

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

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

Spl. Crl. Anti-Terrorism Jail Appeal No.39 of 2024

Appellant : Arshad son of Muhammad Sharif
through Barrister Mudassir Khan and
Sanaullah, Advocates

Respondent : For State
Mr. Muhammad Iqbal Awan, Addl. P.G.,
Sindh & SIP Naveed Akhtar and injured
PC Muhammad Aslam of PS SSHIA,
Karachi.

Date of Hearing : 12.01.2026

Date of Judgment: _____.01.2026

J U D G M E N T

Amjad Ali Sahito, J.- Through the instant appeal, the appellant has impugned the Judgment dated 16.01.2024 passed by the learned Judge, Anti-Terrorism Court No.III, Karachi in Special Case No.530/2022 under FIR No.1377/2022 U/s 353/324/34 PPC R/w Section 7 ATA, 1997 and Special Case No.530-A/2022 under FIR No.1379/2022 U/s 23(i)(A) SAA, 2013 both registered at PS SITE Super Highway Industrial Area [**hereinafter referred as “SSHIA”**]; whereby the appellant was convicted and sentenced for offence under Section 7(b) of Anti-Terrorism Act, 1997 R.I. for Ten (10) years with fine of Rs.50,000/- and in case of non-payment of fine he shall suffer S.I. for six (6) months more. He was also convicted and sentenced R.I. for seven (7) years with fine of Rs.50,000/- for offence punishable under Section 324 PPC and in case of default in payment of such fine, he shall suffer further S.I. for six (6) months. In addition to the above imprisonment and fine the accused was also convicted for offence u/s 337-D PPC and pay one third of the Diyat as arsh to the injured PC Muhammad Aslam so also convicted for offence u/s

337-F(vi) PPC and pay Daman equal to expenses incurred on the treatment of injured at AKUH Karachi. The accused above named was convicted and sentenced for offence under Section 7(h) of Anti-Terrorism Act, 1997 R.I. for five (5) years with fine of Rs.30,000/- and in case of non-payment of fine he shall suffer S.I. for four (4) months more. He was further convicted and sentenced R.I. for two (2) years with fine of Rs.10,000/- for offence punishable under Section 353 PPC and in case of default in payment of such fine, he shall suffer further S.I. for one (1) month. He was also convicted and sentenced under Section 24 of SAA to suffer R.I. for five (5) years and fine of Rs.40,000/- and in case of default of payment of fine, the accused shall have to undergo S.I. for five months more. The above sentences shall run concurrently. The benefit of Section 382-B Cr.P.C. was extended in favour of the appellant.

2. Briefly stated, the prosecution case is that on 27.09.2022 at about 0900 hours, HC Piyar Ali, along with other police officials, was performing routine patrolling duty on motorcycles. Upon reaching inside Street No.18, Allah Bux Goth, Scheme No.33, Karachi, they noticed two persons riding a Honda-70 motorcycle in a suspicious manner. HC Piyar Ali signalled them to stop; however, instead of complying, the said persons opened fire upon the police party with the intention to commit *Qatl-e-Amd* and used criminal force to deter the police officials from the lawful discharge of their official duties.

3. In retaliation and in the exercise of the right of self-defence, HC Piyar Ali and PC Muhammad Aslam fired from their official weapons. As a result, one of the suspects sustained firearm injuries and expired at the spot. During the encounter, PC Muhammad Aslam also received firearm injuries at the hands of the accused and was shifted to Aga Khan Hospital for medical treatment through an ambulance.

4. With the assistance of other police officials, HC Piyar Ali apprehended the second accused, who disclosed his name as

Arshad son of Muhammad Sharif. The apprehended accused further disclosed that the deceased accused was Muhammad Aslam son of Muhammad Sharif, his real brother. HC Piya Ali informed ASI Abdul Latif about the incident through a telephone call. Upon reaching the place of occurrence, ASI Abdul Latif found the dead body of the deceased accused lying at the spot, with a 30-bore pistol in his hand. Due to the non-availability of private mashirs, ASI Abdul Latif secured the said 30-bore pistol from the hand of the deceased accused and found one live round loaded in the magazine and one live round chambered. After unloading the weapon, he conducted the personal search of the deceased accused and recovered a wallet from the right side pocket of his shirt, containing a coloured copy of CNIC in the name of Muhammad Aslam son of Muhammad Sharif, along with visiting cards. He also secured two mobile phones, namely Infinix and Phone-Q Green SL/100, along with two SIM cards bearing IMEI Nos. 350370351240729 and 350370351240737, which were taken into police custody.

