THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Spl. Anti-Terrorism Jail Appeal No.D-**270** of 2019
Spl. Anti-Terrorism Appeal No.D–**53** of 2017

Before:-
Justice Muhammad Faisal Kamal Alam
Justice Tasneem Sultana

Appellants	:	i. Ghulam Rasool alias Baba ii. Khalil Ahmed alias Sikandar alias Aghar Ali (**Spl. Anti-Terr. Appeal No.D-53 of 2017**) i. Ghulam Rasool alias Baba ii. Khalil Ahmed alias Sikandar alias Aghar Ali (**Spl. Anti-Terr. Jail Appeal No.D-270 of 2019**) Through M/s Abdul Hakeem Brohi & Achar Khan Gabol, Advocates.
Legal Heirs of Deceased (**Spl.A.T.Appeal No.D-270/2019**)	:	M/s Manzoor Hussain Larik, Mazhar Hussain Mangrio & Syed Qasim Ali Shah Musavi, Advocates.
Respondent	:	The State, through Mr. Zulfiqar Ali Jatoi, Additional Prosecutor General.
Dates of hearing(s)	:	**18.08.2026, 20.08.2026 & 25.08.2026**
Date of Judgment	:	**29.10.2026**

J U D G M E N T

TASNEEM SULTANA, J:- By this common judgment, we intend to dispose of aforementioned Special Anti-Terrorism Appeals, preferred by the Appellants Ghulam Rasool alias Baba and Khalil Ahmed alias Sikandar alias Asghar Ali. Since the Appellants in both appeals are the same and the prosecution cases bear a factual connection with each other, same have been heard by us together. In Special Anti-Terrorism Jail Appeal No.D-270 of 2019, the Appellants have impugned the judgment dated 16.11.2019, passed by the learned Judge, Anti-Terrorism Court-I, Sukkur, camp at Central Prison, Sukkur, in Special Case No.71 of 2016, arising out of Crime No.08 of 2015, registered at Police Station Lakhi Gate, Shikarpur, whereby they were convicted and sentenced, as under:

> i. For offence under Section 302(b), P.P.C. read with Section 7(a) of the Anti-Terrorism Act, 1997, to undergo imprisonment for life and to pay compensation of Rs.200,000/- each to the legal heirs of the deceased persons under Section 544-A, Cr.P.C.

ii. For offence under Section 7(1)(ff) of the Anti-Terrorism Act, 1997 read with Section 4 of the Explosive Substances Act, 1908, to undergo rigorous imprisonment for fourteen years and to pay fine of Rs.50,000/- each and, in default thereof, to further undergo rigorous imprisonment for one year.

iii. For offence under Section 324, P.P.C. read with Section 7(1)(b) of the Anti-Terrorism Act, 1997, to undergo rigorous imprisonment for ten years and to pay fine of Rs.5,000/- each and, in default thereof, to further undergo simple imprisonment for one month.

iv. For offence under Section 120-B, P.P.C., to undergo rigorous imprisonment for fourteen years and to pay fine of Rs.5,000/- each and, in default thereof, to further undergo simple imprisonment for one month.

v. For offence under Section 427, P.P.C., to undergo rigorous imprisonment for two years and to pay fine of Rs.1,000/- each and, in default thereof, to further undergo simple imprisonment for one month.

vi. For offence under Section 295-A, P.P.C., to undergo rigorous imprisonment for ten years and to pay fine of Rs.5,000/- each and, in default thereof, to further undergo simple imprisonment for one month.

All the sentences were ordered to run concurrently and benefit of Section 382-B, Cr.P.C. was extended to the Appellants. Co-accused Muhammad Din alias Badal was, however, acquitted of the charge by extending him the benefit of doubt.

2. In **Spl. Anti-Terrorism Appeal No.D-53 of 2017**, the Appellants have impugned the judgment dated 15.04.2017, passed by the learned Judge, Anti-Terrorism Court, Sukkur, in Special Case No.66 of 2016, arising out of Crime No.17 of 2015, registered at Police Station Sultan Kot, Shikarpur, whereby they were convicted and sentenced under Section 265-H(ii), Cr.P.C., as under:

i. For offence under Section 120-B, P.P.C. read with Section 34, P.P.C., to suffer rigorous imprisonment for six months with fine of Rs.10,000/- each.

ii. For offence under Section 4 of the Explosive Substances Act, 1908 read with Section 34, P.P.C., to suffer imprisonment for life with forfeiture of their properties.

iii. For offence under Section 7(1)(ff) of the Anti-Terrorism Act, 1997 read with Section 34, P.P.C., to suffer imprisonment for life.

