IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Appeal No. S-16 of 2025

Appellant:	Bakhshal, *through* Mr. Alam Sher Khan Bozdar, Advocate
The State:	*Through* Syed Sardar Ali Shah Rizvi, Additional Prosecutor General
Date of Hearing:	20-06-2025.
Date of Short Order:	20-06-2025.
Date of Reason:	27-06-2025.

JUDGMENT

Ali Haider 'Ada',J;- Through this appeal, the appellant assailed the judgment dated 31.01.2025, passed by the learned Additional Sessions Judge-II, Mirpur Mathelo (hereinafter referred to as the "trial Court") in Sessions Case No. 151 of 2024, titled The State vs. Bakhshal, arising out of Crime No. 48 of 2024, registered for an offence punishable under Section 24 of the Sindh Arms Act, 2013. After a full-fledged trial, the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of seven (07) years, along with a fine of Rs. 10,000/- (Rupees Ten Thousand only). In default of payment of the fine, he was further directed to undergo simple imprisonment for a period of two (02) months. However, the benefit of Section 382-B, Cr.P.C., was extended to the appellant.

2. The prosecution case, in brief, is that the complainant, SIP Qasim Ali, who was also the Investigating Officer in Crime No. 47 of 2024 registered against the present appellant for offences punishable under Sections 302, 311, and 34 PPC (being the main case), had already arrested the appellant and was interrogating him during the period of remand. During the interrogation, the appellant confessed and disclosed that he was willing to produce the weapon used in the said offence, which was concealed at his house. Upon this disclosure, a police party headed by the complainant proceeded to the residence of the accused. Upon arrival, the appellant led the police to a specific place in his house and produced a single-barrel gun, stating that it was the weapon used in Crime No. 47 of 2024. The recovery was effected in the presence of private mashirs, namely Hamid Ali and Hazaro. Thereafter, a memo of imaginary arrest and recovery was prepared on the spot, duly signed

by the said mashirs. Subsequently, after completing all necessary legal formalities, a separate FIR was registered against the appellant for an offence punishable under Section 24 of the Sindh Arms Act, 2013.

3. After completion of the investigation, the Investigating Officer submitted the final challan against the appellant and sent him up for trial. The learned trial Court supplied copies of the relevant documents to the appellant in compliance with Section 265-C, Cr.P.C. On 28.12.2024, the charge was framed against the appellant, to which he pleaded not guilty and claimed trial. Thereafter, the prosecution was permitted to lead its evidence. In support of its case, the prosecution examined the following witnesses:

> *PW-1:* SIP Qasim Ali**,** the complainant and Investigating Officer of the case, who in his deposition produced and exhibited the memo of imaginary arrest and recovery of the crime weapon, relevant roznamcha entries showing departure and arrival of the police party, copy of the FIR, road certificate, report of the Ballistic Expert, and photograph of the recovered weapon.
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> *PW-2:* Sher Jhan**,** who accompanied the complainant as a member of the police party and acted as a witness to the recovery proceedings.
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> *PW-3:* Hazooro Khan**,** private mashir of the memo of imaginary arrest and recovery.
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> *PW-4:* Hamid Ali, another private mashir of the memo of imaginary arrest and recovery of the weapon.
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> *PW-5:*Ashiq Hussain**,** the official responsible for dispatching the recovered weapon to the Forensic Science Laboratory.

4. After recording the statements of the above witnesses, the learned State Counsel closed the prosecution side by filing a statement to that effect. Thereafter, the learned trial Court recorded the statement of the accused under Section 342, Cr.P.C. In his statement, the appellant denied the allegations, professed his innocence and prayed for acquittal. However, he neither examined himself on oath under Section 340(2), Cr.P.C., nor did he lead any defence evidence.

5. Subsequently, after hearing arguments from both sides, the learned trial Court passed the impugned judgment dated 31.01.2025, convicting the appellant as mentioned earlier. The said judgment is now assailed before this Court through the instant criminal appeal.

6. The learned counsel for the appellant contended that this is a case of no evidence, as both private mashirs of the memo of imaginary arrest and recovery did not support the prosecution case. They categorically denied witnessing the alleged recovery or discovery of the crime weapon. He further argued that the appellant was previously booked in the main case bearing Crime No. 47 of 2024, under Sections 302, 311, and 34 PPC, but was acquitted of the said charges by the same trial Court through a judgment dated 31.01.2025. No appeal has been filed against that acquittal and therefore, the said judgment has attained finality. In such circumstances, once the appellant has been acquitted in the main case, the benefit of that acquittal must extend to the present case as well, since the recovery of the alleged weapon was solely connected to the earlier crime in which he now stands acquitted.

