

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Criminal Appeal No.S-59 of 2025

Appellant: Gul Maalik s/o Amin Shah Afridi
Through Mr. Mir Pervez Akhter Talpur, Advocate

Respondent: The State
Through Mr. Neel Parkash Deputy P.G

Date of Hearing: 28.01.2026 & 03.02.2026

Date of judgment: 03.02.2026

J U D G M E N T

Miran Muhammad Shah, J.- The appellant Gul Maalik s/o Amin Shah Afridi has assailed the judgment dated 19.12.2025, passed by learned Additional Sessions Judge-I/MCTC, Mirpurkhas, in Sessions Case No.210 of 2024 “Re- State versus Gul Maalik”, arising out of F.I.R No.03 of 2024 registered at Police Station CTD Mirpurkhas, for offence under Section 23(1)(a) of Sindh Arms Act, 2013 through which he was convicted and sentenced to rigorous imprisonment for 05 years and fine of Rs.50,000/- and in default thereof to suffer simple imprisonment for 03 months.

2. The prosecution story, as unfolded in the FIR and further elaborated during trial, is that on 11-06-2024, a CTD police party headed by Inspector Afzal Qureshi was on an intelligence-based operation regarding illegal weapons trafficking. At about 1700 hours, the police reached Muhammadi Chowk, Digri, where the accused allegedly appeared in a suspicious manner. Upon interception and personal search, it is alleged that a black shopper carried by the accused contained the weapons viz. (1) 9mm pistol (black colour), number rubbed, without magazine, (2) 9mm pistol (Taurus PT-909, Brazil) with magazine, number rubbed, (3) 9mm pistol (Giarsan Zigana, Türkiye) with magazine, (4) 30 bore pistol with magazine, (5) 30 bore pistol (Star SA, Made in Spain), number rubbed, (6) 30 bore pistol with 05 live rounds, (7) 9mm pistol with 05 live rounds. The accused allegedly failed to produce any license or document showing lawful possession of the weapons. Two sealed

parcels were prepared at the spot. Thereafter, upon information and interrogation, the police moved to the arms shop of the accused situated at Digri. From this search, five additional pistols allegedly without any lawful record or entries in the shop register were recovered.

3. Pursuant to the registration of FIR, the investigation was followed and in due course the challan was submitted before the Court of competent jurisdiction, whereby the appellant was sent up to face the trial. Charge was framed against appellant, to which he pleaded not guilty to the charged offence and claimed trial.

4. At trial, the prosecution has examined only official witnesses PW-1: PC Walam (Dispatch Official) who brought the property to FSL. PW-2: HC Zahid Jameel (Incharge Makhana) who kept the recovered property in the Makhana under entry No.03 of Register No.19. PW-3: Inspector Muhammad Afzal Qureshi (Complainant). PW-4: ASI Mir Muhammad another member of the raiding team and PW-5: Inspector Muhammad Saleem (Investigation Officer).

5. The accused examined himself and two defence witnesses. The defence plea is summarized, Police did raid his shop and took weapons, However, the defence asserts that the accused is a *licenced arms dealer*, Police allegedly rubbed or erased serial numbers of pistols at the shop, Police allegedly mis-declared the weapons as unlicensed and the accused claimed to have had lawful record.

6. Upon culmination of the trial, the learned Trial Court found the appellant guilty of the offence charged with and, thus, convicted and sentenced him as detailed in para-1 (supra), which necessitated the filing of the instant appeal.

7. Learned counsel for appellant has contended that impugned judgment is opposed to facts, law and material available on record; that the impugned judgment is result of non-reading and mis-reading of the evidence available on record; that learned trial Court while passing the impugned judgment has erroneously relied on the evidence of prosecution witnesses, who are police officials, though

