IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Appeal No.S-17 of 2026

(Noor Ahmed vs. The State)

Appellant: Noor Ahmed

Through Mr. Aziz Ahmed Advocate

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Criminal Appeal No.S-18 of 2026

(Noor Ahmed & another vs. The State)

Appellants: 1. Noor Ahmed son of Rehmatullah

2. Habibullah son of Fakir Muhammad Chandio

Through Mr. Aziz Ahmed Memon, Advocate

Complainant: Muhammad Arshad s/o Liaquat Ali

Through Mr. Maisum Hussain Sahar, Advocate

The State: Through Mr. Neel Parkash, Deputy P.G.

Date of hearing & short order: 26.10.2026

Date of detailed reasons: 04.11.2026

J U D G M E N T

Nisar Ahmed Bhanbhro, J: I propose to decide the fate of captioned appeals, through this single judgment, as both the appeals stem from same transaction relating to an offence of attempt to commit qatl I Amd and recovery of weapon used in the commission of crime.

2. The Criminal Appeal No 18 of 2026 (**Noor Ahmed and another V. The State**) is directed against the Judgment dated 30-03-2026 **(1st impugned judgment)** passed by the learned Additional Sessions Judge-I, Umerkot **(Trial Court)** in Sessions Case No.133/2025 *"Re - The State vs. Noor Ahmed and another"* (arising out of F.I.R bearing Crime No.129/ 2025 for offences punishable under sections 324, 459, 34 PPC of PS Kunri), whereby the appellants Noor Ahmed and Habibullah were convicted for the charge and sentenced as under:-

> *(i) "For the offence punishable U/S 459 PPC, they are convicted and sentenced to suffer rigorous imprisonment for 10 years.*
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> *(ii) For the offence U/S 324 PPC, they are convicted and sentenced to suffer rigorous imprisonment for 10 years and also to pay fine of Rs. 50,000/- (Rupees fifty thousand) each. In default of payment of fine, they shall suffer six months simple imprisonment more.*
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> *(iii) For the offence U/S 336 PPC, they are convicted and sentenced to suffer rigorous imprisonment for 10 years and also to pay arsh amount notified for the year 2024-2025 i.e. Rs. 8,103,955 (eight million, one hundred three thousand, nine hundred and fifty-five rupees only) to injured Dr. Bushra jointly, which is equal to Diyat amount as per Section 337-X".*
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> *The benefit of section 382-B Cr.P.C is extended to both accused persons. All the sentences shall run concurrently.*

3. The Criminal Appeal No 17 of 2026 (Re-**Noor Ahmed V. The State)** is directed against the Judgment dated 30-03-2026 **(2nd impugned judgment)** passed by the learned Additional Sessions Judge-I, Umerkot **(Trial Court)** in Sessions Case No.114/2025 *"Re - The State vs. Noor Ahmed"* (arising out of F.I.R bearing Crime No.143/ 2025 of PS Kunri for offence punishable under section 24 of Sindh Arms Act 2013), whereby the appellant Noor Ahmed was convicted for the charge and sentenced to suffer R.I for seven years and to pay fine of Rs.50,000/- (Rupees Fifty Thousand). In case of default in payment of fine to suffer six months' more as simple imprisonment. Benefit of section 382-B Cr.PC was extended to the appellant.

4. The facts as unfolded in Sessions Case No 133 of 2025 (C**riminal Appeal No 18 of 2026**) are that on 25.07.2025 at about 1710 hours, Muhammad Arshad Rajput lodged F.I.R No 129 of 2025 at P.S Kunri, alleging therein that they were on estranged relations with accused Noor Ahmed Chandio, as some time ago accused misguided his sister Zainab, enticed her away, and solemnized her marriage with his brother Lal Muhammad, after that they were harassing complainant party. Thereafter, the accused demanded the hand of his sister Dr. Bushra, which was refused. On 23.07.2025 in the night time, complainant alongwith his family members and relatives Nadeem and Intizar were sitting in the compound of the house, when at about 11:50 p.m. accused Noor Ahmed S/O Rehmatullah Chandio and Habibullah S/O Fakir Muhammad Chandio, both armed with pistols and one unknown accused to be identified, if seen again, suddenly entered in the house. Accused Noor Ahmed made straight fire shot to Dr. Bushra with intention to kill her, which hit her on left side of abdomen, she fallen down from the cot while crying. Complainant party also raised cries, which attracted people from neighbor, upon seeing them accused skipped away. Complainant removed injured Dr. Bushra to Taluka Hospital Kunri and also informed the police about the incident. Police reached at Hospital issued letter for treatment of injured. After first aid, injured Dr. Bushra was referred to Civil Hospital Hyderabad for further treatment. Complainant after leaving his brother Aslam at Civil Hospital Hyderabad for taking care of injured, came at P.S and lodged FIR of the incident.

