

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS

PRESENT:

MR. JUSTICE AMJAD ALI SAHITO.
MR. JUSTICE JAN ALI JUNEJO.

Criminal Appeal No.S-140 of 2024

Appellants : 1. Aijaz s/o Muhammad Hayat.
2. Jakhro s/o Nabi Bux Chanhio
Through Mr. Ishrat Ali Lohar, Zulfiqar Ali
Korai and Mr. Kamran Ali Bhatti,
Advocates.

The State : Through Mr. Shahzado Saleem Nahiyoona,
Additional P.G.

Complainant : Sadique Ali son of Habibullah.
Through Mr. Mir Pervez Akhter Talpur,
Advocate.

Criminal Acquittal Appeal No.D-26 of 2024

Appellant : Sadique Ali son of Habibullah.
None has appeared on his behalf.

Respondent No.1: Muhammad Hayat son of Faqeer Muhammad.
Through Mr. Ishrat Ali Lohar, Zulfiqar Ali
Korai, Advocates.

The State : Through Mr. Shahzado Saleem Nahiyoona,
Additional P.G.

Criminal Revision Application No.D-16 of 2024

Applicant : Sadique Ali son of Habibullah.
Through Mr. Mir Pervez Akhter Talpur,
Advocate.

Respondents : Aijaz and Jakhro, through Mr. Ishrat Ali Lohar,
Zulfiqar Ali Korai, Advocates.

The State : Through Mr. Shahzado Saleem Nahiyoona,
Additional P.G.

Date of hearing : 29-09-2025.

Date of decision : 29-09-2025.

J U D G M E N T

Amjad Ali Sahito, J:- Through this single judgment, we intend to decide the captioned Criminal Appeal, Appeal against acquittal, as well as Criminal Revision Application together as all arisen out of one and same incident, FIR as well as a judgment passed by the learned trial Court hence involve common questions of facts and law.

2. Through Criminal Appeal No.S-140 of 2024, the appellants/accused Aijaz and Jakhro have impugned the judgment dated 20-07-2023, passed by learned Additional Sessions Judge, Khipro, in Sessions Case No.557/2021(Re. The State v. Muhammad Hayat and others), emanated from crime No.36/2021, registered at PS Khahi under sections 302, 324, 506(2), and 34 PPC, whereby after full-fledged trial, the learned trial Court convicted them under section 302(b) PPC and sentenced them to suffer imprisonment for life under Section 302(b) PPC, with fine of Rs.200,000/=, each to be paid to the legal heirs of the deceased as provided under section 544-A Cr.P.C, and in default thereof, to suffer S.I for six months more. The appellant/accused Jakhro was also sentenced for the commission of the offence under section 337-A(i) PPC for one year and also pay Daman of Rs.10,000/- in default thereof, he shall suffer S.I for six months more. However, benefit of section 382-B Cr.P.C was extended to the appellants; while accused Muhammad Hayat was acquitted by the learned trial Court.

3. Through Criminal Acquittal Appeal No.D-26/2024, appellant/complainant Sadique Ali has challenged the judgment dated 20.07.2023 passed by learned Additional Sessions Judge, Khipro, in Sessions Case No.557/2021(Re. The State v. Muhammad Hayat and others), emanated from crime No.36/2021, registered at PS Khahi under sections 302, 324, 506(2), and 34 PPC, whereby, the learned trial Court extending the benefit of doubt acquitted the respondent/accused Muhammad Hayat.

4. Through Criminal Revision No.D-16/2024, applicant Sadique Ali assailed the legality and propriety of the judgment

dated 20.07.2023 passed by the learned Additional Sessions Judge, Khipro, in Sessions Case No.557/2021(Re. The State v. Muhammad Hayat and others), emanated from crime No.36/2021, registered at PS Khahi under sections 302, 324, 506(2), and 34 PPC, praying therein to enhance the sentence from imprisonment of life awarded to the respondents No.1&2 to death.

