

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Criminal Jail Appeal No. D-32 of 2024
Criminal Confirmation Case No.D-12 of 2024.

Before:-

Mr. Justice Shamsuddin Abbasi
Mr. Justice Ali Haider 'Ada'

Appellants : 1). Rafique Ahmed s/o Haji Murad Brohi,
2). Khalil Ahmed s/o Haji Gulsher Khan Makrani,
through Mr. Irfan Badar Abbasi, Advocate.

Respondents : The State through Mr. Sardar Ali Solangi, Deputy
Prosecutor General, Sindh.

Date of Hearing : 01.10.2025.

Date of Decision : 07.10.2025.

JUDGMENT

Ali Haider 'Ada'.J:- Through this Criminal Jail Appeal, the appellants have assailed the judgment dated 25.04.2024 passed by the learned Additional Sessions Judge-I / Special Judge, CNS, Shikarpur, (trial Court), whereby both the appellants were convicted under Section 9(e) of the Control of Narcotic Substances Act, 1997, and were sentenced to death. They were further directed to pay a fine of Rs. 1,000,000/- (one million) each, and in case of default in payment of fine, each shall suffer simple imprisonment for a further period of ten years. The learned trial Court also ordered that each convict be hanged by his neck till death. Consequently, the learned trial Court has made a reference for confirmation of the death sentence before this Court under Section 374, Cr.P.C. The conviction arises out of Special Case No. 585 of 2021, in connection with crime No. 14 of 2021, registered at Police Station New Foujdari.

2. The precise facts of the prosecution case are that on 22.01.2021, at about 1500 hours, a police party, while on patrol duty, received spy information that a truck bearing registration No. TKF-039 was being used for the transportation of a huge quantity of charas. Acting upon this information, the police raiding party proceeded to Zarkhail Highway near Rice Wah Bridge, Beat No. 3, where they intercepted a truck coming from the opposite direction. The said truck was being driven by accused Rafique Ahmed, while accused Khalil Ahmed was seated beside him in the front passenger seat. Upon conducting a

search of the vehicle, the police recovered ten white sacks, which, upon opening, were found to contain charas. On weighment, the recovered contraband was found to be 380 kilograms of charas. After completion of the codal formalities, an FIR was lodged against the accused persons under the relevant provisions of law.

3. After completion of the usual investigation, the challan was submitted, and both the appellants were sent up for trial before the Sessions Judge / Special Judge (CNS) Shikarpur. Upon supply of the requisite documents to the accused as required under the law, charge was framed on 08.12.2021, to which both the appellants pleaded not guilty and claimed to be tried. Before the commencement of evidence, the statement of the process server was recorded, wherein it was reported that the complainant ASI Hafeezullah had expired. Thereafter, the matter was entrusted to the learned trial Court for further proceedings. Consequently, the learned trial Court directed the prosecution to lead its evidence.

4. In pursuance thereof, the prosecution examined ASI Muhammad Zafar, who was an eyewitness and mashir in the case. During his examination, he produced the Roznamcha entries pertaining to police movement, as well as the memo of arrest and recovery, copy of FIR, and memo of place of incident. The prosecution then examined PW-02 SIP / Investigating Officer Ali Hussain Shah, who produced various documents including the entry of Register No.19, a letter seeking permission addressed to the SSP Shikarpur, the SSP's forwarding letter to the Chemical Analyzer, the road certificate, and correspondence addressed to different Excise and Taxation Officers of Lasbella (Balochistan), Vehicle Branch Gulshan-e-Iqbal Karachi, and Vehicle Branch Quetta, along with relevant Roznamcha entries regarding movement. The prosecution further examined PW-03 SIP Basar, Second Investigation Officer, who produced and exhibited the Chemical Examiner's report and the letter of the Chemical Examiner addressed to the concerned SHO. Thereafter, PW-04 Nadeem Hussain, the Incharge Malkhana, was examined. On 25.04.2024, the learned State Counsel filed a statement submitting that since the complainant ASI Hafeezullah had expired, and ASI Muhammad Zafar had already been examined as a mashir, while another witness Imdad Ali could not be produced due to his transfer to Karachi, the prosecution side was closed accordingly.

5. After closure of the prosecution side, the learned trial Court recorded the statements of the appellants under Section 342, Cr.P.C, wherein both the appellants denied the allegations leveled against them, professed their innocence, and prayed for justice. Thereafter, the learned trial Court pronounced the impugned judgment, which has now been assailed through this Criminal Jail Appeal.

