 2013).

Subsequently, the case was transferred to the Court of Santrash Birodhi Bishesh Tribunal, Dhaka which was registered as Santrash Birodhi Bishesh Tribunal Case No. 15

of 2020. The Tribunal took cognizance of the offence. On 21.12.2020, the Tribunal framed charges against the convict-appellant and two co-accused persons under Section 8/9 and 10 of the সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended in 2013), to which the accused persons pleaded not guilty and claimed to be tried.

In course of the trial, 10(ten) prosecution witnesses were examined while the defence examined none. The accused persons were examined under Section 342 of the Code of Criminal Procedure and they reiterated their innocence.

Upon conclusion of the trial and hearing the parties, the learned Judge (Senior District and Sessions Judge), Santrash Birodhi Bishesh Tribunal, Dhaka by its judgment and order dated 22.01.2025 convicted the accused under Section 8 and 9(3) of the সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended in 2013) and sentencing them to suffer rigorous imprisonment for 06 (six) months under Section 8 of the সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended in 2013) and 5(five) years under Section 9(3) of the সন্ত্রাস বিরোধী আইন, ২০০৯ (as amended in 2013) and fine of Taka

50,000/-, in default to suffer rigorous imprisonment for 06(six) months more.

Being aggrieved by and dissatisfied with the judgment and order of conviction and sentence, the convict preferred this instant Criminal Appeal before this Court.

Mr. Md. Al Amin, the learned Advocate appearing on behalf of the appellant contends that none of the prosecution witnesses testified that the appellant was a member of the proscribed entity, specifically “Hizbut Tahrir.”

He further contends that the prosecution failed to prove that the appellant solicited anyone to support the banned entity, organised or facilitated any meeting, delivered any speech infavour of any prohibited entity or broadcasted material supporting it through any media platform like Radio, Television, print or electronic media. Thus, the mandatory statutory ingredients of Sections 8 and 9 of the Anti Terrorism Act, 2009 are entirely absent, rendering the impugned judgment and order unsustainable in law.

He submits that the appellant has already served out the substantive sentence of imprisonment though he was falsely

implicated in the case. He is a former cashier of Islami Bank PLC, Chalkbazar branch and when he was wrongfully apprehended while commuting to his workplace. He prays for acquittal so that the appellant may clear his name and restore his livelihood.

Per contra, Mr. Md. Mizanur Rahman, the learned Deputy Attorney General appearing on behalf of the State contends that incriminating leaflets and press releases of Hijbut Tahrir Wilayah were recovered directly from possession of the convict-appellant. Thus, the Tribunal rightly convicted the appellant and sentenced him.

He further submits that there is no illegality, infirmity or impropriety in the impugned judgment and order, so this instant appeal is liable to be dismissed.

I have heard the submissions of the learned Advocates for both sides, perused the impugned judgment and order passed by the Tribunal and the materials on record.

For proper adjudication of the appeal and analysis of the facts on record, the prosecution evidence is reviewed as follows:

PW1, Md. Anisur Rahman, Informant, deposed that on 09.05.2019 at about 15.30 hours, he apprehended Reaz Shepai for distributing incriminating leaflets of Hizbut Tahrir from the premises of 6 storied building belonging to Hazi Abdul Mannan. Two mobile phones, leaflets of Hijbut Tahrir Wilayah, two knives, one adapter, one laptop and a wallet were recovered from his possession. Police Inspector Manjurul Morshed prepared the seizure list. He lodged the FIR. He proved the FIR as Exhibit 1.

He identified the accused Reaz Uddin Shepai.

In cross-examination, he stated that he apprehended the accused from the premises of house No. 280 and the seizure list was also prepared there. The leaflets bore the titles “The Dilemma of Democracy” and “Hijbut Tahrir Wilayah.”

PW 2, Manjurul Morshed, Inspector of Police deposed that they apprehended accused Reaz Uddin Shepai from the road near 280, Golam Bazar Purba Charail Club Road, Keranigonj (House of Hazi Abdul Mannan). He seized a black colour handbag containing one laptop, 8(eight) leaflets, various press notices, book containing 15 pages, book

containing fourteen pages, book containing 31 pages, book containing 15 pages, book containing 41 pages, a switch-gear knife, one Infinix mobile phone, one Samsung Mobile phone, one coffee coloured wallet, a bank card and another knife. He proved the seizure list as Exhibit 2 and the seized items as Material Exhibit 1 series. He identified the accused.

In cross-examination, he conceded that he did not prepare the seizure list at the place of apprehension, nor did he put any identification marks on the seized articles. He did not know whether he collected signature on it or not.

PW 3, Md. Fazle Rahman was tendered by the prosecution and declined by the defence for cross-examination.

PW 4, Sabjel Hossain, Inspector of Police deposed that on 09.05.2019 at about 15.50 hours the raiding party led by Police Inspector Anisur Rahman apprehended accused Reaz Uddin Shepai with a bag near the House of Mannan. One laptop, poster, leaflets, press notices, knife, one Samsung mobile, one Infinix mobile and one knife were recovered from the bags of the accused.