All the sentences were ordered to run concurrently and benefit of Section 382-B, Cr.P.C. was extended to the Appellants.

3. The brief facts of the prosecution case in Crime No.08 of 2015 are that on 30.01.2015 SIP Ghulam Bashir Khokhar, SHO Police

Station Lakhi Gate, Shikarpur, along with other police officials, left the police station at about 1130 hours for patrolling and checking of the Masjid and Imam Bargah. At about 1350 hours, while the police party was present at Lakhi Gate Goal Wango, a powerful explosion was heard from the direction of Jamia Masjid Karbala Imam Bargah, Lakhi Gate. Smoke was seen rising from the area and cries were also heard. The police party immediately rushed towards the Imam Bargah and found a large number of persons lying dead and injured. In the meantime, other police contingents and senior police officers also reached there. The dead bodies and injured persons were shifted to Civil Hospital, Shikarpur and other hospitals, while the Bomb Disposal Squad inspected the place of occurrence. The explosion had caused extensive damage to the Imam Bargah and human body parts and blood were found scattered at the spot. In the explosion, 63 persons lost their lives and 73 others sustained injuries. Two severed legs and a human head were also recovered from the place of occurrence, suspected to be the remains of the suicide bomber. As none of the legal heirs of the deceased or injured persons came forward to lodge the report, SIP Ghulam Bashir Khokhar ultimately registered the case on behalf of the State on 03.02.2015 at 1700 hours against unknown terrorists and their associates.

4. On 27.02.2015, during investigation, Inspector Shafi Muhammad Sanjrani received information that persons allegedly involved in the Imam Bargah explosion were present at the Otaq of Abdul Hafeez alias Ali Sher Brohi, situated at Village Abdul Khaliq Brohi Pandrani, and were planning another explosion. Acting upon such information, he proceeded to the said place along with police officials, where other police parties also joined the raiding party. According to the prosecution, four persons came out of the Otaq and attempted to escape; two succeeded in making good their escape, whereas the Appellants were apprehended. From the Appellant Ghulam Rasool alias Baba, a .30 bore TT pistol with a magazine containing five live bullets and a Q Company E-450 mobile phone were allegedly recovered, while from Appellant Khalil Ahmed alias Sikandar alias Asghar Ali, a .30 bore TT pistol with a magazine containing eight live bullets and a Nokia mobile phone were allegedly recovered. Explosive material was also allegedly recovered from inside the Otaq. During interrogation, the Appellants were further alleged to have

disclosed that the Imam Bargah explosion had been carried out through Muhammad Ilyas Brohi, resident of Quetta, who had acted as the suicide bomber. Separate cases relating to the alleged recovery of unlicensed weapons and explosive material were thereafter registered at Police Station Sultan Kot.

5. After completion of usual investigation, the police submitted the charge-sheet against the Appellants, whereas co-accused, namely, Abdul Hafeez alias Ali Sher, Muhammad Raheem, Muhammad Din alias Badal, Aurangzeb and Asif Chotoo were shown as absconders. Proceedings under Sections 87 and 88, Cr.P.C. were thereafter initiated against the absconding accused. Subsequently, co-accused Muhammad Din alias Badal was arrested from District Jail, Jacobabad and was sent up for trial through a supplementary report dated 09.06.2016. After supply of the requisite documents under Section 265-C, Cr.P.C., formal charge was framed against the Appellants and co-accused Muhammad Din alias Badal, to which they pleaded not guilty and claimed trial.

