

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Criminal Appeal No.S-27 of 2026

***Before:-
Mr. Justice Ali Haider 'Ada'***

Appellants:

1. Nasrullah,
 2. Chanessar,
 3. Usman, all sons of Suhbat Jagirani,
 4. Ahmed s/o Gul Muhammad Jagirani,
 5. Gul Muhammad s/o Bhai Khan Jagirani
 6. Mumtaz s/o Nasrullah Jagirani,
- Through Mr.Habibullah G. Ghouri, Advocate.*

VERSUS

The State:

Through Mr. Sardar Ali Solangi, Deputy Prosecutor General.

Complainant:

Syed Abdul Ghafoor s/o Syed Sachal Shah.
Through Mr. Muhammad Aslam H. Jatoi, Advocate

Date of Hearing	: 04.09.2026.
Date of Decision	: 04.09.2026.
Date of Reasons	: 25.09.2026.

JUDGMENT

Ali Haider 'Ada' J:- Through the instant Criminal Appeal, the appellants have called in question the judgment dated 15.06.2026, rendered by the learned Additional Sessions Judge-V, Larkana (the “trial Court”), in Sessions Case No.792 of 2024, arising out of FIR bearing Crime No.31 of 2024, registered at Police Station Kanga, District Larkana, for

offences punishable under Sections 395, 452 and 504 of the Pakistan Penal Code, 1860. By the impugned judgment, the learned trial Court convicted the appellants and sentenced them as under:

I convict accused Nasrullah, Chanessar, Usman, Ahmed, Gul Muhammad and Mumtaz, all by caste Jagirani, under section 265-H(ii) Cr.P.C for an offence punishable under Section 395 PPC and sentence them to suffer rigorous imprisonment for seven (07) years and to pay fine amount of Rs.50,000/- (Rupees fifty thousand) each, failing which accused shall suffer S.I for three months more.

I also convict said accused under section 265-H(ii) Cr.P.C for an offence punishable under Section 452 Cr.P.C and sentence them to suffer rigorous imprisonment for seven (07) years and to pay fine amount of Rs.50,000/- each, failing which accused shall suffer S.I for three months more.

I also convict said accused under section 265-H(ii) Cr.P.C for an offence punishable under Section 504 Cr.P.C and sentence them to suffer rigorous imprisonment for two (02) years.

The sentences shall run concurrently, with benefit of Section 382-B Cr.P.C.

2. The prosecution case, in brief, is that on 04.10.2024 at about 1600 hours, complainant Syed Abdul Ghafoor Shah lodged an FIR at Police Station Kanga, alleging therein that a few days prior to the incident, the son of accused Nasrullah had attempted to commit sodomy with the complainant's son, namely Habib Ahmed, whereafter the matter was raised before the elders of the accused, who became annoyed. On 03.10.2024, the complainant, along with his friends Ghulam Ali Gilal and Faiz Muhammad Chandio, was sitting at his Kiryana shop situated near his house. In the meantime, at about 04:00 p.m., they saw nine persons, out of whom six

were identified as Nasrullah, Chanessar, Usman, Ahmed, Gul Muhammad and Mumtaz, all by caste Jagirani, along with three unidentified persons, armed with lathis, who entered the shop, hurled abuses and threatened the complainant party. Out of fear, the complainant proceeded towards his house, but the accused followed him there. Despite the intervention of the womenfolk of the complainant and their beseeching the accused in the name of the Holy Quran, the accused forcibly entered the house and committed robbery by taking away cash amounting to Rs.200,000/-, gold ornaments weighing 04 tola, valued at Rs.10,00,000/-, 15 stitched/unstitched clothes worth Rs.25,000/-, and a dinner set worth Rs.8,000/-. Thereafter, the accused fled from the scene along with their weapons. Subsequently, the complainant went to report the matter to Nek Mard namely Syed Mazhar Shah, who was unavailable. Upon his arrival, he advised the complainant to lodge the FIR. Thereafter, the complainant lodged the FIR against the accused.

3. The police, upon completion of the usual investigation, submitted the challan before the competent Court. After taking cognizance of the case, the learned trial Court framed charge against the appellants on 02.11.2024, to which they pleaded not guilty and claimed trial.

4. In order to substantiate its case, the prosecution examined PW-01 complainant Syed Abdul Ghafoor Shah, who produced the FIR of the present case. PW-02 Faiz Muhammad and PW-03 Ghulam Ali Gilal were examined as eyewitnesses. PW-04 ASI Muhammad Saifal Gopang, the Investigating Officer, was also examined, who produced the Roznamcha entries and memo of vardat. PW-05 Syed Akhtar Hussain Shah was examined as mashir. Thereafter, the learned State Counsel closed the prosecution side. It is pertinent to note that the complainant moved an application alleging that his mashir, namely Rabel, had been won over by the accused.

However, Rabel himself moved an application and did not support the prosecution case.