He denied the suggestion that the accused was apprehended on 08.05.2019 at about 8.00 am from Mogaltuly.

PW 5, Sanjay Kumar Mistiry was tendered by the prosecution and declined by the defence for cross-examination.

PW 6, Md. Shaminul Islam, Sub Inspector of Police deposed that he approached the place of occurrence on 09.05.2019. They apprehended accused Reaz Uddin Shepai. One laptop, 50 leaflets and 20 leaflets and one book were recovered from his possession. He had no knowledge as to who prepared the seizure list. He signed the seizure list. He failed to identify the accused in the dock.

PW 7, Shahadat Hossain, Constable of Police deposed that on 13.05.2019 at about 16.15 hours, 33 screenshots were printed from a Facebook ID named Taz Islam at Keranigonj Model Police Station. He proved the printed materials as Material Exhibit II series.

In cross-examination, he deposed that he served as a computer operator in the room of S.I. He did not know the

name of the company of the mobile set from which the screenshots were taken.

PW 8, Md. Mostafa Sawpan, a local resident deposed that he lived on the sixth floor of the place of occurrence. On 09.05.2019 at about 03 to 04 p.m. police conducted a search in a flat on the 3rd floor. The security guard opened the lock of the gate of the 3rd floor and the police recovered books and a laptop from the empty room. Thereafter, he signed the seizure list and affirmed that no person was found in the flat. He was declared hostile by the prosecution.

PW 9, Md. Mamun, deposed that police apprehended a terrorist and he went to see the terrorist at police station but he found nothing. Subsequently, S.I. Rafik called him to the Police Station on 13.05.2019. He informed him that they apprehended a terrorist and some books were recovered. He was asked to become a witness to the occurrence. However, the Police did not show the seized books and laptop. They did not even show the accused person. Ultimately, he was declared hostile.

PW 10, Md. Rafikul Islam, the investigating officer deposed that he visited the place of occurrence, prepared a sketch map and index. The accused made a confessional statement. He took a screenshot of the content from his mobile set. He apprehended accused Zahid as per information provided by Reaz Uddin Shepai. After having sanction, he submitted Charge Sheet No. 124 dated 14.03.2020.

In cross-examination, he admitted that he presumed that the accused was a member of Hizbut Tahrir as he used to publication through Facebook. He did not know whether the accused held a post in Hizbut Tahrir. He could not find who distributed the leaflets.

For the convenience, Section 8 of Anti Terrorism Act, 2009 is reproduced below:

নিষিদ্ধ [সত্তার] সদস্যপদ

৮। যদি কোন ব্যক্তি ধারা ১৮ এর অধীন কোন নিষিদ্ধ [সত্তার] সদস্য হন বা সদস্য বলিয়া দাবী করেন, তাহা হইলে তিনি অপরাধ সংঘটন করিবেন এবং উক্তরূপ অপরাধ সংঘটনের জন্য তিনি অনধিক ছয় মাস পর্যন্ত যে কোন মেয়াদের কারাদণ্ড, অথবা অর্থদণ্ড, অথবা উভয় দণ্ডে দণ্ডিত হইবেন।

PW10, the investigating officer, in his cross-examination conceded that he merely assumed membership of accused based on general social media posts. He deposed that “ফেইসবুক আইডি ব্যবহার করে প্রচার প্রচারণা চালাতো সেজন্য আমার মনে হয়েছে যে, সে নিষিদ্ধ ঘোষিত সংগঠন এর সদস্য।

... আমার তদন্তকালে আসামী হিবুত তাহরীর কোন পদে আছে সেটা পাইনি তবে সে যে সদস্য সেটা পেয়েছি। ফেইসবুক আইডি খুলে প্রচার প্রচারণা চালায় তাই তাকে সদস্য হিসেবে ধরেছি।...এই প্রচারপত্র গুলো বিলি করেছে এমন কাউকে পাই নাই।”

Upon scrutiny of statements made by the accused under Section 164 of the Code of Criminal Procedure, it is evident that the accused did not claim to be a member of a prohibited entity, namely “Hijbut Tahrir Bangladesh”. Even the co-accused Zahidul Islam did not disclose in his confessional statement made under Section 164 of the Code of Criminal Procedure that the convict-appellant was a member of the proscribed entity, namely “Hijbut Tahrir Bangladesh”.

Upon perusal of the evidence adduced by the prosecution witnesses, it appears that no prosecution witness

testified that the appellant was a member of the prohibited entity, namely “Hizbut Tahrir Bangladesh”.

Thus, the prosecution failed to establish the foundational element of membership as enshrined in Section 8 of সন্ত্রাস বিরোধী আইন, ২০০৯.

The materials on record do not even *prima facie* show any relationship of the appellant with the alleged prohibited entity, namely “Hizbut Tahrir Bangladesh”, whether as a member or as an active supporter of it.