6. To prove its case, the prosecution examined PW-1 Dr. Hafeezullah Shah at Ex.13, who produced postmortem reports, inquest forms, provisional and final medico-legal certificates of injured persons and connected documents at Ex.13/A-1 to Ex.13/A-270. PW-2 ASI Ghulam Rasool was examined at Ex.17 and produced memos relating to human remains, injuries and dead bodies at Ex.17/A to Ex.17/C. PW-3 complainant SIP Ghulam Bashir was examined at Ex.19 and produced the memo of inspection of place of occurrence, copy of FIR and DD entry No.11 at Ex.19/A to Ex.19/C. PW-4 Inspector Shafi Muhammad was examined at Ex.25 and produced referral letters, Danishtnamas, arrest and recovery memo, copies of FIR Nos.14, 15 and 16 of 2015 and roznamcha entry at Ex.25/A-1 to Ex.25/E. PW-5 Inspector/I.O. Khalid Hussain Dreho was examined at Ex.26 and produced the roznamcha entry, site inspection memo, memos of inspection of injuries, technical report, photographs, correspondence with the forensic authorities, NADRA and Chemical Examiner at Ex.26/A to Ex.26/H. PW-6 Inspector Badaruddin Jatoi was examined at Ex.27 and produced Danishtnama, NFSA communication and NADRA report at Ex.27/A to Ex.27/C. PW-7 SIP Abdul Samad Brohi was examined at Ex.28 and produced Road Certificate and memo relating to recovery of explosive material, car and

motorcycle at Ex.28/A and Ex.28/B. PW-8 injured Kashif Ali was examined at Ex.34; PW-9 injured Mushtaque Ali Shah at Ex.37; PW-10 SIP Tahir Muhammad at Ex.39, produced memo of arrest at Ex.39/A; and PW-11 Dr. Abdul Rasheed at Ex.42, produced postmortem report of deceased Liaquat Ali at Ex.42/A. Thereafter, the prosecution closed its side.

7. Statements of Appellants Ghulam Rasool alias Baba and Khalil Ahmed alias Sikandar alias Asghar Ali, as well as co-accused Muhammad Din alias Badal, were recorded under Section 342, Cr.P.C. They denied the allegations, claimed innocence and pleaded false implication. They further stated that the prosecution witnesses, except the injured witnesses, were police officials and had deposed against them at the instance of the police. None of them examined himself on oath under Section 340(2), Cr.P.C. or led any evidence in defence. Upon conclusion of the trial and after hearing learned counsel for the accused and learned Assistant Prosecutor General for the State, the learned Trial Court acquitted co-accused Muhammad Din alias Badal of the charge, whereas the Appellants were convicted and sentenced vide judgment dated 16.11.2019, as stated above.

8. Similarly, brief facts of the prosecution case in **Crime No.17 of 2015** are that on 27.02.2015 the Appellants, who were already in police custody in the aforesaid case as well as Crimes Nos.14, 15 and 16 of 2015 of Police Station Sultan Kot, were taken out from the lockup and interrogated by Inspector Badar Din Jatoi. During interrogation, they allegedly disclosed that explosive material had been concealed near the fish pond situated at Village Abdul Khaliq Brohi Pandrani, on the land associated with absconding accused Abdul Hafeez alias Ali Sher Brohi, and that a car and motorcycle were also lying concealed there. It was further alleged that they had planned to use the explosive material through those vehicles for causing another explosion.

9. Acting upon such information, Inspector Badar Din Jatoi, along with ASI Abdul Samad Brohi, ASI Muhammad Chhuttal Mahar and other police officials, as well as Inspector Muhammad Ali Soomro, SIP Sher Muhammad and Inspector Malik Tahir, In-charge Bomb Disposal Squad, proceeded from Police Station Sultan Kot. They reached the said fish pond area, where the Appellants allegedly led the police party

towards the place, dug the earth and got recovered a plastic drum containing explosive material, including detonators, ball-bearings and other articles. The Bomb Disposal Squad inspected and defused the material. The Appellants thereafter allegedly led the police party to a heap of rice straw situated about 55/56 paces away, from where a car and motorcycle were recovered. They failed to produce documents relating to the vehicles. It was further alleged that the explosive material had been supplied by Muhammad Rahim Brohi of Balochistan. ASI Abdul Samad Brohi and ASI Muhammad Chhuttal Mahar acted as mashirs of the proceedings. The Appellants and recovered articles were thereafter brought to the police station, where the aforesaid crime was registered.

10. After the usual investigation, the police submitted charge-sheet against the Appellants, whereas Abdul Hafeez alias Ali Sher, Muhammad Rahim and Asif Chotoo were shown as absconders. Proceedings under Sections 87 and 88, Cr.P.C. were conducted against them, and they were declared proclaimed offenders. Thereafter, formal charge was framed against the Appellants, to which they pleaded not guilty and claimed trial.

