IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:-
Mr. Justice Shamsuddin Abbasi
Mr. Justice Miran Muhammad Shah
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Criminal Jail Appeal No.154 of 2025

Appellant	Shahzad Akram @ Mubashir son of Munir Ahmed through Mr. Shah Imroz Khan, Advocate.
Respondent	The State through Mr. Habib Ahmed, Special Prosecutor ANF.
Date of Hearing	**20.10.2026**
Date of Judgment	**28.10.2026**

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J U D G M E N T

Shamsuddin Abbasi, J.- Shahzad Akram @ Mubashir son of Munir Ahmed, appellant, along with co-accused Hasnain Hanif son of Muhammad Hanif, was tried by the learned Special Court No.II (Control of Narcotic Substances), Karachi, in Special Case No.1434 of 2018 (FIR No.16 of 2018) registered at Police Station ANF-Clifton, Karachi, for offences under Sections 6 and 9(c), read with Sections 14 and 15 of the Control of Narcotic Substances Act, 1997 (the Act, 1997). By a judgment dated 30.01.2025 the learned trial Court convicted the appellant under Section 9(c) of the Act, 1997, and sentenced him to imprisonment for life along with fine of Rs.800,000/- with further eight (08) months' simple imprisonment in default of payment of fine whereas co-accused Hasnain Hanif was convicted under Sections 14 and 15 of the Act, 1997 and sentenced to rigorous imprisonment for five (05) years along with fine of Rs.300,000/- with further three (03) months' simple imprisonment in lieu thereof, however, extended the benefit in terms of Section 382-B, Cr.P.C. to both convicts.

2. Briefly stated, the prosecution case as set out in the FIR is that on 27.08.2018 complainant SI Mamnoon-ur-Rasheed posted at P.S. ANF-Clifton, Karachi, received information that international narcotic smugglers, Hamid Shakeel, Adeel Hussain and Shahzad Akram @ Mubashir, are attempting to smuggle substantial quantity of narcotics to Belgium through container No.TOCU-5065235 detained at SAPT Terminal, Karachi, by using Form-E issued in the name of their associate, Hasnain Hanif. Acting upon such information, the complainant constituted a raiding party comprising ASI

Sadaqat Ali, PC Shaukat Ali, PC Waqas Ahmed and PC Rizwan along with other ANF personnel, armed with official weapons, left P.S. and proceeded to the pointed place at about 4:00 pm under the supervision of SHO Wajid Hussain vide departure entry No.8 and reached the examination area of DFX Yard at about 4:30 pm. Upon arrival, they found clearing agent Dil Faraz Khan, Shahzad Akram and co-accused Hasnain Hanif present at the spot. The clearing agent produced the relevant shipment documents, which reflected Al-Buraq Traders as the exporter and Saryal Cargo Channel as the clearing agency. On examination of the container, 720 cartons containing bed covers were found therein. Upon further inquiry, Shahzad Akram and Hasnain Hanif disclosed that narcotics have been concealed in secret cavities of the container. Upon such disclosure, the container was cut open whereupon 98 white sacks wrapped in yellow tape were recovered from the concealed cavities. The sacks contained 20 packets each of charas with each packet weighing one kilogram making the total recovered quantity 1960 kilograms. Samples weighing 10 grams each were drawn from the recovered packets, separately packed, numbered from 1 to 1960 and sealed for chemical examination while the remaining charas was separately sealed. During the personal search of Shahzad Akram and co-accused Hasnain Hanif, cash, their respective CNICs and mobile phones were recovered. The narcotics, container and other relevant articles were taken into possession through a mashirnama of arrest and recovery, prepared at the spot in the presence of mashirs PC Shaukat Ali and PC Waqas Ahmed. Thereafter, both accused along with the recovered property were brought to P.S. where the formal FIR was registered.

3. Following registration of FIR, the investigation was carried out and upon its completion the challan was submitted before the competent Court whereby appellant and co-accused Hasnain Hanif were sent up to face trial whereas Hamid Shakeel and Adeel Hussain were shown as absconders under Section 512, Cr.P.C.

