

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Appeal No. S-16 of 2026

Appellant : Dadan son of Allah Bux by caste Jafferi, Through Mr. Habibullah G. Ghouri, Advocate.

The State : Through Mr. Nazeer Ahmed Bangwar, Deputy Prosecutor General, Sindh.

Complainant : Shahal son of Sabz Ali by caste Jafferi, Through Mr. Sajid Hussain Mahessar, Advocate

Date of Hearing : 10.08.2026.
Date of Decision : 10.08.2026.
Date of Reasons : 17.08.2026.

JUDGMENT

Ali Haider 'Ada' J:- Through the instant Criminal Appeal, the appellant has assailed the judgment dated 16.03.2026, passed by the learned 3rd Additional Sessions Judge, Shikarpur (Trial Court), in Sessions Case No.17 of 2022, arising out of FIR No.50 of 2021, for offences punishable under section 457, 324, 382, 506/2, 337 F(iii) and 34 PPC, registered at Police Station Naper Kot, District Shikarpur, whereby the appellant was convicted and sentenced as under:

To suffer R.I for 07 years (seven years) for the offence U/S.324 r/w Section 34 PPC and to pay Arsh of Rs.100,000/- to injured victim, in case of failure to pay fine amount, he shall suffer S.I for six months more.

The appellant was also convicted the for offence U/S.457 PPC and sentenced to suffer R.I for 05 years and fine amount Rs.10,000/-. In case of failure to pay the fine amount, he shall suffer S.I for one month more.

Further, u/s.337-F(iii) PPC for causing injury to injured Complainant Shahul falling under the said penal section and sentenced him to

suffer R.I for 03 years and pay Rs.25,000/- to injured victim. In case of failure to pay the Daman amount, he shall remain in jail till payment of Daman amount.

The appellant was convicted for offence u/s 382 PPC for theft of three buffaloes from the house of complainant fallen under the said penal section and sentenced him to suffer R.I for five years and fine amount Rs.15,000/-. In case of failure to pay fine amount, he shall suffer S.I for two months more.

So far, for offence u/s 506/2 PPC for extending threats of murder to complainant party and sentenced him to suffer R.I for two years and fine amount Rs.10,000/-. In case of failure to pay the fine amount, he shall suffer S.I for two months.

However, the benefit of Section 382-B Cr.P.C was awarded.

2. The prosecution case, in brief, is that on 21.10.2021 at about 2200 hours, complainant Shahul Jafferi lodged an FIR at Police Station Naper-Kot, alleging therein that on 30.09.2021, after having their dinner, he, along with his nephew Sabz Ali and brother Badlo, was sleeping in their house. At about 10:30 p.m., they woke up on hearing the barking of dogs and, in the light of electric bulbs, saw and identified accused Sahib Dino and Dadan, both armed with guns, while accused Muhammad Bux was armed with a hatchet. According to the complainant, the accused entered their house, whereupon the complainant party raised cries. The accused pointed their weapons at them and thereafter committed theft of two black and one brown-coloured buffaloes. When the complainant resisted and caught hold of accused Sahib Dino, the latter fired a shot at him with the intention to kill, which struck him on his right ankle. Accused Dadan Jafferi also fired at the complainant, hitting him on the right thigh, as a result whereof he fell to the ground. Thereafter, all the accused left the place while extending threats to the complainant party of dire consequences.

3. The prosecution further alleged that the prosecution witnesses brought the injured complainant to the police station, from where he was shifted to RHC Khanpur and thereafter referred to RBUT Civil Hospital, Shikarpur. After being discharged from the hospital, the complainant approached the police station for registration of the FIR; however, according to him, the police refused to register the same. He, therefore, approached the competent Court and, pursuant to the order passed therein on 13.10.2021, the FIR was registered against the accused. Upon completion of the investigation, the police submitted the challan before the competent Court.

4. After taking cognizance of the case, the learned trial Court framed charge against the appellant on 18.03.2022, to which he pleaded not guilty and claimed trial.

5. In order to substantiate its case, the prosecution examined PW-01 complainant Shahal Jafferri, who produced the FIR of the present case and the copy of the order passed by the learned 5th Additional Sessions Judge, Shikarpur. PW-02 Sabz Ali was examined as an eyewitness. PW-03 SIP/SIO Syed Imdad Ali, the Investigating Officer, was also examined, followed by PW-04 Dr. Jahangir Ali, who produced the final MLC of the injured. Thereafter, the learned State Counsel closed the prosecution side.