7. On the other hand, the learned State Counsel argued that each criminal case must be decided on its own merits and the recovery of the weapon was duly effected and documented during the investigation. He contended that the recovery, being a substantive piece of evidence, cannot be lightly ignored merely due to the appellant's acquittal in the previous case. Therefore, the findings of the learned trial Court are well-reasoned. He accordingly supported the impugned judgment.

8. Heard, arguments advanced by the learned counsel for the appellant as well as the learned State Counsel and perused the material available on record with due and deeper appreciation.

9. The prosecution case primarily rests upon the disclosure made by the accused during the course of investigation, wherein he volunteered to produce the crime weapon allegedly used in Crime No. 47 of 2024. Acting upon such information, the police party, led by the complainant and accompanied by mashirs, proceeded to the accused's residence, where he pointed out and recovered a single-barrel gun from his house. On the basis of this recovery, a separate FIR was registered against the accused under Section 24 of the Sindh Arms Act, 2013**.** As far as the relevancy of this discovery is concerned, Article 40 of the Qanun-e-Shahadat Order, 1984, is invoked which deals with facts discovered as a consequence of information received from an accused while in custody. For reference, **Article 40 of the Qanun-e-Shahadat Order, 1984,** is relevant in this context and reproduced as under:

40. ***How much of information received from accused may be proved:***

When any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

10. In order for the prosecution to successfully invoke Article 40 of the Qanun-e-Shahadat Order, 1984**,** it must satisfy certain foundational requirements and the prosecution must establish that accused was in custody of a police officer**;** and voluntarily made a statement or provided information**;** Such statement or information led to the discovery of a new fact relevant to the offence; fact discovered was not previously within the knowledge of the police**;** and disclosure and recovery process must be properly documented**,** preferably through a written memo prepared in the presence of reliable witnesses.

11. The mere recovery of an article or weapon, without a corresponding and properly recorded disclosure by the accused while in custody, would not bring the case within the ambit of Article 40. The evidentiary value under this article is not in the recovery alone, but in the nexus between the accused's statement and the discovery of the fact**.** In the present case, the prosecution has failed to establish that the accused made a specific and voluntary disclosure while in police custody that distinctly led to the recovery of the alleged weapon. There is no statement of disclosure on record which confirms the accused's information preceding the recovery. Additionally, both private mashirs produced by the prosecution have not supported the case, and in fact, denied witnessing the recovery or the accused's disclosure**.** In view of this, the basic preconditions for invoking Article 40 of the Qanun-e-Shahadat Order,1984 have not been fulfilled. Consequently, the prosecution cannot derive any legal benefit from Article 40 in this case, as the evidentiary chain necessary to render the recovery admissible and credible is incomplete and unreliable**.**

12. The legal position is further fortified by the judgment laid down by the **Honourable Supreme Court** in the case titled **Zafar Ali Abbasi and another vs Zafar Ali Abbasi and others** reported as **2024 SCMR 1773**, wherein it was categorically held that:

5.In order to bring the case within the ambit of Article 40 of the Qanun-e-Shahadat Order, 1984, the prosecution must prove that a person accused of any offence, in custody of police officer, has conveyed an information or made a statement to the police, leading to discover of new fact concerning the

offence, which is not in the prior knowledge of the police. Such information or statement should be in writing and in presence of witnesses. In absence of information or statement from a person, accused of an offence in custody of police officer, discovery of fact alone, would not bring the case of the prosecution under the said Article. According to the prosecution, a dagger used in the commission of the offence was recovered on the disclosure and pointation of the appellant. Surprisingly, the I.O. did not record the information received from the appellant in writing, in presence of a witness, while he was in police custody. The prosecution has failed to establish any disclosure from the appellant, therefore, recovery of the dagger, in the circumstances was immaterial. Even otherwise, the I.O. stated that the recovery of the dagger was effected on the pointation of the appellant, in presence of PW-5, who is also a nephew of the deceased. According to the said witness, the dagger was wrapped in a black colour shopper, but when it was presented before the Trial Court, it was unsealed and was wrapped in a white colour plastic. None of the recovery witness put any identification mark upon it in order to exclude any possibility of foisting false recovery or substituting the recovered one. The manner in which the dagger was taken into possession and produced in the Court, creates doubt regarding its recovery, therefore, the High Court has rightly disbelieved it.

