

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Khadim Hussain Tunio
Mr. Justice Amjad Ali Sahito

Spl. Crl. Anti-Terrorism Acquittal Appeal No.126 of 2024

The State Vs. Mst. Midhat Zehra @ Cheeno @ Zahida
@ Dukhtar-e-Parachinar D/o Mukhtar Ali.

Date of Hearing : 05.12.2025

Appellant through : Mr. Khaleeq Ahmed, DAG

Respondent through : *Nemo.*

J U D G M E N T

Amjad Ali Sahito, J:- Through the instant Spl. Criminal Anti-Terrorism Acquittal Appeal, the appellant/State has impugned the judgment dated 30.04.2024 passed by the learned Judge Anti-Terrorism Court No.XVI, Karachi in (Old Special Case No.486/2021)/New Special Case No.196/2021 arising out of FIR No.21/2021 under sections 11-H/11-N/ 11-J & 21-C R/w 7 of ATA, 1997 of PS FIA/CTW, Karachi; whereby accused / respondent was acquitted.

2. Brief facts of the prosecution case are that on 11.10.2021, the complainant Farhan Ahmed, Sub-Inspector FIA/CTW Karachi, consequent upon Enquiry No.45/2021 of FIA Counter Terrorism Wing, Islamabad, lodged FIR No.21/2021 at PS FIA/CTW based on a report regarding the accused Ms. Midhat Zehra Cheeno @ Dukhtar-e-Parachinar. She is alleged to be a facilitator of a militant group with connections to a neighboring country, operating under the name of Zainabiyoun Brigade and Hizbulah Zainabiyoun from the Islamic Republic of Iran, and actively participating in terrorist activities in Syria. This militant group was recruiting militants from Shia community of Pakistan under hoodwinked slogan of

sectarianism to safeguard the shrine of Hazrat Bibi Zainab RA in Syria. These militants travelled from Pakistan under garb of holy pilgrimage and were giving warfare training meant for terrorism in Syria and Pakistan. The accused Midhat Zehra had travelled to Iran in the year 2019 and reportedly returned to Pakistan in 2021, she was an active member of Zainabiyoun Brigade and was managing funds collection meant from financing in Pakistan by Zainabiyoun Brigade. She married to Pakistani national Jawad Hussain who is currently living in Iran and reportedly fought in Syria in 2015-19 and reportedly has relations with IRGC of Iran. The accused was managing social media accounts on Facebook and also running WhatsApp groups for projection/promotion of terrorist acts of Zainabiyoun Brigade in Syria and Pakistan. Accordingly, the instant case was registered and the Challan against the accused Ms. Midhat Zehra was submitted before the Administrative Judge, Anti-Terrorism Courts, Karachi Division, Karachi for disposal of the case.

3. After formal investigation, Charge was framed against the accused at Ex-03 and recorded her plea at Ex-03/A, to which she pleaded not guilty and claimed to be tried.

4. In support of the case, the prosecution has examined PW-1 SIP Farhan Ahmed, examined at Ex-04 produced Inquiry report at Ex-04/P-01, memo of arrest at Ex-04/P-02. PW-02 ASI FIA Raja Muhammad Hameed examined at Ex-05 produced seizure memo of passport and Risala/magazine etc. at Ex-05/P-01, seizure memo of mobile phones at Ex-05/P-02, production/seizure memo of original medical documents etc. at Ex-05/P-03, case Summary of injured Sajjad Ali at Ex-05/P-04, medical/laboratory report at Ex-05/P-05 to 35. PW-03 Syed Iqbal Hussain (business of electronic) examined at Ex-06 produced fund transfer receipt at Ex-06/P-01. PW-04 Waqar Ahmed Khan, Branch Manager Bank Al-Habib, Karachi, produced bank documents including bank statement at Ex-07/P-01 to P-08. PW-05 Sarah Yousuf, Doctor (Radiologist) at

Ex-09. PW-06 SIP Umber Baig at Ex-10. PW-07 Inspector FIA Zahoor Ahmed at Ex-11 produced letter regarding accused for her terrorist activities at Ex-11/P-01 and report of FIA Cyber Crime Zone Sindh at Ex-11/P-02 to 11/P-15. PW-08 Nauman Ali, Asst. Director Forensics at Ex-12. PW-09 Muhammad Aamir Zaib Khan, Asst. Director Forensic at Ex-13. PW-10 Abdul Manaf Saddam Baloch, Security Guard at Ex-15 produced seizure memo Infinix S5 mobile at Ex-15/P-01. PW-11 SI Ali Raza, examined at Ex-16 produced FIR No.21/2021 at Ex-16/P-01. PW-12 Adil Malik, Inspector FIA, examined at Ex-17. PW-13 Zakir Hussain, Undertaker (Gorkan) at Ex-18 produced summon to witness at Ex-18/P-01, application for recording of evidence through well-conversant at Ex-18/P-02, photocopy of register (Gorkan) at Ex-18/P-03 and death certificate of Sajjad Ali at Ex-18/P-04. APG for the state submitted application to give up PW Siddiqua Bibi at Ex-08 and also submitted statement to close the side of the prosecution at Ex-19.