11. To prove its case, the prosecution examined PW-1 Inspector Badar Din Jatoi at Ex.11, who produced the memo of recovery of explosive material, car and motorcycle at Ex.11/A, FIR at Ex.11/B, roznamcha entries and memo of site inspection at Ex.11/C to Ex.11/E, and technical report of the Bomb Disposal Squad at Ex.11/F. PW-2 ASI Abdul Samad Brohi was examined at Ex.12. Thereafter, the prosecution closed its side vide statement at Ex.13. The record and proceedings were received by the learned Trial Court on 19.10.2016 pursuant to the orders of the High Court, while the Presiding Officer took oath under Section 16 of the Anti-Terrorism Act, 1997 at Ex.14.

12. Statements of the Appellants were recorded under Section 342, Cr.P.C. at Ex.15 and Ex.16. They denied the allegation and claimed it to be false. They further stated that the prosecution witnesses, being police officials, had deposed falsely against them. They neither examined themselves on oath under Section 340(2), Cr.P.C. nor led any evidence in defence. Upon conclusion of the trial and after hearing learned counsel for the Appellants and learned Assistant Prosecutor

General for the State, the learned Trial Court convicted and sentenced the Appellants vide judgment dated 15.04.2017.

13. Learned counsel for the Appellants contended that the Appellants are innocent and have been falsely implicated; that the prosecution has failed to establish their involvement in either case through reliable evidence; that in Crime No.08 of 2015, the FIR was lodged against unknown persons and, despite the subsequent arrest of the Appellants, their identity was not tested through an identification parade before a Magistrate, while PW Kashif Ali later identified them before the learned Trial Court; that PW Mushtaque Ali Shah did not identify either Appellant; that the material circumstance relating to the identification of the Appellants by PW-8 Kashif Ali was not specifically put to them in their statements recorded under Section 342, Cr.P.C. and, therefore, could not legally be used against them. As regards Crime No.17 of 2015, learned counsel further contended that the Appellants were already in police custody; that the alleged recovery was neither from their persons nor from any place shown to be under their possession or control; that independent person was not associated with the proceedings despite availability of persons in the vicinity; that material discrepancies existed regarding the timing, movement of the police party and place of recovery; and that the alleged disclosure and pointation were collectively attributed to both Appellants without specifying what information was furnished by either of them separately. He, therefore, prayed that both appeals be allowed and the Appellants be acquitted of the charges.

14. Conversely, learned Additional Prosecutor General, assisted by learned counsel for the legal heirs of the deceased in Special Anti-Terrorism Jail Appeal No.D-270 of 2019, supported the impugned judgments and contended that PW Kashif Ali was an injured and natural witness whose presence at the Imam Bargah stood established and who had identified both Appellants before the learned Trial Court; that non-holding of an identification parade was not, by itself, sufficient to discard his testimony; that the occurrence was supported by the medical, technical and documentary evidence; and that the subsequent recoveries provided further connecting circumstances. As regards Crime No.17 of 2015, he contended that the Appellants had led the police to the concealed place and got recovered the explosive material; that the discovery was admissible to the extent permissible

under Article 40 of the Qanun-e-Shahadat Order, 1984; that the testimony of police officials could not be discarded merely on account of their official status; and that the technical report supported the nature of the recovered material. He, therefore, prayed for dismissal of both appeals.

15. We have heard the learned counsel for the Appellants, learned Additional Prosecutor General for the State and learned counsel appearing for the legal heirs of the deceased, and have scanned the material available on record with their assistance.

16. The case of the prosecution, in brief, is that on Friday, 30.01.2015, a terrorist incident took place at Imam Bargah Karbala Molla Lakhi Masjid, Lakhi, where a suicide bomber detonated himself during Juma prayers, resulting in the death of 63 persons and causing injuries to 73 others. The occurrence was witnessed by PW-8 Kashif Ali, an injured witness, who attributed a specific role to the Appellants immediately before the explosion.

17. Upon reappraisal of the evidence, we find that the identity and participation of the Appellants principally rest upon the testimony of PW-8 Kashif Ali, who deposed that he had gone to the Masjid for offering Juma prayer along with his two minor sons, Ali Raza and Muhammad Hassan. While present inside the Masjid, he noticed three persons coming from the Bazaar-side entrance. All three were empty-handed. Two of them asked their third companion to proceed further inside the Masjid and themselves returned, whereas the third person proceeded inside and, shortly thereafter, a huge explosion occurred. While deposing before the learned Trial Court, PW-8 identified Appellants Ghulam Rasool alias Baba and Khalil Ahmed alias Sikandar alias Asghar Ali as the two persons who had accompanied the third person towards the Masjid immediately before the explosion.

