

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS
Crl. Revision Application No.S-32 of 2025

Applicant: Manzoor Ali s/o Ghulam Rasool Junejo
Through Mr. Afzal Kareem Virk, Advocate.

Respondent: The State.
Through Mr. Ghulam Abbas Dalwani

Date of hearing: 07.08.2025

Date of order: 07.08.2025

O R D E R

AMJAD ALI SAHITO, J.- By this Order, I intend to dispose of the above-cited Criminal Revision, whereby applicant has assailed the legality and propriety of the impugned judgment dated 08.07.2025, passed by learned Additional Sessions Judge-I, Tharparkar @ Mithi in Criminal Appeal No.10 of 2025, whereby he maintained the judgment dated 26-06-2025 passed by learned Civil Judge and J.M, Nangarparkar, in Criminal Case No.33/2024 (Re: State Vs. Manzoor Ali), outcome of FIR bearing Crime No.10/2024 registered under sections 188, 353, 506 PPC at PS Dano Dhandhal, whereby applicant was convicted for offence punishable under section 353 PPC and sentenced to suffer R.I for two years with fine of Rs.10,000/=, in case of default in payment of fine to undergo S.I for two months more and also convicted for offence under section 188 PPC and sentenced to suffer S.I for one month; however both the sentences were directed to run concurrently and benefit of section 382-B PPC was extended to the applicant.

2. Precisely, the facts of the prosecution case, in brief, are that due to request of Principal, Government High School Dano Dhandal for providing security in the annual examination of S.S.C Part I & II scheduled from 07-04-2025 to 14-4-2025, complainant SIP Lal Malook alongwith his sub ordinate staff namely PC Roopomal and PC Tanveer Ahmed left police station on 07-04-2025 at 0810 hours vide roznamcha entry No. 02 and were available at the main gate of school, where at 0915 hours teacher Vinod Kumar Meghwar, came and informed that he was performing his duty as invigilator at Block No.8 of class 09th paper where Manzoor Ali s/o Ghulam Rasool Junejo came in order to help his brother Abdul

Hayee in solving the paper; he asked Manzoor Ali to go outside the school, whereupon he misbehaved with him and issued threats. After such information, they entered in the school, where Manzoor Ali, after seeing them, fled away. Teacher Vinod Kumar told that he will initiate legal proceeding but since he did not appear at the police station, hence complainant lodged instant F.I.R.

3. After completion of the usual investigation, the I.O. submitted a police report under section 173 Cr.P.C before the trial court, showing applicant Manzoor Ali on Court bail. After supplying copies of necessary documents, charge was framed against the applicant, to which he pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined as many as six (06) witnesses, who produced numerous documents and thereafter, the prosecution closed its side. Thereafter, statement of applicant under section 342 Cr.P.C was recorded wherein he denied the allegations being false and claimed his innocence; however he did not examine himself on oath or lead evidence in defence. Later on, after hearing the parties, the trial Court convicted and sentenced the applicant as mentioned above. Against said judgment, applicant filed Criminal Appeal No.10/2025, which was dismissed by learned lower Appellate Court

5. It is argued by learned counsel for the applicant that there are material contradictions in the evidence of prosecution witnesses, but same were ignored by both the lower courts; that the prosecution witnesses were sub ordinate to complainant and Principal of School and no any independent person has been examined by the prosecution; that judgment of both lower courts are result of misreading and non-reading of evidence available on record; hence he prayed for setting aside impugned judgments.

6. On the other hand, learned DPG while opposing the contentions raised by learned counsel for the applicant and supporting the impugned judgments contended that the prosecution has fully established its case against the applicant 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 he prayed for dismissal of Revision application in hand.

7. I have heard the learned counsel for the applicant and learned D.P.G for the State at considerable length and perused the available record with their able assistance.

