

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Khadim Hussain Tunio

Mr. Justice Amjad Ali Sahito

Spl. CrI. Anti-Terrorism Acquittal Appeal No.22 of 2025

The State Vs. Muavia son of Hafiz Bashir Laghari
(Juvenile Offender/Minor).

Appellant through : Mr. Muhammad Iqbal Awan,
Addl. Prosecutor General, Sindh

Date of Hearing : 13.01.2026

Date of decision : 13.01.2026

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 26.03.2025 passed by the learned Judge Anti-Terrorism Court No.VII, Karachi in Special Case No.104(vii)/2016 arising out of FIR No.386/2013 under sections 4/5 Explosive Sub. Act, 1908 R/w Section 7 ATA, 1997 of PS Surjani Town, Karachi; whereby accused / Respondent was acquitted.

2. The brief facts of the prosecution case, as mentioned in the FIR, lodged on the basis of statement u/s 154 Cr.P.C. of SIP/SHO Muhammad Farooq Satti (the complainant), are that on 17.07.2013, at about 0325 hours, SIP/SHO Muhammad Farooq Satti along with arrested accused Masoom alias Billa and other police officials, on pointation of arrested accused Masoom alias Billa, raided at House bearing No.R-66, Sector 7/C, Surjani Town, Karachi, belonging to accused Hafiz Bashir Ahmed son of Bahadur Khan. From the room's corner one wooden box/petti was found containing explosive substance/material (around 10 KGs), along with 25 meters detonating wire, two electronic switches, which were kept by

accused Hafiz Bashir Ahmed with intention to commit any terrorist activities, hence accused was arrested and case property was seized, thereafter, on the basis of said statement u/s 154 Cr.PC, the instant FIR bearing No. 386/2013 u/s 4/5 Explosive Substance Act, 1908 r/w section 7 ATA 1997, was lodged at P.S Surjani Town, on the basis of statement of SIP/SHO Muhammad Farooq Satti by ASI Khan Muhammad. Investigation of this crime was entrusted to PI/IO Muhammad Fayyaz.

3. After formal investigation, Charge was framed against the accused at Ex-05 and recorded his plea at Ex-05/A, to which he pleaded not guilty and claimed to be tried.

4. In support of the case, the prosecution has examined PW-1 PI Ghulam Mustafa Arain [Incharge BD Unit], examined at Ex-06 produced copy of Roznamcha Entry No.33 & 34, copy of clearance certificate, copy of Roznamcha Entry No. 37, copy of Inspection report of explosive material dated 03.08.2013 along with copy of covering letter & report of CTW/FIA Wing Islamabad (five pages), at Ex-06/A to 6/E, respectively. P.W-2 SIP Iftikhar Khan [Mashir of arrest & recovery], examined at Ex-08 produced Mashirnama of arrest & recovery dated 17.07.2013 and Mashirnama of site inspection of place of incident 17.07.2013 at Ex-08/A and 08/B, respectively. P.W-3 PI [Retd.] Muhammad Fayyaz [I/O], examined at Ex-09 produce copy of order issued from Office of the Additional I.G. Police Karachi dated 22.07.2013, copy of order issued from the office of the S.P. Investigation-I, South Zone, Karachi dated 08.08.2013 and copy of report u/s 168 Cr.P.C. under "C Class" dated 01.08.2013, at Ex-9/A to 9/C respectively. P.W-04 SIP [Retd.] Khan Muhammad, examined at Ex-10 produced copy of statement u/s 154 Cr.P.C. of SHO/SIP Muhammad Farooq Satti dated 17.07.2013 for lodging the FIR, Photostat copy of FIR No. 386/2013 dated 17.07.2013 and copy of qalmy/roznamcha entry No.60 dated 17.07.2013, at Ex-10/A to 10/C respectively.

P.W-5 SIP Gohar Muhammad was examined at Ex-11. P.W-06 SIP Shakeel Ahmed Khan was examined at Ex-12. P.W-07 PI [Retd.] Khan Shah Nawaz [I.O/arresting officer], examined at Ex-14 produced copy of order of SSP [AEC/CID/CTU] Sindh Karachi dated 07.11.2013, carbon copy of his written letter dated 07.11.2013 to learned Judicial Magistrate for interrogation of accused persons at Central Prison, carbon copy of his written letter dated 07.11.2013 to learned Judicial Magistrate seeking permission for Interrogation u/s 4/5 Explosive Substance Act of arrested accused, copy of Roznamcha Entry No.38, copy of Mashirnama of arrest of present accused dated 12.11.2013, copy of Roznamcha Entry Nos. 07 and 31 dated 12.11.2013 [one page], copy of his written letter to Chemical Examiner for examination of explosive substance dated 19.11.2013, copy of his letter for seeking permission for trial of accused u/s 4/5 Explosive Substance Act 1908, along with copy of order of Home Department dated 19.11.2013 granting permission for such trial of accused in ATC-II and copy of Roznamcha Entry No.37, at Exs-14/A to 14/3 respectively. P.W-08 SIP/SHO [Retd.] Muhammad Farooque Satti [Complainant], examined at Ex-15 produced copy of Roznamcha Entry No.68, and 77, at Ex-15/A & 15/B, respectively and P.W-09 ASI Imran Ahmed Khanzada [Mashir/eyewitness] was examined at Ex-16. The learned APG for the state closed the evidence side of Prosecution evidence vide his statement at Ex-18.

