

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Criminal Appeal No.D-03 of 2025.

***Before:-
Mr. Justice Riazat Ali Sahar,
Mr. Justice Ali Haider 'Ada'.***

Appellant: Muhib Ali son of Ibrahim by caste
Brohi, *Through* Mr. Zafar Ali
Malghani, Advocate.

The State: *Through* Mr. Nazeer Ahmed
Bhangwar, Deputy Prosecutor
General, Sindh.

Date of Hearing: 11.08.2026.

Date of Decision: 11.08.2026.

Date of Reasons: 01.09.2026.

JUDGMENT

Ali Haider 'Ada' J:- Through the instant Criminal Appeal, the appellant has assailed the judgment dated 18.01.2025, passed by the learned 1st Additional Sessions Judge/MCTC, Jacobabad, in Special (CNS) Case No.128 of 2023, arising out of FIR No.226 of 2023, registered at Police Station Saddar, Jacobabad, whereby he was convicted under Section 9(1)3(c) of the Control of Narcotic Substances Act, 1997, as amended by the Control of Narcotic Substances (Amendment) Act, 2022, and sentenced to suffer rigorous imprisonment for fourteen years and to pay a fine of Rs.200,000/- (Rupees Two Hundred Thousand only), and in default thereof to further undergo simple imprisonment for one year, with the benefit of Section 382-B, Cr.P.C.

2. Briefly stated, the prosecution case is that on 05.10.2023, a police party headed by ASI Khadim Hussain Koheri, while on patrol duty, received spy information at Mouladad Phatak that the appellant, who was allegedly wanted in certain criminal cases, was proceeding from Shambe Shah Road towards Jacobabad while carrying narcotic substance. Acting upon the information, the police

party proceeded to the pointed place and, at about 2100 hours, apprehended the appellant, who was allegedly carrying a black-coloured shopper and attempted to escape upon seeing the police party. Upon search, 4920 grams of charas was allegedly recovered from the shopper in his possession. A mashirnama of arrest and recovery was prepared in the presence of the mashirs, whereafter the appellant, along with the recovered contraband, was brought to the police station and the present FIR was registered against him under Section 9(i)3(c) of the CNS Act, 1997.

3. After completion of investigation, challan was submitted before the competent Court. Upon completion of the requisite legal formalities, charge was framed against the appellant, to which he pleaded not guilty and claimed trial. In support of its case, the prosecution examined the complainant, mashir of arrest and recovery, Investigating Officer, Incharge Malkhana and dispatch official, and produced the relevant documentary evidence. Thereafter, the prosecution closed its side. The statement of the appellant under Section 342, Cr.P.C. was recorded, wherein he denied the allegations, professed his innocence and prayed for justice. The appellant neither opted to make a statement on oath under Section 340(2), Cr.P.C. nor produced any witness in his defence. Upon conclusion of the trial, the learned trial Court, after assessing the evidence available on record, convicted and sentenced the appellant through the impugned judgment.

4. Learned counsel for the appellant contended that the learned trial Court failed to appreciate the evidence in its true perspective and that the prosecution had not succeeded in proving its case beyond reasonable doubt. He further submitted that material discrepancies and deficiencies in the prosecution evidence had not been properly appreciated and, therefore, the conviction and sentence awarded to the appellant are not sustainable in law.

5. Conversely, learned Deputy Prosecutor General supported the impugned judgment and submitted that a substantial quantity of charas, measuring 4920 grams, was recovered from the possession of the appellant; that the police officials had no motive or reason to

falsely implicate him; and that the prosecution had established the charge through consistent, reliable and confidence-inspiring evidence. He therefore prayed for dismissal of the appeal.

6. Heard learned counsel for the parties and carefully examined the evidence and material available on record.

7. According to the prosecution case, the appellant was arrested in possession of 4,920 grams of charas. The record shows that the requisite proceedings were conducted at the spot and a proper mashirnama of recovery and arrest was prepared. The evidence further reflects that the safe custody and safe transmission of the recovered narcotic were duly maintained and remained unimpaired. The entire evidence, as discussed by the learned trial Court and available on record, demonstrates consistency and confidence in the prosecution version. There is no material defect or discrepancy in the documentary evidence which could cast doubt upon the prosecution case or undermine the chain of custody.

8. So far as the minor discrepancies appearing in the evidence of the police officials are concerned, the same do not, by themselves, shake their credibility or render their evidence unworthy of reliance. Admittedly, the appellant was arrested by the police and a quantity of charas was recovered from his possession. In such circumstances, it would require a plausible explanation as to how such a substantial quantity of narcotic could have been foisted upon the appellant, particularly in the absence of any material suggesting previous ill-will, hostility or enmity between him and the police officials. The ocular evidence of the prosecution witnesses remained materially consistent and finds corroboration from the report of the Chemical Examiner. The circumstances, therefore, establish that the prosecution succeeded in proving its case beyond any reasonable doubt. Reliance in this regard may be placed upon ***Asadullah v. The State (2021 MLD 1351)***.

