

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Sial

Mr. Justice Shamsuddin Abbasi

**Spl. Crl. Anti-Terrorism Appeal No.71 of 2024**

(Abdul Haseeb vs. the State)

**Spl. Crl. Anti-Terrorism Appeal No.73 of 2024**

(Muhammad Farooq vs. the State)

**Spl. Crl. Anti-Terrorism Appeal No.75 of 2024**

(Abu Bakar and another vs. the State)

M/s. Ammad Ghaffar and Saddam Hussain,  
advocates for the appellants

Mr. Muhammad Iqbal Awan, Additional  
Prosecutor General, Sindh

Date of Hearing : 15.04.2026

Date of Decision : 05.05.2026

## **J U D G M E N T**

**Omar Sial, J.:** The prosecution's case, as narrated by Mr. Syed Akhlaque Hussain Abidi (the complainant), is as follows:

- (i) On 25.12.2018, at approximately 8:30 p.m., Syed Akhlaque Hussain Abidi (henceforth referred to as "**Abidi**") was at his residence in the DHA area of Karachi when he heard heavy gunfire originating from the main gate. Upon investigating, he discovered his eldest son, 46-year-old Syed Ali Raza Abidi, slumped in the driver's seat of his white Toyota Fortuner. The vehicle was positioned halfway through the gate.
- (ii) With the assistance of bystanders, Abidi moved his son to the passenger seat and drove him to PNS Shifa Hospital. Despite emergency medical intervention, the hospital staff informed him that his son had succumbed

to his injuries. Following the pronouncement, he transported the body to Jinnah Hospital for medico-legal formalities, where his statement was recorded by A.S.I. Mohammad Zubair at 00:30 hours on 26.12.2018. F.I.R. No. 540 of 2018 was registered under sections 302 and 34 P.P.C., read with section 7 of the Anti-Terrorism Act, 1997, at the Gizri police station at 0215 hours on 26.12.2018.

- (iii) At 5:00 a.m. on 26.12.2018, A.S.I. Sawan Khan Abbasi inspected the crime scene in Abidi's presence and in the presence of Abidi's brother, Lt. Col. (Retd) Sarfaraz Hussain Abidi. The investigators recovered five (5) spent bullet casings and three (3) projectiles.
- (iv) On 04.03.2019, the Counter Terrorism Department (CTD), arrested a person identified as Mohammad Farooq for possessing an unlicensed weapon. Soon thereafter, the CTD announced the arrest of four suspects in Raza's murder—**Ghazali, Abu Bakar, Farooq, and Abdul Haseeb**—and identified four absconders: **Bilal, Faizan, Hasnain, and Mustafa (alias Kali Charan)**. It is alleged that during interrogation in that case, he confessed to his involvement in Raza's murder. Farooq also allegedly told the investigators that his brother, Mustafa, and his friends Muhammad Ghazali, Abdul Haseeb, Abubakar, and Bilal had also done reconnaissance.
- (v) On 07.03.2019, Abidi submitted a USB containing 52 video clips to Inspector Ali Haider of the Counter Terrorism Department (CTD). The footage he collected was for the period between 21.12.2018 and 25.12.2018. Abidi had observed significant suspicious activity on CCTV footage. The same day, i.e., 07.03.2019, in the presence of Inspector Ali Haider and

D.S.P. Ali Raza, the four arrested suspects were brought in one by one to state their roles in the murder of Abidi's son.

