IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

(1) Crl. Jail Appeal No.S-20 of 2023

Appellant : Qurban Bhangwar,
through Mr. Pardeep Kumar B. Butani, Advocte.

Respondent : The State, through Mr. Nazeer Ahmed Bhangwar, Deputy Prosecutor General.

Complainant : Through Mr. Safdar Ali Ghouri, Advocate.

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(2) Crl. Appeal No. S-76 of 2017

Appellant : Qurban Bhangwar, through Mr. Pardeep Kumar B. Butani, Advocte.

Respondent : The State, through Mr. Nazeer Ahmed Bhangwar, Deputy Prosecutor General.

Date of hearing : 02.11.2026.
Date of Judgment : 20. 11.2026.

J U D G M E N T

ARBAB ALI HAKRO, J.- Through this common judgment, I intend to decide Crl. Jail Appeal No. S-20 of 2023 and Crl. Appeal No. S-76 of 2017, both filed by Qurban Bhangwar (hereinafter referred to as '**the appellant**'), as they arise from the same occurrence on the night of 13/14.07.2013, rely on the same witnesses and the same weapon, and were heard together.

2. The jail appeal impugns the judgment dated 03.06.2023 passed by the learned Additional Sessions Judge, Kashmore (hereinafter referred to as '**the trial court**'), in Sessions Case No. 07 of 2014, arising from Crime No.15/2013 of Police Station Gublo Katcho, whereby the appellant was convicted under Section 460 PPC and sentenced to imprisonment for life as tazir, with compensation of Rs.1,00,000/- payable to the legal heirs of the deceased, or,

in default, six months' simple imprisonment, and further convicted under Sections 458 and 459 PPC and sentenced on each count to three years' rigorous imprisonment, with a fine of Rs.10,000/- or, in default, one month's simple imprisonment, the sentences to run concurrently with the benefit of Section 382-B Cr.P.C. (hereinafter referred to as '**the impugned judgment**').

3. Crl. Appeal No. S-76 of 2017 impugns the judgment dated 24.08.2017 of the same court in Sessions Case No. 25 of 2016, arising from Crime No.16/2013 of the same police station, whereby the appellant was convicted under Section 23(1)(a) of the Sindh Arms Act, 2013 (hereinafter referred to as '**the Act of 2013**') and sentenced to three years' rigorous imprisonment with fine of Rs.20,000/- or three months' simple imprisonment in default, with benefit of section 382-B Cr.P.C. (hereinafter referred to as '**the arms judgment**').

4. Briefly, the prosecution case is that complainant Abdul Fatah lodged FIR No. 15/2013 at 03:25 hours on 14.07.2013, stating that he and his brothers, Abdul Sattar, Abdul Ghaffar and Abdul Razzaque, were asleep in their house when, at about 01:00 a.m., they woke to the barking of dogs and, in the light of bulbs and torches, saw the appellant armed with a TT pistol, Soomar with a Kalashnikov, Sherbaz and Saleem with lathis, Muhammad Azeem and an unknown person with hatchets, standing in the courtyard, the grip of the entrance door having been cut; that when the complainant party grappled with them at the entrance, the appellant fired from his pistol at Abdul Razzaque, who fell; that the complainant party overpowered the appellant with the pistol while the others struck them with lathis and hatchets; that Soomar fired in the air and that all of them fled on the arrival of villagers; and that Abdul Razzaque died at the spot, while the complainant Abdul Sattar and Abdul Ghaffar were injured. The complainant party brought the dead

body, the injured and the appellant with the pistol to the police station, where the FIR was recorded.

5. SIP Shafi Muhammad Golo (hereinafter referred to as '**the investigating officer**') arrested the appellant, secured the pistol under a memo at 04:05 hours, prepared the inquest and the memos of injuries of the complainant party and of the appellant, sent the dead body for post-mortem and the injured for treatment, and at 07:00 hours inspected the place of occurrence, where he collected four 30-bore empties and blood-stained earth. On the same day, he lodged FIR No. 16/2013 under section 23(1)(a) of the Act of 2013 on behalf of the State in respect of the pistol, a 30-bore weapon with its number rubbed, and recovered a pair of scissors and a chisel on the pointation of the appellant from beneath a tree near the complainant's house. The firearms expert found the four empties to have been fired from the pistol, and the chemical examiner found the earth stained with human blood.[1]

