

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS
Criminal Appeal No.D-42 of 2024

Present
Mr. Justice Amjad Ali Bohio.
Mr. Justice Dr.Syed Fiaz ul Hasan Shah.

Appellant/ accused: Irfan @ Jalal s/o Abdullah Banglani
Through Mr. Bhooro Bheel, Advocate,

Respondent: The State
Through, Mr. Shahzado Saleem,
Additional P.G Sindh

Date of hearing: 04.02.2025.

Date of Judgment: 04.02.2025.

J U D G M E N T

Dr. Syed Fiaz ul Hasan Shah, J: The Appellant Irfan alias Jalal has filed present Criminal Appeal under section 48 of Control of Narcotics Substances Act, 1997 read with section 410 of Criminal Procedure Code, 1898, against the Judgment of conviction dated 13-02-2023 passed by learned First Additional Sessions Judge / Special Judge, Control of Narcotics Substance Act at Mirpurkhas in Special Case No. 49/ 2022 (*Re: The State Vs. Irfan alias Jalal*) which is arising out of Crime No.07/ 2022 under section 9(c) of the Control of Narcotics Substances Act, 1997, registered at PS: D.I.O, Excise and Taxation, Mirpurkhas.

2. As per facts of the F.I.R. lodged by complainant Excise Inspector Saleemullah Samoon on 06-10-2022 at 02:30 p.m at Police Station D.I.O Excise and Taxation, Mirpurkhas, are that on the same day, he, along with his subordinate staff, namely EC Muhammad Ameen, EC Muhammad Zafar, EC Wahid Bux, EC Syed Rafique Shah and EC Muhammad Yousuf, left the PS in an official vehicle, as per roznamcha entry No. 16 at 12:00 noon time for curbing the narcotics in Mirpurkhas

city. After patrolling at different places when they reached near Sugar Mill Mirpurkhas on Mirpurkhas-Umerkot road, where saw that a suspected person was standing; he to see Excise police mobile tried to slip away but they apprehended him and on inquiry he disclosed his name as Irfan alias Jalal s/o Abdullah Banglani r/o village Salim Banglani Taluka and District Umerkot. Due to non-availability of public mashir, EC Muhammad Zafar and EC Muhammad Ameen were appointed as mashirs and then personal search of appellant/ accused was conducted and recovered four patties/ slabs of charas wrapped in golden colour plastic from the front side of folds of his *shalwar* so also recovered five currency notes of Rs.100/= each total Rs.500/= from front pocket of his shirt. The recovered Chars was weighed at the spot, which became 02 KGs, which was sealed in a cloth bag for chemical examination at the spot. After preparation of such memo, they brought arrested accused and recovered property at PS, where complainant lodged instant F.I.R.

3. After completion of the investigation, the Complainant-cum-Investigation Officer has submitted Police Report/Challan under Section 173 of the Criminal Procedure Code, 1898. Subsequently, the trial Court has framed the charge against the appellant/ accused on 23-01-2023 at Ex.2-A, to which the appellant has pleaded not guilty and claimed for trial vide his plea at Ex.02-A. During the trial, the prosecution has examined P.W-01 AETO Saleemullah (Complainant/ I.O.) at Ex.03, P.W-02 EC Muhammad Zafar (first mashir) at Ex.04 and P.W-03 EC Muhammad Ameen (2nd mashir) at Ex.05. They produced relevant documents, recovered articles, which were exhibited during their testimony before the trial Court. After the completion of prosecution's

evidence, the statement of appellant was recorded under section 342 of Criminal Procedure Code, 1898, at Ex.07 wherein the Appellant has not opted for his examination on oath under section 340(2) of the Criminal Procedure Code, 1898 or to produce his witness or adduce any evidence in his defense.

4. After hearing, the arguments advanced by the learned counsel for the parties, the trial Court found the Appellant guilty and thereby convicted him and sentenced to suffer Rigorous imprisonment for 09 years alongwith fine Rs.100,000/-. Additionally, in case of default in payment of fine amount, he would further undergo simple imprisonment for one year.

5. The Counsel for the Appellant has contended that appellant is innocent; that impugned judgment is contrary to law and principles settled by the superior courts; that the trial Court framed the Charge of 04 KG Chars while the FIR, Challan and exhibits mentioned about 02 KG Chars; that trial court has failed to consider that the case property was sent for chemical examination with a considerable delay; that there is glaring contradictions in the depositions of complainant/I.O and P.Ws; that place of incident is thickly populated area but Excise police officials have not invited any single private person. Lastly he prayed for setting aside the conviction.

