

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Sial

Mr. Justice Shamsuddin Abbasi

Criminal Appeal No.472 of 2025

Appellants : **Ghulam Abbass and others**, through
M/S. Farooq H. Naek, Taimoor Ali
Mangrio, Muhammad Ammar and Ali
Hamza, advocates.

The State : Through Mr. Ali Haider Saleem,
Additional Prosecutor General Sindh

Date of hearing: 18.08.2026

Date of Judgment: 27.08.2026

JUDGMENT

Omar Sial, J.: Inspector Zulfiqar Ali and Inspector Raja Muhammad Afzal of the Boat Basin police station, along with A.S.I. Muslim Shah, P.C. Rehman, P.C. Umar Tabish, and D/P.C. Fida Hussain, were patrolling Shireen Jinnah Colony in official mobile SPE-505 when a reliable informant tipped them off that police personnel, misusing their uniforms and authority, were transporting a large quantity of narcotics by official vehicle to the area.

2. Acting on this information, the team positioned themselves on Khayaban-e-Sahil Road, opposite Sun Rise Apartments, Block-1, Clifton, and at 2230 hours stopped an approaching official mobile (SPF-684) after the informant identified it. The driver, in plainclothes, identified himself as P.C. Muhammad Yaqoob s/o Urs, and the front-seat passenger, also in plainclothes, as P.C. Ghulam Abbas s/o Muhammad Qasim. Four uniformed personnel in the back seat identified themselves as P.C. Aijaz Ali Mallah, P.C. Abdul Hameed, P.C. Rahib Hussain, and P.C. Ahmed Nawaz.

3. A light green plastic sack containing 20 packets of charas (23,500g) was found between the driver and the front-seat passenger. Police found a second white-and-green sack containing 44 packets of charas (53,500g) at the feet of the two rear-seat officers. Neither sack was sealed, and the accused could produce no transport/road certificate.

4. The accused stated they were posted at CIA Jamshoro, and that their in-charge, P.I. Nisar Bhatti, along with S.I. Ghulam Sarwar, H.C. Asghar, and H.C. Jabbar, had handed them the charas with instructions to deliver it to a contact in Shireen Jinnah Colony, Clifton.

5. The narcotics were seized, both sacks separately sealed for chemical examination, and the accused arrested. F.I.R. No. 587 of 2021 was registered under sections 6/9-C of the Control of Narcotic Substances Act, 1997.

6. The accused pleaded not guilty and claimed a trial. At the trial the prosecution examined **PW-1 PI Zulfiqar Ali** (complainant of the case); **PW-2 PI Raja Muhammad Afzal** (Mashir of arrest and recovery); **PW-3 Mrs. Tehmina Yasir Judicial Magistrate** (she recorded confessional statement under Section 164 Cr.PC of the accused) and **PW-4 SIP Muhammad Yaqoob** (Investigating Officer of the case). **ASI Malik Arshad** (Malkhana in charge) was examined as Court Witness who produced various entries and extract of Register No.19.

7. The appellants in their respective section 342 Cr.P.C. statement professed innocence and said that the false case was registered against them because they had an altercation with officials of the Pakistan Rangers.

8. At the end of the trial, the learned 4th Additional Sessions Judge, Karachi South, on 30.06.2025, convicted the appellants and sentenced them to suffer RI for life imprisonment with a fine of Rs. 500,000/- each. It is this judgment that has been challenged through this appeal.

9. Mr. Farooq H. Naek argued extensively for the appellants. He also submitted a written synopsis, which is on record. His arguments for the sake of brevity are therefore not being reproduced. We have addressed the ones that, in our opinion, had weight and could impact the decision. The learned Additional Prosecutor General passionately and strongly supported the impugned judgment. Our observations and findings are as follows.

The learned counsel's first argument was that the impugned judgment is per incuriam because when the judgment was announced, the Sindh CNS Act, 1997 had been repealed by the Sindh CNS Act, 2024.

10. The incident occurred on 17.07.2021. At that time, the case was registered under the Sindh CNS Act, 2021. This law governed narcotics cases registered by the Provincial Police.

11. Article 12(1) of the Constitution of Pakistan provides that no person shall be convicted of an offense except for violating a law in force at the time the act was committed, and no person shall be given a penalty greater than what could have been imposed under the law in force at that time. So for criminal liability and punishment, the law as it stood on the date of the occurrence governs — a later amendment (even one making the offense more serious, or creating a new offense) cannot be applied backward to that incident.

12. Section 6 of the General Clauses Act, 1897 (which applies to federal and provincial legislation in Pakistan) saves the position: unless the repealing/amending law shows a contrary intention, the repeal does not affect:

- rights, privileges, obligations, or liabilities already accrued under the old law,
- any penalty or punishment already incurred, or
- any pending investigation, legal proceeding, or remedy in respect of it.

