

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Appeal No.S-14 of 2026

Date	Order with signature of Judge
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Before;

Mr. Justice Abdul Hamid Bhurgri.

Appellant : Iqrar Ali son of Mehboob Khan Jakhrani, through Mr. Asif Ali Abdul Razak Soomro, Advocate.

The State : Through Mr. Nazir Ahmed Bhangwar, D.P.G.

Date of Hearing : ***16.04.2026.***

Date of Judgment : ***23.04.2026.***

J U D G M E N T

ABDUL HAMID BHURGRI, J.- The appellant, Iqrar Ali son of Mehboob Khan Jakhrani, has assailed the judgment dated 06.08.2025 passed by the learned Sessions Judge, Kashmore @ Kandhkot, in Sessions Case No.212 of 2025 (Re: The State v. Iqrar Ali), arising out of Crime No.78 of 2025 registered at Police Station B-Section Kandhkot, whereby he was convicted for an offence punishable under Section 23(i)(a) of the Sindh Arms Act, 2013 and sentenced to undergo Rigorous Imprisonment for ten (10) years with a fine of Rs.50,000/-, and in default whereof, to suffer Simple Imprisonment for six (06) months. Benefit of Section 382-B, Cr.P.C. was also extended to him.

2. Briefly, as per the prosecution case set out in the F.I.R., on 02.06.2025 at about 0630 hours, complainant HC Ahmed Ali along with his staff, while on patrolling duty, reached Ramzan Laro, where they allegedly apprehended the appellant and recovered from his possession an unlicensed 30 bore pistol along with five live bullets, which was secured and sealed at the spot in the presence of mashirs.

3. After usual investigation, the appellant was sent up to face trial. The learned trial Court framed charge against him, to which he pleaded not guilty and claimed trial.

4. In order to substantiate the charge, the prosecution examined the complainant HC Ahmed Ali (Ex.3), mashir PC Lehaque Khan (Ex.4), Investigating Officer ASI Muhammad Inam (Ex.5), WPC

Akbar Ali (Ex.6), and PC Moharram Ali (Ex.7), and thereafter closed its side.

5. The appellant, in his statement recorded under Section 342, Cr.P.C. at Ex.9, denied the allegations but neither examined himself on oath under Section 340(2), Cr.P.C. nor produced any defence evidence.

6. Upon conclusion of trial, the learned trial Court convicted and sentenced the appellant as stated above.

7. Learned counsel for the appellant contended that the prosecution case suffers from material contradictions; that no private mashir was associated despite availability; and that the safe custody and transmission of the case property have not been proved.

8. Learned Deputy Prosecutor General supported the impugned judgment.

9. I have heard the learned counsel for the parties and have reappraised the evidence available on record.

10. The point for determination is whether the prosecution has been able to prove its case against the appellant beyond reasonable doubt and conviction recorded by the learned trial Court is sustainable under the law.

11. The answer is in the negative.

12. Admittedly, the alleged recovery was effected from a public thoroughfare; however, no independent private mashir was associated, nor any plausible explanation has been furnished for such omission. Although non-association of a private mashir is not by itself fatal to the prosecution case, yet where the case otherwise suffers from infirmities, and particularly when all the witnesses are official, such omission assumes significance and casts doubt upon the prosecution version. Further, the prosecution evidence suffers from material contradictions. In the F.I.R., the complainant stated that the appellant was apprehended at 0630 hours, whereas during their depositions, both the complainant and the mashir deposed that the appellant was apprehended at 0730

hours. This contradiction regarding the time of apprehension, when read in conjunction with other inconsistencies, is not a mere minor discrepancy but creates a reasonable doubt about the manner and truthfulness of the alleged recovery. Moreover, the complainant deposed that the accused was present on the northern side of the road and was seen from a distance of about 10 paces, whereas the mashir stated that the accused was on the southern side and was seen from a distance of 40/50 paces. Likewise, the complainant stated that the accused attempted to flee towards the western side, whereas the mashir stated that he tried to run towards the southern side. These contradictions, when viewed in totality, materially impair the credibility of the prosecution witnesses and render their testimony unreliable.

13. The prosecution has also failed to establish the safe custody and safe transmission of the case property. The Investigating Officer deposed that the case property was sent to the Forensic Science Laboratory through PC Moharram Ali after obtaining permission from the SSP; however, admittedly, the name of the person through whom the case property was allegedly dispatched does not appear in the relevant Road Certificate, and the original permission letter was not produced. Furthermore, the Investigating Officer produced the malkhana register (Register No.19) to establish safe custody of the case property; however, the same does not reflect the time at which the case property was deposited, nor the time of its entry. The record further reflects that no entry in the malkhana register regarding removal of the case property for transmission to the Forensic Science Laboratory or its return after examination has been produced or proved through the evidence of the prosecution witnesses. Such omissions create a serious gap in the chain of custody and render the safe custody and safe transmission of the case property doubtful.

14. The deficiencies discussed above are not minor in nature but go to the root of the prosecution case. When these infirmities are

considered collectively, they render the prosecution evidence unreliable and unsafe for sustaining conviction.

15. It is by now a settled principle of law that the prosecution must prove its case beyond reasonable doubt, and any doubt arising from the prosecution evidence must be resolved in favour of the accused. In ***Tariq Pervez v. the State (1995 SCMR 1345)***, it has been held that even a single circumstance creating reasonable doubt entitles the accused to the benefit thereof as a matter of right and not of grace. In ***Muhammad Akram v. the State (2009 SCMR 230)***, it has been held that conviction cannot be sustained on evidence which is not confidence-inspiring and suffers from material infirmities. Likewise, in ***Muhammad Mansha v. the State (2018 SCMR 772)***, it has been reiterated that any doubt arising from the prosecution case must be resolved in favour of the accused.

16. In view of the above discussion, I am of the considered opinion that the prosecution has failed to prove its case against the appellant beyond reasonable doubt and, therefore, conviction and sentence awarded to the appellant are not sustainable. Resultantly, this appeal is allowed setting aside conviction and sentence awarded to the appellant through the impugned judgment dated 06.08.2025 and he is acquitted of the charge. He shall be released forthwith, if not required in any other case.

JUDGE