IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Acquittal Appeal No. S-27 of 2026
(Haseeb v. Ghulam Hussain alias Nido and others)

Appellant	:	Haseeb son of Muhammad Hayat Through Mr. Afzal Karim Virk, Advocate
Respondents No.1 to 4	:	Nemo
Respondent No.04	:	The State Through Mr. Ghulam Abbas Dalwani, Deputy Prosecutor General.

Criminal Acquittal Appeal No. S-28 of 2026
(Hussain Bux v. Ahsan Ali and another)

Appellant	:	Hussain Bux s/o Porho through Mr. Afzal Karim Virk, Advocate
Respondent No.1	:	Nemo
Respondent No.2	:	The State through Mr. Ghulam Abbas Dalwani, Deputy Prosecutor General.
Date of hearing	:	20.11.2026
Date of judgment	:	20.11.2026

JUDGMENT

Zulfiqar Ali Sangi, J. Through the instant judgment, I intend to dispose of Criminal Acquittal Appeal No.S-27 of 2026, filed by complainant Haseeb against the acquittal of respondents/accused Ghulam Hussain alias Nido, Bhai Khan, Ahsan Ali and Sikandar Ali in Sessions Case No.05 of 2024 arising out of Crime No.40 of 2023 registered at Police Station Jam Nawaz Ali for offences punishable under Sections 324, 337-F(i), (iv), L(ii), 114 read with Section 34 PPC, as well as Criminal Acquittal Appeal No. S-28 of 2026, filed by complainant Hussain Bux against the acquittal of respondent/accused Ahsan Ali in Sessions Case No.03 of 2024 arising out of Crime No.41 of 2023 registered at the same police station under Section 24 of the Sindh Arms Act, 2013. Both appeals arise out of the same occurrence and are founded upon the alleged recovery of a firearm in connection

with the main incident; therefore, they are being decided through this common judgment.

2. The facts, in brief, giving rise to Criminal Acquittal Appeal No. S-27 of 2026 are that complainant Haseeb lodged FIR on 16.11.2023, alleging therein that on 15.11.2023, at about 07:00 p.m., his brother Muhammad Moosa, who was serving as a police constable and was posted at RTC Jam Nawaz Ali, informed him through telephone that, while proceeding towards his duty and reaching Machhi Morr, near Cadet College Jam Nawaz Ali, he was intercepted by accused Sikandar Ali, armed with a pistol, Ghulam Hussain alias Nido, armed with a pistol, Ahsan Ali, armed with a repeater gun, and Bhai Khan, who was allegedly unarmed. According to the injured, on the instigation of Bhai Khan, the other accused opened fire upon him with the intention to commit his murder, as a result whereof he sustained firearm injuries. The accused thereafter allegedly fled from the scene. Upon receiving such information, the complainant, accompanied by his nephew Sikandar Ali, his brother Muhammad Yousuf and other persons, reached the place of occurrence, where they found Muhammad Moosa lying injured alongside his motorcycle. He was thereafter shifted to RHC Jam Nawaz Ali, subsequently to Taluka Hospital Tando Adam and ultimately referred to Civil Hospital Hyderabad. The complainant lodged the FIR on the following day.

3. After completion of investigation, challan was submitted against the accused for the aforementioned offences. The learned trial Court proceeded with the trial and recorded the evidence of the prosecution witnesses, including complainant Haseeb, injured Muhammad Moosa, Sikandar Ali, medical officer Dr. Ikram Baig, investigating officer ASI Sabo, Hussain Bux, Barkat Ali, SIP Abdul Sattar and PC Dileep Kumar. The prosecution also produced relevant medical documents, police entries, memos of place of incident, recovery, arrest and other documentary material, including the forensic report. The accused, in their statements recorded under Section 342 Cr.P.C., denied the allegations and pleaded innocence. Upon conclusion of the trial, the learned Additional Sessions Judge-II, Tando Adam, vide judgment dated 30.04.2026, acquitted accused Ghulam Hussain alias Nido, Bhai Khan and Ahsan Ali under Section 265-H(i) Cr.P.C. on the benefit of doubt. Accused Sikandar Ali, who had been declared proclaimed offender, was also acquitted in absentia, the learned trial Court holding that the prosecution had failed to establish the charge against him.