- (vi) Upon reviewing the official *challan* (charge sheet) submitted to the court, Abidi's family noted several discrepancies. Abidi held a press conference with his wife, Sabiha Bano, at the Karachi Press Club to voice these concerns. Following a notice from the Chief Minister, the D.I.G. of C.T.D. visited their home. He assured the family that their technical data corroborated the investigation and offered to share it with them.
- (vii) The following day, Abidi's cousin, Raza Ali Abidi, visited the Technical Branch of the CTD. In the presence of Inspector Ali Haider and a DSP, he was shown the data and provided a copy on a USB drive. Upon reviewing the USB data on his computer, Abidi discovered evidence confirming the involvement of the arrested suspects and absconders, as well as over two dozen other individuals and their cell phones. Abidi further noted that the call data records showed that a person named Junaid (Cell No. 0312-1276169) was in active communication with suspects Mustafa and Farooq at 8:29 p.m. on 25.12.2018, approximately at the time of the murder. Despite this, Junaid was not implicated in the *challan*. Abidi also noted that several other names—including Ahmed Shah, Raheem Jan, Madni Khan, Boss Khan, and Savera—appeared prominently in the data but had not been formally charged.

2. All four of the accused pleaded not guilty and claimed to be tried. At the trial, the prosecution examined the following

witnesses: PW-1 Syed Akhlaque Hussain Abidi (the complainant); PW-2 Sarfaraz Hussain Abidi (a witness to the recovery from the place of the incident); **PW-3 A.S.I. Mohammad Zubair** (the first police responder); **PW-4 SI Sawan Khan** (1st investigating officer); **PW-5 Inspector Amanat Ali Rajput** (2nd investigating officer); **PW-6 Dr. Shahzad Ali Awan** (Doctor who conducted the post mortem); **PW-7 ASI Muhammad Zareen Pathan** (3rd investigating officer); **PW-8 Faizan Khan Gujjar** (witness to arrest of 3 accused); **PW-9 HC Muhammad Tayyab Chauhan** (gave the call data record to the investigating officer); and **PW-10 P.I. Syed Ali Haider** (4th investigating officer); **PW-11 Sarfaraz Hussain Abidi** (recalled) (witness to various steps taken in investigation). In their respective section 342 Cr.P.C statements, the accused denied any wrongdoing.

3. On 29.4.2024, the learned 15th ATC Court at Karachi convicted all 04 accused of an offense punishable under section 302(b) P.P.C., read with sections 109 and 34 P.P.C. They were also convicted to life imprisonment for an offense under section 7(1)(a) of the ATC Act 1997. It is this judgment that has been challenged before us.

4. We have listened to the appellants' learned counsel and the learned Additional Prosecutor General and have also re-appraised the evidence. Repeated notices to the complainant led to Raza's mother's appearance in Court. She informed the Court that Abidi had unfortunately died after the trial had concluded and that the family did not wish to engage a lawyer for these proceedings. She, however, read out a statement she had prepared. Our observations and findings are as follows.

5. The learned Additional Prosecutor General acknowledged that the only evidence against the accused was:

- (i) Their extra-judicial confessions.
- (ii) The call data record obtained by the CTD.

6. The alleged extra-judicial confessions of the accused were made in front of PW-1 Syed Akhlaque Hussain, and the gist of them was as follows:

**Accused Farooq:** Admitted to conducting "recce" (surveillance) of Raza's movements at his workplace (Akhlaque Enterprises Pvt. Ltd. at Karachi Fish Harbor), the family restaurant (Biryani of the Sea in Clifton), and their residence. He stated that on the day of the murder, he, **Bilal**, and **Hasnain** waited for Raza at his office. When Raza left around 8:00 p.m., Bilal, Hasnain, and Mustafa (alias Kali Charan) followed him on two motorcycles. Farooq further stated that at approximately 9:30 p.m., his brother, Mustafa, returned home and admitted that he, Bilal, and Hasnain had successfully carried out the murder.

**Accused Abdul Haseeb:** Disclosed that he and his cousin, Junaid, went to Hussaini Blood Bank to receive Rs. 800,000 in cash from an individual, which they then delivered to Bilal.

**Accused Ghazali & Abu Bakar:** Ghazali admitted he was given a sack of flour containing a concealed weapon. He and Abu Bakar transported it to a house and "dumped" it (stored it). Three days later, Bilal instructed Ghazali to deliver the sack to the absconding suspect, **Faizan**, in Lyari. Abu Bakar confirmed this account.

