

**JUDGMENT SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.**

Criminal Jail Appeal No.D-66 of 2021  
Criminal Jail Appeal No.D-67 of 2021

*Present:-*

**Mr. Justice Mahmood A.Khan,**  
**Mr. Justice Zulfiqar Ali Sangi**

Appellants: Badaruddin Lashari [Criminal Jail Appeal No.D-66/2022] through M/s. Sajjad Ahmed Chandio and Ayaz Ali Khaskheli Advocates.  
Allah Warrayo Lashari [Criminal Jail Appeal No.D-67 of 2022] through Mr. Ahsan Gul Dahri, Advocate.

Respondent: The State through Agha Abdul Nabi, Special Prosecutor for ANF.

Date of hearing: 22.08.2023 & 06.09.2023.

Date of Decision: 13.10.2023.

**J U D G M E N T**

**ZULFIQAR ALI SANGI, J.** Since both these criminal appeals are arising out of one and the same crime as well as judgment, as such, the same are decided together. The appellants, through their Appeals have respectively assailed the conviction judgment dated 24.05.2021, passed by learned Special Judge Control of Narcotic Substance / Model Criminal Trial Court-II / IV<sup>th</sup> Additional Sessions Judge, Hyderabad in Special Case No.47 of 2020, emanating from Crime No.04 / 2020 for the offence punishable under sections 6, 9 (c), 14, 15 CNS Act, 1997, registered at PS ANF, Hyderabad. The impugned judgment was pronounced after finding the appellants guilty whereby both the appellants were convicted for the offence punishable under section 9-C CNS Act, 1997 and appellant Badaruddin was sentenced to suffer Imprisonment for Life with fine of Rs.100,000/- in case of default whereof, he shall suffer S.I. for one year more while the appellant Allah Warrayo was sentenced to suffer R.I. for ten years and six months with fine of Rs.55,000/-; in case of default whereof, he shall suffer S.I. for eight months more. However, they were extended the benefit of Section 382-B of Cr.PC.

2. Brief facts of the prosecution case are that on 04.02.2020, before the complainant S.I. Zahoor Shah of Police Station ANF Hyderabad spy informer appeared with reference to higher officials and narrated that fame drug paddler namely Badaruddin, will arrive at Shell Petrol Pump near Giddu Chowk, Hyderabad, on account of supply of huge quantity of narcotics to his selected customers between 1030 hours to 1130 hours and an immediate action can bring the definite arrest and recovery. On receiving such information, the complainant along with HC Muhammad Umer, Police Constables Mohsin Ali, Asif Ali, Sep. Haffaz, Sep. Muhammad Khalil, Driver PC Asim Saleem along with informer as well as equipped with weapons under entry No.6 left the Police Station in police mobile and reached at pointed place at 1020 hours and started secret surveillance. Where at about 1045 hours, one Auto Rickshaw came. From the said Rickshaw one person alighted and de-loaded three white color plastic sacks for which the spy informer disclosed that he is Badaruddin. It is further alleged that after sometime, two other persons also came there and he handed over one plastic sack to one person and also similar sack to another person. When both the persons started leaving the spot, the complainant along with staff apprehended the three persons. The persons available there, were asked to witness the recovery but they refused due to fear of narcotics paddlers, therefore, in such circumstances, from raiding party, PC Mohsin Ali and PC Driver Asim Saleem were nominated as mashirs. On inquiry, first person disclosed his name as Badaruddin s/o Hazar Khan Lashari R/o Baban Shah Colony, Thandi Sarak, Hyderabad, second disclosed his name as Mashooque Ali s/o Chakar R/o Sehrish Nagar, Hyderabad and third person disclosed his name as Allah Warayo s/o Noor Muhammad R/o Unit No.1, Latifabad, Hyderabad. On query about recovery of Charas, first captive admitted that his white coloured plastic sack was containing narcotics, which was taken into custody, checked it in presence of mashirs and found containing 14 plastic packets of multi colour foiled packets having cut and each packet was containing two slabs of Charas, which were weighed through electronic scale and found weighing 1/1 kilogram each total 14 kilograms. Out of each packet, 10/10 total 20 grams from each packet was separated for Chemical Examination and such 14 samples were sealed in Khaki envelope by applying Nos.1 to 14 for identification on each parcel, whereas rest packets were also sealed separately in same white colour sack at the