4. Upon indictment, the appellant and co-accused Hasnain Hanif pleaded not guilty and claimed trial. At trial, the prosecution has examined as many as eight (08) witnesses namely, complainant SI Mamnoon-ur-Rasheed as PW.1 at Ex.11, PC Muhammad Rizwan as PW.2 at Ex.12, PC Waqas Ahmed as PW.3 at Ex.13, Dil Faraz Khan (clearing agent) as PW.4 at Ex.14, Muhammad Zeeshan as PW.5 at Ex.15, Inspector Muhammad Hassan

(Malkhana Incharge) as PW.6 at Ex.16, Aqil Rauf as PW.7 at Ex.17 and Muhammad Sharif as PW.8 at Ex.18. Thereafter, the prosecution closed its side vide statement at Ex.19. In their statements under Sections 342, Cr.P.C. the appellant and co-accused Hasnain Hanif have denied the allegations imputed upon them by the prosecution, professed their innocence and claimed false implication. Both of them neither opted to make a statement on oath under Section 340(2), Cr.P.C. nor produced any witness in their defence.

5. Upon culmination of the trial, the learned trial Court, after hearing the learned counsel for the parties and examining the evidence brought on record, convicted and sentenced the appellant and co-accused Hasnain Hanif in the manner stated in para-1 (supra), which necessitated the filing of the listed appeal. Worth to mention here that during pendency of the appeal, co-accused Hasnain Hanif completed his sentence including the remission and was released from the prison, therefore, his counsel did not press Criminal Appeal No.123 of 2025, preferred on his behalf, which was dismissed vide order dated 24.08.2026. As the State did not challenge his conviction or sentence for enhancement, the judgment of the learned trial Court to the extent of co-accused Hasnain Hanif, who stood convicted under Sections 14 and 15 of the Act, 1997, attained finality. Accordingly, the present adjudication is confined to the conviction and sentence of the appellant Shahzad Akram @ Mubashir.

6. It is contended on behalf of the appellant that he is innocent and has been falsely implicated in this case with malafide intention and ulterior motives as otherwise he has nothing to do with the alleged offence and has been made victim of the circumstances. It is next submitted that the impugned judgment insofar as it relates to the appellant is not sustainable in law as the prosecution has failed to establish beyond reasonable doubt that he had conscious knowledge of or any direct involvement in the concealment of narcotics in the container. He submits that the evidence relating to the commercial transaction, the purchase of bed covers, the issuance of cheques towards the sale consideration and the appellant's alleged communication with the clearing agent may establish his connection with the shipment but does not prove his knowledge of the concealed contraband or his participation in the offence punishable under Section 9(c) of the Act, 1997. He, therefore, seeks interference with the impugned judgment on

merits. Without prejudice to the foregoing submissions, he alternatively submits that the case of the appellant warrants consideration on the touchstone of parity with co-accused Hasnain Hanif, who was tried in the same case and vide same judgment was convicted under Sections 14 and 15 of the Act, 1997 and sentenced to five (05) years' rigorous imprisonment with a fine of Rs.300,000/-. He submits that the prosecution case arises from the same consignment and that the appellant's role in the commercial and shipment arrangements ought to have been assessed consistently with the role attributed to the co-accused. He further submits that since the conviction and sentence of Hasnain Hanif has attained finality and the State did not seek enhancement thereof, the appellant should not be subjected to a substantially graver conviction and sentence without sufficient distinction in the evidence establishing their respective criminal liability. He accordingly prays that the appellant's conviction under Section 9(c) of the Act, 1997 may be substituted with conviction under Sections 14 and 15 as recorded against co-accused Hasnain Hanif and that the sentence may be reduced to the period already undergone.

7. Conversely, the learned Special Prosecutor for ANF has opposed the appeal and submitted that the conviction and sentence awarded to the appellant under Section 9(c) of the Control of Narcotic Substances Act, 1997, is based on proper appraisal of the evidence and call for no interference. It is next submitted that the case of co-accused Hasnain Hanif is distinguishable in view of the difference in their respective roles and the evidence available against them, therefore, the appellant is not entitled to the benefit of parity or substitution of his conviction under Sections 14 and 15 of the Act, 1997. He further opposes the request for reduction of sentence to the period already undergone by appellant and prays for dismissal of this appeal.

8. We have heard the learned counsel for the appellant and the learned Special Prosecutor for ANF and have carefully examined the available record including the impugned judgment and the evidence brought on record in the light of respective submissions advanced by both sides.