5. The statement of accused was recorded u/s 342 Cr.P.C at Ex-20 wherein she denied the allegations leveled against her by the prosecution and stated that she is innocent and falsely implicated in this case. She stated that she was arrested by the police on 06.09.2021 from Johar Chowrangi, Karachi and booked her in this false case. On her arrest, her family filed CP No.7381/2021 before the High Court of Sindh. However, she did not examine herself on Oath nor led any evidence in her defence and in the end she prayed for justice.

6. After observing all formalities and hearing the parties, the learned trial Court acquitted the respondent through impugned judgment.

7. The appellant state being aggrieved and dissatisfied with the acquittal of respondent has preferred instant acquittal appeal on the ground that the impugned judgment is illegal, unwarranted and not sustainable under the law and as a result of non-appreciation evidence by the learned trial Court

though the prosecution has adduced corroborative evidence. The appellant/state prayed for setting aside the impugned judgment and conviction to the respondent/ accused.

8. None appeared for the respondent.

9. We have heard the arguments of Mr. Khaleeq Ahmed, Learned DAG and have gone through the relevant record.

10. Through the present acquittal appeal, the appellant/State has challenged the judgment of acquittal rendered in favour of the respondent/accused. Upon a meticulous and comprehensive appraisal of the entire evidence available on record, it has been observed that certain material contradictions which constrained the learned trial Court to extend the benefit of doubt to the accused.

11. The allegation levelled against the accused, Ms. Midhat Zehra Cheeno @ Dukhtar-e-Parachinar, was that she allegedly acted as a facilitator of a militant organization having purported links with a neighbouring country, operating under the name of “Zainabiyoun Brigade” and “Hizbulah Zainabiyoun” from the Islamic Republic of Iran, and that she had actively participated in terrorist activities in Syria. It was further alleged that the said organization was engaged in recruiting individuals from the Shia community in Pakistan, under the guise of sectarian sentiment, purportedly to safeguard the shrine of Hazrat Bibi Zainab (R.A.) in Syria, whereas such recruits were allegedly provided combat training for the purpose of engaging in terrorism in both Syria and Pakistan.

12. It was also alleged that the accused, Midhat Zehra, had travelled to Iran in 2019 and returned to Pakistan in 2021, during which period she was purportedly associated with the Zainabiyoun Brigade and was involved in managing the collection of funds intended for financing its activities within Pakistan.

13. Material discrepancies have been noted in the testimonies of the prosecution witnesses. PW-03 Syed Iqbal Hussain conceded in his evidence that “....*There is no case against any family member of the accused. It's true that she was in Iran in term of her studies as per my knowledge in accordance with all legal formalities. It's true that I had sent the amount to one Syed Ikhlaque Hussain. It's true that there is no case against Syed Ikhlaque Hussain. It's true that the bank transaction is with the parameter of law. It's true that there is no case against the present accused except this.*”

14. Furthermore, PW-04 Waqar Ahmed Khan, during his cross-examination, admitted that no complaint had ever been lodged against the account holders regarding any transaction conducted within the bank. He further stated that he did not recall whether all the relevant accounts, including that of the accused, were still active. He also conceded that the documents produced by him, including the bank statements, did not reflect any transaction as being suspicious in nature. He acknowledged that he had not produced the letter purportedly issued by the FIA and affirmed that his deposition was solely based on the documents available to him.

15. Similarly, PW-07 Zahoor Ahmed deposed that the material contained in the case property comprising books, magazines, and other documents did not, at any point, indicate that the accused was a member of the Zainabiyoun Brigade. The evidence further revealed that the accused had travelled to Iran solely for the purpose of obtaining religious education. The challan is also silent regarding the specific terrorist activity, if any, for which the alleged funds were utilized. The prosecution likewise failed to produce any banking record or transaction document demonstrating that any such transaction was carried out by the accused. The record further indicates that the sender of the alleged amount was neither arrayed as an accused nor produced as a witness in the case.