4. Criminal Acquittal Appeal No. S-28 of 2026 relates to Crime No.41 of 2023, registered under Section 24 of the Sindh Arms Act, 2013, against accused Ahsan Ali. The prosecution case in the said crime was that, on 24.11.2023, during interrogation in connection with Crime No.40 of 2023, the accused allegedly volunteered to produce the weapon used in the commission of the main offence and led the police party to Devi Tree, near Machhi Morr, Cadet College Road, Jam Nawaz Ali, where he allegedly produced an unlicensed 12-bore repeater gun concealed in bushes. Upon completion of investigation, the accused was sent to trial. The prosecution examined the complainant ASI Sabo, mashir Hussain Bux, SIP Abdul Sattar, PC Dileep Kumar and investigating officer ASI Allah Bux and produced the relevant police entries, recovery memo and forensic documents. The learned Additional Sessions Judge-II, Tando Adam, vide judgment dated 30.04.2026, acquitted the accused under Section 265-H(i) Cr.P.C., holding that the prosecution had failed to establish the recovery beyond reasonable doubt.

5. Being aggrieved by the aforementioned judgments of acquittal, the appellants have filed the instant appeals under Section 417(2-A) Cr.P.C., contending, inter alia, that the learned trial Courts failed to properly appreciate the prosecution evidence, that the ocular account and documentary evidence were sufficient to establish the guilt of the accused, that the acquittal judgments were the result of misreading and non-reading of evidence and that the findings recorded by the learned trial Courts were contrary to law and facts. It is further contended that the accused had been assigned specific roles in the occurrence and that the learned trial Court in the main case failed to appreciate the corroborative value of the medical, recovery and other evidence. In the connected appeal, the appellant has challenged the acquittal of Ahsan Ali in the arms case, asserting that the recovery of the repeater gun was duly established through the prosecution witnesses and that the learned trial Court erroneously discarded the recovery evidence.

6. Learned counsel for the appellants has argued that the impugned judgments are based upon an erroneous assessment of the evidence and that the prosecution witnesses had fully supported the prosecution case. He contended that the learned trial Courts failed to appreciate the evidence in its proper perspective and that the findings recorded therein are neither legally sustainable nor supported by the record. He further

submitted that the evidence of the injured and other witnesses, together with the medical evidence and recovery of the crime weapon, sufficiently corroborated the prosecution version and that the acquittals are liable to be set aside.

7. Conversely, learned Deputy Prosecutor General, appearing on behalf of the State, has supported the impugned judgments and submitted that the learned trial Courts have examined the evidence in its entirety and have recorded plausible findings based upon the material available on record. He maintained that the prosecution evidence suffers from material contradictions and circumstances creating reasonable doubt regarding the identity and involvement of the accused, as well as the alleged recovery of the weapon, and that no interference with the judgments of acquittal is warranted.

8. I have heard learned counsel for the appellants and learned Deputy Prosecutor General for the State and have carefully examined the record and proceedings of both cases.

9. It is a settled principle of criminal jurisprudence that the burden of proving the charge rests upon the prosecution throughout the trial and that the accused is entitled to the benefit of every reasonable doubt emerging from the prosecution evidence. The prosecution is required to establish its case beyond reasonable doubt, and the evidence must be assessed as a whole, keeping in view its intrinsic worth, consistency, corroboration and the surrounding circumstances. A conviction cannot be founded upon conjectures, presumptions or an incomplete assessment of the evidence. Likewise, an appeal against acquittal is to be examined with due regard to the presumption of innocence, which stands reinforced by the judgment of acquittal. Interference in an acquittal appeal is justified only where the impugned findings are shown to be perverse, arbitrary, based upon misreading or non-reading of material evidence, or otherwise suffering from a patent illegality or material infirmity warranting interference. Where the view adopted by the trial Court is a plausible view emerging from the record, the appellate Court would not substitute its own assessment merely because another view may also be possible.

10. In the main case, the prosecution primarily relied upon the testimony of injured Muhammad Moosa. The complainant Haseeb, as well as the other private witnesses examined in support of the

prosecution, were not eyewitnesses to the actual occurrence and their knowledge regarding the identity and participation of the accused was derived, in material part, from the information allegedly conveyed by the injured after the occurrence. The learned trial Court, while evaluating the prosecution evidence, noticed that the earliest information conveyed to the police through Barkat Ali, as reflected in station diary entry No.20, was that unknown persons had attacked and injured Muhammad Moosa. The investigating officer, ASI Sabo, admitted during cross-examination that the initial information received from Barkat Ali did not disclose the names of the accused and that the attack had been attributed to unknown persons.