spot by applying Nos.1 to 14 for identification and No.1 was written on the sack. Thereafter, plastic sack recovered from accused Mashooque Ali was checked and found containing 08 plastic packets of multi colour foiled packets and each packet was containing two slabs of Charas, which were weighed through electronic scale and found weighing 1/1 kilogram each total eight kilograms. Out of each packet, 10/10 total 20 grams from each packet was separated for Chemical Examination and such eight samples were sealed in Khaki envelope by applying Nos.15 to 22 for identification, whereas rest packets were also sealed separately in same white colour sack at the spot by applying Nos.15 to 22 and No.2 was written on the sack. On checking recovery of sack affected from accused Allah Warayo, it was found containing 08 plastic packets of multi colour foiled packets and each packet was containing two slabs of Charas, which were weighed through electronic scale and found weighing 1/1 kilogram each total eight kilograms. Out of each packet, 10/10 total 20 grams from each packet was separated for Chemical Examination and such eight samples were sealed in Khaki envelope by applying Nos.23 to 30 for identification, whereas rest packets were also sealed separately in same white colour sack at the spot by applying Nos.23 to 30 and No.3 was written on the sack. Thereafter, all 30 sealed parcels were sealed in white cloth bag for Chemical Examination. On personal search of accused Badaruddin Rs.5500/- from his side pocket, one mobile phone and his original CNIC were secured; from accused Mashooque Ali, complainant recovered Rs.2500/- and one mobile phone from his side pocket and accused Allah Warayo was found in possession of Rs.2000/-. On query, accused Badaruddin disclosed that he purchased the Charas from one Rehmatullah S/o not known, R/o Qilla Abdullah Balochistan Province, which was to be supplied to arrested accused Mashooque Ali S/o Allah Warayo but apprehended. Thereafter, recovered property was taken into custody, such memo of arrest and recovery was prepared in presence of above mashirs, contents of which were read over to them, who after admitting signed the same as well as sealed parcels. Thereafter, accused and case property were brought at Police Station where complainant registered present FIR.

**3.** After the usual investigation challan of the case was submitted before the court having jurisdiction. The legal formalities including the supply of documents were completed and then the

charge against appellants was framed to which they pleaded not guilty and claimed trial. It is pertinent to mention here that during proceedings accused Mashooque Ali expired on 10.09.2020, as such, proceedings against him were abated. At the trial, the prosecution examined P.Ws. complainant S.I. Zahoor Ahmed, mashir PC Muhammad Saleem and Asif Ali (messenger of case property), who produced relevant documents and the items in support of their evidence and then the prosecution closed its side.

**4.** After examination of the prosecution witnesses, the appellants were given a chance to explain the prosecution evidence by recording their statements under Section 342 Cr. P.C., in which they denied all the allegations and claimed to be innocent. However, neither they examined themselves on oath nor led evidence in their defence.

**5.** On conclusion of the trial, learned trial court after hearing the parties convicted and sentenced the appellants through impugned judgment as stated above.

**6.** Learned counsel for the appellants mainly argued that the appellants are innocent and have been falsely implicated in this case; that no independent witnesses were associated despite information in advance which makes the case doubtful; that as per prosecution story the spy information was shared with the officials of ANF by an informer; however, neither the particulars of spy informer are disclosed anywhere nor spy if called to support the version given by the complainant, therefore, mere statement of the complainant/ANF officials that they received spy information become doubtful; that as per prosecution story the appellant Badaruddin came at the spot on a Rickshaw but the raiding party including the complainant avoided to arrest or inquire from the owner/driver of said Rickshaw, the only source of transportation and even the said Rickshaw was not secured nor produced and in this regard no explanation is furnished; that there is violation of Article 17 and 79 of the Qanoon-e-Shahadat, 1984, as the complainant was acting as complainant, investigation officer as well as the scribe of the memo of recovery and only one mashir and messenger of sealed parcel were examined by the prosecution and the others were left without any reason; that the prosecution was required to examine at least two mashirs of the recovery to prove the mashirnama of recovery, as