PW 6, the member of the raiding party failed to identify the accused. He deposed that “আসামী রিয়াজ উদ্দিন সেপাই আজ ডকে আছে কিনা সুরগ করতে পারছি না।”

It appears from the Material Exhibit I that the leaflet was published by Hizbut Tahrir Wilayah Bangladesh. But the name of the alleged prohibited entity is “Hizbut Tahrir Bangladesh”.

For the convenience Section 9 of Anti Terrorism Act, 2009 is reproduced below:

নিষিদ্ধ [সভা] সমর্থন

৯। (১) যদি কোন ব্যক্তি ধারা ১৮ এর অধীন কোন নিষিদ্ধ^২[সভাকে] সমর্থন করিবার উদ্দেশ্যে কাহাকেও অনুরোধ বা আহ্বান করেন, অথবা নিষিদ্ধ^৩[সভাকে] সমর্থন বা উহার কর্মকাণ্ডকে গতিশীল ও উৎসাহিত করিবার উদ্দেশ্যে কোন সভা আয়োজন, পরিচালনা বা পরিচালনায় সহায়তা করেন, অথবা বক্তৃতা প্রদান করেন, তাহা হইলে তিনি অপরাধ সংঘটন করিবেন।

(২) যদি কোন ব্যক্তি কোন নিষিদ্ধ^৪[সভার] জন্য সমর্থন চাহিয়া অথবা উহার কর্মকাণ্ডকে সক্রিয় করিবার উদ্দেশ্যে কোন সভায় বক্তৃতা করেন অথবা রেডিও, টেলিভিশন অথবা কোন মুদ্রণ বা ইলেকট্রনিক মাধ্যমে কোন তথ্য সম্প্রচার করেন, তাহা হইলে তিনি অপরাধ সংঘটন করিবেন।

(৩) যদি কোন ব্যক্তি উপ-ধারা (১) অথবা (২) এর অধীন কোন অপরাধে দোষী সাব্যস্ত হন, তাহা হইলে তিনি অনধিক সাত বৎসর ও অনূন্য দুই বৎসর পর্যন্ত যে কোন মেয়াদের কারাদণ্ডে দণ্ডিত হইবেন এবং ইহার অতিরিক্ত অর্থদণ্ড ও আরোপ করা যাইবে।

It appears from the evidence of PW 7, Shahadat Hossain that 33 screenshots were printed from a Facebook ID named Taz Islam. However, no witness testified that the appellant solicited support of any proscribed entity, specifically “Hizbut Tahrir Bangladesh” through the printed screenshots or his Facebook ID.

Upon scrutiny of the evidence adduced by the prosecution witness, it appears that the prosecution failed to examine an

independent or public witness who testified that the appellant solicited support for any prohibited entity, delivered any speech, or organised or facilitated a meeting or telecast or broadcast any material information through radio, television, print or electronic media in support of the proscribed entity.

The Investigating Officer admitted that he could not find anyone to whom the leaflets were distributed. So, Section 9 of the Anti-Terrorism Act does not attract against the appellant. Thus, the essential ingredients of Section 9 remain unproved. Although it has been alleged that huge books were recovered from the possession of the appellant, none of the prosecution witnesses testified that the books so recovered were prohibited or banned by the Government, nor did any witness depose that the said books were used for soliciting support for any proscribed organisation such as “Hizbut Tahrir” by the appellant. In the absence of such evidence mere recovery of the books, by itself, cannot safely be construed as establishing the alleged criminal activity of the appellant.

It is reiterated that in a criminal Prosecution, the onus lies squarely on the prosecution to prove the guilt of the accused beyond all reasonable doubt. In the instant case, the

prosecution failed to substantiate the essential statutory ingredients under Sections 8 and 9 of the সন্ত্রাস বিরোধী আইন, ২০০৯ (The Anti-Terrorism Act). The conviction passed by the trial Tribunal rests upon mere assumptions, conjectures, and uncorroborated police testimony, which cannot form the basis of a conviction under criminal jurisprudence.

Considering the gravity of the alleged offence, the facts and circumstances of the case, I am of the considered view that the judgment and order of conviction and sentence so far as it relates to the appellant cannot be sustained in law and is liable to be set aside and the appellant is entitled to an acquittal.

I find merit in the appeal and substance in the submissions advanced by the learned Advocate appearing on behalf of the appellant.

In the result, the appeal is allowed.

The judgment and order dated 22.01.2025 passed by the learned Judge (Senior District and Sessions Judge), Sontrash Birodhi Bishesh Tribunal, Dhaka in Santrash Birodhi Bishesh Tribunal Case No. 15 of 2020 arising out of Keranigonj

Model Police Station Case No. 16 dated 09.05.2019 corresponding to G.R. No. 199 of 2019 in so far as it relates to the appellant is hereby set aside.

The appellant is acquitted of the charges levelled against him.

The convict-appellant be released from his bail bond.

Let the judgment along with the lower Court records (LCR) be communicated to the tribunal concerned forthwith.

(Md. Bashir Ullah, J)

Md. Ariful Islam Khan
Bench Officer