

HIGH COURT OF SINDH AT KARACHI
Criminal Appeal No.281 of 2022

Present:

Mr. Justice Zafar Ahmed Rajput, CJ
Mr. Justice Jan Ali Junejo

Appellant : Munsif Khan S/o of Ikramullah Khan,
through Mr. Ghulam Shabbir Buledi,
Advocate.

Respondent : The State, through Mr. Abrar Ali Khichi,
Addl. Prosecutor General, Sindh.

Date of hearing : 18.05.2026
Decided on : 18.05.2026

JUDGMENT

ZAFAR AHMED RAJPUT, CJ.— Through instant Criminal Appeal, appellant Munsif Khan S/o Ikramullah Khan has impugned the judgment dated 20.04.2022 passed in Sessions Case No.51 of 2021, arising out of F.I.R. No.401 of 2020, registered at Police Station Jackson, Karachi, under Section 6/9-C, of Control of Narcotic Substance Act, 1997, whereby the VIIIth Additional Sessions Judge/Additional Model Criminal Trial Court Karachi-West convicted him for the said offence and sentenced him to suffer R.I. for 07 years and 06 months and to pay fine of Rs.55,000/-; or in default thereof, to undergo S.I. for 06 months more. The benefit of Section 382-B, Cr.P.C. was also extended to him. The appellant has already been released by the jail authority on 20.04.2023 on expiry of sentence on remission system and part payment of fine.

2. The brief facts of the prosecution case are that on 30.10.2020 the complainant SIP Maqsood Alam of PS Jackson interrogated the accused PC Munsif Ali, buckle No.37225, vide entry No.55-0130, who disclosed that he alongwith PC Sher Muhammad, PC Fayyaz Khan, PC Nazish Awan and PC Asif apprehended the accused Mehboob Ali Jaffary son of Ghulam Abbas and his son Mohsin on 27.10.2020 at about 5/6 p.m. and recovered 34 packets of charas. After recovery, he released the said

accused and distributed 34 packets of charas amongst them. He received 07 packets as his share which he kept in his house. On such disclosure, he (complainant) arrested the accused and proceeded towards his house bearing House No.435, Street No.33, Generalabad, Shireen Jinnah Colony, Keamari, Karachi. The accused Munsif Khan voluntarily led the police party in his house and took out one plastic shopper of black color from the cupboard containing 07 packets of charas wrapped with yellow color tape. The word "A" was written on each packet. The weight of charas was 08 kilo 200 grams (8200grams). He prepared the memo of arrest and recovery on the spot and sealed the case property and brought the accused and recovered case property at police station where he lodged the FIR.

3. At the very outset, learned counsel for the appellant contends that the appellant is innocent and has falsely been implicated in this case by the police; that there are material contradictions in the evidence of prosecution witnesses and discrepancies in the investigation, which render the entire prosecution case doubtful against the appellant; that co-accused Sher Muhammad Khan and Fayyaz Khan, implicated on the same set of allegations, have already been acquitted by this Court in Criminal Appeals No.323 and 329 of 2022, respectively.

4. Learned Addl. Prosecutor General Sindh concedes that the aforementioned two co-accused, who were implicated on the basis of the same memo of arrest and recovery in separate FIRs, have already been acquitted of the charge by this Court.

5. Heard and record perused.

6. It appears that the aforementioned co-accused persons, arrested in connection with the same incident, have been acquitted by this Court in the aforesaid Criminal Appeals by observing as under:-

“10. In narcotic cases, one of the most crucial aspects of the case is that the Prosecution must prove safe custody of the narcotic from the time of its recovery until the time when it is sent for chemical examination. If they fail to do so then there is a possibility that the narcotic substance had been tampered with before it was received at the chemical laboratory for its examination. In such like cases where unbroken chain of custody cannot be proved by the prosecution then the chemical report is of no legal value. It is noted that this is the view taken by the Supreme Court regardless of the amount of the recovered narcotic whether small or huge as the principle remains the same.

11. At the very outset we have noted that the co-accused Sher Muhammad Khan was acquitted by this Court vide Judgement dated 20.12.2022 on the basis that the prosecution had failed to prove safe custody and transmission of narcotics substance. The facts of the appellant’s case are same as in the case of Sher Muhammad Khan (supra). When confronted with this proposition, learned Additional Prosecutor General Sindh conceded the same that the prosecution case suffers from the same defects.”

7. It further appears from the perusal of the record that the case of the present appellant is on the same footings as that of co-accused Sher Muhammad Khan and Fayyaz Khan, who have been acquitted by this Court on the same set of facts and evidence recorded by the Trial Court. Hence, impugned judgment is set aside by observing that the prosecution has failed to prove its case against the appellant by allowing instant Appeal.

The instant Criminal Appeal stands disposed of alongwith pending application(s).

CHIEF JUSTICE

JUDGE