5. Investigation took its course and report under section 173 Cr.P.C. was submitted before concerned Learned Magistrate against accused Noor Ahmed in custody and accused Habibullah on bail. The case being exclusively triable by Court of Sessions was accordingly sent up and made over to the Trial Court for disposal in accordance with law.

6. The case papers were supplied to accused, and they were indicted for charge to which they pleaded not guilty and claimed trial.

7. In order to prove charge, prosecution examined PW-01 Complainant Muhammad Arshad, he produced memo of inspection of injuries, FIR, memo of inspection of place of incident and memo of arrest of accused Noor Ahmed, PW-02 Intizar, PW-03 Injured Mst. Bushra, PW-04 Mashir Sharafat he produced memo of recovery of 9 mm pistol on the pointation of accused Noor Ahmed, PW-05 I.O SIP Sher Muhammad, he produced roznamcha entries, letter for treatment addressed to WMO and entry of Malkhana Register No.19, order passed in Crl. Revision No.12/2025, FIR of Crime No. 143/2025, U/S 24 Sindh Arms Act, letter addressed to Incharge FSL Hyderabad and FSL report, PW-06 WMO Dr. Irfa Akram, she produced police letter, provisional and final medical certificates, PW-07 HC-Aurangzaib, thereafter prosecution closed the side for evidence.

8. The statements of accused were recorded U/S 342 Cr.P.C, wherein they denied the charge, claimed innocence and stated that false case was maneuvered to avenge them for marriage of Lal Muhammad with Zainab. The accused neither opted for their own evidence on oath, nor produced any defence witness.

9. The facts of the Sessions Case No 114 of 2025 (**Criminal Appeal No 17 of 2026**) are that on 07.08.2025, accused Noor Ahmed was confined in police lock-up of P.S Kunri in Crime No. 129/2025, for offences U/S 324, 459, 34 P.P.C., during interrogation, accused agreed to hand over the pistol used by him in commission of offence, concealed in his home. He was taken out from police lock up. Police party lead by SIP Sher Muhammad along with PC Girdhari Lal, PC Hakim in presence of Muhammad Arshad and Sharafat Ali proceeded towards house of accused, situated in Bushtan Muhalla. It was at about 1730 hours, accused took out one un-licensed 9 mm pistol from the quilts lying on the table, which on checking was found loaded with three live bullets. Such memo of recovery was prepared in presence of mashirs. Accused and recovered property were taken to

police station, where a separate F.I.R was recorded by SIP Sher Muhammad for an offence punishable under section 24 of Sindh Arms Act, 2013. After usual investigation, I.O forwarded report under section 173 Cr.P.C. before concerned Learned Magistrate, seeking trial of the accused. On cognizance, case being exclusively sessions trial, was sent up to Court of Sessions and made over to Trial Court for disposal according to law.

10. In compliance to provisions of Section 265-C Cr.P.C case papers were supplied to accused, he was indicted for charge, which he pleaded not guilty and claimed to be tried. In order to prove its case, the prosecution examined PW-01 Mashir Sharafat, he produced memo of recovery, PW-02 Complainant/I.O SIP Sher Muhammad Khaskheli, he produced roznamcha entries, FIR, entry of Malkhana Register No.19, letter to Incharge Forensic Laboratory Hyderabad and FSL report, and PW-03 HC-Aurangzaib. The learned prosecutor for state closed the side of prosecution evidence.

11. The statement of accused was recorded U/S 342 Cr.P.C, wherein he denied the charge and claimed to be innocent, however neither examined himself on oath nor produced any defence witness.

12. Learned Trial Court after hearing the Learned Counsel for parties, Learned Prosecutor convicted the appellants as aforementioned vide separate judgments.