the evidence of prosecution witnesses is neither confidence inspiring nor supportive to convict the appellant; that learned trial Court while passing the impugned judgment and convicting the appellant has failed to consider that there was/is major conflict in the evidence of complainant and his witnesses, which do not support the prosecution's case and were/are sufficient to acquit appellant; that the trial Court while passing the impugned judgment has completely ignored the very accusation against the appellant that the alleged recovery of weapon were recovered from the shop of appellant, which supports the defense plea of appellant that the same were not recovered from appellant but from his shop and the police scratched/rubbed its numbers to falsely implicate him in this case due to enmity and grudge; that learned trial Court while passing the impugned judgment has completely ignored the answer of question No.8 of statement of accused under section 342 Cr.P.C, wherein the appellant has clearly stated that police took 48 pistols from his shop which were registered weapons having respective numbers and entered in register out of which police has rubbed/erased the numbers of seven weapons and foisted the same upon him in this case and returned 41 weapons to his brother Khan Malik on 14.06.2024; that learned trial Court while passing the impugned judgment has completely ignored the record produced by the appellant and USB wherein there is video of police with his minor son, which shows that nothing was recovered from him but the police has concocted a false story and falsely implicated appellant in this case; the trial Court while passing the impugned judgment and convicting the appellant has failed to consider the fact that there is unexplained delay in sending the case property to Ballistic Expert and in such circumstances no reliance can be placed on the report of Ballistic Expert. Lastly, he prayed to set aside impugned judgment and acquittal of appellant.

8. On the other hand, learned D.P.G has supported the impugned judgment to be based on fair evaluation of evidence and documents brought on record; that the witnesses while appearing before the learned trial Court remained consistent on each and every material point; they were subjected to lengthy cross-

examination but nothing adverse to the prosecution story has been extracted; that the prosecution has successfully proved its case against the appellant beyond shadow of reasonable doubt, thus, the appeal filed by the appellant warrants dismissal and his conviction and sentence recorded by the learned trial Court is liable to be upheld and prayed for dismissal of the instant appeal.

9. After hearing all the parties concerned including learned counsel for appellant as well as learned D.P.G and also perused the report of trial Court, the entire case seems to be based on malafide, where the police of Counter Terrorism Department (C.T.D), Mirpurkhas targeted the present appellant, who himself is a dealer/holder-ship of arms and ammunition shop. Learned trial Court in complete disregard to the evidence provided by the defense counsel convicted the present appellant.

10. An arms dealer, if is involved in carrying of/holding of different weapons gets implicated in Sindh Arms Act cases then it would be virtually impossible to render the business of sale and purchase of the weapons, which is a certified, recognized and legal business done upon the permit granted by the Government authorities. In the present case also, appellant was carrying the dealership/license and permit to carry the business of armory. The present appellant's statement under section 342 Cr.P.C also points out that police malafidely and intentionally implicated him in this matter such statement was surely confidence inspiring. However, learned trial Court in-fact referred this to as concession to accused, which was not the case. The entire case is based on the ill-motives of the local C.T.D police and such actions of C.T.D police came under scrutiny by the concerned department and inquiry was conducted by D.S.P, C.T.D, Hyderabad on the direction of higher-ups of C.T.D department. Recommendation of the report is reproduced as under:-

“Keeping in view of the statement recorded, visit of place of occurrence various police documents, social media contents, CDRs and secret information collected by inquiry from different sources verified the contents

mentioned in the secret information report unanimously in the opinion that all legal action of police officers and officials brought very bad name to the CTD Sindh; otherwise, which holds an outstanding history in the province of Sindh in different challenging task/work and it has also been crystal clear that DSP Usman Leghari, DSP City Tando Allayar, DSP Masood Akhter Arain, DSP CTD Mirpurkhas, Insp. Mohammad Afzal, SHO, P.S, CTD, HC/1812 Aijaz Ali (Driver), PC/2255 Walam CTD Mirpurkhas are found guilty, hence, Major punishment may kindly be awarded, in the best interest of justice”.

11. When police department conducted inquiry in the negative actions of the officials, they were held responsible for such actions. The complainant of the present case Inspector Muhammad Afzal and witnesses PC Walam and HC Aijaz Ali are mentioned in the inquiry report and major punishment has been recommended for their actions. Evidence coming from such miscreant police officials must not be relied upon by the trial Court. Such police actions are menace and must be carefully entertained by trial Court judiciary. Involving people in these cases based on weak evidence must not be entertained and conviction based on such evidence is in itself an illegality. Seven pistols recovered from the appellant were genuine and were being used in the sale and purchase at his arm shop. The C.T.D police in-fact relied upon fake and forged recovery items foisted upon appellant and tried to hoodwink the trial Court to cause trouble to innocent persons due to their own personal grudge and enmity. The learned trial Court’s conviction is based on forged evidence and bogus material, which is set aside and present appellant is acquitted of all the charges framed against him.

12. This Criminal Appeal was allowed vide a short order dated 03.02.2026 and these are the detail reasons of the same.

JUDGE