

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Appeal No.S-63 of 2026

Criminal Appeal No.S-64 of 2026

Appellant : Muhammad Haneef s/o Muhammad Qasim,
Jamali, through Mr.Imtiaz Ali Channa, Advocate

The State : Through Mr.Altaf Hussain Khokhar, D.P.G a/w I.O
Shamsuddin Mallah

Date of hearing : 15.07.2026

Date of Judgment : 15.07.2026

JUDGMENT

KHALID HUSSAIN SHAHANI, J: These two criminal appeals, united by an identical factual substratum and arising from a solitary occurrence dated 03.12.2025, impugn the judgments dated 11.05.2026 rendered by the learned Sessions Judge, Dadu, in Sessions Case No.179 of 2026 (Crime No.360/2025, Sections 324 and 353 PPC) and Sessions Case No.180 of 2026 (Crime No.361/2025, Section 25 of the Sindh Arms Act, 2013), whereunder the appellant Muhammad Haneef was convicted and sentenced in both proceedings. As the evidentiary matrix, the witnesses examined, and the legal questions arising in both appeals are entirely coextensive, they are disposed of through this consolidated judgment.

2. The prosecution's version, as it emerges from the F.I.Rs and the testimony recorded at trial, is that on 03.12.2025, complainant ASI Shamsuddin Mallah, while engaged in routine patrolling with police staff, encountered, at about 2030 hours near Rameez-II New Colony Plotting, Dadu, four armed individuals, including the present appellant. Upon being challenged, the assailants allegedly unleashed direct fire upon the police contingent with murderous intent, provoking retaliatory fire in self-defence. In the course of this exchange, the appellant is said to have sustained a firearm injury inflicted inadvertently by his own companions, collapsing to the ground alongside a 12-bore repeater emitting the

scent of freshly discharged gunpowder, while his co-accused fled under cover of darkness. The appellant was apprehended at the scene, subjected to body search, and removed to DHQ Hospital, Dadu. Two distinct F.I.Rs materialized therefrom: Crime No.360 of 2025 under Sections 324 and 353 PPC touching the alleged encounter, and Crime No.361 of 2025 under Section 25 of the Sindh Arms Act touching the alleged recovery of an unlicensed weapon.

3. Upon culmination of investigation, challans were submitted in both matters depicting the appellant in custody, his co-accused remaining absconders. Copies of the requisite case papers were furnished to the appellant in compliance with Section 265-C Cr.P.C., whereupon formal charges were framed against him. He pleaded not guilty and claimed trial.

4. At trial, the prosecution examined WHC Shah Nawaz Vighio, PC Ali Hyder Lashari, ASI Deen Muhammad Shahani, and SIP Shamsuddin Mallah, who produced the relevant roznamcha entries, mashirnamas, F.I.Rs, malkhana record, site inspection memo, FSL report, and allied documentation, whereafter the learned ADPP closed the prosecution's case.

5. The appellant's statement under Section 342 Cr.P.C. was recorded in both matters, wherein he traversed the allegations and asserted his innocence, declining to record a statement on oath under Section 340(2) Cr.P.C. or to lead defence evidence.

6. Upon appraisal of the material on record, the learned trial Court, by judgments dated 11.05.2026, convicted the appellant under Sections 324 and 353 PPC in the first case and under Section 25 of the Sindh Arms Act, 2013, in the second, imposing the sentences particularized therein. Aggrieved, the appellant has approached this Court.

7. Learned counsel for the appellant contended with considerable vigour that no encounter ever transpired, the prosecution's version being a fabricated and stage-managed construct engineered subsequent to the appellant's apprehension elsewhere. A sustained exchange of fire at close quarters for several minutes, he submitted, yet leaving not a single police official injured nor the official vehicle or equipment damaged, defies both logic and human experience. He further urged that the prosecution relied exclusively upon police officials to the total exclusion of any independent inhabitant of what was admittedly a populated locality, thereby casting grave suspicion upon the veracity of the case. The

recovery of the repeater, it was argued, is foisted, the mashirnamas having been prepared at the police station after deliberation rather than contemporaneously at the scene. Emphasis was laid upon the prosecution's failure to produce the Medical Officer or the medico-legal certificate, an omission attracting adverse presumption under Article 129(g) of the Qanun-e-Shahadat Order, 1984. Learned counsel maintained that the evidence is vitiated by material contradictions touching the distance of firing, the collection of empties, the preparation of mashirnamas, and the appellant's transportation to hospital, contradictions striking at the very root of the prosecution's edifice. He submitted that the essential ingredients of Section 324 PPC and Section 25 of the Sindh Arms Act remain wholly unproved, and that the appellant is entitled to acquittal upon the bedrock principle that even a solitary circumstance engendering reasonable doubt must inure to the benefit of the accused as of right, not as an act of grace.

8. Learned D.P.G., in rebuttal, defended the impugned judgments, contending that the prosecution discharged its burden through a consistent and confidence-inspiring ocular account furnished by disinterested police officials bearing no animus against the appellant. The appellant, he submitted, was apprehended at the spot in an injured state, and the unlicensed repeater recovered from his possession was duly sealed and forwarded through an unbroken chain of custody to the FSL, whose positive report, confirming the recovered empties were fired from the seized weapon, decisively corroborates the prosecution's version. Minor discrepancies in witness testimony, he urged, are but natural incidents of human recollection and do not impair the substratum of the case. He further submitted that the appellant, a habitual offender embroiled in multiple criminal cases, along with his absconding associates, sought to obstruct the police party in the lawful discharge of its duties, and that the trial Court correctly appreciated the evidence in recording conviction, warranting no interference.