7. The alleged confessions were inadmissible in evidence pursuant to Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984. None of the confessions led to any discovery that might have made them relevant under Article 40 of the Order. Admittedly, none of the confessions were made before a Magistrate. Admittedly, at trial, all four accused denied they had, of their own free will, said what the police alleged. In fact, there

are indications of unlawful force having been used in their arrests and subsequent detention. The alleged admissions and confessions made by the accused in custody did not lead to any meaningful discovery, hence the provisions of Article 40 of the Order of 1984 would also not come into play. Nonetheless, none of the statements made by the accused reflected that they had a role in the actual shooting. An extra-judicial confession is a weak piece of evidence. It must be corroborated and supported before it can form a part of admissible evidence. In view of Articles 38 and 39, it is inadmissible and cannot in any case serve as the sole basis for a conviction under Section 302(b). We have been guided by the wisdom of the Hon'ble Supreme Court in the cases reported as: **Rehmatullah and 2 others vs The State (2024 SCMR 1782)** and **Saeed Ahmed vs The State (2011 SCMR 1686)**.

8. The learned trial court has primarily based its decision on the call data records, which were produced at the trial. Call data records are a tool to aid in the initial steps of an investigation. For any investigator to think that they can be the solitary form of evidence in a murder case would be naive to say the least. Call Data Records (CDRs) are admissible as electronic evidence under Article 164 of the Order of 1984 but are generally treated as circumstantial evidence rather than conclusive proof, especially without accompanying call transcripts or voice recordings. Certain agencies seem to obtain data from access given to them to the database. Such records, in particular, are a weak form of evidence. At the very least, the records should have been issued by a mobile service provider that certifies their accuracy. The record presented in court was obtained by the investigators through the CTD's technical branch. The record presented was on plain white sheets of paper. It is obvious that a selective record has been presented. PW-10 Inspector Ali Haider: *"It is correct to suggest that the SIM cards and mobile phones used in the commission of the offense were not recovered from the accused."* Abidi acknowledged that the

call data record shown to him by the investigating officer showed a call from Mustafa to a person named Junaid at 8:29 p.m. on the fateful date. Junaid, however, was not even cited as a witness or an accused by the investigators. As Abidi mentioned, the call data record also showed phone calls between Mustafa and several other people whom he identified in his testimony. None of these individuals was cited as a witness or accused. The prosecution could not establish any distinguishing feature of the phone call between Mustafa and Junaid that was different from those between Mustafa and the others.

The Honorable Supreme Court in **Khair Mohammad vs The State (2025 SCMR 1599)** has made the following observations:

*“Mere production of CDR data without transcripts of the calls or end to end audio recording cannot be considered/ used as evidence worth reliance. Besides the call transcripts, it should also be established on the record that callers on both the ends were the same persons whose calls data is being used in evidence. While considering such type of evidence extra care is required to be taken by the Courts as advancement of science and technology, on the other hand, has also made it very convenient and easy to edit and make changes of one's choice as highlighted and discussed in the case of Ishtiaq Ahmad Mirza supra. We also can lay hand on the case of **Azeem Khan v. Mujahid Khan (2016 SCMR 274)** in this regard. So, the CDR data produced by the said witnesses is of no help to the Appellant and cannot be termed as an evidence worth reliance to shatter the direct evidence adduced by the prosecution.”*

*“Admittedly, it has not been proved whether the mobile phones allegedly recovered from the deceased and the petitioners were in their personal use, nor has it been*

*proved which SIMs were recovered from the mobile phones and to whom they were issued. Again, the names of the deceased and petitioners were absent from purported CDR except in the form of handwriting subsequently interpolated into the document. Reference in this regard may also be made to the case of **Rehmatullah and others v. The State (2024 SCMR 1782).***”

The court went on to say that:

*Thus, it is also of foremost importance that the Call Data Record (CDR) must bear the endorsement/authentication of the cellular / telecom company which has issued it. A bare document such as the CDR without any signature of the concerned officer of the cellular / telecom company issuing the CDR cannot be considered for the purposes of trial and relied upon until and unless it bears the company’s seal or a letter of its authentication. This Court’s judgment rendered in the case of **Asmat Ullah Khan v. The State (PLD 2024 SC 1119)** crystallizes the legal position with respect to CDRs and is reproduced below:*

*"We have carefully examined the said CDR and found that it neither bears the name nor the signature of any authorized officer, nor does it carry the seal of the issuing company. Moreover, the witness (PW-1) acknowledged that the CDR was not sealed and was not accompanied by any covering letter even from the RPO's office. Thus, it cannot be safely relied upon in any manner. It can be doubted that the I.O. has himself generated such CDR or the same has been issued by the Company concerned. It is further noted with considerable importance that neither were the relevant entries*

*indicated in the data, nor were the voice record transcripts produced, which, if available, could have substantiated the point of the prosecution. No doubt, the mere production of CDR, without transcripts of the calls or complete audio recordings, cannot be deemed reliable evidence. In addition to call transcripts, it must also be established on record that the individuals at both ends of the call are the same as those whose call data is produced as evidence. The Courts must exercise heightened caution when evaluating such evidence, as advancements in science and technology have greatly facilitated the editing and alteration of recordings to suit one's preferences. Reference in this regard may be made to the cases of **Azeem Khan and another v. Mujahid Khan and others (2016 SCMR 274)** and **Mian Khalid Perviz v. The State through Special Prosecutor ANF and another (2021 SCMR 522)**. Being so, the CDR is of no help to the prosecution in supporting its allegations against the petitioners."*

Being guided by the wisdom of the Honorable Supreme Court, we are of the view that the call data record presented at the trial was not of such quality or of such nature that it could be used to convict the accused on a charge of murder.

9. The prosecution alleged that Haseeb told the investigators that he and his cousin, Junaid, went to Hussaini Blood Bank to receive Rs. 800,000 in cash from an individual, which they then delivered to Bilal. This, they said, was the money for the hired assassins. Most surprisingly, the investigators, in spite of claiming that the accused had confessed voluntarily, were unable to find out from them the identity of the person who had delivered the hit money. Who that person was and what happened to the Rs. 800,000 was never investigated.

10. The prosecution alleged that the accused had also observed Raza at his restaurant, the Biryani of the Seas. The investigator, however, deemed it unnecessary to even collect the CCTV footage from that scene. In the words of PW-10 Ali Haider, the investigating officer, *"It is correct to suggest that CCTV cameras were installed at the restaurant Biryani of the Seas, but the CCTV footage was not obtained."* In fact, he also acknowledged that – *"It is correct to suggest that I did not obtain CCTV footage from the command and control of DHA to find out the presence of the accused on the routes used by the accused."* Ali Haider admitted that – *"I did not obtain CCTV footage from Hussaini Blood Bank as two months had already passed and a record of the footage was not preserved."* Abidi, in his testimony, acknowledged that the CCTV footage was captured by cameras installed in a neighbor's home and that it covered the period from 21.12.2018 to 25.12.2018. What we find rather unusual and suspicious is that the cameras did not catch the shooting, but caught the presence of the police outside Abidi's house at 9:30 p.m. The time frame in which the shooting occurred was not produced at the trial. Abidi acknowledged that *"It is correct to suggest that there is no CCTV footage of the time of the incident, which shows the incident of firing upon Syed Ali Raza."* It appears to us that the footage showing the shooting was deliberately removed from the evidence. It is also an admitted position that none of the CCTV footage collected by Abidi and given to the investigating officer contained any image of either of the four accused. For this reason, we have not delved further into whether the footage was obtained and admitted as evidence in accordance with the guidelines enunciated by the Honorable Supreme Court. The CCTV footage presented at trial did not support the prosecution's case in any manner as far as the four accused were concerned.