5. Brief facts of the prosecution case as per contents of FIR lodged by complainant Sadique Ali S/o Habibullah, by Caste Dars, R/o Village near Mathoon, Taluka Khipro, District Sanghar are that he used to reside at the given address. There is dispute over the ownership of the land of village with Muhammad Hayat Chaniho, due to which Muhammad Hayat and others were annoyed and usually issuing threats to vacate the village. On 08-08-2021, he, his nephew Imam Bux S/o Muhammad Ramzan Dars aged about 32/33 years and cousin Muhammad Saleh S/o Allahdino Dars were going towards Jamalabad Stop and when at about 0830 hours reached at Hayatabad Stop where saw that namely each Muhammad Hayat and Muhammad Umar both sons of Faqeer Muhammad Chaniho carrying hatchets, Aijaz S/o Muhammad Hayat Chaniho and Jakhro S/o Nabi Bux Chaniho having lathis were standing and beside them one Corolla Car No.BMR-755 white colour was standing, on seeing them by making Hakal told that they have already told them so many times to vacate their houses and migrate away so also why they are moving applications against them, today they will teach lesson, by saying so Muhammad Hayat caused right side hatchet blow over the head of Imam Bux and accused Muhammad Umar caused right side hatchet blow over the head of Imam Bux and accused Aijaz caused lathi blow to him over his forehead and Imam Bux fell down and blood raised from his injuries and accused Aijaz and Jakhro caused lathi blows to Imam Bux over his back side.

6. The complainant intervened to rescue but Jakhro caused lathi blow over his head and he fell down and blood raised, then Muhammad Saleh requested the accused persons and accused

persons by issuing threats boarded in their car and went away towards their houses. Muhammad Saleh by arranging vehicle took him and injured Imam Bux brought at Taluka Hospital Khipro for treatment where the doctor after seeing Imam Bux told that he is dead, meanwhile cousin Anwar Ali Dars reached at hospital who informed to police and police issued letter for treatment and after seeing dead body of Imam Bux completed necessary formalities and got conducted postmortem report and handed over dead body to them, then he after burying the dead body appeared at PS and lodged FIR that the above said accused persons duly armed with hatchets and lathis, in furtherance of their common intention, due to previous dispute, caused hatchets and lathis blows with intention to commit murder, caused hatchets and lathi blows to Imam Bux and he died.

7. After usual investigation police submitted challan before the court learned Judicial Magistrate, Khipro, by showing accused persons in custody while accused Muhammad Umar as absconder. The learned Magistrate carried out formalities as required U/S 87 & 88 Cr.PC against the above absconded accused, declared him proclaimed offender and proceedings of his case in his absentsia as provided U/S 512 Cr.P.C.

8. Case papers were already supplied to accused, vide receipt at Ex.03. Charge was framed against the present accused at Ex.04, to which they pleaded not guilty and claimed to be tried, vide their pleas recorded at Ex.05 to 07, respectively.

9. Accordingly, the prosecution examined several witnesses. The complainant, Sadique Ali (Exh.08), produced a copy of the FIR (Exh.08/A). PW-02 Muhammad Saleh, an eye-witness (Exh.09), and PW-03 Anwar Ali, a mashir (Exh.10), were also examined. Anwar Ali produced: the memo of injuries of Sadique Ali (Exh.10/A), Lash Chakas form (carbon copy), original Danishtnama, memo of inspection of the dead body, memo of the deceased's clothes, and receipt (Exh.10/B to 10/F). He further produced the memo of place of incident (Exh.10/G), memo of arrest of accused Muhammad Hayat (Exh.10/H),