9. This Court has heard learned counsel for the respective parties at considerable length and subjected the entire record to anxious and searching scrutiny.

10. The prosecution's case rests, in its entirety, upon the testimony of police officials, no independent witness having been associated at any stage despite the unanimous admission that habitations lay in close proximity to the scene. PW-3 placed the nearest houses at half a kilometre; PW-2 at 100-200 paces; PW-4 at merely 35-40 paces. Such

glaring inconsistency in estimating distance alone casts a long shadow of doubt upon the prosecution's assertion that no private person was available for association. The failure to enlist even a single independent mashir in a case purportedly involving an armed encounter and weapon recovery constitutes a material infirmity undermining the very foundation of the prosecution narrative.

11. The alleged encounter itself strains credulity at every turn. All witnesses concur that firing persisted for about five minutes at a range of 35-50 paces, yet not a single police official sustained even the faintest injury, nor was the police mobile or any official equipment damaged in the slightest. PW-2 conceded the mobile remained entirely unscathed; PW-4 echoed this admission. No bullet marks, dents, scratches, or damage of any description to weapons or uniforms were demonstrated. Such circumstances sit uneasily, indeed irreconcilably, with the prosecution's portrayal of a ferocious exchange of direct fire involving four armed assailants.

12. Compounding these infirmities, the prosecution neglected to produce either the Medical Officer or the medico-legal certificate, notwithstanding its own averment that the appellant sustained a firearm injury. PW-2 professed ignorance of the treating medical officer's identity; PW-4 failed to produce the police correspondence addressed to the medical officer; PW-3 conceded that no medical certificate was ever tendered. This withholding of the best available evidence attracts the adverse presumption enshrined in Article 129(g) of the Qanun-e-Shahadat Order, 1984. The learned trial Court fell into palpable error in dismissing this omission as immaterial, when medical evidence was, in truth, indispensable to corroborate the alleged encounter, the appellant's arrest in an injured condition, and the subsequent recovery proceedings.

13. The recovery of the repeater is similarly enveloped in doubt. PW-2 asserted that the arrest and recovery memo was prepared whilst standing, within a mere fifteen minutes, whereas PW-4 spoke of a forty-minute exercise. PW-2 admitted that blood-stained earth was never collected; PW-4 confirmed that blood-stained clothing was never secured as case property. PW-2 stated the appellant was handcuffed prior to being placed in the mobile; PW-4 contradicted this, asserting the handcuffing occurred only after boarding. These are not trivial discrepancies but material contradictions eroding the very core of the prosecution's case.

14. The site inspection proceedings fare no better. PW-3 conceded that no sketch of the scene was ever prepared, nor were the photographs he claimed to have captured ever produced. PW-2 and PW-3 both admitted the colour of the recovered empties went unrecorded. As to the distance separating the empties attributed to the accused from those of the police, PW-2 and PW-3 spoke of 40-45 paces, while PW-4 contradicted them both, placing the distance at a mere 2-3 paces. In light of such irreconcilable testimony, the prosecution has failed to establish, beyond reasonable doubt, the safe custody and unbroken transmission of the empties and the weapon. A positive FSL report, however emphatic, cannot cure defects so foundational in character.

15. Nor has the prosecution established the essential ingredients of Section 324 PPC. No specific target, resultant injury, overt act, or intention to commit qatl-i-amd has been demonstrated. A bare allegation of firing, unaccompanied by independent proof of intention or knowledge, cannot sustain a conviction under Section 324 PPC. Equally, the prosecution has failed to establish conscious and exclusive possession of the alleged weapon so as to sustain a conviction under Section 25 of the Sindh Arms Act, 2013.

16. It is by now axiomatic, and requires no laboured reiteration, that the superstructure of a criminal prosecution must rest upon a foundation of proof so cogent, coherent, and unwavering as to exclude every reasonable hypothesis save that of the accused's guilt. Where the prosecution's own evidence, examined with judicial detachment, discloses contradictions, omissions, and improbabilities of the magnitude catalogued above, the resultant infirmity is not one of degree but of substance, corroding the very edifice upon which conviction must stand. It is a settled and inviolable canon of criminal jurisprudence, reiterated by the Superior Courts in an unbroken chain of authority that the benefit of every reasonable doubt, howsoever singular in origin, must accrue to the accused not as a matter of judicial benevolence but as a constitutional and legal entitlement. Reliance is placed upon *Muhammad Mansha v. The State* (2018 SCMR 772), wherein it was authoritatively held that the prosecution must prove its case beyond the shadow of doubt, and even a solitary circumstance creating reasonable doubt entitles the accused to acquittal. This principle finds further reinforcement in *Tariq Pervaiz v. The State* (1995 SCMR 1345), where it was held that for the accused, it is not necessary that there should be many circumstances creating doubt; if there is only one circumstance creating reasonable doubt

in the prudent mind, the accused is entitled to its benefit not as a matter of grace but of right. In the instant matter, the cumulative weight of numerous circumstances, each independently significant, and collectively overwhelming, generates a doubt so pervasive and abiding that the prosecution has signally and demonstrably failed to dispel it.

17. For the foregoing reasons, this Court arrives at the ineluctable conclusion that the prosecution has failed to establish its case against the appellant beyond a reasonable doubt. Accordingly, the impugned judgments dated 11.05.2026 passed by the learned Sessions Judge, Dadu, in Sessions Case No.179 of 2026 and Sessions Case No.180 of 2026 are hereby set aside. Both connected appeals are allowed, and the appellant, Muhammad Haneef s/o Muhammad Qasim Jamali, stands acquitted of the charges levelled against him. He shall be released forthwith, unless required in connection with any other case.

JUDGE

AHSAN K. ABRO