5. ASI Abdul Latif further secured one 30-bore pistol recovered by HC Piya Ali from the right hand of the apprehended accused Arshad. Upon demand, the accused failed to produce any valid license for the recovered weapon. Thereafter, ASI Abdul Latif prepared the memo of arrest and recovery, sealed the case property at the spot, and also took the motorcycle into police custody in accordance with law.

6. Subsequently, ASI Abdul Latif shifted the dead body of deceased accused Muhammad Aslam to Abbasi Shaheed Hospital, Karachi, and conducted proceedings under Section 174 Cr.P.C. Thereafter, the police party returned to the police station along with the case property and the custody of accused Arshad, whereupon the instant FIRs were registered.

7. After formal investigation, charge was framed against the accused at Ex.4, to which he pleaded not guilty. Such plea was recorded at Ex.4/A.

8. In order to support its case, the prosecution has examined PW-1 ASI Abdul Latif at Ex.05, who produced Roznamcha entry No.05 at Ex.5/A, memo of arrest and recovery at Ex.5/B, letter to MLO at Ex.5/C, memo of inspection of place of incident at Ex.5/D, Inquest Report at Ex.5/E, FIR No.1377/2022 alongwith Qaimy Entry at Ex.5/F & Ex.5/G, FIR No.1378/2022 against deceased accused Muhammad Aslam alongwith Qaimy entry at Ex.5/H & Ex.5/I, FIR No. 1379/2022 alongwith Qaimy entry at Ex.5/J and Ex.5/K. PW-2 HC Piyar Ali at Ex.06, who produced roznamcha entry No.02 at Ex.6/A. PW-03 PC Muhammad Aslam at Ex.07, who produced Photostat attested copy of Discharge Summary of Aga Khan Hospital, Karachi Ex.7/A. PW-4 MLO Dr. Ghazanfar Ali Shaheryar of Abbasi Shaheed Hospital, Karachi at Ex-08, who produced provisional MLC bearing No.8376/2022 at Ex.8/A, Postmortem Report at Ex.8/B, Certificate of Cause of Death at Ex.8/C, police letter at Ex.8/D, MLC bearing No.595/2023 at Ex.8/E. PW-5 I.O./Inspector Musarat Nawaz at Ex-9, who produced Roznamcha entry No.28 at Ex.9/A, roznamcha entry No.34 at Ex.9/B, sketch of place of incident at Ex.9/C, Roznamcha entry No.46 at Ex.9/D, relevant page of koth register at Ex.9/E, relevant page of register No.19 at Ex.9/F, roznamcha entry No.10 at Ex.9/G, roznamcha entry No.37 at Ex.9/H, letter to FSL for examination of recovered pistols at Ex.9/I, FSL report at Ex.9/J, Superdagi Name of dead body of deceased and entry No.37 at Ex.9/K & Ex.9/L, Sent clothes of deceased accused to Incharge Sindh Forensic Laboratory for DNA at Ex.9/M, Report of DNA at Ex.9/N, Notice U/s. 160 issued to Munir Ahmed at Ex 9/O, Copy of running page of Registration Book of motorcycle at Ex.9/P, attested copy of FIR No.984/2022 at Ex.9/Q. Thereafter, the learned APG closed the side vide his statement at Ex.10.

9. The statement of accused under section 342 Cr.P.C was recorded at Ex.11 wherein he denied all the allegations of prosecution and stated that no any offence has been committed by him. The police/complainant party booked him in these false

cases by foisting alleged case property as the witnesses are police officials just to show their efficiency as such they have deposed against him, besides he is innocent and pray for justice.

10. The learned trial Court, after hearing the parties and on assessment of the evidence, convicted and sentenced the appellant as stated above vide judgment dated 16.01.2024 which has been impugned by the appellant before this Court through the instant Appeal.