6. The appellant was first tried on a charge under Sections 459 and 460 PPC alone and was convicted under Section 460 PPC by judgment dated 24.08.2017. That judgment was set aside by this Court in Crl. Appeal No.S-75 of 2017 on 31.01.2022 because no charge had been framed for qatl or hurt, and the case was remanded for a fresh charge and trial. The trial court framed a fresh charge on 23.02.2022 under Sections 458, 459, 460, 302, 337-A(i)(ii), 337-F(i)(v) and 337-L(2) PPC, to which the appellant pleaded 'not guilty'.[2]

7. At the fresh trial, the prosecution examined the Tapedar who prepared the site plan, the corpse-bearer, the complainant, the injured witnesses Abdul Sattar and Abdul Ghaffar, Dr. Abdul Aziz, the mashir Zulfiqar Ali, and the

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[1] FIR No. 15/2013, Exh.24/A; inquest report Exh.10/B.
[2] Memo of arrest and recovery Exh.10/A; memos of injuries Exh.10/D and 10/E; memo of place of incident Exh.10/G; memo of recovery of scissors and chisel Exh.10/H; FSL report and chemical examiner's report produced by the investigating officer (Exh.29).

investigating officer, and gave up SIP Abdul Hai Mahar as a dead witness.[3] In his statement under Section 342 Cr.P.C., the appellant denied the allegations, and on oath under Section 340(2) Cr.P.C., he stated that the complainant party had falsely implicated him over a landed dispute and that the police had arrested him from his house. He led no defence evidence.[4] The trial court convicted and sentenced him as noticed above, recording no finding on the charges under Sections 302 and 337 PPC.

8. In the arms case, the prosecution examined Abdul Ghaffar, the investigating officer and the mashir Zulfiqar Ali. The appellant denied the charge in his statement under Section 342 Cr.P.C., did not examine himself on oath and led no evidence, but produced attested copies of applications addressed to the SSP Kashmore and the DIG Larkana.[5][6]

9. Learned counsel for the appellant contended that the ocular account is contradicted by the medical evidence, with witnesses placing the fatal injury on the right side of the abdomen, three or four feet away, whereas the medical officer found the entry wound on the back of the chest and spoke of a range of thirty or forty feet; that the two projectiles recovered from the body were never sent to the laboratory; that the investigating officer admits the pistol was produced by the complainant and not recovered from the appellant, while the mashirs say otherwise; that both mashirs are cousins of the complainant, the second mashir was not examined, and no independent person was associated, though many were present; that the site plan was prepared more than three years after the occurrence and the bulbs, torches and door grip were never seized; that the sequence of daily diary entries and

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[3] Order of this Court dated 31.01.2022 in Crl. Appeal No. S-75 of 2017; charge Exh.20.
[4] PW Dil Murad Dashti Exh.22; PW HC Muhammad Mureed Exh.23; PW Abdul Fatah Exh.24; PW Abdul Sattar Exh.25; PW Abdul Ghaffar Exh.26; PW Dr. Abdul Aziz Exh.27; PW Zulfiqar Ali Exh.28; PW SIP Shafi Muhammad Golo Exh.29; order dated 02.05.2023 (Exh.30/A to G).
[5] Statement under section 342 Cr.P.C. Exh.32; statement on oath Exh.33.
[6] PW-1 Abdul Ghaffar Exh.4; PW-2 SIP Shafi Muhammad Golo Exh.6; PW-3 Zulfiqar Ali Exh.8; statement under section 342 Cr.P.C. Exh.10; FSL report Exh.6/E.

the timings deposed to by the investigating officer and the medical officer cannot be reconciled, and that the nine injuries on the appellant were never explained by the prosecution, which shows that the real occurrence has been suppressed and that the appellant was in fact picked up from his house. On the arms case, he added that the same officer was both the complainant and the investigating officer, and that the trial court wrongly treated the evidence as unchallenged because the appellant did not testify.

10. Learned Deputy Prosecutor General, assisted by learned counsel for the complainant, supported both judgments. They submitted that the appellant was caught red-handed inside the complainant's house at night by its inmates, two of whom were injured; that the FIR naming him alone was lodged within two and a half hours; that the empties collected from the courtyard were fired from the pistol taken from his hand; and that the discrepancies relied upon are those of rustic witnesses recalling a night scuffle and do not touch the substance of the case.

11. The questions are whether the prosecution proved beyond reasonable doubt that the appellant broke into the complainant's house by night and caused the death of Abdul Razzaque by firing; whether the conviction and sentence under Sections 458, 459 and 460 PPC, as recorded, are in accordance with law and whether the conviction under Section 23(1)(a) of the Act of 2013 can stand.