13. This principle was further elaborated and reinforced in the case of **Nadeem Shah vs The State** reported as **(2024 YLR 1127 Lahore-DB)**, where the Division Bench held:

Article 40 of Qanun-e-Shahadat Order, 1984 provides an exception to the rule embedded in Articles 38 and 39. According to the exception contemplated in Article 40 of Qanun-e-Shahadat Order, 1984, an incriminating fact discovered in consequence of an information provided by an accused while in the custody of a police officer can still be proved against him. For the clarity of proposition, we feel it essential to have a look upon the phraseology of Article 40 which is reproduced in verbatim hereunder:-

> *"How much of information received from accused may be proved. When any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered may be proved."*

Through bisection of Article 40, it can be gathered that for providing admissibility to the statement of an accused made in the police custody, it is incumbent upon the prosecution to prove the following ingredients:-

(i) In pursuance of information so provided by the accused some fact not previously known to anyone be discovered;

(ii) The discovered fact must be perceivable through senses;

(iii) The fact so discovered must be distinctly related with the fact in issue.

While taking advantage of the case, we intend to clarify that only such portion of the statement of an accused can be brought on record under Article 40 which relates to the discovery of a fact and not his confession about the crime. Article 40 vividly is an enabling provision whereby prosecution is permitted to bring on record only the portion of a statement or confession made by the accused in the police custody through which some fact having relevancy with the crime is discovered. In the instant case, through the

evidence of Dilawar (PW.9) and Abid Ali ASI (PW.11), the statement of appellant was brought on record whereby he confessed to have sodomized the victim before strangulating him to death. Needless to mention here that since this portion was purely a confession, thus could not be brought on record. The prosecution, through necessary implication of Article 40, could only bring on record the disclosure of the appellant whereby he volunteered to lead the police and witnesses towards the recovery of dead body as this was a fact discovered through such statement. It will be beneficial to refer an observation of Federal Shariat Court of Pakistan expressed in case reported as Pervaiz Masih v. The State (2005 PCr.LJ 1232) as under:-

> *"From perusal of the above portion of P.W.15's statement particularly the underlined parts, it is quite clear that the witness talks about two disclosures; one made before him regarding murder of Shan Masih and secondly with regard to concealment of the weapon of offence, hence, I see force in the contention raised by the learned counsel for the appellant that so far as the disclosure made by him with regard to the murder of Shan Masih is concerned which amounts to confession otherwise, was inadmissible in view of the clog contained in Articles 38 and 39 of "the order" as in pursuance thereof no 'fact' was discovered. However, subsequent part of his statement which relates to the disclosure regarding concealment of "Chhuri" is concerned that was admissible because the weapon of offence was recovered in pursuance thereof. However, we are afraid the evidence of the recovery of crime weapon by itself being evidence of purely of corroboratory nature, in the absence of any direct or substantive evidence, alone, was not sufficient to bring home charge against the appellant, particularly when neither Serologist's report nor Chemical Examiner's reports were produced or tendered in evidence so as to prove that the "Chhuri" was blood-stained and if it was so, it had human blood and was of the same group as was of the deceased."*

In order to prove during trial that the accused actually made a disclosure and subsequently led to the recovery of some fact, it is essential that a memo of his disclosure be prepared. Only the preparation of the memo testified by the witnesses will prove in subsequent trial that the fact was discovered in consequence of a lead and pointing out of the accused. While holding so, we are supported from the observation of the Supreme Court of Pakistan expressed in case reported as Abdul Mateen v. Sahib Khan and others (PLD 2006 Supreme Court 538) as under:-

> *"The learned High Court had also after scanning the evidence on record came to the conclusion that discovery of dead body on the pointation of respondent was highly doubtful as the prosecution failed to bring on record any memo. about the disclosure of respondent before witnesses or to bring on record any memo. About the seizure of dead body on the pointation of respondent coupled with the fact that memo. was prepared for recovery of blood-stained earth from the place of occurrence but the same has not mentioned about the recovery of dead body of deceased on pointation of respondent accused and the prosecution did not corroborate this piece of evidence through any independent piece of evidence. The learned High Court had also after properre-appraisal of the evidence on record had found recovery of weapon of offence from the respondent/ accused to be shrouded in doubt."*

