

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Khadim Hussain Tunio
Mr. Justice Amjad Ali Sahito

Spl. CrI. Anti-Terrorism Jail Appeal No.08 of 2024
Spl. CrI. Anti-Terrorism Appeal No.13 of 2024

Appellants : i. Shafiquddin @ Kala S/o Islamuddin
[in Spl. CrI. A.J.T.A. No.08/2024] ii. Usama S/o Shafiquddin
iii. Ahsan @ Sunny S/o Naseer Ahmed
through Mr. Muhammad Imran Meo & Ms.
Abida Parveen Channar, Advocates

Appellants : i. Muhammad Aslam @ Munna Bangali
[in Spl. CrI. A.T.A. No.13/2024] S/o Muhammad Yousuf
ii. Aman Akhtar S/o Jameel Ahmed
through Mr. Hashmat Khalid, Advocate

Respondent : For State
Mr. Rana Khalid Hussain, Spl. Prosecutor
Rangers & Mr. Muhammad Iqbal Awan,
Addl. P.G. Sindh

Date of Hearing : 11.02.2026

Date of Judgment: __.02.2026

J U D G M E N T

Amjad Ali Sahito, J. Through the captioned appeals, the appellants have impugned the Judgment dated 13.12.2023 passed by the learned Judge, Anti-Terrorism Court No.IV, Karachi in Special Case No.856/2018 arising out of FIR No.53/2018 U/s 353, 324, 302, 34 PPC R/w Section 7 ATA, 1997 at PS CTD, Sindh, Karachi; whereby all the appellants were convicted under section 302(b)/34 PPC and sentenced them to R.I. for life and to pay sum of Rs.100,000/- each as compensation U/s 544-A Cr.P.C. to the legal heirs of the deceased Muhammad Ilyas, which shall be recovered by way of arrear of land revenue and in default of payment/recovery, they shall further suffer imprisonment for six months. They were also convicted U/s 324/34 PPC and

sentenced to suffer R.I. for five years. They were further convicted U/s 353/34 PPC and sentenced to R.I. for two years. All the sentences were ordered to run concurrently. However, the benefit of Section 382-B, Cr.P.C was extended to the appellants.

2. Precisely stated, the case of the prosecution is that on 06.06.2018 at about 21:50 hours, the complainant, DSR Muneer Hussain of Bhattai Rangers 82 Wing, Majeed Colony, Landhi, along with his subordinate staff, departed from the Wing in official mobile vehicles and motorcycles upon receiving credible information regarding the presence of certain wanted criminals and terrorists, namely Shafiquddin, Aman, Fakhar Alam, Dildade alias Sheeshnag, Naveed alias Master, Aslam alias Munna Bangali, Sunny, and Usama. It was reported that the said individuals were present at House No. B-392, KCD Pre-Primary School, Nizam-e-Mustafa Colony, near Halal Masjid, Sector 51/A, Korangi No. 06, Karachi, being the residence of Shafiquddin alias Kala, an alleged terrorist affiliated with MQM-Haqiqi, and were purportedly planning to commit acts of terrorism.

3. Upon reaching the pointed location, when the complainant party, in the course of performing their official duties, commenced encircling the premises with a view to apprehending the suspects, the aforesaid eight armed individuals, including Shafiquddin alias Kala, allegedly resorted to indiscriminate firing upon the Rangers personnel with the intention to kill them and to deter them from discharging their lawful functions. As a consequence of such firing, Hawaldar Muhammad Ilyas, Sepoy Ameer Khan, and Sepoy Ibrahim Shah sustained firearm injuries.

4. In retaliation, the Rangers personnel also opened fire, as a result of which one of the alleged terrorists, namely Usama son of Shafiquddin, sustained a bullet injury to his leg. Thereafter, all the accused persons, including the injured Usama, allegedly succeeded in escaping from the scene while continuing to fire.

5. Subsequently, the injured Rangers personnel were shifted by DSR Muneer Hussain to Social Welfare Hospital, Landhi,

where Hawaldar Muhammad Ilyas succumbed to his injuries. The remaining injured personnel were referred to CMH Malir for medical treatment, whereas the dead body of Hawaldar Muhammad Ilyas was transferred to Jinnah Hospital for completion of legal formalities. Thereafter, the complainant lodged the instant FIR.