6. On the other hand, learned Additional Prosecutor General rigorously opposed the contentions while arguing that Excise Police officials are good witnesses and their evidence remained unshaken and on the basis of available record no interference is warranted by this court. Lastly, he requested that the weight of narcotics (Chars) mentioned in the Charge as 04 KG which is bonafide typographical mistake at the hand of

Presiding Officer and it is settled law that no one should be suffered from the mistake of court and prayed to ignore the same.

7. We have heard learned counsel for the Appellant and learned Additional Prosecutor General for State and record has been perused minutely and it has observed that surprisingly, the PW-01 Saleemullah Samoon, Assistant Director, E&T, Mirpur Khas is himself is the Seizing Officer of the Memorandum of Recovery, Arresting Officer, Complainant, author of FIR, Investigation Officer and author of Arrival, Departure Entry and of Register No.XIX and more interestingly he is himself Incharge of Malkhana with entrustment of case property involved in the case in hand.

Mis-description, inaccuracy & Broken Safe custody and safe transmission and safe production of case property before the Court

8. **Mis-description of Color:** The relevant portion of the evidence of the prosecution witnesses disproved the nature of case property. For instance, PW-01 deposed *"I myself conducted his body search and recovered four separate slabs (patties) of chars which were lying in-front side of his folder of trouser (Shalwar)." "I checked recovered slabs of charas which were wrapped with a golden plastic wrapper (panni)." None of the prosecution witness deposed that 04 slabs had "dark brown" color. Even the primitive document viz Memorandum of Recovery is silent about color of case property (04 slabs) as "dark brown". On the contrary, the report of Chemical Examiner, Karachi Exh-3/H visibly described that four "dark brown" patties each wrapped in golden plastic panni.*

9. **Inaccuracy of case property:** PW-02 Muhammad Zafar Excise Constable admitted in evidence *"It is correct that digit '1716' and words*

'Gumnam 2021' are written on each slab of chars, same are not mentioned in the Memo as well as FIR". PW-03 Mohammad Ameen Excise Constable has also admitted in evidence "It is correct that digit '1716' and words 'Gumnam 2021' are written on each slab of chars, same are not mentioned in the Memo as well as FIR." We have noticed that description of digit '1716' and word 'Gumnam 2021' is not mentioned in the Memorandum of Recovery dated 06.10.2022 or in the FIR or in the Police Report/Challan or in the Register No. XIX (Exh.3/D) or even it has not referred in the Report of Chemical Examiner (Exh.3/H).

10. The prosecution has failed to demonstrate that the case property produced in Court with dark brown color and inscription of digit "1716" and word "gumnam" is the same as mentioned in the Memorandum of Recovery/ Seizure which was prepared at crime scene. On the contrary, both Mashirs i.e. PW-02 & PW-03, have admitted that the digit "1716" and word "gumnam" inscribed on the case property when it has presented in Court. We therefore, arrived at an inescapable view that the case property mentioned in the Memorandum of Recovery/Seizure is not the same which has been produced in the Court during evidence of prosecution side. Notably, mis-descriptions of case property and the inaccuracy in the Memorandum of Recovery and subsequent flaccid documents including Chemical Examination report is not simply fatal to the case of prosecution¹ but a calumny and an act of uttering charges in derogation of the settled principles ruled down by the Hon'ble Supreme Court of Pakistan ² that in absence of establishing the safe custody and

¹ "Qaiser and another v. The State" (2022 SCMR 1641)

² "Ikramullah v. The State" (2015 SCMR 1002); "The State vs. Imam Bakhsh" (2018 S'CMR 2039); "Abdul Ghani v. The State" (2019 SCMR 608); "Kamran Shah vs. The

safe transmission, the element of tempering cannot be excluded in this case. Any break in the chain of custody i.e. the safe custody or safe transmission of case property or samples, makes the report of chemical examiner worthless and un-reliable for justifying conviction of the accused.