6. Learned counsel for the appellants contended that although the appellants were booked in connection with an alleged recovery of a huge quantity of narcotics, the learned trial Court failed to appreciate each and every aspect of the case in its true perspective. It was argued that the prosecution could not establish the case beyond reasonable doubt. He further submitted that the prosecution utterly failed to connect appellant Khalil Ahmed with the alleged offence, as no evidence was brought on record to establish that he had knowledge or conscious possession of the contraband. It was emphasized that Khalil Ahmed neither drove the vehicle nor was there any documentary evidence linking him with the ownership or possession of the alleged vehicle, hence his conviction is wholly unsustainable in law. While the prosecution failed to establish that the appellant Rafique Ahmed was a habitual offender or previously involved in any criminal activity, the death penalty awarded to him by the learned trial court appears to have been imposed in a harsh and disproportionate manner.

7. Conversely, the learned Deputy Prosecutor General opposed the contentions raised by the defence counsel, arguing that a huge quantity of narcotics was recovered, which cannot be foisted easily, and there existed no enmity or ill-will on the part of the prosecution witnesses to falsely implicate the appellants. It was further argued that the contraband was recovered from the appellants, making them liable and responsible for the offence committed. The learned DPG supported the impugned judgment, maintaining that the trial Court rightly awarded the death penalty to deter and protect society from such criminal elements.

8. Heard and perused the material available on record.

9. We shall first examine the case of appellant Rafique Ahmed, who, according to the prosecution, was driving the vehicle in question at the time of the incident. The prosecution's case rests upon the allegation that a total of 380 kilograms of charas was recovered from the secret cavities of the said vehicle.

It is the case of the prosecution that the police raiding party, acting upon credible spy information regarding the transportation of a huge quantity of narcotics, intercepted the truck and signaled it to stop. Upon inspection, ten white sacks containing contraband material were found concealed within the body of the vehicle. It is noteworthy that appellant Rafique Ahmed did not take any specific plea in his defence to assert that he was unaware of the presence of narcotics in the vehicle. As the driver of the vehicle, he was admittedly in charge of and had control over it; hence, all items found therein are deemed to have been in his custody and possession within the contemplation of law. In these circumstances, the prosecution successfully discharged its initial burden, thereby shifting the onus upon the appellant in terms of Section 29 of the Control of Narcotic Substances Act, 1997. However, in the present case, appellant Rafique Ahmed failed to discharge this burden or to establish, even on a balance of probabilities, that he had been falsely implicated or that the contraband had been foisted upon him.

10. There is no denial of the fact that an enormous quantity of narcotics was recovered from the secret cavities of the vehicle under possession and control. The defence has not brought any convincing material or plausible explanation on record to demonstrate how it could be possible that the driver of the vehicle had no knowledge of such a massive consignment of narcotics being transported therein.

11. It thus clearly emerges that the prosecution case rests upon proper appraisal of evidence, duly supported by cogent reasoning. Reliance in this regard is placed upon the case of **Muhammad Noor v. The State (2010 SCMR 927)**, wherein the Hon'ble Supreme Court of Pakistan observed as under:

8. As regards Driver of the vehicle, it is important to note that when he is driving the vehicle, he is Incharge of the same, therefore, it would be under his control and possession. Hence, whatever articles lying in it would be under his control and possession. The liability of the driver, in view of provisions of section 27 of P.P.C., has been considered by this Court in the case of Sherzada v. State 1993 SCMR 149, wherein it was observed as under:--

The next point raised by the learned counsel was that it is provided in section 27, P.P.C. that when property is in the possession of wife, clerk or servant on account of that person, it is in that person's possession within the meaning of this Code. The learned counsel argued that the appellant was a driver, hence an employee of the owner of the car and even if he is admitted to be in possession of the contraband article on behalf of the owner, he cannot be said to be liable for that possession.

But this argument of the learned counsel is without force on the face of it because section 27, P.P.C. is confined to the Pakistan Penal Code only, as the words "within the mean of this Code" appearing in that section clearly indicate. This section has not been made applicable to the Prohibition (Enforcement of Hadd) Order, 1979 as is evident from Article 26 of that Order where certain other provisions of the P.P.C. have been made applicable."