9. At the outset, it is observed that the appellant’s willingness to seek reduction of sentence subject to consideration of his alternative plea does not absolve this Court of its duty to independently examine the legality and propriety of the conviction and sentence. A criminal appeal must be decided

on the evidence and the applicable law irrespective of any concession or conditional willingness expressed by the accused. We have, therefore, independently scrutinized the material evidence to determine the sustainability of the conviction before considering the pleas of parity and reduction of sentence.

10. PW.1 complainant SI Mamnoon-ur-Rasheed (Ex.11) in his evidence has deposed that upon reaching the examination area of DFX Yard at SAPT Terminal, Karachi, Shahzad Akram, Hasnain Hanif and clearing agent Dil Faraz Khan were found present. The clearing agent produced the relevant shipment documents whereupon the appellant identified himself as the owner of the shipment. Upon examination of the container, 98 white sacks containing 1960 kilograms of charas were recovered from a concealed cavity. His account of the recovery has been corroborated by PW.3 PC Waqas Ahmed (Ex.13), who acted as a mashir and testified to the preparation of the recovery memo in his presence.

11. Although the recovery of such a substantial quantity of charas from a concealed cavity establishes the nature and magnitude of the contraband involved, recovery alone cannot determine the individual criminal liability of every person associated with the consignment. The prosecution was, therefore, required to establish the appellant's knowing involvement through reliable evidence connecting him with the concealed narcotics. In this regard, the testimony of PW.4 Dil Faraz Khan assumes significance. He has deposed that in mid of July 2018, Shahzad Akram contacted on phone and informed him that he had a shipment of bed sheets and bed covers intended for export to Belgium and subsequently put him in contact with Hamid Shakeel, who requested clearance of the consignment upon its arrival at the port. PW.4 Dil Faraz has further testified that when he reached the port on 27.08.2018, ANF team was already present along with Shahzad Akram and Hasnain Hanif. This evidence establishes the appellant's involvement in the arrangements for shipment and clearance before the consignment reached the port.

12. The prosecution has further relied upon the testimony of PW.8 Muhammad Sharif (Ex.18), who has deposed that Hamid Shakeel, Shahzad Akram and Hasnain Hanif approached him for the purchase of 10,800 bed covers for Rs.662,500/-, out of which Rs.362,500/- were paid while Shahzad

Akram issued three cheques of Rs.100,000/- each towards the remaining consideration of Rs.300,000/-, which were dishonoured on presentation before the concerned bank, however, the order was delivered on the assurances given by Hamid Shakeel and Shahzad Akram and goods were subsequently loaded into the container. No doubt, mere purchase of goods or issuance of cheques that were subsequently dishonoured would not establish participation in narcotics smuggling, however, the evidentiary significance of the transaction lies in its connection with the very goods subsequently loaded into the container from which the contraband was recovered. When considered alongside the testimony of PW.4 Dil Faraz regarding the appellant's prior contact and arrangements for clearance, the transaction assumes relevance as part of a chain of circumstances. These circumstances must, therefore, be assessed collectively to determine whether they establish the appellant's conscious involvement in the offence beyond reasonable doubt.

13. The settled principle is that circumstantial evidence may sustain a conviction only where the material circumstances are independently established through reliable and admissible evidence and their cumulative effect proves the charge beyond reasonable doubt. Mere association with goods, participation in a commercial transaction or presence at the place of recovery cannot substitute proof of the requisite knowledge and criminal involvement. In the case in hand, the prosecution evidence connects the appellant with the procurement of the bed covers, their payment arrangements, the engagement of the clearing agent and the intended export of the consignment to Belgium. His identification with the shipment and his presence at the port provide further links in the chain of circumstances particularly when the prosecution has established that the narcotic substance was recovered from the secret cavity of the container at his pointation. These circumstances, however, must not be considered merely as evidence of his association with the consignment rather they must be assessed in their entirety to determine whether they establish his conscious involvement in, and knowledge of, the concealed narcotics.

14. Upon an overall assessment of the evidence discussed above, we find that the appellant's role is not confined to an incidental association with the goods or an unexplained presence at the port. The evidence available on record attributes him an active role in procuring the goods and arranging the

shipment in which the concealed narcotics were transported. Considered collectively, these circumstances provide material support for the prosecution case regarding his knowing involvement. We have also considered whether any material contradiction, inherent improbability or evidentiary infirmity undermines the substance of the testimony discussed above. No such infirmity has been demonstrated as would discredit these material circumstances.