11. A Memorandum of Recovery is regularly prepared by Seizing Officer at the crime scene and it is the *foundation document* in Narcotics related cases. The Hon'ble Supreme Court of Pakistan³ has focused its importance and accentuated that the Seizing Officer should draft the Memo of Recovery of contraband with a *great caution* and *care* so that a comprehensive inventory of the actual items recovered must eminently be given as the prosecution in Narcotics cases is always encircling around the Memorandum of Recovery by way of complete description and well draft. Besides above, the law mandates that such document must be executed in the presence of two or more credible witnesses who should also be testified the Memorandum of Recovery by putting their signature in order to qualify the Memo of Recovery in accordance with law. ⁴ The pre-dominant objective of carefully preparation of Memorandum of Recovery on the spot at crime scene together with the execution of signatures of two or more witnesses, is to safeguard the process of recovery and seizing from maneuvering and to demonstrate that the process has been done in a transparent manner and keeping

State" (2019 SCMR 1217); "Mst. Razia Sultana vs. The State" (2019 SCMR 1300); "Faizan Ali vs. The State" (2019 SCMR 1649); "Zahir Shah alias Shat vs. State through AG KPK" (2019 SCMR 2004); "Haji Nawaz vs. The State" (2020 SCMR 687); "Qaiser Khan vs. The State" (2021 SCMR 363); "Mst. Sakina Ramzan vs. The State" (2021 SCMR 451); "Zubair Khan vs. The State" (2021 SCMR 492); "Gulzar vs. The State" (2021 SCMR 380)."

³ "Zafar Khan and another v. The State" (2022 SCMR 864);

⁴ Article 17 and 79 of the Qanoon-e-Shahadat Order, 1984

away shadow of doubt about the tampering of evidence. In other words to qualify the requirement of law.⁵ In present case, the oral and documentary evidences of Prosecution Witnesses are not free from variation and contradiction and are arbitrarily close to the true value of the parameter laid down by the Hon'ble Supreme Court of Pakistan.

12. **Broken chain of Safe custody and Safe Transmission:** The next stage of the such Memorandum of Recovery is to produce before the Trial Court as an admissible evidence and to prove the recovery through scribe and the marginal witnesses. The Memorandum of Recovery was prepared on 06-10-2022 at 1.15 p.m. P.W-1 has produced computerized printed and self-attested copy⁶ purportedly Register No. XIX having Entry No.113 dated 06-10-2022. Besides, no record of further Entry in Register No.XIX was produced with regard to the storage of case property in the Malkhana (safe custody) or Entry of Register XIX for dispatch of such case property to the laboratory at Karachi (safe transmission) or thereafter in what manner case property has returned back or to whom case property was handed over by the Laboratory Officer to produce before the Court of law during evidence. The admission of the P.W-1 *"It is correct to suggest that it is not specifically mentioned in the FIR and memo that case property was got kept in safe custody in Malkhana."* And about the Register No. XIX that *"It is correct to suggest that time is not specifically mentioned in the entry of property register No.19. It is correct to suggest that it is not specifically mentioned in entry of property register No.19 that by whom it was deposited. Vol. says that officer incharge himself acts as incharge Malkhana"* as well as the evidence of PW-02 and P.W-03 have not been

⁵ ibid

⁶ Failure of test as required under Article 76 of the Qanoon-e-Shahadat Order, 1984

confirmed that the Memorandum of Recovery, FIR and Entry of Register No. XIX in consonance with each other. It is open and shut case of broken safe custody and broken safe transmission of case property.

13. Furthermore, the failure to produce valid entry of the Register No. XIX and production of computerized print as Entry of Register No.XIX is not fulfilling the requirement of Police Rules, 1934. Similarly, the Road certificate Exh.3-A is a manipulated document that shows the date as 24-10-2022 and it is self-contradictory to the Register No.XIX dated 07.10.2022. We are mindful to hold that it was the prime duty of the Investigating Officer to enter the factum of handing over the case property as well as sealed sample parcels and other recovered articles from the possession of Appellant in the relevant register of police station i.e. register No.2 but the same was not done in the present case which proved fatal to the prosecution case. The first provision of law relating to daily diary is section 44 of the Police Act, 1861 which is hereby reproduced as under for ready reference:

Section 44 in [The Police Act, 1861]

44. Police- officers to keep diary: It shall be the duty of every officer in charge of a police station to keep a general diary in such form shall, from time to time, be prescribed by the Provincial Government and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined.

The Rule 22.48 of the Police Rules 1934, Rule 22.48 pertains to Register No.II:

Register No. II. -

(1) The Daily Diary shall be maintained in accordance with section 44 of the Police Act.

It shall be in Form 22.48(1) and shall be maintained by means of carbon copying process. There shall be two copies. One will remain in the police station register and the other shall be dispatched to a Gazetted Officer to be designated by the Superintendent of Police or to the Superintendent of Police himself every day at the hour fixed in this behalf. Shortly before the close of each quarter, books containing the proper number of pages for the ensuing three months shall be issued to police stations by the Superintendent. The Superintendent shall fix the hours at which station diaries shall be daily closed with reference to the hour of dispatch of the post or messenger.