such, the prosecution has withheld its best evidence and if evidence available but withheld then it presumption would be that there is some upsetting motive for not examining such witness, as such, Article 129 (g) of the Qanun-e-Shahdat Order, 1984 could fairly be drawn in the case; that the mode and manner of the incident shown by the prosecution is not appealable to a prudent mind; that major contradictions were available in the evidence of witnesses but the same were not considered by the trial court; that all the witnesses are police officials and the mashir is subordinate of the complainant, therefore, their evidence cannot be relied upon; that the trial court ignored the provisions of section 367 Cr.P.C while passing the impugned judgment. Lastly, they submit that the entire case of the prosecution is doubtful therefore by extending the benefit of the doubt the appellants may be acquitted by allowing their appeals. In support of their contentions they relied upon the cases reported as JAVED IQBAL v The STATE (2023 SCMR 139), AKHTAR MEEN v. The STATE (PLD 2022 Sindh 84), ABDUL REHMAN v The STATE (PLD 2022 Sindh 233), MUREED MAJEEDANO v. The STATE (2022 PCr.LJ 961) and FAROOQ SHAH v. The STATE (2022 PCr.LJ Note 116).

**7.** On the other hand, learned counsel for the ANF has contended that the prosecution has successfully proved its case by examining the P.Ws, who have no enmity with the appellants; that there are eyewitnesses who deposed that in their presence the appellants were arrested and narcotics recovered from them under the mashirnama of arrest and recovery; that no major contradiction is pointed out by the defence counsel; that all the P.Ws have supported the prosecution case, therefore, conviction and sentence awarded by the trial court requires no interference by this court and the appeals of the appellants are liable to be dismissed.

**8.** We have heard learned counsel for the appellants as well as learned special prosecutor for the ANF and perused the material available on record with their able assistance.

**9.** The re-appraisal of evidence brought on record established that the prosecution has successfully proved its case against the appellants/accused beyond any reasonable shadow of doubt by producing reliable, trustworthy and confidence-inspiring evidence. The prosecution to prove the case against the appellants has examined two eyewitnesses in respect of the arrest and recovery

of contraband material from the possession of the appellants. PW S.I. Zahoor Shah, the complainant so also the investigating officer of the case, whereas, PW P.C Muhammad Saleem is the eyewitness and the mashir. Both the witnesses deposed against the appellants in the same line and stated that on 04.02.2020, they were available at PS ANF Hyderabad. The informer shared information to high ups that one drug paddler namely Badaruddin, will come to supply the drug at Shell Petrol Pump near Giddu Chowk, Hyderabad, between 1000 hours to 1130 hours. Such information was conveyed to the complainant by his high ups with direction to constitute a raiding party, on which one raiding party consisting upon complainant, H.C Umar, Police constables Mohsin, Asif Ali, Sepoy Affaz, Sepoy Khalil and DPC Asim Saleem was constituted. Thereafter they along with informer left the police station vide entry No.6 and arrived at pointed place at 1020 hours where they started surveillance. At about 1045 hours, one Rickshaw stopped at the distance of 30/40 paces from them, to which one person got down and also brought three white colour plastic sacks/Katta from Rickshaw and place them on earth, then Rickshaw went away, however, accused was standing there. The informer identified the said person as Badaruddin. After sometime, two persons came to Badaruddin and started talking and after that Badaruddin handed over one sack to one person and another sack to second person and when all three persons started going away, they apprehended them. Thereafter, they immediately asked private persons available at the spot to witness the recovery but they refuted due to fear of narcotics paddlers. They further deposed in their evidence that due to compelling circumstances, P.C Mohsin and DPC Asim Saleem were nominated as mashirs. On inquiry, first person disclosed his name as Badaruddin s/o Hazar Khan Lashari R/o Baban Shah Colony, Thandi Sarak, Hyderabad, second person disclosed his name as Mashooque Ali s/o Chakar R/o Sehrish Nagar, Hyderabad and third person disclosed his name as Allah Warayo s/o Noor Muhammad R/o Unit No.1, Latifabad, Hyderabad. On query about recovery of Charas, first captive admitted that his plastic sack is containing narcotics, which was taken into police custody, checked it and found containing 14 plastic packets of multi colour, which were opened and each found containing two slabs of Charas. Thereafter complainant weighed each packet separately and found weighing 1,000 grams each total 14 kilograms. Out of each packet, 20/20 grams were separated and such 14 samples were sealed in

