

IN THE HIGH COURT OF SINDH AT KARACHI  
 Crl. Acq. Appeal No. 287 of 2021

**Present:**

**Justice Zafar Ahmed Rajput**  
**Justice Miran Muhammad Shah**

Appellant	:	The State, through Mr. Muhammad Noonari, Deputy Prosecutor General (DPG), Sindh.
Respondents:		(i) Muhammad Shahid s/o Abdul Rehman, through Mr. Tariq Hussain, advocate (ii) Uzair Jan Baloch s/o Faiz Muahmmad ( <i>nemo</i> )
Date of hearing	:	<b>26.08.2025</b>
Date of order	:	<b><u>26.08.2025</u></b>

**JUDGMENT**

**ZAFAR AHMED RAJPUT, J:-** This Criminal Acquittal Appeal is directed against the order, dated 12.01.2021, whereby the learned IV<sup>th</sup> Addl. Sessions Judge/Model Criminal Trial Court, Ext., Karachi-South ("**Trial Court**") acquitted the respondents of the charge under section 265-K, CrPC in Sessions Case No.572 of 2012, arising out of FIR No. 65 of 2012, registered at P.S. Kalri, Karachi-South under sections 302 & 34, P.P.C.

2. Brief facts of the case are that, on 17.03.2022 at 0745 hrs., ASI Muhammad Latif of P.S. Kalri registered the abovesaid FIR, on behalf of the State, stating therein that on the said day he was present on his duty when at about 0400 hrs., ASI Ghulam Murtaza of P.S. Kalri, who was deputed on Police Mobile- III via Entry No. 76, informed him about sighting of a dead body of an unknown male at the Service Road, Crown Cinema, near Maripur Road, Kalri, Karachi. The dead body was subsequently shifted to Civil Hospital via Edhi Ambulance and the FIR was recorded.

3. On lodgment of the FIR, ASI Muhammad Latif reached Civil Hospital, Karachi where he conducted 174, CrPC proceedings. After Postmortem, he got the dead body shifted temporarily to Edhi Cold Storage, Sohrab Goth. One Shaukat Baloch appeared at Edhi Cold Storage and identified the dead body to be of his cousin Naushad @ Appo s/o Zain-ul-Abideen; the dead body was handed over to him. On 19.03.2012, IO/SIP Muhammad Saleem Khan recorded 161, CrPC statement of Shaukat Baloch, wherein he disclosed that on the day of funeral of deceased Naushad, his neighbors (i) Nadir s/o Muhammad Hashim and (ii) Muhammad Shahid s/o Muhammad Sharif disclosed that, on 15.03.2012, they alongwith deceased Naushad were going on motorcycle to Kharadar for dinner; when they reached near Lee-Market, Doodh Mandi at about 2100 hrs., one black colour VEGO SUV intercepted them and accused (i) Habib Jan, (ii) Zafar Baloch, (iii) Yousuf Baloch (*Police Inspector*), (iv) Shahid Rehman, (v) Taj Muhammad Tajoo Ustad disembarked and abducted and brought them at Football House Chakiwara, where accused Uzair Baloch and Noor Muhammad @ Baba Laadla were already present, who enquired their names; when deceased Naushad introduced himself with reference of his uncle Akram Baloch, Uzair Baloch became enraged and asked all the co-accused to enquire about the whereabouts of Akram Baloch from Naushad and then kill him. On that, Nadir and Shahid concealed their identities with fake one to save themselves on that accused set them free with threats of dire consequences in case of disclosures of incident. Muhammad Shahid and Nadir in their 161, CrPC statements also repeated the same facts by levelling allegations against the said accused of abducting them and killing of Naushad. I.O. also recorded statements of other PWs. On completion of the required formalities, he submitted charge-sheet against all the above-named

accused showing them absconders under section 512, CrPC. The concerned Judicial Magistrate accepted the charge-sheet and after conducting proceedings under section 87 & 88, CrPC, forwarded the R & Ps to the Court of Sessions, from where it was transferred to the court of learned III-Additional Sessions Judge, Karachi South.

4. On 02.11.2013, SIP Ghulam Rabbani of P.S. Kalri submitted intimation report regarding arrest of accused Yousuf Baloch, who was tried in the early round of trial which resulted into his acquittal, vide Judgment dated 04.07.2014. Meanwhile, accused Uzair Jan Baloch was arrested and notified for inside Jail trial, therefore, the case was transferred to Trial Court, that received the R&Ps on 12.04.2017; however, the case remained pending as the custody of accused Uzair Baloch was shifted from Central Prison, Karachi to 5 Corps Karachi for facing Military Trial. Meanwhile, absconding accused Muhammad Shahid surrendered himself before this Court and obtained protective bail, and then to the Court of Sessions Judge, Karachi-South wherefrom he obtained pre-arrest bail and joined the trial.

5. We have heard the learned D.P.G. as well as counsel for the respondent No.1 and have perused the record.

6. It is an admitted position that the FIR regarding the murder of the deceased Naushad was lodged by the police against unknown accused persons. The implication of the respondents/accused in the case is based on the 161, CrPC statements of the PWs Shaukat Baloch, Nadir and Muhammad Shahid, which were recorded after an unexplained delay of two days. No reason has been assigned for such delay in recording of the 161, CrPC statements of the said PWs. Furthermore, there is no explanation as to why

PWs Nadir and Muhammad Shahid remained silent from 15.03.2012 to 17.03.2012 and thereafter until 19.03.2012, and failed to disclose their alleged abduction with the deceased to the complainant or his family members. This omission has in fact cast serious doubt on the prosecution's case. It is also an admitted fact that on the same set of facts and evidence on record, co-accused Yousuf Baloch (*police inspector*) has been acquitted of the charge in the earlier round of trial, vide judgment dated 04.07.2014, wherein the Trial Court has observed *"it has come on record that none of private PWs has attended the Court including Shaukat, Nadir and Muhammad Shahid, though PWs Nadir and Muhammad Shahid claims to be the eye-witnesses and so also were abducted. Thus, it is clear that they are either telling lie in their statements under Section 161, Cr.P.C and implicating the accused falsely."*

7. Nothing is available on record to show that the complainant or the State has preferred any Criminal Acquittal Appeal against the judgment, dated 04.07.2014, whereby co-accused Yousuf Baloch was acquitted of the charge. The prosecution cannot be expected to produce better evidence against the present respondents than what it could be able to produce in the earlier round of trial, which concluded with the acquittal of the co-accused. Therefore, we find no illegality or irregularity in the impugned order passed by the Trial Court, requiring any interference by this Court in the exercise of its appellate jurisdiction. Hence, the instant Criminal Acquittal Appeal is dismissed, accordingly.

**JUDGE**

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