5. The statements of the appellants were recorded under Section 342, Cr.P.C, wherein they denied the allegations levelled against them, professed their innocence and claimed false implication. They neither opted to appear as their own witnesses under Section 340(2), Cr.P.C, nor produced any evidence in their defence, but produced a copy of FIR No.34/2024 lodged against the complainant at P.S. Kanga. Upon conclusion of the trial, the learned trial Court convicted and sentenced the appellants through the impugned judgment, which has been assailed by the appellants before this Court through the instant Criminal Appeal.

6. Learned counsel for the appellants contended that the prosecution evidence is attended with material contradictions and inconsistencies, which create serious doubt regarding the veracity of the prosecution case. He further contended that the ocular account is belied by the circumstantial evidence and that the prosecution has failed to establish the charge against the appellants beyond reasonable doubt. He, therefore, prayed for acquittal of the appellants by extending them the benefit of doubt.

7. Conversely, learned Deputy Prosecutor General, assisted by learned counsel for the complainant, supported the impugned judgment and contended that the learned trial Court, after proper appraisal of the evidence available on record, has rightly convicted and sentenced the appellants. They maintained that the involvement of the appellants in the commission of the offence stood established through confidence-inspiring and reliable evidence, whereas the discrepancies highlighted by the defence, being minor in nature, did not affect the credibility of the prosecution case.

Lastly, they prayed for dismissal of the appeal and maintenance of the conviction and sentence.

8. Heard learned counsel for the parties and perused the material available on record.

9. The prosecution case principally rests upon the allegation that the accused persons entered the shop of the complainant, where he was sitting along with his friends, and thereafter followed him to his house, where the alleged robbery was committed. Such an allegation, being the very substance of the charge, was required to be established through confidence-inspiring, consistent and unimpeachable evidence. However, the testimony of the alleged eyewitnesses does not support this part of the prosecution case. During their depositions, both eyewitnesses admitted that they had not witnessed the act of robbery. Even the complainant, in his cross-examination, admitted that his shop and house were situated adjacent to each other; yet, the alleged eyewitnesses did not enter the house and consequently did not witness the alleged occurrence of robbery. Significantly, none of the other members of the complainant's household was produced as a witness to corroborate this material part of the prosecution story. Thus, the most essential part of the prosecution case regarding the commission of robbery remains unsupported by any direct evidence, which creates a serious doubt in the prosecution version.

10. Furthermore, it has come in evidence through the complainant himself that an FIR had already been lodged by the accused side against him. This admitted circumstance establishes the existence of prior enmity between the parties and, therefore, assumes significance while appreciating the prosecution evidence. It is well settled that enmity is a double-edged weapon; on the one hand, it may furnish a motive for the accused to commit the occurrence, while on the

other hand, it equally provides an opportunity to the complainant to falsely implicate his adversary. Reliance in this regard may be placed upon **Muhammad Ashraf alias Acchu v. The State (2019 SCMR 652)** and **Muhammad Rahim v. Bakhat Muhammad and others (2025 PCr.LJ 383)**.

11. The accused were booked in the FIR, which was lodged with one day delay, for which no explanation whatsoever has been furnished by the prosecution. Initially, the complainant had not proposed to visit the police station; rather, he claimed to have approached the Nek Mard. However, no evidence was produced to establish that the complainant had, in fact, approached the Nek Mard. In the absence of such evidence, the possibility cannot be ruled out that the delayed FIR was lodged after consultation and deliberation to concoct and fabricate a story. Such unexplained delay, therefore, constitutes another strong circumstance creating doubt in the prosecution case. Reliance in this regard is placed upon **Kewal v. The State (2022 YLR 1252) [Federal-Shariat Court]**.

12. It was further alleged that the accused persons entered into the house of the complainant and committed robbery. However, the complainant failed to disclose the denomination of the currency notes allegedly robbed by the accused persons. Such omission assumes significance in the circumstances of the present case. Reliance in this regard is placed upon **Guhram Khan v. Bashir Ahmed (2021 PCr.LJ Note 86)**.

13. Moreover, the first mashir resiled from his statement and did not support the prosecution case. Although the complainant moved an application in this regard, the fact remains that, despite the lapse of considerable time, he was aware that the said mashir was a relative of the accused. This

circumstance, coupled with the admitted enmity between the parties, further gives rise to the possibility of false implication after due deliberation and consultation. The prosecution has, therefore, failed to discharge its burden of proving the guilt of the accused beyond reasonable doubt. Support in this regard is drawn from **Pirdino alias Moledino v. The State (2021 YLR Note 15)**.

14. It is settled that if a single circumstance creates reasonable doubt in the prosecution case, its benefit must go to the accused as of right. Reliance in this regard is placed upon **Muhammad Riaz v. Khurram Shahzad and another (2024 SCMR 51)**.

15. Keeping in view the foregoing reasons and discussion, the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. Consequently, the accused are entitled to the benefit of such doubt.

16. Accordingly, the instant Criminal Appeal is allowed. The impugned judgment passed by the learned trial Court, whereby the appellants were convicted and sentenced, is set aside, and the appellants are acquitted of the charge by extending to them the benefit of doubt. The Jail Authorities are directed to release the appellants forthwith, if they are not required in any other case.

17. The above are the detailed reasons in support of the short order dated 04.09.2026.

JUDGE