12. It is a well-settled proposition of law that in cases involving narcotics, once the prosecution proves the essential ingredients, likewise recovery of the contraband, its safe custody, and positive chemical examination then unnecessary technicalities should not be allowed to defeat the very purpose and object of the law. The menace of narcotics poses one of the gravest threats to society, as the proceeds from narcotics trade are often utilized for anti-state and terrorist activities, besides destroying the moral and social fabric of the community. Therefore, when the prosecution successfully establishes recovery of a huge quantity of contraband from the possession and control of the accused, and when no plausible defence or explanation is brought on record, conviction must logically follow. In this regard, support is drawn from the case of **Zain Ali v. The State (2023 SCMR 1669)**, wherein the Hon'ble Supreme Court of Pakistan was pleased to hold as under:

9. The menace of drugs has taken alarming dimensions in this country partly because of the ineffective and lackadaisical enforcement of the laws and procedures and cavalier manner in which the agencies and at times Courts of the country address a problem of such serious dimensions. Studies based on conferences and seminars have very often shown that the menace is deep rooted. This menace is a great threat to a peaceful society and is affecting many lives especially the youngsters, therefore, immediate steps are required to be taken to curb these nefarious activities. The proceeds of narcotics are largely utilized in anti-state/terrorist activities, which this country is facing since decades. When the prosecution is able to prove its case on its salient features then un-necessary technicalities should not be allowed to hamper the very purpose of the law on the subject. The close analysis of the whole prosecution evidence i.e. the recovery of huge quantity of narcotics, the happening of the occurrence in broad daylight, separating the samples from each packet in a prescribed manner and sending them to the Chemical Examiner, report of the Chemical Examiner and the statements of the prosecution witnesses when evaluated conjointly leaves no room to come to a different conclusion than what has been arrived at by the learned High Court. The learned High Court has correctly appreciated the material aspects of the case and the conclusions drawn are in line with the guidelines enunciated by this Court on the subject. Learned counsel for the appellant has not been able to point out any legal or factual error in the impugned judgment, which could be made basis to take a different view from that of the learned High Court.

13. There is nothing on record, nor was anything produced during cross-examination, to suggest that the prosecution witnesses were activated by any motive, bias, or enmity against the appellants which could have prompted his false implication in this case. The defence has not been able to bring on record any circumstance creating doubt about the credibility or impartiality of the prosecution witnesses. In this context, guidance may be sought from a catena of judgments of the Hon'ble Supreme Court of Pakistan, including **Muhammad Azam v. The State (PLD 1996 SC 67)**, **Muhammad Hanif v. The State (2003 SCMR 1237)**, **Riaz Ahmad v. The State (2004 SCMR 988)**, **Naseer Ahmad v. The State (2003 SCMR 1361)**, and **Zafar v. The State (2008 SCMR 1254)**. Reliance in this regard is placed on the case of **Mushtaq Ahmad v. The State and another (2020 SCMR 474)**, wherein the Hon'ble Supreme Court of Pakistan was pleased to observe as under:-

"Prosecution case is hinged upon the statements of Aamir Masood, TSI (PW-2) and Abid Hussain, 336-C (PW-3); being officials of the Republic, they do not seem to have an axe to grind against the petitioner, intercepted at a public place during routine search. Contraband, considerable in quantity, cannot be possibly foisted to fabricate a fake charge, that too, without any apparent reason; while furnishing evidence, both the witnesses remained throughout consistent and confidence inspiring".

14. In another case of **Shabbir Hussain v. The State (2021 SCMR 198)**, the Honourable Supreme Court of Pakistan has observed as under:-

"Mehmood-ul-Hassan Inspector (PW-3) joined by Mumtaz Bibi Lady Constable (PW-4) in the witness box furnished details of the arrest and recovery. We have gone through their statements to find them in a comfortable and confident unison on all the salient aspects of the raid as well as details collateral therewith. Learned counsel for the petitioner has not been able to point out any substantial or major variation or contradiction in their statements that may possibly justify to exclude their testimony from consideration. On the contrary, it sounds straightforward and confidence inspiring without a slightest tremor. Absence of a witness from the public, despite possible availability is not a new story; it is reminiscent of a long drawn apathy depicting public reluctance to come forward in assistance of law, exasperating legal procedures and lack of witness protection being the prime reasons. Against the above backdrop, evidence of official witnesses is the only available option to combat the menace of drug trafficking with the assistance of functionaries of the State tasked with the responsibility; their evidence, if found confidence inspiring, may implicitly be relied upon without a demur unhesitatingly; without a blemish, they are second to none in status. Similarly, forensic report is sufficiently detailed to conclusively establish narcotic character of the contraband. The argument is otherwise not available to the petitioner as he never disputed the nature of substance being attributed to him nor attempted to summon the chemical analyst to vindicate his position.