18. The testimony of PW-8 cannot be viewed merely as a dock identification, as his account explains the circumstances in which the Appellants came to his notice immediately before the explosion. He himself sustained injuries and became unconscious, while his two minor sons also sustained injuries in the same occurrence. He regained consciousness at CMC Hospital, Larkana, and was thereafter referred to Aga Khan Hospital, Karachi, where he remained admitted

for about 27 days. The medico-legal record produced through PW-1 Dr. Hafeezullah Shah includes Kashif Ali amongst the injured persons and records blast injuries sustained by his two minor sons, thereby independently supporting his presence at the place of occurrence. His statement under Section 161, Cr.P.C. was recorded on 28.03.2015. His injuries, unconsciousness and prolonged medical treatment provide relevant context while examining the delay in recording that statement. No previous enmity or motive for falsely implicating the Appellants was brought on record.

19. The cross-examination of PW-8 does not materially impair the evidentiary value of his testimony. He maintained that he was present in the first row and had sufficient opportunity to notice the persons entering from the Bazaar-side entrance. He specifically denied the suggestions that he had not seen the three persons approaching the Masjid, that he had not seen them directing their companion to proceed ahead, or that he had identified the Appellants at the instance of the police. He also denied the suggestion that, in his statement recorded under Section 161, Cr.P.C., he had not furnished the description and complexion of the assailants. On the material particulars concerning what he had observed immediately before the explosion, his testimony remained consistent and unshaken in cross-examination.

20. The omission to hold an identification parade is to be considered along with the fact that PW-8 identified the Appellants during the proceedings before the learned Trial Court. This circumstance, however, is not by itself sufficient to discard his testimony regarding identity. Its effect must be assessed in the light of the intrinsic worth of his evidence and the surrounding circumstances of the case. In *Ghazanfar Ali alias Pappu and another v. The State* **(2012 SCMR 215)**, the Honourable Supreme Court held:

> "**13. Even otherwise the holding of identification parade is not mandatory and it is merely a corroborative piece of evidence. If the statement of a witness qua the identity of an accused even in Court inspires confidence, if he is consistent on all material particulars and there is nothing in evidence to suggest that he is deposing falsely, the absence of holding of identification parade would not be fatal to the prosecution..."**

21. The same principle was reiterated by the Honourable Supreme Court in *Subha Sadiq v. The State* (**2025 SCMR 50**), wherein it was

observed that an identification parade is corroborative in nature and its holding is not mandatory; where the testimony concerning identity inspires confidence, remains consistent on material particulars and there is nothing to suggest false deposition, non-holding of such parade is not fatal to the prosecution case. In the present case, the opportunity available to PW-8 to observe the Appellants immediately before the explosion, the consistency of his account on material particulars and the fact that his presence at the place of occurrence stands independently established, support the reliability of his identification notwithstanding the absence of an identification parade. The fact that the FIR was initially registered against unknown persons does not alter this conclusion, particularly when PW-8 subsequently identified the Appellants before the learned Trial Court and his evidence regarding identity has been found reliable. PW-9 Mushtaque Ali Shah, though an injured witness, who supported the occurrence and his presence therein, stated in cross-examination that he did not know whether the accused persons present before the Court were the same or not. His inability to identify the Appellants, therefore, does not amount to a contradiction of a positive account furnished by PW-8; nor does the record show that both witnesses had the same opportunity to observation.

22. The fact that the evidence regarding the identity of the Appellants rests principally upon PW-8 does not, by itself, diminish its evidentiary value of his testimony. What is material is the quality and reliability of evidence rather than number of witnesses produced. In *Qasim Shahzad and another v. The State and others* (**2023 SCMR 117**), the Honourable Supreme Court observed:

> **"As a rule of criminal jurisprudence, prosecution evidence is not tested on the basis of quantity but quality of evidence. It is not that who is giving evidence and making a statement. What is relevant is what statement has been given and it is not the person but the statement of that person which is to be seen and adjudged. In Niaz-ud-Din v. The State (2011 SCMR 725), it was held that conviction in a murder case can be based on the testimony of a single witness if the Court is satisfied that he is reliable and it is the quality of evidence and not the quantity which matters."**

In the present case, PW-8 attributed sequence of conduct of the Appellants immediately before the explosion. According to him, both Appellants came with the third person accompanied him towards Masjid, asked him to proceed further inside and then returned, shortly

whereafter the explosion occurred. This sequence of events immediately preceding the explosion is a material circumstance showing their participation in the common design. An agreement of this nature may be inferred from the conduct of the persons involved and the surrounding circumstances. His testimony, considered together with the conduct attributed to the Appellants immediately before explosion, provides necessary evidentiary link connecting them with the occurrence.