(2). The daily diary is intended to be complete record of all events which take place at the police station. It should, therefore, record not only the movements and activities of all police officers, but also visits of outsiders, whether official or non-official, coming or brought to the police station for any purpose whatsoever.

(3) All entries in the station diary shall be made by the officer in charge of the police station or by the station clerk. Literate officers making a report shall read the report re-corded and append their signatures. Every matter recorded in such diary shall be so recorded as soon as possible; each separate entry shall be numbered and the hour at which it was made shall commence each such entry. If the hour at which the information, or otherwise, containing such entries reaches the police station differs from the hour at which such entry was made, both hours shall be stated. As soon as entry has been made in the diary, a line shall be drawn across the page immediately below it.

(4) The opening entry each day shall give the name of each person in custody, the of-fence of which he is accused, and the date and hour of his arrest, the name of each accused person at large on bail or recognizance and the date of his release on such security. The last entry each day shall show (a) the balance of cash in hand as shown in the cash account, and (b) the balance of the cattle-pound account.

Similarly, as per requirement of Rules, the Form register No.XIX in Punjab Police Rules,1934 ⁷ is as follows:

RULE NO.22.70: REGISTERS NO. XIX:

This register shall be maintained in Form 22.70.

With the exception of articles already included in register No. XVI every article placed in the store-room shall be entered in this register and the removal of any such article shall be noted in the appropriate column. The register may be destroyed three years after the date of the last entry.

⁷ Punjab Police Rules, 1934 in volume III and chapter No.22

FORM NO.22.70 _____ POLICE STATION, _____
DISTRICT Register No. XIX.

Store-Room Register (Part I).

Column

1. Serial No.
2. No of first information report (if any), from whom taken (if taken from a person), and from what place.
3. Date of deposit and name of depositor.
4. Description of property.
5. Reference to report asking for order regarding disposal of property.
6. How disposed of and date.
7. Signature of recipient (including person by whom dispatched).
8. Remarks. (To be prepared on a quarter sheet of native paper)

Rule 22.49 of the Police Rules 1934, Rule 22.49. - Matters to be entered in Register No. II - The following matters shall, amongst others, be entered

(h) All arrivals at, and dispatches from, the police station of persons in custody, and all admissions to, and removals from, the police station lock-ups, whether temporary or otherwise, the exact hour being given in every case.

14. The record produced by the PW-01 was not in accordance with the prescribed Rules and does not qualify the test of prove. We would refer the excerpt from the Judgment of Hon'ble Supreme Court⁸ :

“Thus, the Police Rules mandate that case property be kept in the Malkhana and that the entry of the same be recorded in Register No. XIX of the said police station. The procedure in the Police Rules ensures that the case property, when is produced before the court, remains in safe custody and is not tempered with until that time. A complete mechanism is provided in Police Rules qua safe custody and safe transmission of case property to concerned laboratory and then to trial Court.”

Line added for emphasize

It is settled that if a thing is required to be done in a particular manner that should be done in that particular manner and not otherwise as a matter of convenience or practice.⁹ On the other hand, the production of the case property during evidence has also not been proved. The de-sealing of case property has been done in Court at the request of State prosecutor in the following manners:

⁸ “Ahmed Ali & another vs. The State” (Criminal Appeal No.48 of 2021)

⁹ Irfan Ali alias Ghulam Raza alias Ramzan vs. The State” (2011 YLR 522)

“ The Id ADPP for the State submits that case property so produced today may be de-sealed to which Id. Defence Counsel raised no objection. Chars therefore has been de-sealed and shown to the present complainant/IO, who identified the same to be same.”

15. The evidence of the PW-01 (Seizing Officer – Complainant – author of FIR – Investigation Officer – Custodian of Store room (Malkhana) weired out that he has not produced the case property and he has not given direct evidence about production of case property. He has just unrealistically identified case property when de-sealed it at the request of State Prosecutor. There is nothing brought on record as how the case property had presented in trial Court except the attribution by the State Prosecutor. In the trial, it was essential for Prosecution to elucidate through cogent and convincing evidence that the alleged contraband was seized from the possession of the Appellant/accused at crime scene by mentioning the complete description and accurate status of case property and then it was mandatorily to keep in safe custody in the Official Store (Malkhana) at police station and subsequently it's transmission to the Laboratory for analysis through proper record and finally such contraband must be returned back safely for production before the trial Court through the relevant Prosecution witness. After perusal of evidence on record, we find that the prosecution has failed to demonstrate safe custody of case property (contraband) to the police station as well as safe transmission of case property to the office of chemical analyst and its subsequent production before the trial Court. There is no explanation or reason available on record for its failure to establish and follow accuracy in description, safe custody, its safe transmission and subsequent safe return for production before the Court

backed by the mandatorily required documentation. This led to us at a conclusion that the prosecution has shattered evidence.