memo of arrest of accused Aijaz and Jakhro (Exh.10/I), memo of recovery (Exh.10/J), memo of photographs of the deceased, certain newspaper clippings, report of Mukhtiarkar, and protection order of the ADJ Court to police/IO (Exh.10/K), as well as the memo of recovery of a hatchet (Exh.10/L). PW-04 IO SIP Sultan Ahmed (Exh.11) produced: order of SSP Sanghar (Exh.11/A), entry No.07 (Exh.11/B), entries Nos. 11, 12 & 16 (Exh.11/C), entries Nos. 7 & 8 (Exh.11/D), entries Nos. 9 & 10 (Exh.11/E), memo of securing video clip with USB (Exh.11/F), chemical report of bloodstained earth and deceased's clothes (Exh.11/G), entries Nos. 30 and 02 (Exh.11/H), letter to Mukhtiarkar (Exh.11/I), PS copy of application moved to learned Civil Judge & JM Khipro (Exh.11/J), memo of recovery of USB (Exh.11/K), report of Punjab Laboratory with USB (Exh.11/L), permission letter of SSP Sanghar, challan form of cost, letter for Punjab Forensic Agency Lahore, and a separate Urdu letter to the laboratory (Exh.11/M). He also produced the list of legal heirs of deceased (Exh.11/N), departure entry No.19 and arrival entry No.19 (Exh.11/O), letter with receipt (Exh.11/P), laboratory report consisting of two leaves (Exh.11/Q), and corrigendum of laboratory report (Exh.11/R). PW-05 Dr. Haresh Kumar (Exh.12) produced: carbon copy of police letter (Exh.12/A), Provisional Medical Certificate of injured Sadique Ali (Exh.12/B), Final MLC (Exh.12/C), police letter for postmortem (Exh.12/D), provisional postmortem report (Exh.12/E), Final Postmortem Report (Exh.12/F), and Chemical Report (Exh.12/G). PW-06 WPC Shah Nawaz (Exh.13) produced attested copy of entry No.26 (Exh.13/A) and entry No.22 (Exh.13/B). PW-07 PC Sarfraz Ali (Exh.14) produced: letter (Exh.14/A), entry No.29 (Exh.14/B), entry No.23 (Exh.14/C), carbon copy of letter with receipt showing 08 properties (Exh.14/D), and entry No.04 (Exh.14/E). Thereafter, the prosecution closed its side, vide statement at Exh.15.

10. At the conclusion of trial, the statements of the accused under Section 342 Cr.P.C. were recorded at Exh.16 to 18, wherein they professed innocence and prayed for justice. Accused Muhammad Hayat stated that he intended to examine

defence witnesses and further explained that he owns a property market at Hayatabad, which he had rented out to various persons, including members of the complainant party. According to him, the complainant party sought to usurp his property and, therefore, instituted this false case. He further stated that there had been a free fight between shopkeepers belonging to different castes and the complainant party; that he was present at the spot empty-handed; and that he only urged the parties to maintain peace and avoid fighting. He added that around 100–150 people were present, and the incident was later made viral on social media. The accused, however, did not examine themselves on oath, but led evidence of one Hakeem in their defence at Exh.19.

11. The learned trial Court after hearing the arguments of learned counsel for the parties and appraisal of evidence convicted the appellants as stated above. The sentence awarded to the appellants has been impugned by them before this Court by way of filing the instant appeal.

12. It is primarily contended by the learned counsel for the appellants that there exist material contradictions and discrepancies in the testimonies of the prosecution witnesses, and that the learned Trial Court had rightly acquitted the respondent/accused Muhammad Hayat, as the video footage of the incident clearly depicts that he was empty-handed at the relevant time. However, it is submitted that the learned Trial erroneously convicted the appellants/accused Aijaz and Jakhro. The learned counsel further argued that it is a well-settled principle of law, as enunciated by the Honourable Apex Court, that *“where one accused is acquitted on the same set of evidence, the co-accused cannot be convicted on the basis of the same evidence.”* The learned Trial Court, however, disregarded this settled principle and proceeded to convict the appellants.

13. It is further submitted that the learned Trial Court did not properly evaluate the material contradictions and inconsistencies in the prosecution evidence, and without proper appreciation of the record, discarded the defence version in an

arbitrary manner, convicting the appellants under Section 302(b), PPC. No direct or circumstantial evidence has been brought on record to connect the appellants with the commission of the alleged offence; therefore, the conviction and sentence are contrary to law and facts on record.

14. The learned counsel further submitted that the prosecution evidence is unreliable, suffers from material contradictions, and lacks independent corroboration, rendering the impugned judgment liable to be set aside. It is also contended that the learned Trial Court committed serious irregularities and illegalities in passing the impugned judgment dated 20.07.2023, whereby the appellants Aijaz and Jakhro were convicted and sentenced to life imprisonment under Section 302(b), PPC, despite the absence of cogent and trustworthy evidence.