Khaki envelope for chemical examination by applying Nos.1 to 14 for identification on each parcel, whereas rest property was also sealed separately in white colour sack at the spot and its proper identification, complainant marked Nos.1 to 14 on it. After that complainant checked the sack hold by accused Mashooque Ali and found containing 08 plastic packets of multi colour, which were opened and each found weighing 1,000 grams each total 08 kilograms. Out of each packet, 20/20 grams Charas was separated and such 08 samples were sealed in Khaki envelope for chemical examination by applying 15 to 22 for identification on each parcel, whereas rest property was also sealed separately in white colour sack at the spot and for its proper identification marked Nos.15 to 22 on it. Complainant also marked No.1 on sack recovered from accused Badaruddin and No.2 on sack recovered from accused Mashooque Ali and then checked sack recovered from accused Allah Warayo and found containing 08 plastic packets of multi colour, which were opened and each found containing two slabs of Charas. Thereafter complainant weighed each packet separately and found weighing 1,000 grams each total 08 kilograms. Out of each 20/20 grams Charas was separated and such 08 samples were sealed in Khaki envelope for chemical examination by applying Nos.23 to 30 for identification on each parcel, whereas rest property was also sealed separately in white colour sack at the spot and for its proper identification, complainant marked Nos.23 to 30 on it. He also marked sack of accused Allah Warayo as No.3 then all 30 samples were sealed in white colour cloth parcel. Complainant took personal search of accused Badaruddin and recovered Rs.5500/- from his side pocket, one mobile phone and his original CNIC. On bodily search of accused Allah Warayo, complainant recovered Rs.2000/- from his side pocket. On query from accused Badaruddin, he disclosed that he purchased the Charas from one Rehmatullah R/o Qilla Abdullah Quetta and it was to be supplied to co-accused. Then complainant took custody of recovered sealed property, prepared memo of arrest and recovery in presence of mashirs, its contents were read over to them, who after admitting the same, put their signatures thereon. Thereafter they brought accused and case property at PS ANF where he maintained such arrival entry bearing No.8 and then registered such FIR. The complainant marked FIR number on sealed parcel and deposited the same in Malkhana. Thereafter he conducted investigation, during which, he obtained fingerprints of accused and

recorded 161 Cr.P.C. statements of witnesses. On 05.02.2020, there was Holiday, therefore, on 06.02.2020, complainant sent the sealed parcels to Chemical Examiner through PC Asif Ali along with necessary documents. Both the witnesses were cross-examined at length by the defence counsel but nothing favoring the appellants comes from their mouth hence their evidence seems to be reliable, trustworthy and confidence-inspiring. Though some minor discrepancies in their evidence are available but we do not find the same to be of such standard to acquit the appellants. The complainant who was also the Investigating Officer produced departure and arrival entry at Ex.03/A, memo of arrest and recovery at Ex.03/B, FIR at Ex.03/C, entry of Malkhana at Ex.03/D, letter to Chemical Examiner at Ex.03/E and Chemical Examiner's report at Ex.04/F admitting the same to be correct and bearing his signatures. The witnesses were cross-examined at length but we could not find any substantial material which favored the appellants.