12. The occurrence took place at about 01:00 a.m. in the courtyard of the complainant's house. The three eyewitnesses are inmates of the house, and the deceased is their real brother. Their presence at that hour and place is as natural as presence can be, and it was not questioned in cross-examination. Two of them, Abdul Sattar and Abdul Ghaffar, sustained injuries which the investigating officer recorded at 04:50 hours, and the medical officer

examined them the same morning. The Supreme Court has treated the evidence of an inmate of the house in which a night occurrence takes place as evidence whose presence cannot be doubted, and has held that mere relationship with the victim is no ground to discard a witness who is otherwise confidence-inspiring.[7]

13. What sets this case apart from the ordinary run of night occurrences is that the appellant was not identified from a distance and arrested days later. He was overpowered in that courtyard by the inmates, disarmed, and carried to the police station with the dead body and the injured, where the FIR naming him as the one who fired was recorded at 03:25 hours. The arrest memo at 04:05 hours and the memo of his own injuries at 05:00 hours followed within the next two hours. There was no time for deliberation and no occasion for it: the men who brought him in had just lost a brother. The Supreme Court has consistently held that apprehension of the accused at the spot, followed by his hand-over to the police with the weapon, leaves no ambiguity about his involvement, and that witnesses who have lost a close relative do not spare the real offender to implicate an innocent man, so that substitution in such cases is a rare phenomenon.[8]

14. The three witnesses were cross-examined at length, and on the matters that count, namely the hour, the place, the appellant's entry with a pistol, his firing at Abdul Razzaque in the course of the grapple, and his capture there and then, they say the same thing. The variations pressed upon me, whether the scuffle lasted a few minutes or half an hour, whether the appellant was first seen at fifteen paces or sixty feet, whether he tried to run, and how many houses make up the village, are the natural product of three

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[7] *Ghulam Murtaza v. The State* 2021 SCMR 149; *Azhar Nawaz v. The State* 2017 SCMR 1877.
[8] *Mst. Nazia Anwar v. The State* 2018 SCMR 911; *Qaiser v. The State* 2026 SCMR 163; *Muhammad Hanif v. The State* 2023 SCMR 2016; *Ijaz Ahmed v. The State* 2022 SCMR 1577; *Muhammad Mumtaz v. The State* 2026 SCMR 1085; *Saddam Kakar v. The State* 2026 SCMR 1201.

villagers recalling a night affray nine years after the event. They do not go to the root of the matter and are not of the kind that displaces an otherwise consistent ocular account.

15. Dr. Abdul Aziz found two firearm entry wounds on the deceased, one on the right side of the chest towards the back with blackening of the margins, and one on the left shoulder. Two projectiles were recovered from the body, and death was due to those injuries.[9] The witnesses place the hits on the left shoulder and the right side, and the inquest prepared within four hours says right flank. On a man grappling at a doorway in the dark, a wound entering the right posterior chest is on the right side, and the left shoulder is exactly where the witnesses put it. The Supreme Court has said that a witness to firing cannot be expected to give the location and direction of each shot with exactitude, and that a single point of conflict between the ocular and the medical evidence is no ground for acquittal.[10][11]

16. The complainant says the shot was fired from three or four feet in the course of the grapple. The blackening on the margins of the chest wound is consistent with that. The medical officer's estimate of thirty or forty feet is the only point that does not fit and carries no weight, because a medical officer may say whether there was blackening but is not qualified to fix the distance of fire, which is the province of a firearms expert, and blackening is in any event no conclusive measure of range.[12] The omission to send the recovered projectiles to the laboratory is a lapse in the investigation; the wounds are firearm wounds, the empties lifted from the courtyard are of 30 bore and were fired from the pistol taken from the appellant, and nothing in the medical

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[9] *Muhammad Abdullah v. The State* 2026 SCMR 333; *Akbar Saeed v. The State* 2025 SCMR 935.
[10] Post-mortem report and deposition of Dr. Abdul Aziz, Exh.27.
[11] *Akbar Saeed* (n.9 above).
[12] *Javed Akhtar v. The State* PLD 2020 SC 419; *Javed Ishfaq v. The State* 2020 SCMR 1414.

evidence suggests a weapon other than a pistol. The medical evidence, read as a whole, supports the ocular account.

