THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Acquittal Appeal No. S-102 of 2019.
[The State Through P.G Sindh Vs. Muhammad Akram Pathan]

Present:
Mr. Justice Ali Haider 'Ada'.

Appellant	:	The State, through Mr. Mansoor Ahmed Shaikh, Deputy Prosecutor General, Sindh.
Respondent	:	Muhammad Akram Pathan through Mr. Ubedullah Malano, Advocate.
Date of Hearing	:	23.11.2026.
Date of Decision	:	23.11.2026.

JUDGEMENT

Ali Haider 'Ada', J.- The State/appellant has filed the instant Criminal Acquittal Appeal against the respondent/accused, who was tried for an offence punishable under Section 24 of the Sindh Arms Act, 2013, arising out of Crime No.158/2013, registered at Police Station Rohri.

2. The learned Additional Sessions Judge-II Sukkur (trial Court), after examining the evidence and considering all aspects of the case, acquitted the respondent vide judgment dated 16.03.2018, which has been assailed through the instant appeal.

3. The crux of the prosecution case is that the respondent was an accused in the main case arising out of Crime No.141/2013, registered for offences punishable under Sections 302 and 311 PPC. During the course of investigation, on 12.07.2013, he allegedly volunteered to point out the weapon used in the crime and, accordingly, led the police to the recovery of a 30-bore pistol, which was secured by the police on his pointation. Thereafter, the challan was submitted before the competent Court and the respondent was tried for the offence under Section 24 of the Sindh Arms Act, 2013.

4. After submission of the challan, the requisite documents were supplied to the respondent. The charge was framed on 17.05.2014,

to which he pleaded not guilty and claimed trial. The learned trial Court thereafter recorded the evidence of the prosecution witnesses. Upon completion of the prosecution evidence, the learned State Counsel closed the prosecution side, whereafter the statement of the respondent was recorded under Section 342 Cr.P.C., wherein the Respondent pleaded his innocence. Upon conclusion of the trial and after hearing the parties, the learned trial Court passed the judgment, acquitting the respondent of the charge.

5. Learned Deputy Prosecutor General submitted that, no doubt, the respondent was also acquitted in the main case; however, an appeal against such acquittal was filed, and subsequently, the instant appeal was also instituted against his acquittal in the present case. He further submitted that the recovery of the crime weapon was duly effected and that the prosecution examined witnesses whose evidence was corroborative in nature. However, according to him, the learned trial Court failed to appreciate the said evidence in its proper perspective and passed the impugned judgment without properly considering the entire evidence available on record.

6. Conversely, learned counsel for the respondent/accused submitted that Criminal Acquittal Appeal No.D-56/2019 was also filed before this Court by the complainant, which was dismissed on account of non-prosecution. No further proceedings were pursued, as the application for restoration against the order of dismissal was also dismissed. On merits, learned counsel contended that material contradictions exist in the prosecution evidence and that the prosecution failed to establish its case against the present respondent beyond reasonable doubt. He, therefore, prayed that the judgment of acquittal passed by the learned trial Court be maintained.

7. Heard and perused the material available on record.

8. A perusal of the entire material available on record reveals that the respondent was also acquitted in the main case, and the said judgment of acquittal was assailed by the complainant; however, the complainant remained unsuccessful in pursuing the said appeal. So far as the present case is concerned, the

prosecution examined only two witnesses, and no further evidence was brought on record. It is also an admitted position that the alleged recovery of the weapon was effected on the pointing out of the respondent. However, to bring such recovery within the ambit of Article 40 of the Qanun-e-Shahadat Order, 1984, the prosecution is required to establish that a person accused of an offence, while in the custody of a police officer, made a statement or furnished information which led to the discovery of a fact relating to the commission of the offence and which was not previously within the knowledge of the police. The information so furnished must be distinctly proved, and mere discovery of a fact, in the absence of proof of such information or statement, would not bring the case within the scope of the said Article. Reliance in this regard is placed upon the judgment reported as ***Zafar Ali Abbasi v. Zafar Ali Abbasi*** **(2024 SCMR 1773).**

9. Furthermore, the record reflects that the alleged weapon was recovered on 12.07.2013; however, the same was received by the Ballistic Expert on 19.07.2013, after a delay of seven days, for which no plausible explanation has been furnished by the prosecution. The unexplained delay in forwarding the recovered weapon to the Ballistic Expert creates doubt regarding the safe and secure transmission of the case property and its evidentiary worth. In this regard, reliance is placed upon ***Iftikhar Hussain and others v. The State*** **(2004 SCMR 1185).**

10. It is also evident from the record that the crime empties, which had allegedly been secured earlier, were retained until the recovery of the weapon and were subsequently sent to the Forensic Science Laboratory along with the recovered pistol. Such circumstances raise questions regarding the manner in which the case property was preserved and transmitted for forensic examination. The superior Courts have deprecated the practice of retaining crime empties pending the alleged recovery of the weapon and subsequently forwarding both together, particularly where such circumstances leave room for doubt regarding the possibility of manipulation or fabrication. The forensic report, in the circumstances, cannot be considered in isolation from the

unexplained delay and the manner in which the articles were transmitted for examination. Reliance in this regard is placed upon the judgments reported as ***Muhammad Abras v. The State*** **(2025 SCMR 1145) and** ***Nasrullah v. The State*** **(2017 SCMR 724).**

11. It is settled that the scope of interference in an appeal against acquittal is narrow and limited. An acquitted accused enjoys the presumption of innocence, which stands reinforced by the judgment of acquittal passed by a Court of competent jurisdiction. Such judgment cannot be interfered with unless it suffers from perversity, gross misreading or non-reading of evidence, or some other exceptional circumstance warranting interference. Reliance in this regard is placed upon ***Basharat Ali Chaudhry v. Sabir Ali*** **(2026 SCMR 1527)** and ***Sardaran Bibi v. The State*** **(2024 SCMR 1116),**

12. In view of the foregoing discussion, the prosecution has failed to establish any such illegality, perversity, misreading or non-reading of evidence in the impugned judgment as would warrant interference by this Court in its appellate jurisdiction. Consequently, no case for interference is made out. Accordingly, the instant Criminal Acquittal Appeal is dismissed.

JUDGE