14. Now turning to another critical aspect of the case, the evidence of the mashirs, who were private persons. Upon perusal of their recorded depositions, it becomes evident that both private mashirs categorically denied witnessing any recovery proceedings. They also denied any knowledge regarding the preparation of the memo of imaginary arrest and recovery of the alleged crime weapon. Both mashirs unequivocally stated that no weapon was recovered in their presence, and that their signatures were obtained on the memo without disclosing its contents to them. This admission, in itself, is sufficient to extend the benefit of doubt to the accused, as the prosecution's key witnesses, who were expected to corroborate the recovery not only failed to support the prosecution's version but also refuted its core claim. While the prosecution declared both witnesses hostile, and subjected them to cross-examination by the learned State Counsel, a detailed reading of their testimonies reveals that their stance remained firm and unshaken. The prosecution could not elicit anything substantial during cross-examination to discredit their credibility or to show that their testimony was influenced by malice, bias, or any inconsistency with material evidence. The adverse testimony of the mashirs, who were declared hostile but remained consistent and firm, casts serious doubt over the veracity of the alleged recovery. In this regard, guidance be drawn from the authoritative pronouncement in the cases of ***KHALIL-UR-REHMAN alias BHOLOO and another Versus The STATE and others*** **(2022 P Cr. L J Note 25-DB Sindh)** held that:

> *14. In order to further evaluate the version of the parties we have also noted that the whole prosecution case revolves around the evidence of complainant Sher Muhammad and two P.Ws namely Khuda Bux and Mehboob, who are said to be eye-witnesses of the incident. Needless to mention that P.W Khuda Bux whose evidence is available on record at Ex.11 in the R&Ps, by not supporting the case of prosecution has deposed that he cannot say whether the accused present in Court (trial Court) were the same because he had seen the culprits from their backside. This witness has been declared by the prosecution as hostile and cross-examined by learned ADDP, but his stance could not be shaken, therefore, the evidence of this witness create doubt in the prosecution case.*

HASHIM Versus The STATE and another (2020 P Cr. L J 895).

> *13.Now adverting to statement of Muhammad Riaz, the eye-witness of the alleged occurrence, who appeared as PW-9. The second eye-witness Nazir was abandoned on his being won over. In this case, at the relevant stage when examination in chief of PW-9 was being recorded, the complainant side felt that PW is speaking in a different tone, which is not favourable to the prosecution, the learned counsel for the complainant requested that the witness may be declared hostile. After due hearing and perusing the record, he was declared hostile and the parties were given opportunity to cross-*

examine him. We have gone through his statement minutely to adjudge the credibility and veracity of his statement. It is by now established that statement of such witness cannot be discarded altogether and has to be considered like the evidence of any other witness, but with a caution. In this context reliance can well be placed on the judgments reported as Zahid Khan v. Gul Sher and another 1972 SCMR 597, Muhammad Sadiq v. Muhammad Sarwar 1979 SCMR 214. After perusal of the statement of Muhammad Riaz (PW-9), we came to the conclusion that despite opportunity of cross-examination this witness was not confronted with his earlier statement recorded under section 161, Cr.P.C. Furthermore, nowhere he stated that he had seen the accused Hashim committing Zina with Tahira Sarfaraz. Thus, evaluation of entire evidence available on the record leads us to the irresistible conclusion that there is no corroboration to the statement of Mst. Tahira Sarfaraz.

Mst. FAREEDA and another Versus The STATE (2021 Y L R 1828)

19.As far as the credibility of the statement of said witness is concerned, that cannot be discarded out rightly; reason that despite she was declared hostile and cross-examined by prosecutor, prosecution could not shake her testimony and credibility. It is settled law that the hostile witness may be a truthful witness and a witness does not lose credibility merely on the ground that he had turned hostile. Court should take into consideration entire evidence of such witness to see whether any part of his/her evidence was worthy of belief in the light of the other evidence, and testimony of such witnesses cannot be discarded altogether and has to be considered like the evidence of any other witness, but with a caution. Reliance in this regard is placed upon the cases of Zarid Khan v. Gulsher and another 1972 SCMR 597, Muhammad Sadiq v. Muhammad Sarwar 1979 SCMR 214, Islam v. The State PLD 1962 Lahore 1053, Kaloo and 2 others v. The State 1973 PCr.LJ 334 and Muhammad Luqman v. The State 1989 MLD 1708.

