

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Omar Sial
Mr. Justice Shamsuddin Abbasi

Criminal Appeal No.233 of 2025
(*Safeer Ahmed v. the State*)

Criminal Jail Appeal No.235 of 2025
(*Mst. Shahida & Mst. Ayesha v. the State*)

Mr. Muhammad Imran Kalmati, advocate for the Appellant in Crl. Appeal No.233 of 2025

Mr. Ajab Khan Khattak, advocate for the appellants in Crl. Jail Appeal No.235 of 2025

Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh

Date of hearing: 28.04.2026

Date of Judgment: 04.05.2026

JUDGMENT

Omar Sial J. A police party of the Mochko police station, led by S.I. Ejaz Memon, was on patrol duty on 22.03.2024 when it stopped and searched a rickshaw and its occupants. The occupants were identified as Safeer Ahmed, Shahida, Ayesha, and Manzoor Ahmed. Two bags were also recovered from the occupants. One bag contained 11550 grams of charas in ten packets, each wrapped with yellow tape. The other bag contained 12230 grams of charas, also in 10 packets, each wrapped in yellow tape. All four occupants were arrested and F.I.R. No.84/2024 under sections 6/9(3)E of CNS Act, 2022 was registered at the Mochko police station.

2. All the four accused pleaded not guilty and claimed to be tried. At the trial, the prosecution examined PW-1 H.C Javed Iqbal (witness of arrest and recovery and place of incident);

PW-2 S.I.P Muhammad Aijaz (the complainant); PW-3 Head Mohrar Shahbaz Ahmed Khan (who produced copy of entry of Register 19); PW-4 L.P.C Asiya Bibi (witness of arrest and recovery); PW-5 P.I Wazeer Ali Bugti (who conducted the investigation). Thereafter, prosecution's side was closed.

3. In their respective section 342 Cr.P.C. statements, the accused professed innocence, however, they did not examine themselves on oath. At the end of the trial on 14.03.2025, the learned Additional Sessions Judge-II, Karachi (West) while acquitting accused Manzoor Ahmed convicted and sentenced the accused as follows:

- i. Safeer Ahmed was sentenced to suffer R.I for twenty years with a fine of Rs.800,000/-. In case of failure to pay fine, further undergo R.I for six months.
- ii. Mst. Shahida and Mst. Ayesha were sentenced to suffer S.I for twenty years with a fine of Rs.800,000/- each. In case of failure to pay fine, further undergo R.I for six months.

4. We have listened to the arguments advanced by the appellants' learned counsel and the learned Additional Prosecutor General and have re-appraised the evidence with their assistance. Our findings and observations are as follows.

5. The seizure was made at 1815 hours on 22.03.2024. The case property was brought back to the police station by PW-2 S.I. Muhammad Aijaz (the complainant), who testified that he handed it over to PW-3 H.C Shahbaz Ahmed, the Head Mohrar. H.C. Shahbaz confirmed in his testimony what S.I. Muhammad Aijaz had said, i.e., that the property was deposited in the maalkhana by S.I. Muhammad Aijaz at 1945 hours on 22.03.2024. Shahbaz went on to testify that "*the I.O. of the case took the parcels the next day viz. 23.03.2024. Thereafter, I.O. did not deposit the said parcels with me.*" PW-5 Inspector Wazeer Ali was the investigating officer of the case. He testified that "*...on 25.03.2024, I sent the case property for chemical examination...*" In his cross-examination, he acknowledged that

he had taken the property out of the maalkhana at 0800 hours the next day, i.e., 23.03.2024, when he took the accused for remand purposes. He admitted that he had not returned the property to the maalkhana when he returned from the remand proceedings. In his own words – *“it is correct to suggest that upon return from getting the remand of the accused, I did not put an entry of depositing the case property with the Head Mohrar in Register 19. It is correct to suggest that I did not deposit the case property for chemical analysis on 23.03.2024. It is correct to suggest that no record of register 19 reveals anything about the intervening period from 23.03.2024 to 25.03.2024 for keeping the case property.”* The extract of the Register 19 produced at the trial has, as its last entry, the property being taken out on 23.03.2024. Inspector Wazeer Ali did not even explain where the case property was for two days. Safe custody of the case property was therefore compromised.

6. It is now well settled that if the prosecution is unable to establish and prove an unbroken chain of safe custody and transmission, a conviction cannot be sustained. The appeals are therefore allowed and the appellants are acquitted of the charge. They may be released if not required in any other case.

JUDGE

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