13. Courts can — and regularly do — continue to try and convict a person under the *repealed* provision for conduct that

occurred while it was in force, as if the repeal had never happened, unless the new law expressly says otherwise.

14. Section 45 of the Sindh CNS Act 2024 provides that the Control of Narcotic Substances Act, 1997, to the extent of the Province of Sindh, is repealed. However Section 45(2) provides that *“Notwithstanding the repeal of any law under sub-section (1), the repeal shall not, except as otherwise provided in this Act:- (a) affect the previous law or ‘anything duly done or suffered thereunder; (b) affect any right, privilege, obligation or liability acquired, accrued under such law; (c) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against such law; (d) affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment; and (e) affect any such investigation, legal proceedings or remedy may be instituted, continued or enforced or any such penalty, forfeiture or punishment may be imposed, by the Courts or Authorities competent to investigate, try an offence under such law if the said law had not been repealed.”*

15. Given the above, the argument raised by the learned counsel is misconceived.

Learned counsel argued that the arresting officer sealed the case property by stitching it by hand, but the bag produced at trial was machine-stitched.

16. This argument too is misconceived. The narcotics were sent to the laboratory for analysis and obviously were opened up for examination. The bag produced at trial was the one the laboratory sealed. At trial, one bag was hand-stitched while the other was machine-stitched. If the appellants had any doubts that the property had not been sealed by the chemical laboratory, it was open to them to summon an official to testify whether the laboratory had hand-stitched or machine-stitched the bags. This was not done and appears to be an afterthought.

Learned counsel has argued that the arresting officer failed to produce the Register XIX.

17. It is correct that the investigating officer did not produce the Register, but the maalkhana in charge produced it along with a Road Certificate and his testimony.

Learned counsel has argued that no private witness was cited for the arrest and recovery; hence, section 103 Cr.P.C. was violated.

18. Section 25 of the CNS Act, 1997 remained unchanged when the Control of Narcotics Substances (Sindh) Act, 2021 was enacted on 04.02.2021. Section 25 expressly ousts the applicability of section 103 Cr.P.C. in cases falling within the ambit of the anti-narcotics legislation.

Learned counsel has argued that although the charas recovered from each bag was in pieces, yet the weight of each individual piece was not mentioned in the memo of recovery.

19. He is correct in his submission; however, because the entire seizure was sent for chemical analysis, not weighing each piece separately will not affect the prosecution case.

Learned counsel has argued that the confessions made by the appellants cannot be relied upon by the prosecution.

20. A perusal of the confessions made shows that none of the appellants have actually confessed to any wrongdoing. The trial court has not held the confessions against them. We too have not taken the “confessions” into account in our judgment.

Learned counsel has argued that the chemical analyst was not a witness at trial and that the chemical report was not exhibited.

21. The argument is misconceived. Section 510 Cr.P.C. exempts a chemical analyst from appearing as a witness unless the court is of the view that his presence is necessary for the just decision of the case. To facilitate reference, section 510 is reproduced below:

510. Report of Chemical Examiner, Serologist: Any document purporting to be a report, under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government or of the Chief Chemist of the Pakistan Security Printing Corporation Limited or any Serologist, fingerprint expert or fire-arm expert appointed by Government upon any matter or thing duty submitted to him for examination or analysts and report in the course of any proceeding under this Code, may, without calling him as a witness, be used as evidence in any inquiry, trial or other proceeding under this Code:

Provided that the Court may, if it considers necessary in the interest of justice, summon and examine the person by whom such report has been made.

22. The investigating officer produced the chemical report at trial, and it was exhibited as Exhibit 8/L.

Learned counsel has argued that there was a break in the chain of custody because the investigating officer said at the trial that he had taken the property on 19.07.2021, but no corresponding entry was made.

23. Register XIX shows the 19.07.2021 entry.

24. None of the arguments rendered by the learned counsel have convinced us to interfere with the trial court judgment. Similarly, the case law submitted by the learned counsel, which is also on record and hence not written here, has no principle of law that will come to the aid of the appellants, nor are any of our observations above in conflict with the same.

25. The appellants were apprehended red-handed with a substantial quantity of charas in their possession. The chemical analysts' report shows that the seized substance was indeed charas. No malafide existed for the police to foist the charas and register a false case against someone from within its own ranks. Safe custody and transmission of the case property was proved at the trial. The appellants' defense is weak and unsubstantiated. It was alleged that the appellants exchanged

harsh words with officials of the Pakistan Rangers at the Jamshoro Toll Plaza and that this case was therefore foisted upon them. It is surprising, in the circumstances of the case, that they were unable to produce any witness to support or corroborate their claim.

26. We do not find any reason to interfere with the trial court judgment. The appeal is dismissed.

JUDGE

JUDGE