TAIMOOR Versus The STATE (2021 Y L R 808)

14. So far as the evidentiary value of a hostile witness is concerned, it is a settled proposition of law that the evidence of such witness is also to be considered like evidence of any other prosecution witness but evidence of such witness requires strong corroboration through other pieces of evidence. In this context, reference may be made to the case of Abdul Wahid Bhurt and another v. Ashraf and 4 others reported in 2019 YLR 487 decided by Federal Shariat Court, wherein after discussing various case-law on this point, following dictum was laid down:

15. Where the prosecution evidence is not supported by credible witnesses**,** and the appellant has already been acquitted of the main charge, the principle of propriety is attracted. In this regard reliance is placed upon the case of ***Mir Nooroze Ali vs the State*** **(2025 MLD 597)** and further in case of ***Syed Mansoor Ali Shah vs The State*** **(2024 MLD 915)** wherein, held that:

11. The first mashir of alleged recovery, namely, Kashif Hussain in his evidence deposed that on the alleged date viz., 29.11.2017 he was available in the hospital along with his brother Naqash Ali and on receiving phone call from PS Waleed he went there, where police obtained his signatures on white unwritten papers. He was declared hostile and even in cross-examination by the learned State Counsel he denied to have either accompanied the

complainant ASI Ashraf Ali on 29.11.2017 or production of alleged pistol by the appellant and preparation of memo of recovery. He also denied that second mashir Amjad Ali had also accompanied him and the police along with appellant to the place of alleged recovery. In such circumstances, the report of Ballistics Expert, even though in positive, cannot be believed; rather, the very recovery of offensive weapon becomes highly doubtful.

12. As stated above, instant case is offshoot of main Crime No.81/2017 of PS Darri, under section 302, P.P.C., wherein the appellant has been acquitted by disbelieving the evidence same prosecution witnesses being recovery officer and the mashir; hence, propriety of law demands, appellant should be acquitted from the charge of instant case.

13. It seems that the legal position in such a situation, as enunciated by the Superior Courts, is that when an accused has been acquitted in the main case, he would be entitled to acquittal in a case which is offshoot of the main case. In this connection, reference may be made to the case of Yasir Chaudhry v. The State reported in 2012 MLD 1315, wherein it was held by the Lahore High Court as under:-

"In the case reported as Manjhi v. The State (PLD 1996 Karachi 345) it has been held that when the accused has been acquitted in the main case, he would become entitled to acquittal in a case which is offshoot of the said case. Same is the position here, as the present lis is an offshoot of the main murder case, so, respectfully following the dictum laid down in the judgment supra, this petition is allowed and the application of the petitioner under section 249-A Cr. P.C. is accepted and the petitioner is acquitted from the charge in case FIR No.17 of 2003 dated 12.1.2003 registered under section 7 of the Surrender of Illicit Arms Act No.XXI of 1991 with Police Station Civil Lines, Bahawalpur."

16. Another crucial aspect of the prosecution's case that merits serious consideration is the question of the safe custody of the alleged recovered weapon**.** A careful scrutiny of the record reveals that no documentary evidence placed on record to demonstrate that the property was entered in the malkhana register**,** nor was any official from the malkhana produced to verify such entry. The mere oral statement of a police witness during trial claiming that the property was deposited in the malkhana is not sufficient, unless supported by documentary evidence such as the malkhana register entry**,** receipt**,** or inventory, and corroborated by a responsible officer (e.g., the malkhana in-charge). In the absence of such cogent and reliable evidence, the claim regarding proper custody remains unsubstantiated**.** The **Police Rules, 1934**, which govern such procedures, provide clear guidance in this regard. **Rule 22.16** specifically lays down the method for dealing with case property**,** including its receipt, documentation, and secure storage in the malkhana. Further, the procedure regarding the entry of the case property in the relevant register is prescribed under **Rule 22.70,** which mandates that every article placed in the store-room shall be recorded in the register.