11. Learned counsel for the appellant contends that the appellant is innocent and has been falsely implicated in the instant case; that the impugned judgment is contrary to law and facts; that the learned trial Court has misappreciated the evidence, resulting in the wrongful conviction of the appellant; that material contradictions in the testimonies of the prosecution witnesses create serious doubt with respect to the prosecution case. He further submits that the alleged recovery of weapon has been foisted upon accused by the police with mala fide intent and ulterior motives; that no encounter had taken place, in fact the police murdered Muhammad Aslam, who is the real brother of present accused and thereafter in order to shield themselves from legal consequences, the police concocted a false narrative by fabricating injuries to one police official and falsely implicating the present accused in the alleged occurrence; that the prosecution case suffers from numerous material lacunas, contradictions and inconsistencies; that it is a well-settled principle of law that where the prosecution version is doubtful or suffers from infirmities, the benefit of such doubt must invariably be extended to the accused as conviction cannot be based on conjectures, suspicion, or a tainted version of events. Lastly, he prays for acquittal of the appellant. In support of his contentions, he has relied upon the cases reported as (1) 2011 SCMR 527 (*Nazir Ahmad vs. Muhammad Iqbal and another*), (2) 2006 SCMR 1846 (*Lal Khan vs. The State*), (3) 2008 SCMR 1221 (*Ghulam Qadir and 2 others vs. The State*), (4) 2018 SCMR 772 (*Muhammad Mansha vs. The State*), (5) 2025 YLR 517 (*Nadir and other vs. The State*), (6) 2021 PCRLJ 272 (*Arshad through Central Prison vs.*

The State) and (7) 2012 SCMR 428 (*Zeeshan @ Shani vs. The State*).

12 Conversely, the learned Additional Prosecutor General, Sindh, fully supported the impugned judgment and contended that the appellant was apprehended at the place of occurrence, thereby disentitling him to any claim for acquittal.

13. We have heard the learned counsel for the appellant as well as learned Addl. Prosecutor General, Sindh and have minutely examined the material available on record with their able assistance.

14. Upon scrutiny of the record, it transpires that on the date of the incident, i.e., 27.09.2022, at about 09:00 a.m., the police party, while performing routine patrolling duty on two motorcycles and duly armed with official weapons, entered Street No.18, Allah Bux Goth. There, they observed two persons riding a Honda-70 motorcycle in a suspicious manner. When the police party signaled them to stop, the accused persons allegedly opened fire upon the police officials with the intention to cause their death, as a result whereof one police official, namely PC Aslam, sustained a firearm injury.

15. In retaliation, the police party also resorted to firing, as a consequence of which one accused was killed at the spot, while the second accused was apprehended. The incident was reported to the police station, pursuant to which Duty Officer ASI Abdul Latif arrived at the place of occurrence at about 09:25 a.m. and also summoned a police mobile. Subsequently, the injured police official, PC Aslam, was shifted to Aga Khan Hospital through an ambulance for medical treatment.

16. The remaining police officials handed over a 9 mm pistol, and the police also secured 30-bore pistols along with ammunition. During the search of the apprehended accused, he disclosed his name as Arshad and stated that the deceased accused was Aslam, his real brother. The police recovered a mobile phone as well as a 30-bore pistol along with two live

bullets and two rounds. However, the arrested accused failed to produce any valid license in respect of the recovered weapon.

17. During his evidence, ASI Abdul Latif deposed that he sealed the case property at the spot in the presence of PC Piyar, PC Rizwan, and PC Muzammil, obtained their signatures thereon, and produced the same during his testimony. He further issued a letter addressed to the Medico-Legal Officer for the postmortem examination of the deceased accused Aslam, which he produced in evidence as Ex.5/E, bearing the receiving endorsement of the MLO. He also prepared the inquest report, memo of the dead body, and other relevant documents, and thereafter returned to the police station, where he lodged the FIR against the accused persons under Sections 324, 353, 34 PPC read with Section 7 of the Anti-Terrorism Act. He also lodged two separate FIRs against the deceased accused as well as the arrested accused from whom the pistols were recovered.