A challenge illusory as well as hyper-technical is beside the mark in the face of "proof beyond doubt" sufficient to prove the charge to the hilt. Petition fails. Leave declined."

15. Upon reappraisal of the evidence, we are of the considered view that the appellant cannot be exonerated from the liability of transporting the recovered Charas. The Hon'ble Supreme Court of Pakistan, in the case of **Ghulam Qadir v. The State (PLD 2006 SC 61)**, has categorically held that the driver of a vehicle bears responsibility for any contraband found therein, being in exclusive charge and control of the vehicle.

16. The case property was dispatched to the Chemical Examiner within the prescribed period, and the report received therefrom confirmed that the recovered substance was Charas. From the overall circumstances, it stands clearly established that the prosecution has successfully proved the charge against the appellant beyond reasonable doubt. In this regard, reliance is placed on the case of **Liaquat Ali and another v. The State (2022 SCMR 1097)**, wherein the Hon'ble Supreme Court of Pakistan was pleased to hold as under:--

So far as the argument of the learned counsel for the petitioner that the contraband charas, its safe custody and safe transmission is not established is concerned, the learned High Court has very ably dealt with this issue in paragraphs 18 and 19 of the impugned judgment while holding that the Control of Narcotic Substances (Government Analysts) Rules, 2001 virtually place no bar on the Investigating Officer to send the samples beyond 72 hours of the seizure. These Rules are stricto sensu directory and not mandatory in any manner. It does not spell out that if there is any lapse and the time is consumed beyond 72 hours, it would automatically become instrumental to discard the prosecution case in all manners. The Control of Narcotic Substances (Government Analysts) Rules, 2001, cannot control the substantive provisions of the Control of Narcotic Substances Act, 1997. These Rules cannot in any manner frustrate the salient features of the prosecution case which otherwise hinges upon (i) receipt of information, (ii) action by the concerned law enforcing agency, (iii) recovery of contraband narcotics, (iv) the report of chemical examiner regarding analysis of the recovered contraband, (v) the finding of fact by the courts below after recording of evidence i.e. (a) witnesses of the raiding party, (b) the recovery witnesses, (c) Investigating Officer and all other attending circumstances. If the series of acts which ultimately resulted into recovery of contraband narcotic are juxtaposed with the violation of the Rules due to one reason or the other as alleged, it cannot by any stretch of imagination be considered reasonable in law to smash the prosecution case on its salient features. The transportation of drugs either inside the country or sending it abroad has become a menace against morality, decency, public order, law and order situation which indirectly intrudes upon the sovereignty of the country. If this practice is allowed to continue it will squarely hamper the very

purpose of the law on the subject and would squarely bring bad name for the country in the eyes of international community."

17. The Apex Court in the case of **Shamsher Ahmad and another v. The State and others (2022 SCMR 1931)** has held that:

"While appreciating the evidence, the court must not attach undue importance to minor discrepancies and such minor discrepancies which do not shake the salient features of the prosecution case should be ignored. The accused cannot claim premium of such minor discrepancies. If importance be given to such insignificant inconsistencies then there would hardly be any conviction."

The Apex Court in case titled **Kashif Amir v. The State (PLD 2010 Supreme Court 1052)** was pleased to hold that:

"Further, when a person is driving the vehicle, he is Incharge of the same and it would be under his control and possession, hence, whatever articles lying in it would be under his control and possession. Reference in this behalf may be made to the case of Muhammad Noor v. The State (2010 SCMR 927). Similarly, in the case of Nadir Khan v. State (1988 SCMR 1899) this court has observed that knowledge and awareness would be attributed to the Incharge of the vehicle."