23. The contention of learned counsel that the circumstance relating to identification of the Appellants by PW-8 Kashif Ali was not specifically put to them in their statements recorded under Section 342, Cr.P.C. has also been considered. A perusal of Ex.44 and Ex.45 shows that the Appellants were confronted with the prosecution case regarding their participation in the occurrence, the alleged conspiracy, the suicide explosion and the resulting deaths and injuries, and they denied the accusation and pleaded false implication. It is true that the precise narration of PW-8, namely that the Appellants accompanied the third person towards the Masjid, asked him to proceed further inside and then returned, was not separately put to them. The object of Section 342, Cr.P.C. is to afford an accused an opportunity to explain the salient incriminating circumstances appearing against him; however, every omission or defect in such examination does not necessarily vitiate the trial unless prejudice or miscarriage of justice is shown. In *S.A.K. Rehman v. The State* (**2005 SCMR 364**), the Honourable Supreme Court observed:

> **"15.....Every defect or error in the examination under section 342, Cr.P.C. would not be consequential unless it is shown that prejudice has been caused and further, the nature of prejudice must be stated. There must be proof of prejudice to the accused and unless miscarriage of justice is shown to have occurred, particularly in a case where the accused was represented by counsel, inadequate examination under S.342 cannot be made a ground for setting aside the conviction. Reasonable opportunity must be afforded to the accused while recording his statement under section 342, Cr.P.C. enabling him to explain his position....."**

The same judgment further emphasizes that the object of Section 342, Cr.P.C. is that the attention of the accused should be drawn to the specific points in the evidence relied upon against him so that he may offer such explanation as he considers necessary. In the present case, the Appellants were represented by counsel throughout the trial and

PW-8 was subjected to cross-examination on the question of identification. The defence, therefore, had full opportunity to challenge his testimony, and no specific prejudice or failure of justice resulting from the omission has been demonstrated. In *Allah Dad and 2 others v. The State* (**PLD 1978 SC 1)**, the Honourable Supreme Court observed:

> **"...Accordingly it is not possible to presume failure of justice. The cases cited by the learned counsel, therefore, cannot be of any help, for, the question now has to be resolved on the basis of the criterion whether or not the omission has occasioned a failure of justice. At least in the two cases cited above the question of prejudice was considered and the benefit of omission was not given to the accused. Accordingly, the contention has no substance."**

Applying the above principles to the circumstances of the present case, the omission to put the precise narration of PW-8 to the Appellants under Section 342, Cr.P.C. does not, by itself, render his testimony incapable of consideration.

24. Apart from the testimony of PW-8, the prosecution case regarding the occurrence is also supported by the police officials who reached the Imam Bargah immediately after the explosion. PW-2 ASI Ghulam Rasool Makoro and PW-3 SIP Ghulam Bashir Khokhar found dead bodies, injured persons, human remains and other material at the place of occurrence. Their evidence is consistent with the account of the explosion and its immediate aftermath. PW-5 Inspector Khalid Hussain Dreho, who conducted the investigation, brought on record the site inspection proceedings, technical material, photographs and other documentary evidence relating to the place of occurrence. PW-1 Dr. Hafeezullah Shah produced the medico-legal and postmortem record relating to the deceased and injured persons. The medical record establishes the extensive blast injuries sustained by the deceased and injured persons, while the material secured from the place of occurrence and examined by the Bomb Disposal Squad confirms that the incident involved an explosive device containing metallic fragments, ball-bearings and allied components. The Chemical Examiner's report further confirms the presence of human blood on the articles forwarded from the scene. The oral, medical, investigative and technical evidence, therefore, presents a consistent account of the occurrence and its consequences.