6. The statement of the appellant was recorded under Section 342, Cr.P.C., wherein he denied the allegations levelled against him, professed his innocence and claimed false implication. He neither opted to appear as his own witness under Section 340(2), Cr.P.C., nor produced any evidence in his defence. Upon conclusion of the trial, the learned Trial Court, through the impugned judgment, convicted and sentenced the appellant, which judgment has been assailed before this Court through the instant Criminal Jail Appeal.

7. Learned counsel for the appellant 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 not corroborated by the medical evidence and that the prosecution has failed to establish the charge against the appellant beyond reasonable doubt. He, therefore, prayed for acquittal of the appellant by extending to him the benefit of doubt.

8. Conversely, learned Deputy Prosecutor General, assisted by learned counsel for the complainant, supported the impugned judgment and contended that the learned Trial Court, after properly appreciating the evidence available on record, had rightly convicted and sentenced the appellant. They maintained that the involvement of the appellant in the commission of the offence stood established through confidence-inspiring and reliable evidence, whereas the discrepancies pointed out by the defence were minor in nature and did not affect the core of the prosecution case. They, therefore, prayed for dismissal of the appeal and maintenance of the conviction and sentence.

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

10. The prosecution alleged that the appellant, alongwith other co-accused (absconders) duly armed with gun, entered the complainant's house with the motive of committing theft of buffaloes. According to the prosecution, when the complainant offered resistance, the present appellant, along with his co-accused (who is still absconding), allegedly resorted to firing, as a result of which the complainant sustained a firearm injury on his right leg. It was further alleged that all five accused persons succeeded in escaping with the buffaloes. Since the prosecution itself has set up a specific

motive, namely the theft of cattle, it was incumbent upon it to establish the same through cogent, reliable, and confidence-inspiring evidence. However, the prosecution has failed to produce any independent or convincing evidence to substantiate the alleged motive. No satisfactory evidence was brought on record to prove the alleged theft of buffaloes or to connect the appellants with such theft. Mere assertion of a motive in the FIR or in the oral testimony of the prosecution witnesses, without independent corroboration, is insufficient to treat the motive as proved. It is a settled principle of law that where the prosecution alleges a specific motive, it assumes the burden of proving the same. Failure to establish the alleged motive constitutes a circumstance which adversely affects the credibility of the prosecution case and entitles the accused to the benefit arising therefrom. Reliance, in this regard, is placed upon the case of **Muhammad Juman v. The State (2026 SCMR 1160)**,

11. The prosecution case is further rendered doubtful on account of the unexplained delay in the registration of the FIR. The complainant attempted to justify the delay by deposing that the police had refused to register the FIR and that it was ultimately recorded pursuant to an order passed by the learned Justice of Peace. However, this explanation is not borne out by the record. A perusal of the record reveals that the order of the learned Justice of Peace was passed on 13.10.2021, whereas the FIR was ultimately registered on 21.10.2021, i.e., after a further unexplained delay of eight days. The complainant has failed to furnish any plausible explanation for this subsequent delay even after obtaining the order of the Justice of Peace. It is a settled principle of law that an unexplained delay in lodging the FIR, or even a delay after obtaining an order from the Justice of Peace, creates a serious dent in the prosecution case and constitutes a circumstance entitling the accused to the benefit of doubt. Reliance, in this

regard, is placed upon the case of **Muhammad Juman v. The State (2026 SCMR 1160)**.

