

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

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Criminal Jail Appeal No.S-13 of 2022

Khadim Hussain Kakhrani

V/S

The State

Appellant: Through Mr. Irfan Badar Abbasi,
Advocate

State: Through Mr. Ali Anwar Kandhro,
Additional Prosecutor General, Sindh.

Date of Hearing: 12.02.2025

Date of Decision: 21.02.2025

J U D G M E N T

Omar Sial, J.- Khadim Hussain Khakhrani was accused of possessing an unlicensed weapon on 29.01.2020. Khakhrani was also accused in a murder case (arising out of F.I.R. No. 01 of 2020, registered under sections 302, 452, 148, and 149 P.P.C. at the Ketu Mumtaz police station on 25.01.2020). F.I.R. No. 2 of 2020 was registered under section 24 of the Sindh Arms Act, 2013, at the same police station for possessing an unlicensed weapon.

2. Khadim pleaded not guilty and claimed trial. The prosecution examined Abdul Ghafoor (witness to the arrest and recovery) and S.I. Syed Nisar Ali Shah (the complainant).

3. I have heard the learned counsel for the appellant and the learned Additional Prosecutor General. My findings and observations are as follows.

4. Surprisingly, the case's investigating officer, who would have given the primary evidence, was not examined at trial. No reason was given for his absence, giving rise to the presumption under Article 129 illustration that he would not have supported the prosecution case had he appeared. No evidence was produced to show that the seized weapon was sent for a ballistic examination to determine whether it was what the prosecution claimed had been seized or if it was even in a working condition. Learned

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Additional Prosecutor General has argued that the appellant was also convicted for the murder of Tahir Abbas. Be that as it may, his conviction in the murder case would have no bearing on this case. The prosecution did not allege that the weapon seized from the appellant was the crime weapon. Both cases registered against the appellant are stand-alone cases that had to be proved through their respective evidence. Because of the investigation and prosecution lapses mentioned above, I believe the prosecution could not prove its case beyond reasonable doubt.

5. The appeal is allowed, and the appellant is acquitted of the charge. He may be released in this case.


21/2/25
JUDGE