17. The object of the rules is to ensure the integrity of case property by minimizing the possibility of tampering, substitution, or loss. Non-compliance with this procedure raises serious doubt about the chain of custody and the evidentiary value of the recovered weapon**.** In support of the above legal proposition, reliance is placed on the judgment of ***Wahid Bux alias Wahido vs The State***, **(2022 PCr.LJ 1631)**, wherein held that:

> *12. The complainant/Investigation officer during his cross-examination stated that "I handed over the recovered weapon to WHC of P.S Tamachani for keeping the same in malkhana. It is correct to suggest that I have not produced such entry." The prosecution to established safe custody of the recovered weapon not examined the said WHC or any other responsible official (incharge) at Malakhana on the relevant date and time to confirm the deposit of the weapon in malkhana. In this view of the matter, the fact of depositing the weapon in malkhana has become doubtful. In this regard reliance may be placed on the case of Umed Ali v. The State (2018 MLD 1311) and Ikramullah and others v. The State (2015 SCMR 1002).*

18. Furthermore, according to the deposition of the complainant, it was stated that the alleged crime weapon (case property) was desealed in the courtroom before the learned trial Court and it was observed that a monogram seal was affixed on it. However, a thorough examination of the record reveals that there is no mention of any such monogram in the recovery memo**,** FIR**,** or even in the deposition of the prosecution witnesses. This unexplained appearance of a monogram seal**,** without any supporting documentation or contemporaneous mention at the time of recovery or deposit, renders the authenticity of the case property highly doubtful**.** The absence of such a critical detail in official records raises a presumption of possible tampering or substitution and thus creates serious doubt regarding the integrity of the evidence. Support is drawn from the case of ***Gul Sher Khan vs The State***, **(2018 MLD 1354)**, wherein held that:

> *In cross-examination he admitted that the T.T. pistol bearing No.31071958 on its handle while having No.M.20 on upper side. It is pertinent to mention here that neither the above number deposed by the PW nor the said number is mentioned in the memo. of recovery, which creates doubts whether the pistol produced before the Court bearing above numbers is the same, which was allegedly recovered on pointation of appellant*

19. In view of the foregoing discussion, when the prosecution evidence is disbelieved or remains unproved and the witnesses fail to establish the guilt of the accused beyond reasonable doubt, the legal principle of benefit of doubt must be applied in favor of the accused. This principle is a cornerstone of criminal jurisprudence, grounded in the maxim that "***In dubio pro reo", When***

in doubt, for the accused. Therefore, the benefit of such doubt cannot be ignored or discarded lightly; rather, it must operate in favor of the accused and culminate in his acquittal. In case of ***Ahmed Ali vs the state*** **(2023 SCMR 781),** The Honourable Supreme Court held that:

> *12. Even otherwise, it is well settled that for the purposes of extending the benefit of doubt to an accused, it is not necessary that there be multiple infirmities in the prosecution case or several circumstances creating doubt. A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle the accused to its benefit, not as a matter of grace and concession but as a matter of right. Reliance in this regard may be placed on the cases reported as Tajamal Hussain v. The State (2022 SCMR 1567), Sajjad Hussain v. The State (2022 SCMR 1540), Abdul Ghafoor v. The State (2022 SCMR 1527 SC), Kashif Ali v. The State (2022 SCMR 1515), Muhammad Ashraf v. The State (2022 SCMR 1328), Khalid Mehmood v. The State (2022 SCMR 1148), Muhammad Sami Ullah v. The State (2022 SCMR 998), Bashir Muhammad Khan v. The State (2022 SCMR 986), The State v. Ahmed Omer Sheikh (2021 SCMR 873), Najaf Ali Shah v. The State (2021 SCMR 736), Muhammad Imran v. The State (2020 SCMR 857), Abdul Jabbar v. The State (2019 SCMR 129), Mst. Asia Bibi v. The State (PLD 2019 SC 64), Hashim Qasim v. The State (2017 SCMR 986), Muhammad Mansha v. The State (2018 SCMR 772), Muhammad Zaman v. The State (2014 SCMR 749 SC), Khalid Mehmood v. The State (2011 SCMR 664), Muhammad Akram v. The State (2009 SCMR 230), Faheem Ahmed Farooqui v. The State (2008 SCMR 1572), Ghulam Qadir v. The State (2008 SCMR 1221) and Tariq Pervaiz v. The State (1995 SCMR 1345).*

20. For the foregoing reasons and in light of the discussion above, it is evident that the prosecution failed to establish its case against the appellant beyond reasonable doubt. In view of these circumstances, the instant appeal was allowed and the impugned judgment dated 31-01-2025, passed in Sessions Case No. 151 of 2024, arising out of FIR No. 48 of 2024, registered under Section 24 of the Sindh Arms Act, 2013, was set aside. As a result, the appellant, Bakhshal, was acquitted of the charge and ordered to be released forthwith, unless required to be detained in any other case. These are the detailed reasons for the short order dated 20-06-2025.

JUDGE