11. The learned trial Court further noticed that, according to the subsequent police entry, the injured and his relatives had indicated that the names of the accused would be disclosed later. The FIR, containing the specific names and roles of the accused, was lodged on the following day, approximately 24 hours after the occurrence. Although delay in lodging an FIR, by itself, is not necessarily fatal to the prosecution case, the surrounding circumstances in which such delay occurred, coupled with the contents of the earliest information and subsequent improvements in the prosecution version, are relevant considerations for assessing the credibility and reliability of the ocular account. The learned trial Court, therefore, considered the discrepancy between the earliest information received by the police and the subsequent attribution of specific roles to the accused as a circumstance requiring careful scrutiny.

12. I find that the aforesaid circumstance was not considered in isolation by the learned trial Court but was evaluated in conjunction with the remaining evidence. The initial information admittedly did not disclose the names of the assailants, whereas the subsequent prosecution version attributed specific roles and weapons to the accused. Such variance, in the circumstances of the present case, was rightly treated as a material circumstance requiring corroboration from independent and reliable evidence. The learned trial Court was justified in examining whether the subsequent attribution of names and roles was sufficiently supported by the other evidence available on record.

13. The learned trial Court also examined the nature and extent of the injuries sustained by Muhammad Moosa in juxtaposition with the manner of occurrence narrated by him. According to the injured, he

was intercepted and surrounded by the accused, who were allegedly armed with different firearms, and multiple shots were fired at him from a close distance. The learned trial Court observed that the nature and extent of the injuries, as reflected in the medical evidence, did not satisfactorily correspond with the manner and intensity of firing described by the injured. Though medical evidence is ordinarily suppurative in nature and cannot, by itself, displace reliable ocular testimony, the same may be considered along with other circumstances where the prosecution account is otherwise doubtful. The learned trial Court, therefore, did not treat the medical evidence as an independent ground for acquittal but considered it as one of the circumstances contributing to the overall assessment of the prosecution case.

14. The recovery of empties from the place of occurrence and the alleged recovery of the repeater gun from accused Ahsan Ali were also considered by the learned trial Court. The weapon was allegedly recovered on 24.11.2023, after nine days of the occurrence, from bushes near Devi Tree, Machhi Morr, Cadet College Road, Jam Nawaz Ali, pursuant to the disclosure allegedly made by the accused while in police custody. The learned trial Court found the recovery doubtful in the circumstances of the case, particularly in view of the manner in which the recovery was alleged to have been effected and the overall deficiencies in the prosecution evidence. It is well settled that recovery of a weapon, even if proved, is a corroborative circumstance and its evidentiary value depends upon the reliability of the recovery proceedings, the manner of recovery, the chain of custody and the extent to which the recovered article is connected with the crime. A recovery, which itself is surrounded by circumstances creating doubt, cannot be treated as an independent and conclusive proof of the guilt of the accused.

15. The medical evidence, as observed by the learned trial Court, established that Muhammad Moosa had sustained firearm injuries. However, the medical evidence did not, by itself, identify the assailants or establish their participation in the occurrence. The fact that an injured person sustained firearm injuries is not in dispute; nevertheless, the prosecution was required to establish, through reliable evidence, that the injuries were caused by the accused in the manner alleged. The learned trial Court, upon an appraisal of the ocular account, the earliest information, the subsequent disclosure of names, the medical evidence and the recovery proceedings, concluded

that the prosecution had failed to establish the charge beyond reasonable doubt.

16. I have independently examined the material circumstances discussed by the learned trial Court and find that the conclusion reached therein is based upon an assessment of the evidence available on record. The appellants have not been able to point out any material evidence which was altogether ignored by the learned trial Court or any finding which is demonstrably perverse or contrary to the record. The grounds raised in the appeal essentially seek reappraisal of the evidence and substitution of the findings recorded by the learned trial Court with a different view. However, the mere possibility of another interpretation of the evidence is not sufficient to warrant interference with a judgment of acquittal. The findings recorded by the learned trial Court are neither arbitrary nor unreasonable and are supported by the circumstances emerging from the evidence.