18. In cross-examination, the witness conceded that in the memo of arrest and the FIR, the recovered pistol allegedly seized from accused Arshad was shown as rubbed/without particulars; however, the FSL report reveals that the pistol recovered from accused Arshad bears No. 49908. He further admitted that the incident occurred at about 09:00 a.m., while the Duty Officer, ASI Abdul Latif, reached the place of occurrence at approximately 09:25 a.m. During this interval, the injured police official, PC Aslam, was found lying at the spot in an injured condition; consequently, he was immediately shifted to Aga Khan Hospital through PC Piyar and PC Rizwan. The dead body of accused Aslam was also sent to Abbasi Shaheed Hospital for postmortem. The witness further admitted in his statement recorded under section 161 Cr.P.C. that he recovered a 30 bore pistol along with a live round from accused Arshad. He also admitted that the number of the 9mm pistol of HC Piyar was mentioned in the FIR as E-107789, whereas in the FSL report, the said pistol number is recorded as E-10778.

19. Examination of the record further reveals that PW-2, HC Piyar Ali, substantially reiterated the same version as disclosed

by him in his statement under section 161 Cr.P.C. However, he admitted that during the alleged firing by the accused persons, PC Aslam sustained firearm injuries on his right shoulder and left thumb. He stated that he shifted PC Aslam to Aga Khan Hospital through an ambulance and informed the Duty Officer, ASI Abdul Latif. Thereafter, ASI Abdul Latif arrived at the spot, whereupon PW-2 handed over one 30 bore pistol allegedly recovered from the injured accused along with one live bullet. Upon conducting the personal search of the injured accused, the ASI secured a wallet. The ASI enquired from the arrested accused, who disclosed his name as Arshad son of Muhammad Sharif, whereas the deceased accused was identified as Aslam son of Muhammad Sharif.

20. PW-2, PC Piyar Ali, further admitted that he himself, along with ASI Abdul Latif and PC Muzammil, transported the dead body of deceased accused Aslam to Abbasi Shaheed Hospital through an ambulance. He stated that ASI Abdul Latif met the Medical Legal Officer (MLO), handed over a letter, and thereafter prepared the memo of inspection of the dead body in their presence, obtaining his signature as well as the signature of PC Muzammil thereon. Conversely, ASI Abdul Latif claimed that the dead body of deceased accused Aslam was shifted by PC Piyar Ali and PC Muzammil, while he himself remained at the place of incident and completed other formalities.

21. In cross-examination, PC Piyar Ali admitted that he produced a computer-generated entry No. 2 as Ex.6/A, which is not a photocopy of the original Roznamcha book. He further admitted that he could not recall the exact time at which he arrived at the police station on the day of the incident. He also conceded that he and PC Aslam were riding on a single motorcycle, with himself driving and PC Aslam seated behind him. If PW-2 was indeed driving the motorcycle, it becomes questionable as to how PC Aslam, who was seated behind him, sustained bullet injuries at the hands of the accused persons. He further admitted that from a distance of about ten paces, he signaled the accused persons to stop, but they allegedly opened

fire; thus, it may be inferred that there was no significant distance between the accused and the police party, yet only PC Muhammad Aslam sustained firearm injuries at the hands of deceased Muhammad Sharif.

22. PW-2 further admitted that accused Aslam allegedly resorted to straight firing upon the police party, while accused Arshad was driving the motorcycle; however, he conceded that he did not count the number of shots fired by accused Aslam. He stated that after two shots were fired by the accused, the police party also retaliated, and he himself fired five rounds from his official weapon, yet the accused sustained only one firearm injury. He further admitted that he informed the Duty Officer, ASI Abdul Latif, at about 09:15 a.m., and within fifteen minutes of the occurrence, the ASI reached the spot and secured the pistols from both accused persons. In further cross-examination, he admitted that no shot fired by the accused struck the police motorcycle, nor did any shot fired by the police hit the motorcycle of the accused. He reiterated that he himself, along with ASI Abdul Latif and PC Muzammil, shifted the dead body of deceased accused Muhammad Aslam to Abbasi Shaheed Hospital through an ambulance, where ASI Abdul Latif met the MLO, handed over a letter, prepared the memo of inspection of the dead body in the presence of mashirs, and obtained the signatures of PW-2 and PC Muzammil thereon.