6. It is pertinent to note that the learned trial Court initially rendered its judgment in the present matter on 08.12.2021. Being dissatisfied with the said judgment, the present appellants preferred Special Criminal Anti-Terrorism Appeals No. 196 and 200 of 2021 before this Court. The said appeals were disposed of vide order dated 27.10.2022, whereby the matter was remanded to the learned trial Court with a direction to record the evidence of nine material witnesses afresh in the presence of the appellants. In compliance with the said directions, the learned trial Court has delivered a fresh judgment, which is now impugned through the instant appeals.

7. In order to substantiate its case, the prosecution examined as many as 22 witnesses including nine witnesses as directed by this court and produced the relevant documentary evidence on record, which was exhibited at Exhibits 53 to 61. Thereafter, the learned Special Public Prosecutor for the State closed the prosecution side vide statement recorded at Exhibit 62.

8. The statements of all five accused persons under Section 342 Cr.P.C. were recorded at Exhibits 63 to 67, wherein they denied the allegations levelled against them, professed their innocence, and prayed for acquittal. However, the accused persons namely Ahsan alias Sunny, Muhammad Aslam alias Munna Bangali, and Aman Akhtar neither examined themselves on oath under Section 340(2) Cr.P.C. nor produced any witness in their defence. Conversely, the accused Shafiquddin and Usama examined one defence witness, namely Aleem Uddin, in support of their defence.

9. The learned trial Court, after hearing the parties and on assessment of the evidence, convicted and sentenced the

appellants as stated above vide judgment dated 13.12.2023 which has been impugned by the appellants through the instant Appeals.

10. Mr. Muhammad Imran Meo & Ms. Abida Parveen Channar, Advocates are appearing in Spl. CrI. A.T.J.A. No.08 of 2024, whereas, Mr. Hashmat Khalid, Advocate is appearing in Spl. CrI. A.T.A. No.13 of 2024. Learned counsel for the appellants contended that the appellants are innocent and have been falsely implicated in the present case; that the impugned judgment is contrary to law and facts; that the learned trial Court has misappreciated the evidence, resulting in the wrongful conviction of the appellants; that material contradictions in the testimonies of the prosecution witnesses create serious doubt with respect to the prosecution case. Learned counsel further argued that the entire case is based on identification parade; however, during identification, injured eyewitness Sepoy Muhammad Ibrahim did not assign any specific role against the accused as to how they were involved in this crime, which is essential requirement for identification parade; that the weapons used by the Rangers personnel in the alleged encounter were not sent for FSL so also weapons allegedly recovered on the pointation of accused Usama and Shafiq were not matched with the empties secured from the place of incident; that the prosecution has miserably failed to connect the appellants with the commission of offence and no evidence has been brought on record against the accused persons. Lastly, they pray for acquittal of the appellants.

11. Conversely, the learned Special Prosecutor Rangers alongwith learned Addl. Prosecutor General, Sindh, fully supported the impugned judgment and stated that the appellants were arrested on the spot during encounter with the Rangers and subsequently, they were rightly identified by the injured eyewitness Sepoy Muhammad Ibrahim; as such, they are not entitled for acquittal.

12. We have heard the learned counsel for the appellants as well as the learned Special Prosecutor, Rangers, duly assisted by the learned Additional Prosecutor General, Sindh, and have

carefully examined the entire material available on record with their able assistance.

13. Upon a meticulous appraisal of the evidence brought on record, it transpires that the prosecution case primarily rests upon the ocular account furnished by the complainant/eye-witness, PW-1 DSR Muneer Hussain of Bhattai Rangers, which is corroborated by prosecution witnesses/injured/eye witnesses, PW-4 Sepoy Ameer Khan, PW-5 Sepoy Ibrahim Shah and other Rangers officials, in addition to the supporting circumstantial evidence.

14. According to the prosecution, on 06.06.2018, PW-1 DSR Muneer Hussain received credible information that the named accused/appellants, along with other alleged terrorists, were present at the specified location with the intention of carrying out terrorist activities. Acting upon such information, the complainant, accompanied by other Rangers officials, proceeded to the place of occurrence and encircled the accused persons with a view to apprehending them. It is alleged that the accused, numbering eight, suddenly opened indiscriminate fire upon the Rangers party with the intention to commit their murder and to deter them from performing their lawful duties. As a result of such firing, Hawaldar Muhammad Ilyas, Sepoy Ibrahim Shah, and Sepoy Ameer Khan sustained firearm injuries. In retaliation, the Rangers personnel also resorted to firing, causing injury to one of the accused; however, all the accused persons managed to escape from the scene. The injured officials were shifted to Social Security Welfare Hospital, Landhi, where Hawaldar Muhammad Ilyas succumbed to his injuries, while the remaining injured officials were referred to CMH Malir for medical treatment.