Further guidance is drawn from the case of **Ajab Khan v. The State (2022 SCMR 317)**, wherein the Hon'ble Apex Court was pleased to hold as under:--

The report of the Forensic Science Laboratory confirmed that all nineteen samples were subjected to chemical and instrumental analysis and each was found to contain narcotic substance. There was nothing on record to suggest that the safe custody or chain of custody of the samples had been compromised at any stage. In these circumstances, the Hon'ble Supreme Court dismissed the petition for leave to appeal, maintained the conviction and sentence of the accused, and further observed that in the absence of any apparent reason to falsely implicate the accused in possession of narcotics, the prosecution case stood proved. Reliance is placed on Shabbir Hussain v. The State (2021 SCMR 198).

18. So far as the quantum of sentence, i.e., the capital punishment of death, is concerned, we find ourselves unable to concur with the same. The record does not contain any saza slip or material indicating that the appellant Rafique Ahmed or even co-appellant Khalil Ahmed had previously been involved in any similar or other criminal case. Even during the course of trial, nothing was brought on record by the prosecution to demonstrate the appellants' previous conviction or habitual involvement in narcotics offences. In these circumstances, the death sentence awarded to the appellants appears to be unduly harsh, punitive, and disproportionate to the facts and circumstances of

the case. Guidance in this regard may be drawn from the case of **Abdul Qadir v. The State (2024 PCr.LJ 1502)**, wherein the Hon'ble Court was pleased to hold as under:--

14. *So far as the quantum of sentence i.e. capital punishment of death is concerned, we do not find in agreement ourselves with regard to the same, for the reasons that neither there is any saza slip nor anything to establish that the appellant is previously involved in any similar criminal case. Even, during the course of trial nothing could be brought on record by the prosecution in this regard. Hence it can safely be held that the appellant is first offender. Thus, in these circumstances, the death sentence awarded to the appellant is quite harsh. The offence was committed on 26.02.2021, at that time in Section 9 (c) of the Act, both death sentence as well as, imprisonment for life have been mentioned. Therefore, the trial Court awarded death sentence to the appellant. In Rehmat Shah Afridi's case, the Lahore High Court held the following principle:*

"---Sentence---Section 9 of the Narcotic Substances Act, 1997, although does not create any distinction between various kinds of narcotic substances and prescribes only a minimum sentence in case the same exceeds ten kilograms, yet the Court has to consider cases in which sentence of death or the sentence of imprisonment for life should be awarded.

The same was affirmed by the Hon'ble Supreme Court in the case of Muhammad Tariq v. The State.

15. *Besides, through the recent amendment in Narcotic Substances Act i.e. the Act No. XX of 2022 promulgated on 06.09.2022 and subsequently amended Act No. XXXVIII of 2023 promulgated on 05.08.2023, Death punishment has been omitted and now the maximum punishment in narcotic cases is life imprisonment with fine.*

16. *For what has been discussed above, while dismissing the appeal, we are persuaded to convert the sentence of death of the appellant Abdul Qadir son of Lal Muhammad into imprisonment for life. The sentence of fine and sentence of imprisonment in lieu thereof, however, shall remain intact. Benefit of Section 382-B Cr.P.C is also extended in favour of the appellant. Death sentence of the appellant is not CONFIRMED and Murder Reference No.14 of 2022 is answered in Negative.*

19. Further support is drawn from the case of **Naeem Akhtar alias Ali Haider and another vs the state 2024 YLR 556**, as it was held that:

18. *The prosecution has failed to comply with the above provisions in respect of proving the previous conviction of the appellant Naeem Akhtar as per the procedure provided supra. Even after passing the above order by the trial court no serious efforts were made to comply the supra provisions but in spite of it the trial court on the basis of previous conviction awarded death sentence to the appellant Naeem Akhtar. It is well settled principle of interpretation law that "If the words of the Statute are themselves clear and unambiguous, no more is necessary to expound those words in their natural and ordinary sense, the words themselves in*

such a case best declare the intentions of legislature", as held in the case of Mumtaz Hussain v. Dr. Nasir Khan and others (2010 SCMR 1254). In another case of Ghulam Haider and others v. Murad through Legal Representatives and others (PLD 2012 SC 501), it is held that:-

"Where the plain language of a statute admits of no other interpretation then the intention of the legislature conveyed through such language is to be given its full effect."