12. The medical evidence produced by the prosecution is also fraught with material infirmities. The Medical Officer deposed that he had examined the injured on 01.10.2021; however, the final medical certificate was issued 22 days later. During his cross-examination, he admitted that he had issued the final medical certificate directly, without first preparing or issuing any provisional medical certificate. The prosecution has failed to offer any plausible explanation for such an unusual course of conduct, thereby adversely affecting the credibility and evidentiary value of the medical evidence. Moreover, the Medical Officer failed to specify the kind of weapon responsible for the injuries sustained by the complainant. According to the ocular account, the assailants resorted to gunfire. Ordinarily, if a firearm loaded with cartridges containing pellets is discharged, the nature and pattern of injuries would ordinarily enable the medical officer to express an opinion regarding whether the injuries were caused by a bullet or pellet projectiles. Furthermore, the prosecution alleged that two gunshots were fired at the injured; nevertheless, the medical evidence reflects only three through-and-through wounds, without clarifying whether the injuries were caused by bullets or pellets or identifying the nature of the firearm used. The medical officer also failed to explain whether the injuries were consistent with the prosecution's version regarding the manner of firing. These omissions constitute material inconsistencies between the medical and ocular evidence. It is well settled that medical evidence is merely corroborative in nature. Its purpose is to confirm the receipt, nature, seat, and probable cause of the injuries, as well as the kind of weapon used, but it cannot identify the assailant. Reliance, in this regard, is placed upon the cases of **Imran v. The State (2026 SCMR 47)** and

Muhammad Ashraf Javeed v. Muhammad Umar (2017 SCMR 1999).

13. Another material lapse in the prosecution case relates to the source of light at the place of occurrence. Although the prosecution asserted that the incident was witnessed in the light of an electric bulb, the Investigating Officer neither took the said bulb into possession nor inspected it during the course of the investigation. No effort was made to verify whether the bulb was functional, its location, to enable the witnesses to identify the assailants. Failure to do so creates a material dent in the prosecution case. Reliance, in this regard, is placed upon the case of **Muhammad Waseem v. The State (2026 SCMR 434)**.

14. Furthermore, the testimony of the complainant is materially contradicted by the medical evidence about his alleged hospitalization. The complainant deposed that, after sustaining the firearm injury, he remained admitted in the hospital for six to seven days. However, the Medical Officer categorically denied this assertion and deposed that the complainant was never admitted to the hospital. This contradiction pertains to a material aspect of the prosecution case and cannot be dismissed as a minor discrepancy.

15. Another circumstance which substantially weakens the prosecution case is that nominated accused, including the present appellant, were declared innocent during the course of the police investigation. This fact assumes considerable significance because the prosecution case originates from the same occurrence and is based upon the same set of evidence. Where the prosecution evidence has either been disbelieved during the investigation. Reliance, in this regard, is placed upon the cases of **Iffikhar Ahmed v. The State (2026 SCMR 674)** and **Mustaq Ahmed v. The State (2026 SCMR 60)**.

16. The Investigating Officer admitted that, during his inspection of the place of occurrence, he did not see or secure any crime cartridges or empty shells from the spot. Likewise, no such crime empties or cartridges were produced before him by the complainant party. Guidance in this regard may be sought from the case of **Muhammad Mumtaz v. The State (2026 SCMR 1085)**.

17. The alleged motive advanced by the prosecution is equally doubtful. According to the prosecution, the appellants had entered the complainant's premises with the intention of stealing three buffaloes out of the 10 to 12 cattle allegedly present there. However, the Investigating Officer admitted that, during his inspection of the place of occurrence, he neither found any cattle at the spot nor observed any clip, tethering arrangement, or other indication showing that cattle were being kept there. Had the complainant's version been true, some physical signs of the presence of cattle would ordinarily have been available at the scene. The absence of any such evidence materially weakens the prosecution's alleged motive and renders the entire prosecution story highly doubtful. These material omissions and investigative lapses, when considered cumulatively with the other infirmities discussed hereinabove, create a serious dent in the prosecution case and further strengthen the appellants' entitlement to the benefit of doubt. It is by now a cardinal principle of criminal jurisprudence that if a single circumstance creates reasonable doubt in the prosecution case, the accused becomes entitled to the benefit of such doubt. In this regard, reliance is placed upon the case of **Iffikhar Ahmed alias Papu v. The State (2026 SCMR 1010)**.

18. Keeping in view the foregoing discussion, the reasons recorded hereinabove, and the findings arrived at, this Court is of the considered view that the prosecution has failed to prove its case against the present appellant beyond

reasonable doubt. Consequently, the appellant is entitled to the benefit of doubt as a matter of right.

19. Accordingly, vide our short order dated 10.08.2026, the instant appeal was allowed. The conviction and sentence recorded against the appellant through the impugned judgment were set aside, and the appellant was acquitted of the charge. The jail authorities were directed to release the appellant forthwith, if not required in any other criminal case. These are the detailed reasons in support of the short order dated 10.08.2026.

JUDGE