16. PW-08 Nauman Ali, Assistant Director Forensics stated in cross examination that "*The envelope in which mobiles phones are present in the court does not bear the signature and stamp of any FIA official nor any official seal affixed, nor any date. I cannot say that any of the file in these mobiles was suspicious further says 10 may be able to describe so. I cannot say that the report generated by forensic lab and produced in the court has no relevance with the sections of offences applied in the case.*" PW-09 Muhammad Aamir Zaib Khan stated in his examination in chief stated that "On 04.11.2021, In FIR 21/2021 of CTW, Karachi SI Zahoor Ahmed has submitted 01 mobile phone INFINIX in the Digital Forensics Lab, Karachi. During the course of forensic analysis lab has found from mobile phone "INFINIX" required whatsapp groups admin and member details, required phone contact details and required accused images and videos files from the evidentiary item mentioned in details. In cross examination he stated, "*The envelope in which mobiles phones are present in the court does not bear the signature and stamp of any FIA official nor any official seal affixed, nor any date.*"

17. PW-10 Abdul Manaf Saddam Balouch Security Guard stated in his examination in chief that "*I received a phone call the time I do not remember. I was called by the FIA it was end of the year of 2019. I appeared before the I.O. Zahoor. He seized my mobile, thereafter, the accused Midhat Zehra and my number was traced by him from the accused Midhat Zehra to which I informed that I am a security guard of Rincon Security System Private Limited and I am security Guard posted at Madina Blessing Apartments situated at Gulshan E Iqbal, Block 10. I also informed that she (accused Midhat Zehra) is available in reception of the said Apartment. I also took cell number of Midhat Zehra (receptionist) of Madina Blessing Apartment. We used to talk in a Group Number of the Apartment. My number was taken by Midhat Zehra and she added my number in four Groups but their names are not familiar to me. The videos were sent by her in the group but I had no option to send any video in the group.*

Thereafter, I received a friend request from Midhat Zehra on Facebook. The ID was with the name of Dukhtar E Parachanar and she informed me that it is her I.D of Facebook, thereafter I confirmed the request of Midhat Zehra. Further I say I had no relation with her.

18. PW-11 SIP Ali Raza who lodged the FIR in his cross-examination stated that *"It is a fact that I have not produced any entry regarding my arrival and departure. It is a fact that I have not mentioned complaint/inquiry number...It is fact that I have not disclosed any Enquiry number in my statement before this court. I have received the permission from Director, Counter Terrorism Wing, namely Humayoon Masood Sandho. I have not produced any letter regarding obtaining permission from any high-ups."*

19. PW-12 Inspector FIA Adil Malik, who submitted the Challan, has stated in his examination in chief that the investigation was completed except forensic report of mobile phone of one Abdul Manan. In cross-examination he stated, *"It is a fact that the instant case was lodged against the accused Midhat Zahra being the member of Zainbunabioun Brigade as it belongs to Iran and militant groups. I do not know whether there is ban on Zainabiyoun Brigade by Iqwam-e-Muttahida or by Pakistan."*

20. The learned DAG has also failed to advance any convincing material to discredit or falsify the findings recorded by the learned trial Court, which has passed the impugned judgment with cogent and well-reasoned observations.

21. We are fully satisfied with appraisal of evidence done by the learned trial Court and we are of the view that while evaluating the evidence, the difference is to be maintained in appeal from conviction and acquittal appeal and in the latter case interference is to be made only when there is gross misreading of evidence resulting in miscarriage of justice.

22. The overall discussion involved a conclusion that the learned DAG has miserably failed to establish the guilt against the respondents/accused beyond any shadow of doubt. In these circumstances, the learned trial Court has rightly evaluated the evidence while recording acquittal of the respondents.

23. It is a well-established principle of criminal jurisprudence that an accused person is presumed to be innocent until proven guilty, and once an acquittal is recorded by a Court of competent jurisdiction, such presumption stands considerably strengthened. Very strong, cogent, and compelling reasons are required to rebut or disturb this presumption. Upon careful examination, we find that the reasons assigned by the learned trial Court in the impugned judgment are neither arbitrary, fanciful, nor capricious so as to warrant interference by this Court.

24. Consequently, the present Criminal Acquittal Appeal filed by the State through the learned Assistant Attorney General was found to be devoid of merit and was accordingly dismissed vide our short order dated 05.12.2025. These shall constitute the reasons for the short order dated 05.12.2025.

JUDGE

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