25. On the basis of the evidence discussed above, we find the testimony of PW-8 reliable and sufficient to establish beyond reasonable doubt the identity and participation of Appellants Ghulam Rasool alias Baba and Khalil Ahmed alias Sikandar alias Asghar Ali in facilitating the suicide attack. His presence at the place of occurrence and the nature and consequences of the incident find support from the medical and investigative evidence. The evidence, when considered as a whole, is sufficient to sustain the findings recorded against the Appellants and calls for no interference with the impugned judgment dated 16.11.2019.

26. We now turn to Special Anti-Terrorism Appeal No.D-53 of 2017. The prosecution case in this matter principally rests upon the discovery and recovery of explosive material concealed near the fish pond associated with absconding accused Abdul Hafeez alias Ali Sher Brohi.

27. We now turn to Special Anti-Terrorism Appeal No.D-53 of 2017, arising out of Crime No.17 of 2015, registered at Police Station Sultan Kot, Shikarpur. The prosecution case principally rests upon the discovery and recovery of material concealed near the fish pond associated with absconding accused Abdul Hafeez alias Ali Sher Brohi.

28. PW-1 Inspector Badar Din Jatoi deposed that on 27.02.2015 he obtained custody of both Appellants from the lockup of Police Station Sultan Kot for interrogation. According to him, the Appellants disclosed that explosive material had been concealed near the fish pond and stated that they were ready to get the articles recovered. The police party, accompanied by the Bomb Disposal Squad, thereafter proceeded vide entry No.22 at 1700 hours and reached the place at about 1730 hours. He stated that the Appellants led the party to the place of concealment, dug the earth and got recovered a plastic drum containing detonators, ball-bearings and other explosive material. The material was inspected and defused by the In-charge of the Bomb Disposal Squad. PW-1 prepared the recovery memo, which he produced at Ex.11/A, and produced the connected record, including the technical report at Ex.11/F. The report records six detonators, aluminium powder, crystallised saltpetre and detonator wire, besides other articles, and describes the material as relating to the preparation of a local handmade bomb. PW-2 ASI Abdul Samad Brohi

supported his account of the pointation and recovery. He described the contents of the drum as including wires, circuits, weighing scales, LED lights, ball-bearings and plastic and glass jars containing explosive powder, besides other articles. He identified his signature on the recovery memo. Both witnesses identified the case property before the learned trial Court.

29. The information leading to this recovery falls to be examined under Article 40 of the Qanun-e-Shahadat Order, 1984. Where information furnished by an accused in police custody leads to the discovery of a fact, only so much of that information as distinctly relates to the fact thereby discovered may be proved. In *Mst. Askar Jan and others v. Muhammad Daud and others* (**2010 SCMR 1604**), the Honourable Supreme Court held:

> **"Thus, in order to apply Article 40 of the Order, the prosecution must establish that information given by the accused led to the discovery of some fact deposed by him and the discovery must be of some fact which the police had not previously learnt from any other source and that the knowledge of the fact was first derived from the information given by the accused...."**

30. The drum was concealed beneath the earth and was not lying openly at the site. The significance of the discovery lies in the Appellants' knowledge of its precise location. The association of the land with absconding accused Abdul Hafeez alias Ali Sher Brohi does not, by itself, negate that knowledge, as ownership of the land is not the foundation of the prosecution case. Likewise, the prior presence of the Bomb Disposal Squad at the police station does not, by itself, establish prior police knowledge of the particular place where the drum had been buried.

31. The discrepancies in the prosecution evidence have also been considered. PW-2's account of reaching Police Station Sultan Kot at 1930 hours is inconsistent with his statement that the party departed from there at 1700 hours. PW-1 placed the recovery on the northern side of the fish pond, whereas PW-2 described it as being on the eastern side. In *Nazir Ahmed v. The State* (**2023 SCMR 1299**), the Honourable Supreme Court held:

> **"It is a well settled proposition of law that as long as the material aspects of the evidence have a ring of truth, courts should ignore minor discrepancies in the evidence. The test is whether the evidence of a witness inspires**

> **confidence. If an omission or discrepancy goes to the root of the matter, the defence can take advantage of the same. While appreciating the evidence of a witness, the approach must be whether the evidence read as a whole appears to have a ring of truth."**

Applying the above principle, these differences have been assessed against the witnesses' agreement on the identity of the Appellants, the buried drum and the manner of its recovery. The timing inconsistency and the differing description of the side of the pond do not displace that account. Their further differences concerning the time and articles recovered during the following day's inspection relate to a subsequent visit. On an overall assessment, these discrepancies do not undermine their direct evidence concerning the initial recovery.