15. On 07.06.2018, the complainant lodged the FIR (Ex.23/B). He deposed that he subsequently found accused Usama in the custody of PI Hatim Marwat, who informed him that the accused had been apprehended in an injured condition from Jinnah Hospital. During interrogation conducted in his presence, accused Usama allegedly disclosed that he, along with his father and other accomplices, had fired upon the Rangers party and

that during the encounter he sustained a firearm injury to his leg, while one Rangers official was killed and two others were injured. Thereafter, in his presence, the said accused was formally arrested by PI Sarfraz of CTD, who prepared a memo of arrest, bearing the signatures of the complainant and ASI Shahbaz Yousuf, which was exhibited as Ex.08/C.

16. In support of the prosecution version, PW-4 injured Sepoy Ameer Khan and PW-5 injured Sepoy Ibrahim Shah were examined, who substantially corroborated the testimony of the complainant. They deposed that during the encounter with the accused/appellants and their accomplices, they sustained bullet injuries and that Hawaldar Muhammad Ilyas lost his life. PW-5 Ibrahim Shah correctly identified accused/appellant Aman Akhtar during identification proceedings conducted by PW-14, Civil Judge Muhammad Javed, and attributed a specific role to him.

17. The prosecution further examined medical witnesses to substantiate the injuries sustained by the deceased and injured officials. PW-16 Dr. Sheeraz Ali (MLO) deposed that injured Ameer Khan and Ibrahim Shah were brought by PT Sarfraz Ahmed of CTD for medical examination and that he observed firearm injuries on both Rangers personnel. PW-21 Dr. Shahzad Ali confirmed that on 07.06.2018, the dead body of Hawaldar Muhammad Ilyas was brought for post-mortem examination, and he found multiple firearm injuries on various parts of the body.

18. It has further come on record that on 10.01.2019, PW-12 ASI Victor Aziz arrested accused Muhammad Aslam alias Bangali and recovered an unlicensed 30 bore pistol from his possession. On 20.06.2018, PW-13 ASI Imdad Hussain arrested accused Shafiquddin alias Kala in the present case and, on 24.06.2018, upon his pointation, recovered an unlicensed pistol from his house. Separate FIRs under the Sindh Arms Act were registered against the said accused persons.

19. The further investigation was entrusted to PW-22 Inspector Sarfaraz Ahmed of CTD. He interrogated the already arrested

accused Usama, who allegedly confessed his involvement. Upon his pointation, the Investigating Officer prepared a memo of the place of incident and produced relevant entries exhibited as Exh.34/C to 34/G. The accused also admitted that he had sustained firearm injuries during the encounter. On his pointation, an unlicensed 9mm pistol was allegedly recovered from the roof of a shop. The Investigating Officer also collected the criminal record of accused/appellant Shafiquddin alias Kala, which reflected his alleged involvement in approximately twenty cases pertaining to murder and injuries.

20. On the basis of the testimony of the aforesaid witnesses, it transpires that the complainant deposed that, upon receipt of credible information, he, along with his subordinate staff proceeded to the pointed place to apprehend the accused persons. This version finds material corroboration from the evidence of the injured eye-witnesses examined by the prosecution. In their cross-examination, the injured/eye-witnesses admitted that despite having sustained gunshot injuries, they remained conscious and were able to observe the accused persons who fired upon them. They further stated that they were capable of identifying the assailants if seen again. The Rangers personnel subsequently identified the accused persons during the identification proceedings as well as in the Court.

21. It is a well-settled principle of law that a conviction can safely be based upon the testimony of an eye-witness, provided that such evidence is found to be trustworthy, reliable, and confidence-inspiring. In the present case, we find the testimony of the injured eye-witnesses as well as that of the complainant to be cogent, consistent, and worthy of reliance, particularly with regard to the correct identification of the appellants, who allegedly resorted to firing upon the Rangers officials and thereafter absconded, but were subsequently apprehended. In this respect reliance is placed on the cases of *Muhammad Ehsan v. The State* (2006 SCMR 1857), *Farooq Khan v. The State* (2008 SCMR 917), *Niaz-ud-Din and another v. The State and another* (2011 SCMR 725) *Muhammad Ismail v. The State*

(2017 SCMR 713) and Qasim Shahzad and another v. The State (2023 SCMR 117).