23. The above-named prosecution witnesses do not corroborate one another on material aspect. PW-1, ASI Abdul Latif, deposed that he referred the injured PC Aslam to Aga Khan Hospital through an ambulance; however, in contradiction thereto, PC Piyar Ali stated that he himself shifted the injured PC Aslam to Aga Khan Hospital by ambulance and also informed the Duty Officer, ASI Abdul Latif, at the police station. The said witness did not disclose that, after admitting PC Aslam to the hospital, he returned to the place of occurrence or re-joined the police proceedings.

24. Further, ASI Abdul Latif stated that the dead body of accused Aslam was shifted by HC Piyar Ali and PC Muzammil,

and that he thereafter prepared the relevant memos and obtained the signatures of HC Piyar Ali thereon. This gives rise to a strong inference that the alleged proceedings were, in fact, prepared at the police station and signatures were obtained subsequently upon the return of the said witnesses. Even the injured PC Aslam does not support the version of the aforementioned witnesses, as he merely stated that police personnel brought him to Aga Khan Hospital for medical treatment, without specifying the individuals involved.

25. It is a settled principle of law that a criminal case is to be decided on the basis of the totality of circumstances and the overall impression gathered therefrom, rather than on isolated portions of the testimony of a witness. In the present case, the prosecution has failed to come forth with the whole truth and, as such, its case does not inspire confidence beyond reasonable doubt. The prosecution is duty-bound to produce the best available evidence to substantiate the charge against an accused facing trial; however, in the instant matter, the prosecution witnesses have failed to support one another on material points, as noted above.

26. The prosecution also examined the most material injured witness, PW-3, PC Muhammad Aslam, who substantially reiterated the same version as stated by him in his statement recorded under section 161 Cr.P.C. However, he admitted that at about 09:00 a.m. they noticed two persons riding a motorcycle in a suspicious manner approaching them. Upon attempting to stop the said persons, they allegedly opened fire upon the police party, whereupon the police also resorted to firing in retaliation. During the encounter, one of the accused sustained firearm injuries, and PW-3 himself also received firearm injuries at the hands of the accused. He deposed that after sustaining the injuries, he became semi-unconscious. He was shifted by police personnel to Aga Khan Hospital for medical treatment, where he remained under treatment in an injured condition for approximately forty-one days. He further stated that on 01.10.2022, the Investigating Officer, Musarrat, recorded his statement under section 161

Cr.P.C. and informed him that during the encounter, one accused, namely Aslam, who had sustained firearm injuries, had expired, while the other accused was arrested at the spot. He further stated that at the time of the encounter, he fired five rounds from his official 9mm pistol bearing No. E-10781 and that eight live bullets had been issued to him.

27. Admittedly, the statement of injured PW-3, PC Muhammad Aslam, was recorded with a delay of four days, for which no plausible explanation has been furnished by the Investigating Officer. Even during arguments, when the learned Additional Prosecutor General was queried as to the reason for recording the said statement after a delay of four days, he failed to provide any satisfactory explanation. The Investigating Officer has also not clarified whether during the said period PW-3 was unconscious or otherwise incapable of making a statement. Nowhere on the record has it been mentioned that his statement could not be recorded due to unconsciousness. Consequently, the delay in recording the statement of the injured police official under section 161 Cr.P.C. remains unexplained by the complainant and the Investigating Officer.

28. In cross-examination, PW-3 admitted that it is a fact that in his statement recorded under section 161 Cr.P.C., it is not mentioned that they saw two persons riding on one motorcycle in a suspicious manner approaching them, and that he became semi-unconscious and his weapon was taken by the police personnel. He further admitted that he was seated behind PC Piyar Ali on the motorcycle. He also admitted that there is overwriting in respect of the month mentioned in his statement under section 161 Cr.P.C. He further admitted that at the time he sustained firearm injuries, accused Aslam was alive. Voluntarily, he stated that he was semi-unconscious when the police party called the ambulance at the place of incident and that he was shifted to the hospital through the said ambulance.

