

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

Cr. Acquittal Appeal No. S-07 of 2024

Appellant : Ghulam Muhammad s/o Abdul Ghani Mangi  
Through Mr. Abid Hussain Qadri, advocate.

Respondent No.1 : Through M/s. Imtiaz Ali Mugheri and  
Tahira Parveen, Advocates.

The State : Through Mr. Nazeer Ahmed Bhangwar, DPG.

Date of hearing : 17.07.2025  
Date of order : 31.07.2025

### **J U D G M E N T**

**KHALID HUSSAIN SHAHANI, J.** – This criminal appeal, filed under Section 417 Cr.P.C seeks to challenge the judgment of acquittal dated December 23, 2023, passed by the learned Sessions Judge, Kamber-Shahdadkot at Kamber. The impugned judgment acquitted the accused/respondent, Azhar Ali Jarwar, of charges under Sections 15, 17, 24 of the Gas Theft Recovery Act, 2016, and Sections 462-C & 427 PPC, in Sessions Case No. 36 of 2023, emanating from FIR No.159/2022 of PS A-Section Shahdadkot.

2. The prosecution's case, as articulated in FIR and during the course of the trial proceedings, posited that on November 29, 2022, at about 2:00 pm, at a tea establishment allegedly operated by the accused Azhar Ali within Langah Market, Shahdadkot, the said accused deliberately tampered with the gas distribution pipeline by affixing unauthorized rubber pipes, thereby perpetrating the offense of gas theft and causing a disruption in the natural gas supply.

3. The learned trial court, in its judicious assessment, critically examined the testimonies of four prosecution witnesses, namely PW-1 Ghulam Muhammad Mangi, the complainant and Deputy Chief Manager of SSGC Larkana; PW-2 Shah Muhammad Bugti,

an eyewitness and Mashir (attesting witness) and Supervisor of SSGC Larkana; PW-3 Rustam Ali, also an eyewitness and Mashir and Deputy Manager of SSGC Shahdadt; and PW-4 ASI Muhammad Ranjhan, the Investigation Officer. Subsequent to a thorough evaluation of the evidence presented, the learned Sessions Judge arrived at the conclusion that the prosecution had failed to discharge its burden of proving the guilt of the accused beyond a reasonable doubt, culminating in the acquittal of the respondent.

4. The learned counsel for the appellant assailed the judgment of acquittal, contending that the trial court committed an error in law and fact by not convicting the accused. It was submitted that ample evidence had been adduced by the prosecution to establish the culpability of the respondent. The appellant's counsel underscored the depositions of the SSGC officials, who purportedly conducted the raid and claimed to have personally observed the illicit gas tampering and unequivocally identified the accused. It was vigorously asserted that the contradictions and inconsistencies highlighted by the trial court were inconsequential and minor in character, thus insufficient to warrant an acquittal, particularly given the nature of the alleged offense and the official capacities of the prosecution witnesses, whose testimonies, it was argued, ought to have been afforded greater probative value.

5. Conversely, the learned counsel for the accused/respondent resolutely defended the judgment of the trial court, asserting its rectitude and its foundation in a judicious and comprehensive appreciation of the evidence. He meticulously reiterated the profound and material contradictions and inconsistencies, previously identified by the learned trial court, that permeated the testimonies of the prosecution witnesses. It was strenuously argued that these discrepancies were far from trivial; rather, they penetrated to the very core of the prosecution's narrative,

rendering it inherently unreliable and unworthy of credence. Furthermore, it was highlighted that the prosecution had failed to secure the testimony of any independent public witnesses, despite the alleged incident transpiring in a densely populated and public thoroughfare, a significant lacuna in the investigative process. Compounding these deficiencies, it was pointed out that the case property, purportedly seized at the scene, had not been sealed *in situ*, thereby compromising its evidentiary integrity.

6. This Court undertaken a meticulous and comprehensive perusal of the entire record and proceedings of the instant case, encompassing the impugned judgment, the totality of the evidence led by the prosecution, and the elaborate arguments advanced by the learned counsel representing both sides. Tis court's discerning review of the material on record unequivocally affirms the soundness and firmness of the judgment rendered by the learned trial court.

7. The learned Sessions Judge, in his well-reasoned pronouncement, meticulously cataloged and analyzed a multitude of material contradictions and glaring inconsistencies that pervaded the testimonies of the prosecution witnesses. These discrepancies are not merely peripheral or immaterial variations; rather, they are fundamental in nature and demonstrably undermine the credibility and quality of the evidence presented by the prosecution, thereby generating a serious and pervasive doubt as to the veracity of the state's case.