15. He further argued that it is a settled proposition of law that even a single circumstance creating doubt in the prosecution case must enure to the benefit of the accused; however, the learned Trial Court ignored this cardinal principle of criminal jurisprudence. The impugned judgment is thus based on conjectures and surmises, passed in a cursory and haphazard manner, and therefore is not sustainable in the eye of law. Accordingly, the learned counsel prayed for setting aside the impugned judgment and acquittal of the appellants. In support of his contentions, learned counsel for the respective appellants relied upon case law reported in PLD 2019 Supreme Court 527, unreported judgment of High Court of Sindh At Karachi, unreported judgment of High Court of Sindh, Bench At Sukkur, case of Atta Muhammad v. The State (2023 MLD 1795), unreported judgment of High Court of Sindh Circuit Court, Hyderabad, case of Abdul Aziz Bhatti v. The State (2019 YLR Note 49), case of Naeem alias GUNDA v. The State (2019 P Cr. L J 305), unreported judgment of High Court of Sindh, Circuit Court, Larkana, case of Ubedullah and 2 others v. The State (2019 YLR 1829), case of Ghulam Muhammad and others v. The State (2019 YLR 2037), case of Sanaullah and another v. The State (2020 YLR Note 69), case of Muhammad Kashif v. The

State (2024 YLR 2433), case of Khamiso and another v. The State (2020 YLR Note 78), case of Muhammad Hashim Shah and others v. The State and others (2023 YLR 1768), case of Muhammad Waris and others v. The State and others (2019 YLR 1146), case of Muhammad Paryal v. The State (2019 YLR 2316) and The State through Advocate-General v. Muhammad Ajmal alias Akram Lahori and 2 others.

16. On the other hand, learned Additional Prosecutor General assisted by learned counsel for the complainant, while opposing the contentions raised by learned counsel for the respective appellants and supporting the impugned judgment contended that the prosecution has fully established its case against the appellants beyond reasonable doubt by producing consistent/convincing and reliable evidence and the contradictions whatever on record are of minor in nature and are not fatal to the prosecution case; hence they prayed for dismissal of instant Criminal Appeal. In support of his contentions learned Additional Prosecutor General Sindh has relied upon case of Altaf Hussain v. The State (2025 SCMR 1427). However, in support of his contentions learned counsel for the complainant has relied upon cases of Aqil v. The State (2023 SCMR 831), Sikandar Ali Lashari v. The State (2020 YLR 2543), Nasir Ahmed v. The State (2023 SCMR 478), Imran Mehmood v. The State and another (2023 SCMR 795), Amanullah v. The State and others (2023 SCMR 723), Ahtisham Ali v. The State (2023 SCMR 975), Ansar Ahmed v. The State and others (2023 SCMR 929), Aijaz Nawaz v. The State (2019 P Cr. L J 1775), Sikander Teghani v. The State (2016 YLR 1098), Ansar Mehmood v. Abdul Khaliq and another (2011 SCMR 713), Nawab Ali v. The State (2014 P Cr. L J 885), Ghulam Ali and another v. The State (2023 P Cr. L J Note 91), Muhammad Kashif v. The State (2024 P Cr. L J 1005) and Mohammad Hassan v. The State (2016 MLD 1167).

17. We have heard learned counsel for the respective parties and perused the record.

18. Upon meticulous perusal of the material placed on record, it transpires that the prosecution case primarily rests upon the ocular account furnished through the testimonies of the complainant, Sadique Ali, and the eye-witness Muhammad Saleh, which is further supported by medical and circumstantial evidence. Upon analysis of the depositions of the complainant and the eye-witnesses, it is observed that both the complainant and the eye-witness Muhammad Saleh have candidly admitted the existence of a prior dispute between the parties. In the instant case, the principal accused Muhammad Hayat was acquitted by the learned Trial Court on the basis of the video recordings of the incident, which were captured by independent persons.

19. The pivotal question now arising for consideration before this Court is whether, on the same set of evidence on which the principal accused was acquitted by the learned Trial Court, the co-accused can lawfully be convicted.

20. In the First Information Report (Ex. 08/A), the complainant alleged that accused Muhammad Hayat, armed with a hatchet, inflicted a blow with the right side of the hatchet on the head of the deceased Imam Bux, while accused Muhammad Umar also caused a hatchet blow to the right side of the head of the said deceased. The specific role attributed to the present appellants was that accused Aijaz struck the complainant on his forehead with a lathi, whereas appellant Jakhro inflicted lathi blows upon the back of deceased Imam Bux. Both the complainant, Sadique Ali (PW-1), and the eye-witness Muhammad Saleh (PW-2), during their examination-in-chief, supported the version narrated in the FIR and assigned the role of main assailant to Muhammad Hayat.