16. We are mindful about the exclusion of Section 103 Cr.P.C. in the cases registered under the Control of Narcotics Substance Act, 1997 as envisaged under section 25 of the Act *ibid*, which reads as under:

“25. Mode of making searches and arrest: The provision of the Code of Criminal Procedure, 1898, except those of Section 103, shall *mutatis mutandis*, apply to all searches and arrests in so far as they are not inconsistent with the provisions of sections 20, 21, 22 and 23 to all warrants issued and arrests and searches made under these sections.”

(underlining supplied for emphasis)

A bare perusal of Section 25 of the Control of Narcotics Substance Act, 1997 expound that while making search and arrest, it is not absolute to avoid the provisions of Section 103 Cr.P.C. In our humble view, seizing officer has to meet the pre-conditionalites. For instance, the compliance of Section 21 of the CNS Act, 1997 for non-compliance of Section 103 of the Code by invoking Section 25 of the CNS Act, 1997 or that by the time warrant could be obtained, a possibility either of escape of the accused from crime scene or conceal or removal of evidence may involve which may put the prosecution in trouble to unearth the evidence. The Hon'ble Supreme Court ¹⁰ held that:

“It is not an absolute requirement that in every case witness of the public must necessarily be produced. It depends upon the facts of each case. In the case in hand the Police Officers were in the ordinary course of duty looking for the suspects and errant.”

¹⁰¹⁰ “Zardar vs. The State” (1991 SCMR 458); “The State vs. Muhammad Amin” (1999 SCMR 1367)

In the case of Appellant, there was an unhindered possibility to engage an independent person to witness the search and arrest of the Appellant. The PW-01 in his Examination-in-Chief has suppressed the material factum about the presence of private person at the crime scene *“No other private person was found there at that time so I carried out such exercise in presence of official Mashirs each EC Muhammad Zafar and EC Muhammad Ameen on the spot”* but in Cross-examination he has conceded that *“10/15 private persons were seen at the distance of around 150 meters.”* Both the Mashirs PW-02 & PW-03 have also admitted that PW-02: *“Few persons were seen at a distance of about 100 paces, they were 10/12 in numbers.”* and PW-03: *“No other person was present at the place of incident at that time. Vol says few persons were seen at some distance; they were present in front of hotel and shops”*. It means there was a deliberate avoidance of obtaining an independent mashir on the free ride of Section 25 of the CNS Act, 1997 by false deposition by PW-01.

17. **Failure of Corroboration:** Another interesting point is that the PW-01 deposed that *“No other private witness was found there at the time so I carried out such exercise in presence of official mushirs EX Mohammad Zafar and EC Mohammad Ameen on the spot”*. During Cross examination he has admitted that *“It is incorrect to suggest that parcel of chars was stitched at P.S. EC Muhammad Yosuf wrote Memo on the spot.”* As regards the scribe he was not shown or described as a witness in the said Memorandum of Recovery, therefore, he could not be categorized as an attesting witness. In terms of rule laid down by Hon’ble Supreme Court¹¹ a scribe/writer can be called as witness for the *corroboration* of

¹¹ PLD 2011 Supreme Court 241

evidence of the marginal witness and recovery from the crime scene. Apparently, the Excise Constable Mohammad Yosuf shown as a witness in the Calendar of Witness of the Police Report filed under section 173 Cr.P.C. but he was not stepped into witness box for corroboration of Recovery and evidence of Witnesses of Recovery for the best reason known to the prosecution which draw us a negative inference under Article 129(h) of the Qanoon-e-Shahadat Order, 1984 that if he comes into witness box, he may not corroborate the recovery and evidence of Witnesses regarding contraband.¹²

18. We are mindful that conviction can be awarded to an Accused on the basis of direct oral evidence of only one eye-witness if same is reliable, trustworthy and confidence-inspiring as has been held by the Supreme Court of Pakistan¹³ vis-à-vis the Hon'ble Supreme Court¹⁴ has held that where safe custody or safe transmission of the Narcotics is not substantiated or based on unpersuasive evidence, the Report of Government Analyst becomes doubtful and unreliable. The chain of events—series of things linked, connected or associated together, would have to demonstrate and prove by the prosecution and if any link is missing or division occur, the benefit would go in favor of the accused.¹⁵

19. Therefore, we cannot safely rely upon and depend on the evidence of prosecution being untrustworthy evidence having complexion of

¹² "Minhaj Vs. The State" (2019 SCMR 326)

¹³ "Muhammad Ehsan vs. The State" (2006 SCMR 1857) and "Niaz-Ud-Din v. The State" (2011 SCMR 725).