8. After hearing the parties' counsel, careful consideration and meticulous examination of the evidence/ available record, suffice to say that it is settled principle of law that the burden of proof of allegation is always upon the prosecution to prove its case beyond a shadow of a doubt. Keeping in view the basic touchstone of criminal administration of justice. It is an admitted position that the FIR was lodged with a delay of approximately seven days, for which no plausible explanation has been provided by the complainant/SIP Jamal Khan (PW-1). Furthermore, the said complainant is not an eyewitness to the incident. The record reflects that the FIR was registered on 14.04.2025 on the basis of a letter, whereas the alleged incident had occurred on 07.04.2025. It is also admitted by the complainant that although he was present on duty at the relevant time, he did not effect the arrest of the applicant/accused. Further I have examined the material available on record and conclude that the prosecution has failed to prove its case against the applicant for the reasons that there are martial contradictions and discrepancies in the prosecution evidence. P.W Vinod Kumar (invigilator), being victim is the star witness of prosecution case, who in his evidence deposed that *"I was present on duty as invigilator in Block-08 of Examination Centre at Government Higher Secondary School Dano Dandhal, where paper for 10th class was ongoing; meanwhile, from 0915 to 0920 hours, accused Manzoor Ali was helping his brother Abdul Hai in solving the paper. When the paper started, I asked him to go out, upon which he resisted and denied leaving. I repeatedly asked him to out and the accused Manzoor Ali started misbehaving with me and used filthy language, which resulted in noise and other invigilators from nearby blocks came and apprehended accused Manzoor Ali"*. The evidence of P.W Vinod Kumar shows that on noise, invigilators of nearby blocks arrived there and apprehended the applicant, but prosecution has not examined any of such invigilator or

candidates/ students who were giving paper in the said examination center on the eventful day. Moreover, as per P.W Vinod Kumar, applicant came there to help his brother Abdul Hai in solving the paper. But prosecution has not produced any documentary evidence in shape of admit card/slip of Abdul Hai, to prove that applicant's brother Abdul Hai was giving paper on the said date in block-08 of above-mentioned examination center. P.W Vinod Kumar produced register of his duty at Ex.5-A. In cross examination he deposed that *"It is correct to suggest that copy of register, I have produced does not bear the block number as well as the timing of my duty"*. Furthermore, evidence of P.W Vinod Kumar is also contradictory to the evidence of complainant SIP Lal Malook and PW PC Tanveer Ahmed because as per evidence of P.W Vinod Kumar from 0915 to 0920 hours, applicant Manzoor Ali was helping his brother Abdul Hai in solving the paper, whereas complainant SIP Lal Malook and P.W PC Tanveer Ahmed in their evidence unanimously deposed that at 0915 hours JEST teacher Vinod Kumar Meghwar came at the gate and disclosed that he was on duty as invigilator in block-08 of the Examination Hall during the 09th class paper, where Manzoor (applicant) entered with intention of helping his brother Abdul Hai in the paper and when Vinod Kumar asked him to leave, Manzoor Junejo misbehaved with him. It is very surprising that when applicant was helping his brother from 0915 to 0920 hours in Block-08 of Examination Centre and thereafter on asking of Vinod Kumar, he allegedly misbehaved with him, then how P.W Vinod Kumar informed the police/ complainant by coming at the main gate of school at 0915 hours. Moreover, P.W Vinod Kumar in his evidence did not depose that he informed the police about the alleged incident. Another aspect of the case is that as per prosecution case, applicant to see the police party fled away; whereas as per evidence of P.W Vinod Kumar, applicant was apprehended from spot and was handed over to Principal (Manohar Sham) and P.W Manohar Sham in his evidence deposed that he handed over applicant to police. As per prosecution case, applicant issued threats to P.W Vinod Kumar, but during evidence neither complainant nor any of the witness including P.W Vinod Kumar has deposed that applicant issued threats. Moreso, as per prosecution case, 09th class paper was

going on when the alleged incident took place but such stance is negated by P.W Vinod Kumar by deposing that 10th class paper was going on. In order to clear such ambiguity prosecution has not produced the time table of annual examination of S.S.C Part I & II.. Hence, in view of above discussion, prosecution has failed to prove beyond shadow of reasonable doubt that the applicant deterred P.W Vinod Kumar from discharge of his lawful duties, as such conviction under Section 353 PPC was not sustainable under the law.

9. So far the case under section 188 PPC is concerned. Before proceeding ahead, I would like to reproduce section 188 PPC as under:

188. Disobedience to order duly promulgated by public servant. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to ₹[six hundred rupees], or with both;

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to ₹[three thousand rupees], or with both.