22. In the present case, the prosecution witnesses, namely the complainant DSR Munir Hussain, PW-4 Ameer Khan, and PW-5 Sepoy Ibrahim Shah, being eye-witnesses to the occurrence, have furnished a clear, consistent, and detailed account of the incident, specifying its date, time, and place of occurrence, leaving no room for ambiguity. Their narration of events has been straightforward, coherent, and confidence-inspiring. It is settled that where witnesses are natural and their account of the occurrence inspires confidence, their testimony cannot be lightly discarded. In such circumstances, the burden shifts upon the accused to establish that the witnesses are not truthful but are interested or motivated.

23. The appellants have failed to discharge the aforesaid burden. In cases involving capital punishment or imprisonment for life, a mere assertion of prior enmity or dispute is insufficient to discredit otherwise reliable witnesses. The accused must bring on record credible material to demonstrate that such enmity existed and was of such magnitude as to plausibly explain a false implication, even at the cost of shielding the real culprit. In the instant case, it is noteworthy that the deceased was a Rangers official who, along with PW-4 Ammer Khan, PW-5 Sepoy Ibrahim Shah and deceased Hawaldar was present on a motorcycle at the time of the occurrence along with other Rangers officials. The chain of events stands fully established and is consistent with the prosecution version, namely that when the Rangers officials attempted to apprehend the accused persons at the pointed place, the latter opened fire, resulting in firearm injuries to three officials, one of whom subsequently succumbed to his injuries. In this regard, reliance is placed upon the case of Muhammad Hayat v. The State (2021 SCMR 92).

24. The defence adopted by the appellants in their statements recorded under Section 342 Cr.P.C. read with Section 340(2) Cr.P.C. is a mere denial of the allegations pertaining to the murder of the deceased. They have further alleged that they were

initially picked up by the police and subsequently falsely implicated in the present case. However, this plea has remained unsubstantiated, as the appellants failed to produce any documentary evidence or other cogent material in support thereof and have confined themselves to bald denial of the prosecution allegations.

25. Conversely, the evidence collected by the Investigating Officer stands duly corroborated by the ocular account of the prosecution witnesses and the supporting circumstantial evidence as well as medical evidence which, when read cumulatively, leads to the inescapable conclusion that the appellants were the perpetrators who engaged in an armed encounter with the Rangers officials, as a consequence whereof one official lost his life and others sustained injuries.

26. The injured/eyewitnesses identified the appellants in Court at the time of recording their evidence. They were subjected to lengthy and searching cross-examination; however, the learned counsel for the appellants failed to discredit their testimony or to elicit any material favourable to the defence. Furthermore, the appellants have not been able to establish any animosity or motive on the part of the official witnesses that could reasonably suggest false implication.

27. The minor discrepancies appearing in the statements of the prosecution witnesses are not of such a nature as to demolish the prosecution case. Such discrepancies are natural and often occur due to lapse of time and are, therefore, liable to be ignored. It is not every inconsistency that can be pressed into service for acquittal; rather, the defence must demonstrate contradictions of a material nature that strike at the root of the prosecution case, particularly concerning the presence of the accused and the manner of occurrence.

28. The variations in the statements of witnesses which are neither material nor serious enough to adversely affect the prosecution case are to be disregarded by the Court. The statements of witnesses are to be read as a whole, and the Court

ought not to pick isolated sentences out of context to use them either for or against any party. Only those contradictions which are material and go to the root of the prosecution case can be considered sufficient to undermine the prosecution version. In support of this proposition, reliance is placed upon *Nasir Ahmed v. The State*. 2023 SCMR 478.

29. The upshot of the above discussion is that the prosecution has successfully established its case against the appellants beyond a reasonable shadow of doubt. The learned counsel for the appellants have failed to point out any material illegality or serious infirmity committed by the learned trial Court while passing the impugned judgment, which in our humble view is based on appreciation of the evidence and the same does not call for any interference by this Court. Thus, the conviction and sentence awarded to the appellants namely (1) Shafiquddin @ Kala, (2) Usama, (3) Ahsan @ Sunny, (4) Muhammad Aslam @ Munna Bangali and (5) Aman Akhtar by the learned trial Court are hereby **maintained** and the instant appeals filed by the appellants merit no consideration; as such, the same is **dismissed** accordingly.

JUDGE

JUDGE

Kamran/PS