¹⁴ Ikramullah Vs. The State (2015 SCMR 1002) "Amjad Ali Vs. The State" (2012 SCMR 577), "Ikramullah Vs. The State" (2015 SCMR 1002), "Haji Nawaz Vs. The State" (2020 SCMR 687) and "Qaiser Khan Vs. The State" (2021 SCMR 363).

¹⁵ "Javed Iqbal v. The State" (2023 SCMR 139); "Mst. Sakina Ramzan v. The State" (2021 SCMR 451) and , and "Qaiser Khan v. The State" (2021 SCMR 363).

incredible testimony and inadmissible documents. We hold that impugned Judgment of Conviction based on unpersuasive evidence that causing miscarriage of justice. In conclusion, we refer about the doctrine of benefit of doubt. The rule of benefit of doubt is essentially the rule of prudence which cannot be ignored while dispensing justice. The steadily commandment of *law* necessitate unremitting attention for conviction that it must be based on un-impeachable evidence and certainty of guilt and where any doubt emerges would indispensably favor the Accused. The Hon'ble Supreme Court of Pakistan has ruled down in several cases that it does not need to be a plethora of circumstances raising doubt—a single event that creates reasonable doubt in the mind of a prudent person regarding an accused's guilt would entitle him acquittal as a matter of *right* and not as clemency or grace.¹⁶ It is trite law that single dent in the case of prosecution is sufficient for acquittal.¹⁷ The case in hand is glaringly noticeable because of inexcusable susceptible evidence adduced by the prosecution which does not qualify test of law¹⁸ and it stands disprove. In the light of above reasons and settled laws of the Hon'ble Supreme Court of Pakistan as has been referred above and placed too at the footnote of this judgment.

20. We have also noticed that while there are powerful tools available to combat Narcotics cases, greater authorities are needed to target and

¹⁶ Tariq Pervez v. The State (1995 SCMR 1345), Riaz Masih alias Mithoo v. The State (1995 SCMR 1730), Muhammad Akram v. The State (2009 SCMR 230), and Hashim Qasim and another v. The State (2017 SCMR 986).

¹⁷ "Rehmatullah vs. The State" (2024 SCMR 1782); "Muhammad Mansha versus The State" (2018 SCMR 772), "Abdul Jabbar and another versus The State" (2019 SCMR 129), "Mst. Asia Bibi versus The State and others" CrI. Appeal No.40132/2023 8 (PLD 2019 SC 64) and "Amir Muhammad Khan versus The State" (2023 SCMR 566).

¹⁸ Article 2(iv) and Article 117 of Qanoon-e-Shahadat Order, 1984

interlink—interconnect the groups’ manufacturing and distribution of deadly Narcotics cases. This case is silent about this and about the “actus rea” or “motive” of 02 KG Chars.

21. These are the reasons of our short Order dated 04.02.2025 which is re-produced hereunder:

Heard learned Counsel for the Appellant and learned Additional P.G. For the reasons be recorded later on; by this short order instant Criminal Appeal is allowed and impugned Judgment dated 13-02-2023 passed in Special Case No. 49/ 2022 (“ Re: State Vs. Irfan alias Jalal) arising out of Crime No. 07/2022 registered under section 9 (c) Control of Narcotics Substances Act, 1997, at PS D.I.O Excise and Taxation Mirpurkhas, by learned Additional Sessions Judge-I/MCTC/Judge For CNSA Mirpurkhas, is set aside and appellant Irfan alias Jalal s/o Abdullah Banglani is acquitted. Release order be issued.

Let the Office shall send the copy of this Judgment to the Chief Secretary, Government of Sindh, Karachi, Addl; Chief Secretary, Home Department and the Secretary, Excise & Taxation department, Karachi for perusal, reference to paragraphs-7,13 and 20 for taking administrative actions to bring the standard of Investigation of Excise police in conformity with the requirement of the Police Rules, 1934 in Narcotics related cases as discussed hereinabove.

JUDGE

JUDGE