**10.** To prove the safe transmission of the recovered contraband from the police station to the chemical examiner the prosecution examined PW PC Asif Ali who in his evidence has stated that on 06.02.2020, he was posted as Constable at PS ANF Hyderabad when complainant handed over him 30 envelopes of samples duly sealed in white colour cloth parcel along with relevant documents for dispatching the same to Chemical Examiner then, complainant along with samples and relevant documents left the Police Station vide entry No.5 at 0830 hours for Chemical Laboratory Karachi. On the same date, he deposited the sealed parcel to Chemical Examiner and obtained such receiving endorsement on the letter and came back at Police Station entry No.10 and handed over the receipt to complainant. This witness saw Ex.03/E parcel containing 30 envelopes of samples of charas produced in Court as Article-P/7 and admitted to be same and correct. He produced departure and arrival entries at Ex.05/A, The complainant recorded his statement. On perusal, no major contradiction was found in their evidence. The evidence of above witnesses was when scrutinized with the Chemical Examiner's report the same was found reliable, trustworthy and confidence inspiring. As per the Chemical Examiner's report, the property reached the lab on 06.02.2020 through PC Asif Ali. The property as per the report was found on physical examination of one sealed cloth bag containing 30 Khaki



envelopes each contained 02 dark brown pieces and the Chemical Examiner in his report has concluded the samples to be Charas.

**11.** In the case in hand, the prosecution examined the Malkhana Incharge to prove the safe custody and the person who brought the property to the lab for safe transmission even otherwise if the same witnesses were not examined and the Chemical Examiner's report supports that the property reached at the lab with perfect seals as per the document then it is sufficient to hold that the property was in safe custody and the same was safely transmitted. No question was put from this witness in respect of any tampering with the samples during the cross-examination. The latest view of the Supreme Court on this point in Cr. Appeal No. 208 of 2022, **Zain Ali v. The State** (unreported) Judgment dated: 29-05-2023 (Three member bench) is as follows:-

“During the course of arguments, learned counsel for the appellant had argued that **one Suleman Haider, Constable, who deposited the sample parcels in the office of Chemical Examiner was not produced in evidence, therefore, the safe custody of the allegedly recovered narcotic and its safe transmission is not established. However, this argument is of no help to the appellant. A bare perusal of the record shows that a huge quantity of 563 kilograms charas and 1500 grams opium was recovered from the appellant on 25.03.2013. The Investigating Officer separated 83 kilograms of charas in two separate parcels of 43/40 kilogram and sealed the same. The whole recovered 1500 grams opium was also separated and sealed in a parcel. All the three sealed sample parcels were sent to the office of Chemical Examiner on the very next day i.e. 26.03.2013. The report of the Chemical Examiner testifies this fact that the three sealed parcels were received on the said date, which were found to be charas and opium.** It also came in evidence that the whole recovered narcotics, except the parcels which were sent to the Chemical Examiner, was produced in Court in sealed parcels during trial as a case property. Although, Tahir Ahmed, Inspector/I.O. was cross-examined by the defence at length but no question was put to him, which could suggest that either the whole recovered narcotics was not produced in Court or the same was not sealed in separate parcels as stated by him. Similarly, no question was put to him, which could suggest that the recovered narcotics was planted on the Criminal Appeal No. 208/2022. In this view of the matter, it can safely be said that the safe chain of custody of the recovered narcotics was not compromised at all.”

**12.** We have carefully examined the evidence of the prosecution witnesses and found the same reliable, trustworthy and confidence inspiring. The recovery of a huge quantity of charas was

affected from the possession of accused persons and the same was kept in safe custody and with shortest period it was sent for chemical examination. The prosecution also proved the safe custody and its safe transmission by producing the witnesses in whose custody the property was in the Malkhana and through whom it was sent for chemical examination. All the chains from the recovery of the narcotics till sending the same for chemical examination have been proven by the prosecution beyond a reasonable doubt. The contention raised by the learned counsel for the appellants that PW SI Zahoor Shah himself is the complainant and the Investigating Officer of the case, therefore, his evidence cannot be relied upon and its benefit must be given to the appellants has no force as there is no prohibition in the law for the police officer to investigate the case lodged by him as has been held by the Supreme Court of Pakistan in the case of **Zafar v. The State (2008 SCMR 1254)**, wherein it is held as follows:-