19. *Thus based on the particular facts and circumstances of the case in hand we are of the view that the death penalty awarded by the trial court to the appellant Naeem Akhtar is a harsh one and not in accordance with law and we while exercising powers under section 423, Cr.P.C reduce/alter it to imprisonment for life with the benefit of section 382-A, Cr.P.C, however all other sentences and penalties awarded by the trial court are maintained. The confirmation reference answered in negative.*

20. In the present case, the sentence of death awarded to the appellants calls for reconsideration. It is well settled that under Section 9(c) of the Control of Narcotic Substances Act, 1997, the Court is vested with discretion to impose one of the three punishments prescribed therein death, imprisonment for life, or rigorous imprisonment for a term extending to fourteen years depending upon the facts and circumstances of each case. The quantum of sentence, therefore, must correspond to the degree of culpability, role, conduct, and antecedents of the accused. It has been judicially recognized that although certain offenders under Section 9(c) may merit the extreme penalty of death, there may also be cases where the circumstances justify a lesser punishment. Where an accused is a first offender, not a drug baron, and has no prior criminal record, nor hardened, the ends of justice are sufficiently met by awarding imprisonment for life instead of the death penalty. Support is drawn from the case of **Muhammad Tariq v. The State (2009 SCMR 1220)**.

21. So far as the case of the co-appellant Khalil Ahmed is concerned, it is significant to note that he was merely seated on the front seat of the vehicle at the time of its interception. In the absence of any substantive evidence, it is difficult to believe that the co-appellant had knowledge of, or any connection with, the narcotics recovered from the vehicle. The prosecution case is completely silent on this aspect and has failed to establish that the said co-appellant had any possessory control over the vehicle or the contraband recovered therefrom. In these circumstances, there is no reasonable or cogent material on record to connect co-appellant Khalil Ahmed with the alleged offence. In this context, guidance may be drawn from the case of **Ghazi Khan**

Pathan v. The State (2025 SCMR 1351), wherein the Hon'ble Supreme Court was pleased to hold that:

8. To the extent of petitioner Marzak Khan, it is important to note that he was sitting in front seat at the time of interception. As such, attributing the illicit narcotics found in the vehicle to him cannot be justified in the absence of any evidence linking him to the possession or control of the vehicle as prosecution failed to provide evidence that he was aware of the narcotics in the vehicle. Since he lacked a possessory right in, or control over, the vehicle, it cannot be inferred that he had knowledge of the narcotics. We have found that the Petitioner, Marzak Khan, was neither conscious nor aware of the narcotics present in the vehicle. Thus, we find no reasonable grounds to uphold his conviction. Reliance in this regard is placed upon case of Shahzada v. State (2010 SCMR 841) in which it was held:

[6]. "We have heard the learned counsel for the parties and have perused the record of this case very carefully. As regards the appellants, who were simply sitting in the car, their case is distinguishable from the case of the Driver and for involvement of such persons the prosecution is required to lead some evidence to show that they had knowledge of the property lying in the car or they had abetted or conspired with the Driver in the commission of the crime. No such evidence has been led by the prosecution to prove the above aspects of the case so as to make the appellants responsible for the commission of the crime along with the Driver. If the property would have been lying open within the view of the appellants or they knew the placement of the property then the situation would have been different. In such a situation, the appellants were required to explain their position, as required under Article 122 of Qanun-e-Shahadat Order, 1984 and without such explanation their involvement in the case would have been proved. As the property was not within their view and they had no knowledge of the placement of the property, therefore, they cannot be held responsible and in joint possession of the property with the Driver. As such the case of the prosecution against the appellants is highly doubtful."

22. In the present case, the appellant Rafique Ahmed has no prior involvement in any offence of a similar nature and is thus a first-time offender. In these circumstances, the extreme penalty of death appears to be unduly harsh. Accordingly, based on the specific facts and circumstances of the case, we are of the view that the death sentence awarded by the learned trial Court to the appellant is excessive and not in accordance with law. Consequently, the appeal to the extent of appellant Rafique Ahmed is dismissed, and in exercise of our powers under Section 423, Cr.P.C., the death sentence is reduced and altered to imprisonment for life, with the benefit of Section 382-B, Cr.P.C. All other sentences and penalties awarded by the trial Court are maintained. The confirmation reference is answered in the negative.

23. As regards Appellant Khalil Ahmed, the Criminal Jail Appeal to his extent is allowed. The conviction and sentence recorded against him through the impugned judgment are set aside, and he is acquitted of the charges

leveled against him. He shall be released forthwith, if not required to be detained in any other case. The confirmation reference against him is also answered in the negative.

JUDGE

JUDGE