32. As regards the absence of private mashirs, PW-1 stated that he attempted to associate a person from the adjoining village but none was available, while PW-2 admitted that no independent person was asked to accompany the party from Sultan Kot or on the way. Their accounts concerning efforts to associate a witness during the subsequent inspection also differed. These circumstances have been kept in view while assessing their testimony. In Mir Muhammad v. The State (1995 SCMR 614), the Honourable Supreme Court held that association of two respectable inhabitants under section 103, Cr.P.C., is not required where the accused himself leads the police to a particular place and gets the article recovered. The recovery described in the present case is of that nature. Non-association of private mashirs does not, therefore, by itself, invalidate it. The testimony of the police witnesses has been assessed on its merits, and their official status alone furnishes no sufficient reason for its rejection.

33. The objection concerning the joint nature of the disclosure requires consideration of the evidence against each Appellant. PW-1 and PW-2 attributed the acts of leading the police party and excavating the drum to both Appellants, although neither specified which Appellant supplied each part of the information or performed each part of the excavation. In *Gul Jamal and another v. The State* (**1980 SCMR 654**), the Honourable Supreme Court held:

> **"However, both of them led the Police Officer to that place and together followed the flow of the water from where the above articles were recovered. It is the leading to that place in consequence of which the articles were secured which is a relevant fact in the absence of any evidence to**

> **show as to whether which one of them was instrumental to lead the S. H. O. first."**

The Honourable Supreme Court further held:

> **"Similarly, the joint leading to the place from where the clothes of the deceased were recovered is also an act and we see no reason why it should not be so fastened to each appellant as a piece of conduct under section 8 of the Evidence Act in the absence of any bar in this section itself."**

The physical acts attributed to each Appellant are accordingly assessed as conduct under Article 21 of the Qanun-e-Shahadat Order, 1984, without treating the custodial statement of one as evidence against the other. The alleged pointation and recovery were put to each Appellant in his statement under section 342, Cr.P.C., and both denied the allegation and pleaded false implication. Those denials have been considered, but the finding rests upon the affirmative evidence of their conduct. The broader custodial allegations concerning plans for further explosions are excluded from consideration.

34. The evidence discussed above, considered with the nature of the recovered articles, establishes the appellants' conscious possession and control of the concealed explosive material. The explosive ingredients, detonators and other components were recovered together from beneath the earth. Ex.11/F describes the material as relating to the preparation of a local handmade bomb. In Muhammad Yaqoob v. The State (2020 SCMR 853), the Honourable Supreme Court considered the recovered grenades and detonators together and relied upon the nature of the ammunition in assessing its intended purpose. In the present case, the recovered ingredients and components, considered together with their concealment, support the inference that the material was held for making an explosive device intended to endanger life or cause serious injury to property. The appellants' shared knowledge and participation, considered with their control over the material, also support the inference of an agreement to hold it for that unlawful purpose. These findings rest upon the circumstances considered together, without reliance upon the broader custodial allegations. In *Muhammad Asjad v. The State and others* (**2024 SCMR 1959**), the Honourable Supreme Court held that the prosecution must first establish possession of the explosive substance before the burden shifts to the accused to show lawful justification for such possession. In the present case, possession stands established through the

evidence discussed above. The presumption under section 27A of the Anti-Terrorism Act, 1997 that the material was for the purpose of terrorism is, therefore, attracted, and the material on record does not rebut that presumption. The findings concerning intention and agreement rest upon the circumstances assessed above, independently of that presumption. For these reasons, the convictions recorded by the learned trial Court in Crime No.17 of 2015 call for no interference.

35. In view of the above facts and circumstances, Special Anti-Terrorism Jail Appeal No.D-270 of 2019 arising out of Crime No.08 of 2015 and Special Anti-Terrorism Appeal No.D-53 of 2017 arising out of Crime No.17 of 2015 are **dismissed.** The convictions and sentences awarded to Appellants Ghulam Rasool alias Baba and Khalil Ahmed alias Sikandar alias Asghar Ali through the impugned judgments dated 16.11.2019 and 15.04.2017 are **maintained.**

Office to place a signed copy of this judgment in connected matter.

JUDGE

JUDGE

Ahmad/P.S