17. So far as the acquittal of accused Sikandar Ali in absentia is concerned, the learned trial Court recorded that no evidence had been brought on record establishing his involvement in the occurrence and that his case stood on the same footing as the other accused. The fact that an accused has been declared a proclaimed offender or has remained absent from the proceedings does not, by itself, dispense with the requirement of proof of the charge. The prosecution is still required to establish the guilt of such accused through legally admissible and reliable evidence. The acquittal recorded in absentia, in the circumstances noticed by the learned trial Court, does not disclose any illegality warranting interference.

18. In Criminal Acquittal Appeal No. S-28 of 2026, the appellant has challenged the acquittal of Ahsan Ali in Crime No.41 of 2023 registered under Section 24 of the Sindh Arms Act, 2013. The prosecution case in the said matter was confined to the alleged recovery of a 12-bore repeater gun pursuant to the disclosure made by the accused while in police custody in connection with the main crime. The learned trial Court examined the evidence of the complainant, mashir, police officials and investigating officer and observed that the recovery was alleged to have been effected after nine days of the occurrence from bushes near Devi Tree, Machhi Morr, Cadet College Road, Jam Nawaz Ali. It further observed that the evidence of the complainant regarding

the recovery was not satisfactorily corroborated by the private mashir, who had not adequately narrated the time and manner of the recovery.

19. I have examined the evidence relating to the recovery proceedings and find that the learned trial Court has duly considered the material deficiencies in the prosecution evidence. The mere assertion that the accused produced a weapon while in police custody does not, without reliable proof of the recovery proceedings, establish the charge beyond reasonable doubt. The prosecution was required to establish the recovery through trustworthy evidence, including the circumstances in which the weapon was recovered, the participation of the mashirs, the safe custody of the recovered article and its subsequent transmission for forensic examination. The learned trial Court found that the recovery proceedings were not sufficiently reliable and that the prosecution had failed to establish the charge against the accused.

20. It is also relevant that the alleged recovery of the repeater gun was relied upon in the main case as a corroborative circumstance connecting accused Ahsan Ali with the occurrence. However, the learned trial Court in the main case had already found the recovery doubtful while assessing the overall prosecution evidence. The acquittal in the arms case, therefore, cannot be examined independently of the circumstances surrounding the alleged recovery, particularly when the recovery itself has been found to be doubtful in the main case. The mere fact that the accused was acquitted in the main case is not, by itself, a substitute for an independent assessment of the evidence in the arms case; nevertheless, the findings recorded by the learned trial Court in the arms case are supported by the deficiencies noticed in the recovery evidence and do not suffer from any material illegality or perversity.

21. The appellants have not been able to demonstrate that the learned trial Court in the arms case misread or ignored any material evidence, or that its findings were based upon an arbitrary or unreasonable assessment of the record. The conclusion that the alleged recovery had not been established beyond reasonable doubt is a plausible conclusion arising from the evidence produced by the prosecution. Consequently, no interference with the judgment of acquittal in the arms case is warranted.

22. It is a cardinal principle of criminal jurisprudence that even a single circumstance creating reasonable doubt in the prosecution case

is sufficient to entitle an accused to the benefit of such doubt, which is not a concession but a right flowing from the presumption of innocence. The prosecution is not required to establish its case merely by creating an impression of guilt; rather, it must prove the charge through evidence which is reliable, cogent and convincing. In the present cases, the learned trial Courts have examined the evidence and the attending circumstances and have concluded that the prosecution failed to discharge its burden. The appellants have failed to demonstrate any legal infirmity, misreading, non-reading or perversity in the impugned judgments which may justify interference in the exercise of appellate jurisdiction against acquittal.

23. For the foregoing reasons, both Criminal Acquittal Appeal No. S-27 of 2026 and Criminal Acquittal Appeal No. S-28 of 2026 are dismissed. The impugned judgments of acquittal dated 30.04.2026 passed by the learned Additional Sessions Judge-II, Tando Adam, in Sessions Case No.05 of 2024 arising out of Crime No.40 of 2023 and Sessions Case No.03 of 2024 arising out of Crime No.41 of 2023, respectively, are maintained.

24. The appeals stand dismissed accordingly.

JUDGE