15. We are nevertheless conscious that suspicion, however strong, cannot take the place of proof. The ultimate conclusion must rest upon the entire evidentiary record including proof of the identity of the recovered substance, its safe custody and transmission and the chemical examination report. The magnitude of the recovery cannot dispense with proof of the statutory ingredients of the offence. Subject to the prosecution record establishing these essential links, we find no sufficient legal or evidentiary basis to discard the prosecution case concerning the appellant's knowing involvement in the consignment. He has failed to establish any material misreading or non-reading of evidence or any other legal infirmity warranting interference with his conviction under Section 9(c) of the Control of Narcotic Substances Act, 1997 (the Act). The challenge to the conviction is, therefore, dismissed.

16. Having upheld the appellant's conviction on merits, we now proceed to examine his alternative plea for conversion of his conviction under Section 9(c) of the Control of Narcotic Substances Act into one under Sections 14 and 15 thereof as recorded against co-accused Hasnain Hanif. Learned counsel has contended that since both accused were tried in the same case and were connected with the same consignment, the appellant is entitled to similar treatment. We find no force in this contention. The principle of parity does not operate mechanically nor does the fact that two accused were tried together in respect of the same consignment necessarily warrant identical convictions. The applicability of this principle depends upon whether the accused are similarly placed in respect of their respective roles, the nature of the evidence available against them and the ingredients of the offences established at trial. The case of the appellant is materially distinguishable from that of co-accused Hasnain Hanif. As borne out from the evidence discussed above, the appellant's involvement is not confined to the documentation of the shipment rather the evidence attributes him an active

role in the procurement of the bed covers, the financial arrangements for their purchase and the arrangements relating to the shipment and clearance of the consignment from which the contraband was recovered. In contrast, the role attributed to Hasnain Hanif was confined to his being the holder of the Form-E pertaining to the shipment. The evidentiary circumstances establishing the appellant's involvement thus go beyond the documentary connection relied upon in the case of co-accused Hasnain Hanif. We are, thus, of the view that the lesser conviction recorded against Hasnain Hanif cannot, by itself, furnish a lawful basis for extending the same benefit to the appellant, whose case rests upon a materially different evidentiary foundation. Parity cannot be invoked to erase a distinction in the nature and extent of the respective accused persons' proven involvement. Since the appellant's conviction under Section 9(c) of the Act, 1997 stands independently supported by the evidence on record, his plea for conversion of that conviction to one under Sections 14 and 15 of the Act, 1997 merely on the basis of the treatment accorded to co-accused Hasnain Hanif is misconceived and is accordingly declined.

17. The remaining question is whether the sentence awarded to the appellant warrants reduction to the period already undergone. Learned counsel submits that, according to the jail roll, the appellant has undergone 18 years 01 month and 19 days of imprisonment inclusive of remission. The period of incarceration though relevant to the extent permissible under law does not by itself justify reduction of sentence. The question must be determined in the light of the nature and gravity of the offence, the quantity of narcotics involved, the circumstances established on record and the applicable statutory provisions. The recovery of 1960 kilograms of charas represents a substantial quantity of narcotics and underscores the seriousness of the offence. The sentence must reflect that gravity while remaining lawful and proportionate within the limits prescribed by law nor can the sentence awarded to co-accused Hasnain Hanif furnish an independent ground for reduction as his conviction under Sections 14 and 15 of the Act is distinct from the appellant's conviction under Section 9(c). Learned counsel has not identified any legally sustainable circumstance warranting interference with the sentence of imprisonment for life together with the fine and the sentence in default of payment, imposed by the learned trial Court. We, therefore, find no sufficient basis to reduce the sentence to the period already undergone. The alternative plea is, therefore, declined.

18. For the foregoing reasons, we are of the view that the prosecution has successfully proved its case against the appellant beyond reasonable doubt. This appeal is, therefore, dismissed and the appellant's conviction under Section 9(c) of the Control of Narcotic Substances Act, 1997 and the sentence of imprisonment for life together with the fine and the sentence in default of payment imposed by the learned trial Court vide judgment dated 30.01.2025 are maintained.

JUDGE

JUDGE

Naeem /PA