5. The statement of the accused was recorded under Section 342 Cr.P.C. at Exh-19, wherein he categorically denied all the allegations leveled against him, pleaded innocence, and asserted that he has been falsely implicated in the present case and that the case property was foisted upon him by the police. He further stated that at the time of his arrest he was about 13 years of age and was studying in a Madrassa. He further stated that he has no knowledge of any articles allegedly recovered from the house of his father and that he has no association whatsoever

with any banned organization. He asserted that at the time of his arrest he was merely engaged in Hifz-e-Quran at a Madrassa. He further stated that he has remained in judicial custody since the year 2013 and that approximately twelve years have elapsed during his incarceration. He categorically denied that any incriminating article was recovered from his personal possession. Lastly, he prayed for justice; however, he has not produced any witness in his defence nor examine himself on oath.

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 of 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. Muhammad Iqbal Awan, learned Additional Prosecutor General, for the state and have gone through the relevant record.

10. Through the present acquittal appeal, the appellant/State has assailed the judgment of acquittal passed in favour of the respondent/accused. Upon a meticulous, comprehensive, and independent reappraisal of the entire evidence available on record, it has been observed that the prosecution case suffers from material contradictions and

inherent infirmities, which justifiably compelled the learned trial Court to extend the benefit of doubt to the accused.

11. Upon a careful scrutiny of the material available on record and an examination of the testimony of PW-03, Inspector (Retd.) Muhammad Fayyaz, it transpires that on 30.07.2013 he was assigned the investigation of four cases, including the instant FIR No. 386/2013 registered under Sections 4 and 5 of the Explosive Substances Act, 1908. He deposed that prior to his assumption of the investigation, the principal accused, namely Hafiz Bashir Ahmed Laghari, had already been killed in a police encounter. He further stated that thereafter he took over the case property, comprising 10 kilograms of explosive substance, detonating wires and remote switches, from the previous Investigating Officer, deposited the same at the police station, and perused the case record. He further testified that, in view of the death of the main accused, he recommended disposal of the case under "C" Class with the approval of the competent superior officers and accordingly submitted the final report before the Court. He candidly admitted that he had no knowledge whatsoever regarding the present accused, who was in custody in connection with the instant case. Thus, his testimony clearly reflects that he merely dealt with the case record and case property after the death of the principal accused and neither attributed any role to, nor established any nexus of, the present accused with the alleged offence. Consequently, his deposition pertains solely to the closure of proceedings against the deceased accused and does not, in any manner, implicate the present minor accused in the commission of the alleged offence.

12. It is further an admitted position that the alleged incident occurred on 17.07.2013. According to the testimony of PW-01, BDU Inspector Ghulam Mustafa Arain, he visited Police Station Preedy on 25.07.2013, i.e., after a lapse of

seven days from the date of the incident, where SIP Ghulam Mustafa Satti handed over to him the case property, namely the allegedly recovered explosive substance/material, which he examined at the said police station. Moreover, as admitted by the Investigating Officer, PI Khan Shahnawaz, the case property was dispatched for chemical examination to the Forensic Science Laboratory after an inordinate delay of about three months, on 19.11.2013, without producing any relevant police station record or entries demonstrating its safe custody and proper handling during the intervening period. This unexplained delay, coupled with the absence of documentary proof regarding the safe custody of the alleged recovered explosive substance, has manifestly cast serious doubts upon the veracity of the prosecution case.

13. It is also pertinent to note that, according to the prosecution version, at the time of the alleged incident no incriminating substance or article was recovered from the possession of the present minor accused, aged about 13 years. He was merely found present in the house of his father, Hafiz Bashir Ahmed Laghari, and a wooden box containing explosive substance was allegedly recovered from a room of the said house owned by the father/accused. Consequently, the instant FIR was lodged only against Hafiz Bashir Ahmed Laghari, and the name of the present minor accused did not find mention therein. The FIR was initially disposed of under "C" Class following the death of the said accused. However, it is surprising to note under what circumstances the present minor accused was subsequently implicated in the instant case by the third Investigating Officer without collecting or bringing on record any evidence whatsoever against him. As per the initial allegations, the present accused was merely present in the house of his father, and admittedly no incriminating article was recovered from his possession, nor was any specific allegation levelled against him.