8. Firstly, the very commencement of the alleged operation is shrouded in inconsistency. PW-1 testified to departing from the Larkana office at precisely 12:00 noon, while PW-2 contradicted this by asserting a departure time of 12:30 noon. This initial temporal discrepancy, though seemingly minor, sets an unsettling precedent for the reliability of the prosecution's narrative. Secondly, the accounts concerning the duration of their stay at the SSGC Shahdadt Kot office

varied, with PW-1 claiming 15 to 20 minutes, while PW-2 posited a shorter interval of 10 to 15 minutes. Thirdly, and more significantly, the witnesses provided wildly disparate estimates regarding the crucial distance from the SSGC Shahdadtown office to the alleged incident site. PW-1 estimated about three furlongs, PW-2 claimed half a kilometer, while PW-3, another ostensible eyewitness, incongruously stated a mere 75 meters. Such a stark divergence in a fundamental spatial fact is wholly inexplicable and strains credulity, severely impacting the reliability of their observations and indeed, the entire operational account. Fourthly, the alleged travel times to reach the scene of the incident also exhibited considerable variance. 10 minutes according to PW-1, a protracted 40 minutes as per PW-2, and 20 minutes from PW-3. Such discrepancies in temporal details of the alleged raid cannot be lightly disregarded, as they betray a lack of accurate recall and coordination among the raiding party. Fifthly, the crucial aspect of the accused's identification at the scene is similarly fraught with uncertainty. PW-1 candidly admitted to not recognizing the accused and relying solely upon unspecified "local people" for identification. PW-2, in turn, deposed that PW-3 (Rustam Ali) was the one who identified the accused Azhar Jarwar. This reliance on unrecorded "local people" or indirect identification diminishes the probative value of the identification evidence and introduces an element of hearsay that remains unsubstantiated. Sixthly, the purported duration of the proceedings at the place of incident was also subject to contradictory accounts; PW-1 claimed approximately one hour, while PW-3 asserted only 30 minutes. Seventhly, a particularly damning contradiction emerged concerning the process of FIR lodgment. PW-1 stated that a letter requesting FIR registration was dispatched to the SHO on November 29, 2022. However, PW-4, the Investigating Officer, directly contradicted this assertion by unequivocally stating that the complainant did not appear before him

prior to lodging the FIR on December 7, 2022. This glaring inconsistency regarding the very initiation of legal proceedings is fundamentally prejudicial to the prosecution's case. Eighthly, and perhaps most critically, the learned trial court astutely observed an almost insurmountable improbability regarding the simultaneous presence of key prosecution witnesses. While PW-2 and PW-3 were purportedly present at the police station on December 7, 2022, at 1700 hours, for the purpose of lodging the FIR in the instant case, a distinct memo pertaining to another crime (Crime No. 158/2022) concurrently demonstrated their physical presence at a different incident site at precisely the same time. This finding, standing alone, is sufficient to generate a profound and irrefutable doubt as to their actual presence during the FIR registration, and by logical extension, casts a pervasive shadow over the entirety of their respective testimonies. Ninthly, a significant procedural lapse was noted in the prosecution's failure to enlist any independent public witnesses. Despite the alleged incident occurring in a "thickly populated area" where "so many people were present," the prosecution admittedly failed to secure the testimony of dispassionate public witnesses. The Investigating Officer's acknowledgment of having requested public participation, only for such requests to be declined without any subsequent action taken against those who refused, further compounds this deficiency and diminishes the credibility of the raid. Tenthly, all prosecution witnesses unequivocally conceded that the "recovered case property was not sealed at the spot." This critical procedural omission is not merely a technicality; it strikes at the heart of evidentiary integrity, creating a serious apprehension regarding the chain of custody and opening wide the possibility of tampering or foisting of articles. Finally, the undue delay in the registration of the FIR, lodged eight days after the alleged raid, coupled with the admitted fact that the case property was not produced on the very day the FIR

was lodged, further add to the suspicious circumstances surrounding the prosecution's narrative and cumulatively weakens its probative force.

9. These enumerated points represent not isolated or minor deviations, but rather a concatenation of substantial and fundamental inconsistencies that collectively undermine the very substratum of the prosecution's case. They inextricably impeach the credibility and quality of the evidence presented, thereby rendering it wholly unreliable. The cumulative effect of these profound discrepancies makes it legally untenable to sustain a conviction.

10. The learned trial court, in its wisdom, correctly applied the well-established and sacrosanct principle of criminal jurisprudence that the benefit of every reasonable doubt must invariably be extended to the accused. It is a fundamental tenet that a conviction cannot be recorded unless the prosecution discharges its onerous burden of proving the guilt of the accused beyond all reasonable doubt. Even the existence of a single, substantial and reasonable doubt is sufficient to necessitate an acquittal. In the present case, the record is replete with not just one, but multiple, significant doubts, making it legally impossible to affirm the conviction.

11. This Court discern no perversity in the judgment, no manifest error of law, nor any instance of gross misappreciation of evidence on the part of the learned trial court. The learned Sessions Judge meticulously and judiciously evaluated the evidence, precisely identified its fatal flaws, and rightly concluded that the prosecution had lamentably failed to establish the culpability of the accused beyond the demanding threshold of reasonable doubt.

12. In light of the comprehensive and exhaustive analysis delineated hereinabove, this court is of the firm and considered opinion that the judgment of acquittal rendered by the learned Sessions Judge is impeccably reasoned, legally sound, and predicated

upon a correct and discerning appreciation of the entire body of evidence available on record. The prosecution's case was unequivocally vitiated by fundamental contradictions and egregious procedural infirmities that could not, and rightly should not, have been overlooked by the trial forum. Therefore, find no merit whatsoever in this appeal.

13. For the foregoing reasons, the instant appeal is hereby dismissed. The judgment of acquittal dated December 23, 2023, passed by the Sessions Judge, Kamber-Shahdadkot at Kamber, in Sessions Case No. 36 of 2023, is upheld in its entirety.

**J U D G E**

Asghar Altaf/P.A