17. The investigating officer says the complainant produced the pistol; the mashir Zulfiqar Ali says it was recovered from the appellant in his presence; the memo says it was brought by the complainant. These are three descriptions of one event, as the FIR itself narrates, that the inmates disarmed the appellant when they overpowered him and brought him and the pistol to the police station together. The prosecution never claimed that the police recovered the weapon from the appellant's person at the spot. What connects the pistol to the appellant is the direct evidence of the men who took it from his hand and the report of the firearms expert that the four empties lifted from the courtyard at 07:00 hours were fired from it. The appellant was arrested with the pistol, on the very day the empties were collected, so the fact that both reached the laboratory together does not help him; the rule against joint dispatch is directed at weapons recovered on pointation after the empties, and the Supreme Court has declined to apply it where the accused was arrested with the weapon on the day of occurrence.[13] I would add that the conviction does not rest on the forensic report. It rests on the men who caught the appellant with the pistol in his hand; the report corroborates them.

18. Both mashirs are cousins of the complainant and live next door. At four in the morning, the persons at the village police station who can attest to an arrest are those who brought the accused in, and relationship alone is no ground to discard a witness.[14] The second mashir, Muhammad Sharif, was not examined. The memo stands proved by the first mashir and its author. The adverse inference under Article 129(g) of the Qanun-e-Shahadat Order, 1984 arises where the best evidence is withheld, not where a second attesting

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[13] *Imran Mehmood v. The State* 2023 SCMR 795.
[14] *Ghulam Murtaza* (n.7 above).

witness to an already proved document is not called. The same answer meets the non-examination of the constable who took the appellant for treatment, since the appellant's injuries are admitted and recorded by the investigating officer himself.

19. The site plan was prepared by the Tapedar in 2016. The bulbs and torches were not seized, the door grip was not collected, and the investigating officer is inconsistent about the sequence of his daily diary entries and the place where he recorded the statements under Section 161 Cr.P.C. These are defects of investigation, and they would have mattered, had identification been in issue. It is not. The witnesses did not identify a fleeing assailant by a light; they wrestled the appellant to the ground and carried him to the police station. The investigating officer's own memo of the place of occurrence, with the empties and the blood-stained earth, was prepared at 07:00 hours the same morning. The sequence of the FIR, the arrest, the inquest, the injury memos, the post-mortem and the spot inspection, all within six hours of the occurrence, is prompt for a rural police station dealing with a death, three injured persons and an injured accused in a single night. An accused does not earn acquittal from the carelessness of the investigating officer where the substantive evidence is reliable.

20. The appellant sustained nine injuries, including five head lacerations, recorded by the investigating officer at 05:00 hours. The prosecution's explanation, that the co-accused struck him with their lathis and hatchets in the melee, does not commend itself, and I do not adopt it. The far more probable origin of those injuries is that the inmates beat him when they overpowered him in the courtyard, and the evidence of the grapple at the entrance supports this. The cases in which the Supreme Court has held unexplained injuries of the accused party against the prosecution are those

where the occurrence took place at the house of the accused, so that the complainant party could not be excluded as the aggressor.[15] Here, the occurrence was admittedly inside the complainant's courtyard at one in the morning, and no version of the facts makes the inmates of a house the aggressors against a man found inside it at that hour. The injuries place the appellant in that courtyard that night. They do not raise a doubt in his favour; they destroy his plea.

21. That plea, that he was picked up from his house over a land dispute, was raised early in applications to the SSP and the DIG and repeated on oath after remand, but it rests on his word alone. The defence witnesses examined at the first trial were not recalled; the applications were produced as attested copies without their authors, and no one was called to say he was at home that night. The burden on an accused to make out a plea is light, but it is not discharged by assertion, and the plea cannot be reconciled with the injuries on his person recorded within four hours of the occurrence.

22. The trial court convicted under Sections 458, 459 and 460 PPC and recorded no finding on the charges under Sections 302 and 337 PPC. Section 367(2) Cr.P.C. requires a judgment of conviction to specify the offence of which, and the section under which, the accused is convicted, and Section 367(4) requires a judgment of acquittal to state the offence of which he is acquitted; the impugned judgment does neither in respect of those charges. That is a defect in the judgment, but it does not leave the charges in suspense. Silence on a charge after a full trial amounts to an acquittal on it: the appellant was tried on the charge to its conclusion and the judgment did not convict him of it, and Section 403(1) Cr.P.C. bars his being tried for it again. The remedy against such an acquittal lay in an appeal under Section

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[15] *Iftikhar Ahmed alias Papu v. The State* 2026 SCMR 1010; *Zia Ullah v. The State* 2026 SCMR 1436.