“11. So far as the objection of the learned counsel for the applicant that the Investigation Officer is the complainant and the witness of the occurrence and recovery, the matter has been dealt with by this Court in the case of **State through Advocate-General Sindh v. Bashir and others PLD 1997 SC 408, wherein it is observed that a Police Office is not prohibited under the law to be complainant if he is a witness to the commission of an offence and also to be an Investigating Officer**, so long as it does not in any way prejudice the accused person. Though the Investigation Officer and other prosecution witnesses are employees of A.N.F., they had no animosity or rancor against the appellant to plant such a huge quantity of narcotic material upon him. The defence has not produced any such evidence to establish animosity qua the prosecution witnesses. All the prosecution witnesses have deposed in line to support the prosecution case. The witnesses have passed the test of lengthy cross-examination but the defence failed to make any dent in the prosecution story or to extract any material contradiction fatal to the prosecution case. The prosecution has been successful to bring home the guilt of the appellant to the hilt by placing ocular account, recovery of narcotic material, the Chemical Examiner report G.1, Exh.P.3. The learned counsel for appellant has not been able to point out any error of law in the impugned judgment and the same is unexceptionable.

**13.** The objection raised by learned counsel for the appellants that having prior information no private persons were associated as witness/mashir in the recovery proceeding hence the provision of section 103 Cr. P.C was violated by the complainant and the evidence of police officials cannot be relied upon while awarding the conviction in cases of capital punishment also has no force as the

reluctance of the general public to become a witness in such cases has become a judicially recognized fact and there was no way out but consider the statement of the official witnesses as no legal bar or restriction has been imposed and even then there was no time to collect independent witnesses. No direct enmity or ill will has been suggested by the appellants against the complainant or any of the officials who participated in recovery proceedings during cross-examination and therefore in the circumstances the police officials were good witnesses and could be relied upon if their testimony remained unshattered during the cross-examination. Even otherwise, the provision of **Section 25 of the CNS Act** has provided the exclusion of Section 103 Cr.P.C. during recovery proceedings. The Supreme Court of Pakistan in the case of **Salah-uddin v. The State (2010 SCMR 1962)**, has held as under:-

“We are conscious of the fact that no private witness could be produced but it must not lost sight of that reluctance of general public to become witness in such like cases by now has become a judicially recognized fact and there is no way out but to consider the statement of an official witness as no legal bar or restriction whatsoever has been imposed in this regard. We are fortified by the dictum laid down in Hayat Bibi v. Muhammad Khan (1976 SCMR 128), Yaqoob Shah v. The State (PLD 1976 SC 53), Muhammad Hanif v. State (2003 SCMR 1237). It is well settled by now that police officials are good witnesses and can be relied upon if their testimony remained un shattered during cross examination as has been held in case of Muhammad Naeem v. State (1992 SCMR 1617), Muhammad v. State (PLD 1981 SC 635). The contentions of Mr. Kamran Murtaza, learned Advocate Supreme Court on behalf of petitioner qua violation of provisions as enumerated in section 103, Cr.P.C. seems to be devoid of merit when examined in the light of provisions as contained in section 25 of the Act which provides exclusion of section 103, Cr.P.C.”

**14.** It is observed that in the cases of narcotic substances, a recovery memo is a basic document, which should be prepared by the Seizing Officer, at the time of the recovered articles, containing a list thereof, in the presence of two or more respectable witnesses and memo to be signed by such witnesses. The main object of preparing the recovery memo on the spot and with the signatures of the witnesses is to ensure that the recovery is effected in the presence of the marginal witnesses, honestly and fairly, so as to exclude the possibility of false implication and fabrication. Once the recovery memo is prepared, the next step for the prosecution is to produce the same before the Trial Court, to prove the recovery of the material and preparation of the memo through the Scribe and the marginal

witnesses. The complainant when was examined before the Trial Court he stated that people were asked to act as mashir but they refused and after recovery of contraband material was taken into possession through the recovery memo and on the said memo signature was obtained from two witnesses after they read and understand the contents. The PW Muhammad Asim Saleem claimed to be the recovery witness and contended that recovery was effected in his presence and the presence of other witnesses he also named those witnesses and further stated that he signed the recovery memo, by giving details of the recovery of contraband material. The complainant and the witness of the recovery corroborate each other on material points, therefore, their statements are reliable and inspire confidence as such, and the prosecution has established the recovery of the contraband material from the accused persons beyond the reasonable doubt.

