

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Sial

Mr. Justice Shamsuddin Abbasi

Criminal Appeal No.649 of 2024

(Mahir Gul v. the State & another)

Criminal Appeal No.179 of 2026

(Deen Muhammad v. the State)

Mr. Umer Ilyas Khan, advocate for the appellants

Mr. Habib Ahmed, Special Prosecutor ANF

Date of hearing: 13.08.2026

Date of Judgment: 21.08.2026

JUDGMENT

Omar Sial, J.: On February 13, 2023, Inspector Shafique Ahmed Khan of PS ANF Clifton received informant intelligence that Peshawar residents Mahir Gul and Din Muhammad would deliver a large narcotics shipment via motorcycle (Reg. H/CD 9743) near Masjid Abu Huraara, Ittehad Town, Karachi, around 15:00 hours.

2. An ANF team in vehicle GP-3149 departed at 14:00 hours (Daily Diary No. 7) and intercepted both suspects outside the mosque holding blue plastic bags. Because public bystanders declined to serve as search witnesses, PCs Maqbool Ahmed and Zahid Naeem were appointed as official witnesses.

3. Both suspects surrendered their bags containing *chars* (hashish):

- **Mahir Gul:** Handed over two 1.0 kg tape-wrapped packets (2.0 kg total). Two 10-gram samples were sealed as Parcels 1 & 2; the remaining bulk was sealed as Parcel 3. Seized personal items included his original CNIC, phone with SIM, Rs. 3,500 cash, and an ATM card.

- **Din Muhammad:** Surrendered two 1.0 kg tape-wrapped packets (2.0 kg total). Two 10-gram samples were sealed as Parcels 4 & 5; the remaining bulk was sealed as Parcel 6. Seized items included a CNIC copy, phone with SIM, and Rs. 300 cash.

4. The accused stated the narcotics belonged to Syed Umer of Ittehad Town, and Mahir Gul claimed ownership of the motorcycle. All drugs, items, and the vehicle were seized, and a recovery memo was signed on-site upon arresting both suspects.

5. In order to prove its case the prosecution examined **PW-1 PC Maqbool Ahmed** (Masheer of arrest and recovery and parcel carrier), **PW-2 SIP Asghar Ali** (Malkhana Incharge) and **PW-3 PI Shafiq Ahmed Khan** (Complainant as well as I.O of the case). In their respective section 342 Cr.P.C. statements the both appellants professed innocence. At the end of the trial, the learned Judge, Special Court-III (CNS), Karachi, on 19.08.2024 convicted Mahir Gul and Din Muhammad and sentenced them rigorous imprisonment for nine years and a fine of Rs. 80,000 each. If they did not pay the fine, they would have to remain in prison for two months more.

6. The appellant's learned counsel submitted that:

1. The Investigation Officer (I.O.) provided inconsistent statements regarding the handling of the case property, specifically about transferring it to Asghar Ali, whose presence he could not confirm during cross-examination.
2. Essential tests required to confirm whether the seized substance was indeed narcotics were not conducted.
3. Discrepancies arose regarding both the numbering of the evidence samples and the total number of individuals who participated in the raid.

4. Conflicting testimony was given regarding the departure time of the police party from the station, with the I.O. claiming they left at 03:00 while another witness reported at 02:00.
7. The learned Special Prosecutor for the ANF passionately supported the trial court judgment and said that the submissions made by the appellant's counsel were not sufficient to upset the conviction in the background of the entire evidence. He also said that the ANF did not falsely accuse any person.
8. We have listened to the learned advocates and have also re-appraised the evidence. We will first address the arguments made by the appellants' counsel in support of his prayer to acquit the appellants.
9. It appears that Miscellaneous Application No. 4306 of 2026 is pending in Criminal Appeal No. 179 of 2026, seeking condonation of delay in filing the appeal on the ground that the appellant, Din Muhammad, was under the impression that a joint appeal on behalf of Mahir Gul and himself had been filed by the learned counsel. However, he subsequently came to know that Criminal Appeal No. 649 of 2024 had been filed only on behalf of Mahir Gul and that no appeal had been preferred on his behalf. Considering that the life and liberty of the appellant are at stake, the delay in filing the appeal is condoned. Accordingly, Miscellaneous Application No. 4306 of 2026 is disposed of.

Argument 1

10. The learned counsel bases this argument on two statements made by Inspector Shafiq Ahmed Khan while recording his testimony. In his examination-in-chief, he said that after the ANF team had returned to the police station, he [Shafiq] handed over the case property to the maalkhana in charge, A.S.I. Asghar Ali. However, in his cross-examination he

stated that *“I do not remember whether Inspector Mumtaz Niazi and S.I. Asghar Ali were also posted at the relevant time at P.S.”* Indeed a lapse occurred on the part of the victim however reading his entire testimony we are of the opinion that in all probability this was a slip of the tongue or the real meaning of what he wanted to say being lost in translation. Even otherwise, the contradiction is not sufficient to vitiate the entire case.

Argument 2

11. To support his argument, the learned counsel has relied upon a booklet titled “Recommended Methods for the Identification and Analysis of Cannabis and cannabis products” published by the United Nations Office on Drugs and Crime. The contents of the booklet are complicated for a lay man. If the appellant thought that the chemical analysts laboratory had not performed the tests as recommended by the UNODC in its booklet, it was open for him to summon the chemical analyst and put the requisite questions to him. It was also open to the appellant to summon an expert witness to show that the tests performed on the narcotics were not the correct ones. This was not done.

Argument 3

12. The complainant, at the time of recovery had marked four case property packets as “1 and 2” and “4 and 5”. When the property was desealed in court during the trial, the judge has noted that the packets were marked “2 and 3” and “4 and 5”. In essence, the learned counsel’s argument was that the parcel said to have been marked as “1” was actually marked as “3”. Reading the evidence holistically, this appears to be a typographical error. Even otherwise, no objection to the remaining parcels was made. Even if one were to eliminate packet “1”, still, that would not adversely impact the prosecution’s case.

Argument 4

13. A discrepancy of one hour between witness testimonies regarding the time they left their offices to act on credible spy information, in the circumstances of the present case, is hardly a ground to vitiate conviction.

14. There is no issue of safe custody and transmission having not been established. No malafide on ANF's part is neither evident from the record nor was it argued by the learned counsel. The appellants were caught red-handed with a sizeable quantity of narcotics. No specific defence plea was taken by the appellants when their respective section 342 Cr.P.C. statements were recorded. They did not appear as their own witnesses nor did they produce any other person to support their case. We do not find any reason to interfere with the trial court judgment.

15. The appeals are dismissed.

JUDGE

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