14. Further, PW-02, SIP Iftikhar Khan, failed to place on record clear and cogent Roznamcha entries or to specify precise timings pertaining to the alleged incident. His testimony suffers from material inconsistencies, particularly concerning the number of shots allegedly fired. Moreover, he repeatedly conceded that no incriminating article whatsoever was recovered from the possession of the present accused, which substantially undermines the prosecution's assertion of his direct involvement in the alleged offence.

15. Furthermore, PW-03, PI (Retd.) Muhammad Fayyaz, also produced vague and incomplete Roznamcha details, with no definite record of the timings of the investigation. His deposition reveals significant gaps relating to the custody and preservation of the police file and case property, as well as incomplete documentation of the investigative process. Significantly, he did not assign any role to the present minor accused, nor did he connect him in any manner with the commission of the alleged offence.

16. PW-04, SIP (Retd.) Khan Muhammad, failed to produce any written order purportedly issued by the SHO for the registration of the FIR. He remained ambiguous regarding the sequence of events on the night of the alleged occurrence and did not clarify the presence, role, or actions of other police officials, thereby rendering his version doubtful and unreliable.

17. PW-05, SIP Gohar Mehmood, omitted material particulars, including registration numbers and duty timings. He consistently admitted that no incriminating article was recovered from the present accused and furnished vague, inconclusive, and unsatisfactory explanations regarding the alleged recovery of explosive material and the sequence of events, which further weakens and dilutes the prosecution's narrative.

18. PW-06, SIP Shakeel Ahmed Khan, failed to produce any documentary evidence to substantiate his posting with the deceased officer. He also did not place on record any supporting Roznamcha entries to conclusively establish the timeline of events. These material omissions seriously impair the credibility and evidentiary value of his testimony.

19. PW-07, PI (Retd.) Khan Shahnawaz, was unable to recall essential particulars, including the exact date and time of the site inspection or his arrival at the place of occurrence. His testimony is devoid of complete and reliable Roznamcha entries and presents an uncertain and unclear account regarding the alleged involvement of the juvenile accused in the instant case.

20. In this context, PW-01, Inspector Ghulam Mustafa Arain (BDU In-charge), candidly admitted that he did not mention any Roznamcha entry numbers regarding his movement to or examination of the case property at Police Station Preedy. He further conceded that although the FIR was registered on 17.07.2013, he examined the case property on 25.07.2013, after an unexplained delay of seven days. His voluntary assertion that he reached the police station immediately upon being summoned clearly indicates that the Investigating Officer contacted him only after a considerable lapse of time, which raises serious doubts regarding the safe custody, preservation, and integrity of the allegedly recovered case property during the intervening period.

21. It is also noteworthy that the allegedly recovered case property/explosive material, was never produced before the Court and is claimed to have been destroyed in a fire at the City Court Malkhana, Karachi. The non-production and alleged destruction of the case property has completely disrupted the chain of custody and safe preservation, which is

fatal to the prosecution case and seriously questions the authenticity and integrity of the alleged recovery.

22. Furthermore, the prosecution has neither collected nor produced any independent or corroborative evidence to establish any nexus between the present minor accused and the alleged offence, nor has it produced any evidence to substantiate its claim against his father so as to link the minor accused indirectly. These glaring omissions further weaken the prosecution case.

23. To conclude the foregoing discussion, it is reiterated that the star and material prosecution witnesses have rendered statements that are mutually contradictory, inconsistent, and vitiated by material lacunae, thereby rendering the prosecution case highly doubtful. A careful and critical appraisal of their testimonies discloses grave infirmities which strike at the very root of the matter and substantially erode the foundation of the prosecution's version.

24. Moreover, PW-01 Inspector Ghulam Mustafa Arain (BDU In-charge) admitted that he neither recorded the colour of the alleged explosive substance nor provided any description or colour of the other articles allegedly shown to him and purportedly sealed or packed by him. Significantly, he conceded that his clearance certificate explicitly records that "no detonating or explosive device material was found," which squarely contradicts the prosecution's stance regarding the recovery of explosive material and materially undermines the allegations levelled against the present minor accused.

25. Furthermore, PW-01 acknowledged that the final examination report was issued after an unexplained delay of eight days, without furnishing any plausible justification, which further diminishes the probative value and reliability of his testimony.

26. In view of the above-discussed inconsistencies, contradictions, missing entries, and substantial evidentiary gaps in the statements of material prosecution witnesses, the prosecution has failed to establish a coherent, corroborated timeline or any credible link between the present minor accused and the allegedly recovered case property. Consequently, these infirmities create serious and reasonable doubt in the prosecution case, which must, as a matter of settled law, enure to the benefit of the accused.

27. The learned Addl. Prosecutor General, Sindh 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.

28. 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.

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

30. 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.

31. Consequently, the present Criminal Acquittal Appeal filed by the State through the learned Prosecutor General was found to be devoid of merit and was accordingly dismissed vide our short order dated 13.01.2026. These shall constitute the reasons for the short order dated 13.01.2026.

JUDGE

JUDGE

*Hyder/PS**