11. Qadeer was the security guard at the Abidi home when the incident occurred. He was the person who had opened the gate when Raza was fired at. In the words of Abidi, “*At the time of firing, our security guard was present at the half-opened main gate*”. Abidi, in his cross-examination, admitted that in his section 161 Cr.P.C. statement, he had not mentioned Qadeer’s name nor had he mentioned that Qadeer had told the investigators that he was unable to identify who the shooters were. It would not be out of place to mention that Raza’s mother, while addressing the Court, specifically cast doubts on the role played by Qadeer in the whole episode.

12. PW-5 Inspector Amanat Ali testified that one of the bullet casings found at the crime scene matched a weapon that had been seized earlier by the police in another crime. This was a good lead that helped the investigators identify a potential suspect. The investigator did nothing to pursue this lead.

13. The accused were also convicted of a terrorism offense. No cogent evidence was produced at trial to show that there was intent or design to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or a foreign government or population or an international organization or create a sense of fear or insecurity in society; or that the action was done for the purpose of advancing a religious, sectarian or ethnic cause or intimidating and terrorizing the public, social sectors, media persons, business community or attacking the civilians, including damaging property by ransacking, looting, arson or by any other means, government officials, installations, security forces or law enforcement agencies. This was a case of targeted killing. The motive for which was never discovered by the investigators. The requirements of section 6(1)(b) or (c) of the ATA 1997 were not satisfied.

In **Ghulam Hussain vs The State (PLD 2020 SC 61)**, the Honorable Supreme Court has held:

*“For what has been discussed above it is concluded and declared that for an action or threat of action to be accepted as terrorism within the meanings of section 6 of the Anti-Terrorism Act, 1997 the action must fall in subsection (2) of section 6 of the said Act and the use or threat of such action must be designed to achieve any of the objectives specified in clause (b) of subsection (1) of section 6 of that Act or the use or threat of such action must be to achieve any of the purposes mentioned in clause (c) of subsection (1) of section 6 of that Act. It is clarified that any action constituting an offence, howsoever grave, shocking, brutal, gruesome or horrifying, does not qualify to be termed as terrorism if it is not committed with the design or purpose specified or mentioned in clauses (b) or (c) of subsection (1) of section 6 of the said Act. It is further clarified that the actions specified in subsection (2) of section 6 of that Act do not qualify to be labeled or characterized as terrorism if such actions are taken in furtherance of personal enmity or private vendetta.”*

14. After having commented on the specifics of the case from a legal perspective and giving our observations on the evidence relied upon for the conviction, we would like to record that the Sindh Police failed completely in solving and proving this case. A young and upcoming Parliamentarian with a bright future was assassinated right outside his house. His parents had to take their bleeding and dying son literally in their laps to the hospital. One cannot even begin to imagine the trauma the parents must have gone through. The record shows that, from the beginning, the Police showed very little, if any, interest in the case. Such was the state of affairs that Abidi himself was going door to door in his neighborhood to ask for CCTV footage. Abidi and his wife kept complaining that the investigation was not neutral or unbiased. Four officers were assigned the task of investigation. The alleged actual shooters, i.e., Bilal and Hasnain, disappeared into thin air, and the police had nothing to say about them. No effort was made to get the shooters. Important leads like the bullet match with a pistol in an earlier case were

ignored. Digital evidence (video footage and call data records) was not collected and presented at the trial in accordance with the law. The record suggests that the arrests, as the police claim, did not occur in that manner. Not even an effort was made to have the accused confess before a magistrate. A deliberate attempt appears to have been made to avoid producing the call data record in a professional, complete, and legal manner. Ownership data of SIMs and phones was deliberately not collected.