417 Cr.P.C. by the Provincial Government or, with the leave of this Court, by the complainant, and neither the State nor the complainant has appealed. The powers of this Court in an appeal from a conviction are those enumerated in Section 423(1)(b) Cr.P.C.: to reverse the finding and sentence and acquit, discharge or order a retrial; to alter the finding while maintaining the sentence; or to reduce or alter the nature of the sentence, but not so as to enhance it. None of them extends to recording a conviction on a charge of which the appellant stands acquitted, and Section 439(4) Cr.P.C. forbids that course even in revision. Nor is a remand called for. The power to order a retrial is exercised when a conviction is reversed, not to enable the trial court to record a finding it omitted, and the Supreme Court has set aside a remand which gave the prosecution a second opportunity to secure a conviction it had failed to obtain, as a premium on its failure and an affront to the right to a fair trial.[16] This is the appellant's second trial; he has been in custody since July 2013, and the omission has caused him no prejudice, so Section 537 Cr.P.C. applies. The conviction under Section 460 PPC was recorded on a charge expressly framed and stands on its own. In the appellant's own appeal, there is no occasion to disturb that position, and I do not.

23. Section 460 PPC provides that if, at the time of committing lurking house-trespass by night or house-breaking by night, any person guilty of such offence voluntarily causes or attempts to cause death or grievous hurt to any person, every person jointly concerned in committing such offence shall be punished with imprisonment for life or with rigorous imprisonment for up to ten years and shall also be liable to fine. The appellant fired the fatal shot, so the section applies to him directly, not merely as one jointly concerned. The charge was framed under it; the evidence establishes every ingredient, and the conviction is in accordance with law. Imprisonment for life is the sentence

[16] *Muhammad Naeem v. The State* PLD 2019 SC 669.

the section prescribes for death caused in the course of a night house-breaking, and the Supreme Court has maintained that sentence on comparable facts.[17] That the charge also included Section 302 PPC does not make the sentence inadequate. Section 302(b) PPC prescribes death or imprisonment for life, and the choice between the two turns on the presence of mitigating circumstances. In house-breaking murders, the Supreme Court has substituted imprisonment for life for death where the motive for the killing remained obscure, where the fatal act arose in the course of the intrusion rather than from a design against the particular victim, and where the offender was young.[18] On the prosecution's own case, the appellant entered to steal, took nothing, fired in a grapple at the entrance, bore no motive against Abdul Razzaque in particular, and was about twenty-one years old. A conviction under Section 302(b) PPC on these facts would have carried imprisonment for life, which is the sentence he is serving, and the compensation to the heirs under Section 544-A Cr.P.C. is payable under either section. The State and the complainant have accepted that sentence by not appealing, and in any event Section 423(1)(b) Cr.P.C. does not permit this Court to enhance it. The same circumstances are urged for a term below imprisonment for life, which Section 460 PPC permits; but they are circumstances the Supreme Court has weighed in choosing between death and life, and I find nothing in them, or elsewhere in the record, that would justify a lesser term for a man who shot dead an inmate of a house he had broken into at night. The compensation under Section 544-A Cr.P.C. is lawful.

24. The jail roll called for by this Court shows that up to 19.10.2026 the appellant had served thirteen years, two months and nineteen days, inclusive of the under-trial period, and had earned remission of ten years, leaving two

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[17] *Muhammad Abdullah* (n.9 above); *Bashir-ud-Din v. The State* 2025 SCMR 1380.
[18] *Bashir-ud-Din* (n.17 above); *Ghulam Murtaza* (n.7 above); *Faiz Ahmad v. Shafiq-ur-Rehman* 2013 SCMR 583.

years, five months and eleven days of a total sentence of twenty-five years and eight months, inclusive of the sentences in default, unexpired.[19] The sentence has therefore not been served out. Remission is a concession computed by the prison authorities under the Prisons Rules; it shortens the period to be spent in custody but does not convert a sentence of imprisonment for life into one already undergone. This Court has no power to release a convict before the expiry of a lawful sentence, except by acquitting him or reducing the sentence, neither of which is warranted. Two consequences of the roll, however, operate in the appellant's favour. The benefit of Section 382-B Cr.P.C. has been reckoned from 30.07.2013, whereas he was arrested on 14.07.2013 under the memo of that date; the section speaks of the period of detention in custody, which begins with the arrest, and the benefit shall be reckoned from 14.07.2013. And with the setting aside of the separate sentences under Sections 458 and 459 PPC, the two terms of one month each in default of the fines on those counts fall with them.