21. However, when confronted during trial with the video clips produced as evidence, the prosecution witnesses made contradictory statements. The video recordings exhibited in Court clearly depict that Muhammad Hayat was empty-handed and did not attack any person. Video Clips No.12 and No.13 demonstrate that Muhammad Hayat was standing empty-

handed among the crowd and did not cause any injury to the deceased or the prosecution witnesses. Similarly, Video Clip No.17 shows Muhammad Hayat attempting to pacify the people rather than participating in the assault, while Video Clip No.18 again depicts him standing idle and unarmed, whereas a large number of other individuals were engaged in fighting. The Forensic Report of Digital Evidence (Ex. 19/A) confirmed that the aforesaid video clips were genuine and untampered.

22. The Investigating Officer, SIP Sultan Ahmed (Ex. 11), deposed that the video of the incident had gone viral on social media, whereupon he downloaded the relevant clips onto a USB device. With the permission of the SSP Sanghar, he forwarded the said USB to the Punjab Forensic Science Laboratory for examination and subsequently received the report dated 06.11.2021. The report, along with the USB, was deposited and exhibited as Ex. 11/L, wherein the result confirmed that *“no editing features were observed in the visual contents of the eight (08) videos mentioned from Sr. No. 1 to 8 contained in item No.1.”*

23. During cross-examination, the Investigating Officer admitted that in Video Clips No.12 and No.13, accused Muhammad Hayat is clearly visible as being empty-handed and that no act of causing injury is attributed to him therein. He further acknowledged that the complainant party had protested against the exclusion of Muhammad Hayat from the list of accused persons. Moreover, accused Muhammad Hayat examined defence witnesses in his support, and DW Hakeem corroborated the defence version, affirming that Muhammad Hayat was empty-handed and was only present at the scene in an attempt to pacify the quarrel.

24. The complainant admitted in his cross examination that *“It is correct to suggest that PW Muhammad Saleh in his video clip No.17 stated that on the day of incident there were more than 150 armed persons available there. Voluntarily says this video clip is after incident. It is correct to suggest that in this video PW Muhammad Saleh also stated that those 150 persons attacked upon us”*. The eye witness/PW Muhammad Saleh did not

conflict with the above statement of the complainant and in his cross examination he further deposed that *“I uploaded two my videos on my social account on that day. Video No.17 is my video. It is correct to suggest that I have not stated in this video clip that accused Muhammad Hayat and Muhammad Umer were armed with hatchet and accused Aijaz and Jakhro were armed with lathis and committed the alleged offence. Voluntarily says since we were disturbed perturbed and our persons were injured, therefore, I did not say so in my video. Probably I might have stated in my video clip that about 150 armed persons attacked upon us. Voluntarily says I was disturbed and said so in such position”*

25. The testimonies of the complainant and the eye-witness Muhammad Saleh reveal that there existed a prior dispute between the parties. Both witnesses further conceded that at the time of the incident, more than 150 armed individuals were present at the scene. Significantly, in Video Clip No.17, which was uploaded by Muhammad Saleh himself, there is no indication or specific allegation that accused Muhammad Hayat and Muhammad Umar were armed with hatchets, or that accused Aijaz and Jakhro were armed with lathis and had participated in the commission of the alleged offence.

26. The omission of such material details in the contemporaneous account of the incident, coupled with the admitted presence of a large and armed crowd, casts grave doubt upon the veracity of the prosecution’s version and the specific attribution of roles to the named accused. These contradictions and omissions materially undermine the credibility of the prosecution witnesses, thereby rendering their testimony unreliable and unsafe to form the basis of conviction in the absence of independent and trustworthy corroboration.

27. The Investigating Officer also deposed in his cross examination that *“It is correct to suggest that in video No.12 and 13 showing that accused Muhammad Hayat is empty handed present there amongst other people. It is correct to suggest that in that video accused Umar, Aijaz and Jakhro are not visible. Both*

parties denied to this video No.12 and 13 of the incident. It is correct to suggest that these both videos 12 and 13 were download by me from social media. It is correct to suggest that complainant is himself and stated in his video No.14 that thousand people attacked upon the shops of him. Video No.17 is video of PW Muhammad Saleh stated in his video that accused Muhammad Hayat with company of about hundred people attacked upon the complainant party and caused injuries to them”.