15. The investigation in the case is unusually weak. Far removed from investigations, the police in general and the CTD in particular are capable of conducting. The police has some brilliant and brave investigators. What compelled the police to conduct a weak investigation in this very high-profile case must necessarily be looked into by the Inspector General. People's faith in the police must not be tarnished. The investigating officer was summoned by this court, and this same question was also put to him. He shifted the blame onto the complainant and the unnecessary intrusions into the investigation process at his behest. The family, on the other hand, seems to suggest that the investigators and the lapses that ensued were guided by a powerful external force. A force, Raza's mother, while addressing the court, opted not to identify. Whatever the case may be, the police cannot avoid their liability for the unprofessional, incomplete, and half-hearted investigation. We request the Inspector General of Sindh to reevaluate the service records and performances of the four investigating officers in this case. Let it also be considered: when the CTD is well-equipped and manned by seasoned and brave investigators, why did this case receive such treatment? We have no doubt that the Inspector General will look into this matter closely.

16. As far as the accused are concerned, the Constitution entitles them to the equal protection of the law. The evidence

presented against them, for the reasons elaborated upon above, was not sufficient to sustain a conviction for 302(b). We have no doubt in our minds, though, that what Abidi said in his testimony was also correct. The accused must have revealed some details during interrogation. It is also true that the pattern of phone calls between them does reflect a close relationship. The accused's respective families say that the arrests were made in the middle of the night from their homes. The three families who appeared in court all had similar stories to tell. The official record says that they were arrested from the Kakri ground. An experienced mind can sense that the family's version is, in all probability, the correct one. Even if that was the case, the arrest itself was carried out lawfully. We find it immensely difficult to reconcile with the family's stance that they have absolutely no idea why law enforcement agencies would conduct such an action at their homes. Raids to arrest, of the nature the family alleges, are largely conducted when law enforcement has reasonable grounds to believe it will make a breakthrough in an investigation, or, as we have most unfortunately witnessed, when a political reason is assigned to such a raid and arrest. The family and their counsel, however, continue to assert that they have no knowledge as to why their son was taken into custody.

17. One cannot outright eliminate the possibility that the accused were unaware that the information sought from them would result in an assassination. Experience in the criminal justice system suggests that the various pawns in such an assassination—excluding the shooters—often do not know that a person will be assassinated on the last rung of the chain. They do not know the true reason their masters tasked them with conducting reconnaissance. Law enforcement officers, through years of interrogations in similar killings (particularly those involving specific political parties), can bear witness to this. In this case, the investigation failed to unearth this critical

element, which was required to sustain a conviction under section 302(b) PPC.

18. The extremely weak evidence produced at trial leads us to give the accused the benefit of the doubt: that they were unaware that the information they provided, if any, was for a specific murderous purpose. Conspiracy, especially where only circumstantial evidence is available, requires a level of proof that was unfortunately absent in this case. The prosecution failed to prove either the premeditation or the pre-planning of the assassination on the part of the accused. Neither was any evidence led to show common intention or common object. No motive for the assassination was discovered by the investigators. We have also been guided by the judgments of the Honorable Supreme Court in **Amir Khan vs The State (2025 SCMR 1572)** and **Bashir Ahmed and others vs The State (2022 SCMR 1187)** in our conclusion to convert the conviction from 302(b) to 302(c) P.P.C.

19. After looking at the entire case holistically, we are of opinion that:

- (i) A charge under the anti-terrorism legislation was not made out. The appellants are acquitted of the charge.
- (ii) The ends of justice will be met if the conviction under section 302(b) P.P.C is converted to 302(c) P.P.C. and the accused is sentenced to the period they have already served. The fine amounts and the imprisonment in lieu thereof, as awarded by the learned trial court, will remain the same. They may be released once the fine is paid or upon completion of imprisonment in default of payment of the fine, whichever is earlier. The accused will be entitled to remissions and the benefit of section 382-B Cr.P.C.

20. All the appeals are disposed of in the above terms. The Office of this Court shall send a copy of this judgment to the Inspector General, Sindh, and the Acting Prosecutor General, Sindh, to facilitate their review of the observations made in paragraph 15 above.

**JUDGE**

**JUDGE**