29. He further admitted that it is a fact that in the discharge summary, the date of admission is mentioned as 28.09.2022; whereas, according to the claim of the complainant and the

police party, the incident occurred on 27.09.2022 at about 09:00 a.m., and that the injured PW-3 was shifted to the hospital on the same day within thirty minutes of the occurrence. Thus, although the date of the incident is stated to be 27.09.2022, the discharge summary reflects the date of admission of PW-3 as 28.09.2022, which creates a serious doubt regarding the prosecution version.

30. The matter does not rest here, as the prosecution further examined PW-4, Dr. Ghazanfar Ali Shaheryar, whose testimony materially contradicts the version put forth by the police witnesses. He deposed that on 27.09.2022 he was posted as Medical Legal Officer (MLO) at Abbasi Shaheed Hospital, Karachi, and his duty hours were from 09:00 a.m. to 03:30 p.m. On the same day, at about 10:55 a.m., an unknown dead body, with an alleged history of gunshot injury, was brought from the jurisdiction of Police Station SSHIA by Chippa driver Sarfaraz, bearing vehicle No. EA-2277. He further stated that prior to conducting the postmortem examination, he issued a medico-legal certificate (MLC) bearing No. 78376/2022 with respect to the receipt of the said unknown dead body through Chippa driver Sarfaraz. He produced the said MLC as Ex.8/A, affirmed its correctness, and identified the same as bearing his signature. He further stated that he issued the postmortem report and death certificate, which were produced on record as Ex.8/B.

31. From the testimonies of ASI Abdul Latif and PC Piyar Ali, it appears that the dead body of the deceased accused was allegedly shifted by them. In particular, ASI Abdul Latif claimed that he caused the dead body of deceased accused Aslam to be shifted through PC Piyar Ali and PC Muzammil, while the arrested accused Arshad was sent to the police station through PC Rizwan. However, the evidence of PW-4, Dr. Ghazanfar Ali Shaheryar, reveals that the dead body was in fact brought to the hospital by Chippa driver Sarfaraz, and that subsequently ASI Abdul Latif appeared and submitted a letter requesting the conduct of postmortem examination. He produced the said letter

as Ex.5/C, wherein the name of the deceased was mentioned as Aslam son of Muhammad Sharif.

32. PW-4 further stated that before conducting the postmortem, he issued an MLC bearing No. 78376/2022 in respect of the receipt of the unknown dead body through Chippa driver Sarfaraz, which he produced as Ex.8/A and confirmed that it bears his signature. He also issued Postmortem Report No. 405/2022 along with the death certificate. Upon internal examination, he observed fractures of the left-side ribs and collection of blood in the thoracic cavity.

33. He further admitted that on the basis of the letter received from the police, the postmortem of deceased Aslam was conducted, wherein the age of the deceased was mentioned as 30-31 years, whereas in the medico-legal certificate (Ex.8/A), his age was recorded as 40 years. In the initial MLC, it was recorded that the dead body was brought by Chippa driver Sarfaraz and the date and time of medico-legal examination were mentioned as 27.09.2022 at about 10:55 a.m. However, in the postmortem report (Ex.8/B), the doctor recorded that the dead body was brought by ASI Abdul Latif, identified by PC Piya Ali and PC Muzammil, and the time of receipt was shown as 11:40 a.m., thereby creating a clear inconsistency.

34. Additionally, PW-4 stated that on 24.01.2023, he issued a final medical certificate of injured PC Aslam, on the basis of the record produced before him, showing that the said injured was admitted to Aga Khan Hospital in the Surgery Department, and the date of admission was mentioned therein as 28.09.2022.

35. Finally, the prosecution examined PW-5, Investigating Officer Musarat Nawaz. The Investigating Officer categorically deposed that he ascertained that the motorcycle allegedly used in the commission of the offence was registered in the name of one Muneer Ahmed Jatoi. Consequently, he issued a notice to him under section 160 Cr.P.C., pursuant to which Muneer Ahmed Jatoi appeared at the police station and disclosed that he had sold the said motorcycle to one Imdad. Subsequently, Imdad was

also called to the police station, where he stated that on 27.09.2022, within the jurisdiction of PS Sohrab Goth, his motorcycle had been snatched, and that he had lodged a report of the said incident as Crime No. 984/2022 at the police station.