28. From the cross-examination of the Investigating Officer, several material aspects have emerged which substantially weaken the reliability of the prosecution’s evidence and bring to light significant contradictions therein. In Video Clips No.12 and 13, the Investigating Officer candidly admitted that accused Muhammad Hayat is seen empty-handed, merely standing among other individuals, with no visible weapon or act of aggression on his part. This observation directly negates the prosecution’s allegation of his active participation in the occurrence and, at best, indicates his mere presence at the scene, which by itself does not constitute proof of guilt.

29. Furthermore, in Video Clip No.14, the complainant himself asserted that approximately one thousand persons had attacked his shops. Such a statement creates serious ambiguity regarding the identification of specific accused persons, particularly when the videos depict large crowds without clearly showing the named accused. Conversely, in Video Clip No.17, prosecution witness Muhammad Saleh alleged that Muhammad Hayat, accompanied by nearly one hundred individuals, attacked the complainant party and caused injuries. This glaring contradiction between the visual evidence, showing the accused as “*empty-handed and passive*” (Videos No.12 and 13), and the oral assertion of “*leading an attack with a hundred people*” (Video No.17 and PW statement) seriously undermines the consistency and credibility of the prosecution’s case.

30. In light of these material inconsistencies and the absence of conclusive evidence establishing the appellants’ participation

in the alleged offence, the benefit of doubt must necessarily be extended to the accused.

31. In view of the foregoing discussion, a pertinent question arises as to whether the evidence recorded through a modern device constitutes admissible evidence within the contemplation of law. It is, therefore, appropriate to reproduce Article 164 of the Qanun-e-Shahadat Order for proper appreciation.

164. Production of evidence that has become available because of modern devices, etc. In such cases, as the Court may consider appropriate, the Court may allow to be produced any evidence that may have become available because of modern devices or techniques.

32. A bare reading of article 164 makes it quite clear that the Courts not only may allow any evidence, became available because of modern devices or techniques but can also consider the same. At this point. We would like to write here paragraph/passage taken from the book of “**Electronic Evidence**” Second Edition by Stephen Mason.

“10.46. Audiotapes were also accepted as a discoverable document in *Grant v. Southwestern and Country Properties Ltd*, in which the meaning of a document was defined by its quality to convey information, as determined by Walton J at 198: ‘I conclude that a tape recording, provided of course that what is recorded is indeed information – relevant sounds of some description is a document.’ Television film is also considered a document, as is the output of facsimile transmissions, data stored on a computer (in this instance, a database) constitute a document for the purposes of the obligation to discover under the provisions of Order 24 of the Rules of the Supreme Court, and a label on a bottle containing a specimen of blood provided by the accused/ the material may sometimes determine the admissibility of the evidence, but the definition is considered wide enough to bring any medium into its ambit without causing difficulties. The term document is something upon which information is stored. This must be correct, because if the information is not stored, the content is not available, and therefore, remains oral evidence.”

“10.91. **Surveillance cameras are very much part of life in the twenty-first century, the foundations of which began in the latter decades of the twentieth century. Evidence of images from security cameras can be very helpful in identifying the perpetrators of crimes, and the enhancement of the images, together with the use of more advanced techniques such as facial mapping, can help to identify parties to an**

offence. Such evidence has been admitted in English Courts, mainly in criminal cases.”

The above book is available at the given below website:-

[“http://humanities-digital-library.org/index.php/hdl/catalog/view/electronicvidence/16/93-1”](http://humanities-digital-library.org/index.php/hdl/catalog/view/electronicvidence/16/93-1)

33. Thus, it can safely be concluded that the evidence comprising CCTV footage, DVD cassette/video recordings, and USB devices produced before the learned Trial Court is admissible under Article 164 of the Qanun-e-Shahadat Order, 1984, subject to the condition that the report issued by the Forensic Science Agency confirms that “no editing feature was observed in the visual contents.” Accordingly, such evidence is relevant for the purpose of proving the asserted fact.