25. The separate sentences under Sections 458 and 459 PPC cannot stand. The breaking in after preparation for causing hurt, the grievous hurt caused while committing it, and the death caused in the course of it constitute one act of the appellant falling within three definitions. Section 71 PPC provides that where anything which is an offence is made up of parts, any of which is itself an offence, or where anything is an offence falling within two or more separate definitions of any law by which offences are defined or punished, the offender shall not be punished with the punishment of more than one of such offences unless it is expressly so provided. The trial court has punished the appellant thrice for the same act. The sentences run concurrently, and no additional incarceration results, but the error is one of law on the face of the

[19] Jail roll dated 14.10.2026 of the Senior Superintendent, Central Prison and Correctional Facility, Sukkur, received on 19.10.2026; memo of arrest Exh.10/A.

impugned judgment and must be corrected. The conviction under section 460 PPC, which is the graver offence and embraces the others, is the one that remains.

26. The offence under Section 23(1)(a) of the Act of 2013 is possession of a firearm without licence. The prosecution is not required to prove a recovery by the police from the person of the accused; it is required to prove that the accused was in possession of the weapon and held no licence for it. That is proved by the same evidence which proves the main case. Abdul Ghaffar saw the pistol in the appellant's hand and saw him fire it; the inmates took it from him, and it reached the police station with him. The pistol was produced and identified at the trial; the firearms expert found it to have fired the courtyard empties, which establishes that it is a working firearm, and his report is admissible under Section 510 Cr.P.C. without his examination. No licence was claimed. The Supreme Court has maintained convictions for unlicensed possession on this footing, where the accused was caught at the spot with the weapon and the arms charge travelled with the substantive one.[20]

27. That the SHO was both complainant and investigating officer is no bar in law.[21] The complaint was a formal one lodged on behalf of the State in respect of a weapon already in police hands, and the investigation consisted of sending it to the laboratory. The discrepancy between Abdul Ghaffar's account of the pistol being taken from the appellant inside the boundary wall and the police witnesses' account of its production at the police station is the same two-stage event already discussed. That the pistol bears no number is a feature of the weapon, not a weakness in the evidence. The trial court was, however, wrong to describe the prosecution evidence as unchallenged because the appellant did not testify; the evidence was tested in cross-examination, and an accused is never obliged to enter the witness box. I have

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[20] *Saddam Kakar* (n.8 above); *Riaz Hussain v. The State* 2026 SCMR 1236; *Fawad Khan v. The State* 2021 SCMR 162.
[21] *Fakhar Abbas v. The State* 2026 SCMR 1553.

decided the appeal on my own appraisal of the evidence, and on that appraisal the conviction is sound.

28. The sentence of three years' rigorous imprisonment, within the section and with the benefit of Section 382-B Cr.P.C., has long been served, the appellant having been in custody since 14.07.2013. The arms judgment contains no direction that the sentence run concurrently with the sentence in the main case. The offence is part of the same transaction and falls under Section 397 Cr.P.C. I direct that it shall so run.

29. The prosecution has proved beyond reasonable doubt that the appellant broke into the complainant's house at night, shot Abdul Razzaque dead in the course of the break-in, and was in unlicensed possession of the pistol used. Crl. Jail Appeal No. S-20 of 2023 is **dismissed**, with the modification that the separate sentences under sections 458 and 459 PPC, together with the sentences in default of the fines on those counts, are set aside as barred by Section 71 PPC; the conviction under section 460 PPC and the sentence of imprisonment for life, with compensation of Rs.1,00,000/- payable to the legal heirs of the deceased or six months' simple imprisonment in default and benefit of Section 382-B Cr.P.C. reckoned from 14.07.2013, the date of his arrest, are maintained.

30. Crl. Appeal No. S-76 of 2017 is **dismissed**; the conviction under Section 23(1)(a) of the Act of 2013 and the sentence of three years' rigorous imprisonment, with a fine of Rs.20,000/- or three months' simple imprisonment in default, with the benefit of Section 382-B Cr.P.C., are maintained, and under Section 397 Cr.P.C. that sentence shall run concurrently with the sentence in Sessions Case No. 07 of 2014.

31. The appellant is in custody. The office shall send a copy of this judgment to the trial court and the Superintendent, Central Prison, Sukkur, for information and compliance, and the Superintendent shall revise the appellant's roll accordingly.

J U D G E

Qazi Tahir PA/*