**15.** In the case at hand, two eyewitnesses have fully supported the case as has been discussed above. However, the sole evidence of a material witness i.e. an eyewitness is always sufficient to establish the guilt of the accused if the same is confidence-inspiring and trustworthy and supported by another independent source of evidence because the law considers the quality of evidence and not its quantity to prove the charge. The accused can be convicted if the Court finds direct oral evidence of one eye-witness to be reliable, trustworthy and confidence-inspiring as has been held by the Supreme Court of Pakistan in the cases of ***Muhammad Ehsan v. The State (2006 SCMR 1857)*** and ***Niaz-Ud-Din v. The State (2011 SCMR 725)***. There can be no denial of the legally established principle of law that it is always the direct evidence that is material to decide a fact (charge). The failure of direct evidence is always sufficient to hold a criminal charge as 'not proved' but where direct evidence holds the field and stands the test of being natural and confidence-inspiring then the requirement of independent corroboration is only a rule of abundant caution and not a mandatory rule to be applied invariably in each case.

**16.** In the instant case, no proof of enmity with the complainant and the prosecution witnesses has been brought on the record, thus in the absence thereof, the competence of prosecution witnesses being ANF officials was rightly believed by the trial Court.

Moreover, a procedural formality cannot be insisted at the cost of completion of an offence and if an accused is otherwise found connected, then mere procedural omission and even allegation of improper conduct of investigation would not help the accused. The Supreme Court of Pakistan in the case of **State/ANF v. Muhammad Arshad (2017 SCMR 283)**, has held that:-

*"We may mention here that even where no proper investigation is conducted, but where the material that comes before the Court is sufficient to connect the accused with the commission of crime, the accused can still be convicted, notwithstanding minor omissions that have no bearing on the outcome of the case".*

**17.** In matters of huge quantity of narcotics, the absence of enmity or any valid reason for false involvement would also be circumstances tilting the case against the accused. The reliance may be placed on the case of **Salah-ud-Din v. The State (2010 SCMR 1962)**, wherein the Supreme Court of Pakistan has held that:-

*"...No enmity whatsoever has been alleged against the prosecution witnesses and there is hardly any possibility for false implication without having any ulterior motives which was never alleged. In view of overwhelming prosecution evidence the defense version has rightly been discarded which otherwise is denial simpliciter and does not appeal to logic and reasons..."*

**18.** Learned counsel for the appellants emphasized that there are material contradictions in the case of prosecution but no such material contradiction has been highlighted to create doubt in the prosecution story. The courts are supposed to dispose of the matter with a dynamic approach, instead of acquitting the drug paddlers on technicalities as has been held by the Supreme Court of Pakistan in the case of **Ghulam Qadir v. The State (PLD 2006 SC 61)**. In another case of **The State/ANF v. Muhammad Arshad (2017 SCMR 283)**, it is observed by the Supreme Court of Pakistan that if in the case no proper investigation was conducted, but if the material that came before the court was sufficient to connect the accused with the commission of the crime the accused could still be convicted notwithstanding minor omissions that had no bearing on the outcome of the case. Though the appellants had an opportunity to examine themselves on oath and lead evidence in their defence to disprove the allegations of prosecution but they chosen not to examine themselves on oath and lead evidence in their defence to bringing reliable and trustworthy evidence in their favour for their acquittal

**19.** Thus based on the particular facts and the circumstances of the case in hand as discussed above, we have found that the prosecution has proven its case against the appellants beyond a reasonable doubt by producing reliable, trustworthy and confidence inspiring evidence in the shape of oral/direct and documentary evidence corroborated by the report of the chemical examiner. The impugned Judgment passed by the learned trial court does not suffer from any illegality, gross irregularities or infirmities to call for interference by this court. Resultantly, these appeals are **dismissed**.

JUDGE

JUDGE