34. The Investigating Officer categorically confirmed that the accused namely Umar, Aijaz, and Jakhro are not visible in video clips marked as Nos. 12 and 13. This omission raises serious doubt regarding the prosecution’s allegation of their participation in the occurrence and suggests the possibility of mistaken identity or false implication. Moreover, upon careful examination of the video evidence and the forensic report (Ex.19/A), it was established that accused Muhammad Hayat was not responsible for causing the fatal injury. Consequently, the prosecution failed to substantiate the charge against him beyond reasonable doubt, leading the learned Trial Court to acquit the said accused by extending the benefit of doubt.

35. It is a well-settled principle of law that a witness who is found to have deposed falsely on any material aspect of the case cannot be deemed credible with respect to any other portion of their testimony, as the presumption of veracity stands extinguished once the witness is shown to be capable of perjury. The law does not countenance partial or selective reliance upon the testimony of such a witness.

36. Furthermore, the First Information Report (FIR) was lodged after an unexplained delay of approximately fourteen (14) hours, indicating due deliberation and consultation, thereby further diminishing the credibility of the prosecution’s case. In

these circumstances, the ocular account stood contradicted by the objective video evidence, rendering it unreliable.

37. As pointed out above the contradictions in the evidence of prosecution witnesses, they have discarded the veracity of their statements, which are sufficient to render the entire case of the prosecution to be highly doubtful. In this context, the reliance is placed upon case of **'ZAFAR vs. The STATE' (2018 SCMR 326)**, wherein the Hon'ble Supreme Court of Pakistan has held that:-

11. Having discussed all the aforesaid aspects of the case, it has been observed by us that medical evidence, motive, recovery and for that matter absconding of appellant are merely supportive/corroborative piece of evidence and presence of eyewitnesses at the place of occurrence at the relevant time has been found by us to be doubtful, no reliance can be placed on the supportive/corroborative piece of evidence to convict the appellant on capital charge.

38. The upshot of the above discussion is that the prosecution has miserably failed to bring home the guilt of the appellants beyond reasonable doubt and it is a settled proposition of law that for giving the benefit of the doubt to an accused there doesn't need to be many circumstances creating doubts if there is a single circumstance which creates reasonable doubt about the guilt of the accused, then the accused will be entitled to the benefit. In this respect, reliance can be placed upon the case of **MUHAMMAD MANSHA v. THE STATE** reported in 2018 SCMR 772, wherein the Hon'ble Supreme Court of Pakistan has held that:-

*“4. Needless to mention that while giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of such doubt, not as a matter of grace and concession, but as a matter of right. It is based on the maxim, “it is better that ten guilty persons be acquitted rather than one innocent person be convicted”. Reliance in this behalf can be made upon the cases of **Tarique Parvez v. The State (1995 SCMR 1345)**, **Ghulam Qadir and 2 others v. The State (2008 SCMR 1221)**, **Muhammad Akram v. The State (2009 SCMR 230)** and **Muhammad Zaman v. The State (2014 SCMR 749)**.*

39. In view of the foregoing discussion, Criminal Appeal No.S-140 of 2024 was allowed vide short order dated 29.09.2025. Consequently, the impugned judgment dated 20.07.2023, passed by the learned Additional Sessions Judge, Khipro, in Sessions Case No. 557 of 2021 (Re: The State v. Muhammad Hayat and others), arising out of Crime No. 36 of 2021 registered at Police Station Khahi under Sections 302, 324, 506(2), and 34, Pakistan Penal Code, was set aside.

40. Accordingly, the appellants namely Aijaz and Jakhro were acquitted of the charge. Since the appellants were confined in jail, it was further directed that they be released forthwith if not required in any other custody case.

41. However, Criminal Acquittal Appeal No. D-26 of 2024, filed against the acquittal of co-accused Muhammad Hayat, as well as Criminal Revision Application No. D-16 of 2024, filed for enhancement of sentence, stand dismissed. The case law cited by the learned counsel for the complainant was found to be distinguishable on facts and circumstances and, therefore, inapplicable to the present matter.

42. These are the reasons for our short order dated 29.09.2025.

JUDGE

JUDGE

*Adnan Ashraf Nizamani