36. When this fact was confronted to the learned Additional Prosecutor General, namely why the police did not examine the complainant of Crime No. 984/2022, i.e., Imdad, to identify the accused persons or to establish that the accused had allegedly robbed the motorcycle from him, the learned Additional P.G. was unable to provide a satisfactory explanation. Moreover, the FIR in question was registered at about 07:00 a.m. on 27.09.2022, whereas the incident under trial is alleged to have occurred at approximately 09:00 a.m. on the same day. Despite being a star witness, Imdad was not examined by the prosecution to corroborate that his motorcycle had been robbed on that date, or to connect the same to the subsequent occurrence.

37. It is a well-established principle of law that a witness who is found to have deposed falsely on any material aspect of a case cannot be regarded as credible with respect to any other part of their testimony. Once a witness is shown to be capable of perjury, the presumption of veracity is extinguished, and the law does not permit selective or partial reliance on such testimony.

38. Furthermore, it is noted that the First Information Report (FIR) was lodged after an unexplained delay of approximately four and a half hours, notwithstanding that the place of the alleged incident is situated only five to six kilometers from the police station. During cross-examination, ASI Abdul Latif, the complainant, admitted that *“I spent one hour and fifteen minutes in selling the case property and writing the memo,”* indicating undue deliberation and consultation. This further diminishes the credibility of the prosecution’s case.

39. The appellant contends that the alleged recovery of the weapon was falsely attributed to him by the police with mala fide intent and ulterior motives. He asserts that no encounter had in fact occurred; rather, his brother, Muhammad Aslam, was

unlawfully killed by the police. Subsequently, in an attempt to evade legal consequences, the police are alleged to have fabricated a false narrative and maliciously implicated the appellant in the present case.

40. As pointed out above the contradictions in the evidence of prosecution witnesses, they have discarded the veracity of their statements, which are sufficient to render the entire case of the prosecution to be highly doubtful. In this context, the reliance is placed upon case of **‘ZAFAR vs. The STATE’ (2018 SCMR 326)**, wherein the Hon’ble Supreme Court of Pakistan has held that:-

“11. Having discussed all the aforesaid aspects of the case, it has been observed by us that medical evidence, motive, recovery and for that matter absconding of appellant are merely supportive/corroborative piece of evidence and presence of eyewitnesses at the place of occurrence at the relevant time has been found by us to be doubtful, no reliance can be placed on the supportive/ corroborative piece of evidence to convict the appellant on capital charge.”

41. The upshot of the above discussion is that the prosecution has miserably failed to bring home the guilt of the appellant beyond reasonable doubt and it is a settled proposition of law that for giving the benefit of the doubt to an accused there doesn't need to be many circumstances creating doubts if there is a single circumstance which creates reasonable doubt about the guilt of the accused, then the accused will be entitled to the benefit. In this respect, reliance can be placed upon the case of **MUHAMMAD MANSHA v. THE STATE** reported in 2018 SCMR 772, wherein the Hon’ble Supreme Court of Pakistan has held that:-

*“4. Needless to mention that while giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of such doubt, not as a matter of grace and concession, but as a matter of right. It is based on the maxim, “it is better that ten guilty persons be acquitted rather than one innocent person be convicted”. Reliance in this behalf can be made upon the cases of **Tarique Parvez v. The State (1995***

SCMR 1345), Ghulam Qadir and 2 others v. The State (2008 SCMR 1221), Muhammad Akram v. The State (2009 SCMR 230) and Muhammad Zaman v. The State (2014 SCMR 749).

42. For the foregoing reasons, this appeal is **ALLOWED**. The impugned judgment dated 16.01.2024 passed by the Judge Anti-Terrorism Court No. III, Karachi in Special Case No. 530/2022 is **set aside**. Appellant Arshad S/O Muhammad Sharif is **acquitted** of the charges and is ordered to be **released forthwith** if not required in any other custody case.

JUDGE

JUDGE

PS/Kamran