9. In the prevailing circumstances, the prosecution successfully discharged its initial burden, thereby attracting the statutory presumption contemplated under Section 29 of the Control of

Narcotic Substances Act, 1997. Once such presumption came into operation, the appellant was required, at the very least, to create a reasonable dent in the prosecution case and to demonstrate a plausible possibility of false implication or foisting of such a huge quantity of narcotic upon him. However, the defence failed to discharge this burden. No illegality, irregularity, misreading or non-reading of material evidence has been pointed out so far as the appellant's case is concerned. The impugned judgment reflects proper appraisal of the evidence and contains cogent and sound reasons for the conclusions reached by the learned trial Court. The defence has also failed to identify any material piece of incriminating evidence which was either misread or omitted from consideration.

10. It is a settled principle that where the prosecution establishes its case on its salient and material features, insignificant or hyper-technical objections should not be permitted to defeat the administration of justice or frustrate the object of the law governing narcotic offences. In this regard, reliance may be placed upon ***Jahangir Khan v. The State and others* (2025 YLR 1457)** and ***Qasam Khan v. The State* (2024 YLR 1882)**.

11. Furthermore, there is nothing available on record, either in documentary form or otherwise, to suggest that the police witnesses harboured any ill-will, hostility or previous enmity towards the appellant. Significantly, no such suggestion was even put to the prosecution witnesses during cross-examination. In the absence of any material suggesting motive for false implication, the mere fact that the witnesses belong to the police force cannot, by itself, constitute a sufficient ground to discard their otherwise confidence-inspiring testimony. Reliance in this regard may be placed upon ***Muhammad Azam v. The State* (PLD 1996 SC 67)**, ***Muhammad Hanif v. The State* (2003 SCMR 1237)**, ***Riaz Ahmad v. The State* (2004 SCMR 988)**, ***Naseer Ahmad v. The State* (2003 SCMR 1361)** and ***Zafar v. The State* (2008 SCMR 1254)**.

12. In case of ***Mushtaq Ahmad v. The State and another* (2020 SCMR-474)**, the Honourable Supreme Court of Pakistan has also held as under:-

"Prosecution case is hinged upon the statements of Aamir Masood, TSI (PW-2) and Abid Hussain, 336-C (PW-3); being officials of the Republic, they do not seem to have an axe to grind against the petitioner, intercepted at a public place during routine search. Contraband, considerable in quantity, cannot be possibly foisted to fabricate a fake charge, that too, without any apparent reason; while furnishing evidence, both the witnesses remained throughout consistent and confidence inspiring".

13. In another case of **Shabbir Hussain v. The State (2021 SCMR 198)**, the Honourable Supreme Court of Pakistan has observed as under:-

"Mehmood-ul-Hassan Inspector (PW-3) joined by Mumtaz Bibi Lady Constable (PW-4) in the witness box furnished details of the arrest and recovery. We have gone through their statements to find them in a comfortable and confident unison on all the salient aspects of the raid as well as details collateral therewith. Learned counsel for the petitioner has not been able to point out any substantial or major variation or contradiction in their statements that may possibly justify to exclude their testimony from consideration. On the contrary, it sounds straightforward and confidence inspiring without a slightest tremor. Absence of a witness from the public, despite possible availability is not a new story; it is reminiscent of a long drawn apathy depicting public reluctance to come forward in assistance of law, exasperating legal procedures and lack of witness protection being the prime reasons. Against the above backdrop, evidence of official witnesses is the only available option to combat the menace of drug trafficking with the assistance of functionaries of the State tasked with the responsibility; their evidence, if found confidence inspiring, may implicitly be relied upon without a demur unhesitatingly; without a blemish, they are second to none in status. Similarly, forensic report is sufficiently detailed to conclusively establish narcotic character of the contraband. The argument is otherwise not available to the petitioner as he never disputed the nature of substance being attributed to him nor attempted to summon the chemical analyst to vindicate his position. A challenge illusory as well as hyper-technical is beside the mark in the face of "proof beyond doubt" sufficient to prove the charge to the hilt. Petition fails. Leave declined.

14. The Apex Court in the case of **"Shamsher Ahmad and another v. The State and others" (2022 SCMR 1931)** has held

that:

"While appreciating the evidence, the court must not attach undue importance to minor discrepancies and such minor discrepancies which do not shake the salient features of the prosecution case should be ignored. The accused cannot claim premium of such minor discrepancies. If importance be given to such insignificant inconsistencies then there would hardly be any conviction."

15. Keeping in view the foregoing reasons and discussion, the appellant has failed to point out any reasonable ground warranting interference with the impugned judgment or to make out a case for acquittal. The prosecution has successfully established its case against the appellant beyond reasonable doubt. Consequently, the instant Criminal Appeal is dismissed, and the judgment passed by the learned trial Court is hereby maintained.

These are the reasons in support of the short order dated 11.08.2026.

JUDGE

JUDGE