

IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

*Criminal Appeal No.S-29 of 2024
Jazib Dashti v. The State*

Appellant : *Jazib through Mr. Abdul Ghani Bijrani,
Advocate.*

Respondent : *State through Mr. Nazir Ahmed Bhangwar,
Deputy Prosecutor General, Sindh.*

Date of hearing : 02.02.2026

Date of Decision : 02.02.2026

Date of reasoning: 09.02.2026

JUDGMENT

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Ali Haider 'Ada' J. Through this criminal appeal, the appellant has assailed the judgment dated 16.04.2024 passed by the learned Additional Sessions Judge-I, Kandhkot, in Sessions Case No.280 of 2023, titled *The State v. Jazib*, arising out of FIR No.139 of 2023, registered for offences punishable under section 23(i)(a) read with section 25 of the Sindh Arms Act, 2013. Vide the impugned judgment, the learned trial Court convicted the appellant and sentenced him to undergo rigorous imprisonment for fourteen (14) years and to pay a fine of Rs.300,000/- (Rupees Three Hundred Thousand), and in case of default of payment of fine, to further undergo simple imprisonment for three (03) years. Both the sentences were ordered to run concurrently, while the benefit of section 382-B, Cr.P.C., was also extended to the appellant.

2. Briefly stated, the prosecution's case is that on 25.06.2023, the complainant, a police official, along with his subordinate staff, while patrolling in connection with the investigation of Crime No.124 of

2023, received spy information that the accused nominated in the said crime was present near the curve of Pat Feeder, close to the house of Iqbal Dasti. Acting upon such information, the police party proceeded to the pointed place, apprehended the accused, and, upon personal search, allegedly recovered one T.T. pistol along with seven live rounds. After completing the codal formalities, the present FIR was registered.

3. After registration of the FIR, an investigation was conducted, and a challan was submitted against the appellant. The learned trial Court took cognizance, supplied copies of the documents to the accused as required by law, and on 06.09.2023 framed a charge against him, to which he pleaded not guilty and claimed trial.

4. During the trial, the prosecution examined PW-1, the mashir, who produced the mashirnama of arrest and recovery. PW-2 SIP Riaz Ahmed, the complainant, was examined, who produced a copy of FIR, relevant roznamcha entries regarding departure and arrival of the police party, a letter addressed to the SSP for sending the weapon for expert opinion, road certificate, Forensic Science Laboratory report, photograph of the weapon, and a document relating to entry in the malkhana. The prosecution further examined Barkat Ali, dispatch rider, and Ashique Hussain, in charge of Malkhana. Thereafter, the prosecution closed its side.

5. The statement of the accused was recorded under section 342, Cr.P.C., wherein he denied the allegations, professed his innocence, and prayed for acquittal. However, the learned trial Court, vide impugned judgment, convicted and sentenced the appellant as noted above, which has given rise to the present appeal.

6. Learned counsel for the appellant contended that the appellant was already acquitted in the main case bearing Crime No.124 of 2023 on the basis of a compromise, and the present case is merely an offshoot thereof. He further argued that the prosecution has failed to establish its case beyond a reasonable doubt as there are material

contradictions in the evidence, the recovery proceedings are doubtful, no independent witness was associated, and there was an unexplained delay in sending the recovered weapon to the forensic laboratory. He prayed that the appellant be acquitted.

7. Conversely, learned counsel for the State argued that the prosecution witnesses have fully supported the case of the prosecution, the recovery is duly corroborated by the evidence on record, and there is no mala fide on the part of the police to falsely implicate the appellant. He supported the impugned judgment and prayed for dismissal of the appeal.

8. Heard the learned counsel for the parties and perused the material available on record.

9. At the outset, it is observed that the complainant, being a police official, admittedly received spy information in a busy and thickly populated area. However, despite the availability of private persons at the place of alleged recovery, no independent witness from the locality was associated at any stage of the recovery proceedings. The non-association of private witnesses, without any plausible explanation, casts serious doubt upon the prosecution's case. The object of section 103, Cr.P.C., is to ensure transparency and fairness in recovery proceedings and to minimize the chances of false implication or foisting of recoveries upon an accused. Due to a lack of independent corroboration, the alleged recovery becomes doubtful. Reliance in this regard is placed upon *Muhammad Nasir Butt and others v. The State (2025 SCMR 662)* and *Shahzaib v. The State (2022 MLD 950)*.

10. Further perusal of the record shows that no memo of site inspection was prepared. Preparation of such a memo is an essential step in investigation, as provided under **Rule 25.10 of the Police Rules, 1934**, which requires the investigating officer to proceed to the place of occurrence and take all necessary steps to preserve and document the scene of the crime. The omission of this requirement

further weakens the prosecution's case. Reliance is again placed upon *Shahzaib v. The State (2022 MLD 950)*.

11. Another material infirmity in the prosecution's case is the unexplained delay in sending the alleged recovered weapon to the forensic science laboratory. The record shows that the recovery was allegedly effected on 25.06.2023, whereas the weapon was sent for forensic examination on 04.07.2023, after a delay of nine days, without any plausible explanation. Moreover, it is evident that in the main case, the empties were also sent along with the weapon to the forensic laboratory, which gives rise to a serious doubt that the police were awaiting recovery of the weapon in order to send both articles together. This unexplained delay renders the forensic report unsafe for reliance. Support in this regard is drawn from *Khair Muhammad and another v. The State (2025 SCMR 1599)*.

12. It is further observed that the present case is admittedly an offshoot of the main case bearing Crime No.124 of 2023, wherein the appellant was acquitted based on a compromise. Once the accused has been acquitted in the main case, such an acquittal carries a presumption of innocence, and ordinarily, the offshoot case cannot stand independently unless proved through independent, confidence-inspiring evidence. In this regard, reliance is placed upon *Manjhi v. The State (PLD 1996 Karachi 345)*, *Yasir Chaudhry v. The State (2012 MLD 1315)*, and *Liaquat Ali v. The State (2022 MLD 1980)*.

13. Furthermore, the prosecution witnesses deposed that the recovered weapon bore an identification mark in the shape of a star. However, no documentary evidence was produced to establish the existence of any such identification mark on the weapon. This unexplained inconsistency further creates doubt regarding the alleged recovery. Reliance is placed upon *Muhammad Raees v. The State (2023 PCr.LJ 532)*.

14. It is a settled principle of law that if the prosecution fails to establish its case within the parameters prescribed by law and doubt

arises, such doubt must necessarily go in favour of the accused. Even a single circumstance creating reasonable doubt entitles the accused to benefit thereof, as held in *Qurban Ali v. The State (2025 SCMR 1344)*.

15. In view of the foregoing discussion, it is evident that the prosecution has failed to prove its case against the appellant beyond reasonable doubt. Consequently, the appeal, which was earlier allowed vide short order dated 02.02.2026, whereby the judgment dated 16.04.2024 passed by the learned trial Court was set aside, and the appellant was acquitted of the charge, stands finally decided. The office was further directed to issue the release warrant of the appellant forthwith, if he was not required to be detained in any other case. These are the detailed reasons for the short order announced on 02.02.2026.

JUDGE