Explanation. It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce harm.

10. For constituting offence under section 188 PPC, the prosecution has relied upon letter No.100/ 2025 dated 03-03-2025 issued by the Commissioner Mirpurkhas Division. For the sake of convenience, said letter is re-produced as under:

“ Whereas it has been reported by the Controller of Examination Allama Iqbal Open University, Islamabad his office letter No.F-I-3/Conduct/Aut-24/3217, dated 14th February, 2025 received through Deputy Commissioner Mirpurkhas under No.DC/JB/MPS/121, dated 26th February, 2025, that the final examination of Open Courses, matric and FA/I.Com Programs for Semester Autumn, 2024 are scheduled to be conducted with effected from 03-03-2025 to 11-04-2025 in District Mirpurkhas, Umerkot and Tharparkar and requested that the Examination Centers may be given protection from outside elements and miscreants by imposing section 144 Cr.P.Code.

And whereas, I am satisfied that it is necessary to take immediate measures to prevent disturbance to peace and danger to human life and property.

Now therefore, in exercise of the powers conferred under section 144 Cr.P.Code, vide Notification No.SOII/8-10 (03)/2016 dated 21-05-2020 of Home Department, Government of Sindh Karachi, I, Faisal Ahmed Uqaili, Commissioner Mirpurkhas Division do hereby order as under:

- i. Persons who are not directly concerned with examinations shall not enter the examination center/premises.*
- ii. Only bonafide students carrying admit cards shall be allowed to enter in the examination center/premises on the examination day.*
- iii. The Photostat Machine shops shall not operate during the examination hours.*

This order shall not apply to Civilian Officers on duty, Police and Military personnel. This order shall take effect from 03-03-2025 to 11-04-2025 and shall remain in force for a period of 30 (thirty) days provided withdrawn or modified earlier.

11. The bare reading of above letter clearly shows that it relates to the Semester examination of Allama Iqbal Open University, Islamabad, whereas as per prosecution case alleged incident took place during the annual examination of S.S.C Part I & II (09th and 10th classes) scheduled from 07-04-2025 to 14-04-2025; hence letter of Commissioner is not applicable in this case. Moreso, the provisions of section 188, P.P.C. can be pressed into service only when compliance to section 195, Cr.P.C. is proved. For ready reference, section 195(1)(a), Cr.P.C. is reproduced below:--

"No court shall take cognizance (a) of any offence punishable under sections 172 to 188, PPC, except on the written request of the public servant concerned, or of some other servant to whom he is subordinate".

12. The above re-produced provision of law manifest that the court shall not take cognizance of the prosecution for contempt of lawful authority of public servant of any offence punishable under sections 172 to 188 PPC, except on complaint in writing of public servant concerned or of some other public servant to whom he is sub ordinate. Here, in this case neither complaint in writing was made by the Commissioner Mirpurkhas Division nor of some other public servant to whom he is sub ordinate.

13. In view thereof, it appears that the learned trial Court as well as learned lower appellate court have not evaluated all these factors, discrepancies and the evidence in true perspective and thus reached to an erroneous conclusion by holding the applicant is guilty of the offence and awarded sentence to him.

14. The upshot of the above discussion is that the prosecution has miserably failed to bring home the guilt of the applicant 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)**.

15. By taking the guideline from the case laws cited at (supra), I am of the view that in the present case, the prosecution story is overwhelmed under the thick clouds of doubt and the learned lower courts have not evaluated the evidence in its true perspective and thus arrived at an erroneous conclusion by holding the applicant guilty of the offence. Thus, the instant Criminal Revision application is allowed. Consequently, the conviction and sentence awarded to the applicant Manzoor Ali s/o Ghulam Rasool by learned Civil Judge and J.M, Nangerparkar vide judgment dated 26-06-2025, which was maintained by learned Additional Sessions Judge-I, Tharparkar @ Mithi in Criminal Appeal No 10/2025 vide impugned judgment dated 08-07-2025 are hereby set aside. He is acquitted of the charge by extending the benefit of the doubt. He shall be released forthwith in the present crime/case if he is not required in any other custody case/crime. These are the reasons of my short order dated 07-08-2025.

JUDGE

Saleem