13. Learned counsel for the Appellants argued that appellants are innocent, falsely implicated in this case due to matrimonial dispute, as Lal Muhammad brother of appellant Noor Ahmed contracted love marriage with Zainab sister of complainant. He argued that there is delay of about two days in lodging the FIR with no plausible explanation. He argued that the witnesses in the case were chance witnesses and their testimony cannot be relied upon safely. He argued that natural witnesses viz. brother, father and sister in law of the complainant

were not cited as witnesses in the case, though in evidence their presence at the time of alleged incident was admitted. He contended that motive has also not been established. He argued that alleged recovery of crime weapon was foisted upon the appellant after 10 days of arrest. He further argued that all the P.Ws are relatives of complainant and no any independent person was cited as witness in the case; that the statement of injured/PW Dr. Bushra was recorded after 20 days of the alleged incident; that the prosecution story is not convincing, untrustworthy and managed one; that there are major discrepancies, contradictions and improvements in the prosecution evidence which rendered the testimony of witness worthy of no credence. Learned Counsel has lastly argued that appellants are entitled to be acquitted in the interest of justice and prayed for allowing appeal. He placed reliance upon the case of **Nadeem alias Kaka V. The State and others** (2018 SCMR 153), **Muhammad Abras V. The State** (2025 SCMR 1145), **Muhammad Asif V. The State** (2017 SCMR 486) and **Imran V. The State** (2026 SCMR 47).

14. On the other hand, learned D.P.G for the State assisted by Learned Counsel for complainant argued that prosecution has fully established the guilt of appellants by producing convincing and confidence inspiring evidence. It is argued that delay in lodging the FIR has been fully explained by the complainant, as in like cases efforts to rescue the life of injured remains the priority. It is contended that accused trespassed into the house of complainant during dark hours of night and caused fire arm injuries to Dr. Bushra as she had refused to marry with Noor Ahmed; that the testimony of injured witness carries high degree of evidentiary value; that direct role has been assigned to accused Noor Ahmed; that ocular account furnished by witnesses is fully corroborated by medical evidence. It is further argued that witnesses remained consistent on material points and there are no contradictions in the version of prosecution witnesses. It is also argued that weapon used in commission of offence has been recovered on the pointation of accused; that as per FSL report the empty

recovered from the place of incident was fired from the said weapon. It is further contended that the prosecution has proved the case against the accused persons therefore; appeal may be dismissed. Learned Counsel for the Complainant has placed reliance upon the case of **Stana Dar V. Muhammad Ayeen and another** (2026 SCMR 715), **Muhammad Javed V. The State** (2015 SCMR 864), **Aqil V. The State** (2023 SCMR 831), and **Amanullah V. The State** (2024 SCMR 1071).

15. Heard Arguments. Perused material available on record and re-appraised the evidence.

16. On reappraisal of the evidence, the prosecution case appears to be doubtful for the following reasons:

(a) As per F.I.R, the occurrence allegedly took place on 23.07.2025 at 11.50 p.m. whereas it was reported to the Police on 25.07.2025. Distance between the place of occurrence and the Police Station was just two kilometers whereas Taluka Hospital Kunri was about 1-1/2 kilometers from the spot. The complainant claims to have informed the police promptly but failed to disclose the reasons that prevented him from recording F.I.R. Therefore, the inordinate delay of two days in setting the machinery of law in motion, remained unexplained.

(b) It is case of the complainant in the FIR as well as before the learned trial court that he along with PW Nadeem and PW Intizar witnessed the occurrence. Whereas it is admitted in evidence that both the witnesses were not residing in the house and were chance witnesses. Evidentiary value of chance witnesses required strong corroboration, which lacked in the prosecution case, the presence of the witnesses Intzar and Nadeem has not been established through confidence inspiring evidence.

(c) There is an interesting aspect of the case. Dr Bushra in injured condition was initially examined by Dr Irfa Karim and as per examination in chief of the said doctor, the injured was referred to hospital by the Kunri Police vide report No.A1 dated 23. 07.2025, which suggests that the occurrence was in the notice of the Police on the very day but even then case was not registered promptly. A specific motive has also been set out in the FIR and in the circumstances chances for deliberations and consultations on the part of the complainant for false implication of the appellants cannot be ruled out.

(d) PW Complainant Muhammad Arshad and PW Injured Dr. Bushra deposed before Trial Court that their clothes were stained with blood but they did not produce the blood stained clothes to the Police during investigation and before Trial Court during evidence to corroborate the prosecution version.

(e) The medical evidence though merely a supportive/corroborative piece of evidence but in this case the same is not in line with the ocular account. The prosecution witnesses including injured Dr Bushra in unison deposed before Trial Court that injured sustained fire arm injuries through pistol and after registration of FIR, empty shell of pistol was also secured by police from place of incident on 25.07.2025. However as per MLC injured sustained gunshot injury. PW Dr. Irfa Akram deposed before Trial Court that injured sustained injury through a gun type weapon, the PW was not confronted by prosecution by declaring her hostile as such her evidence remained unchallenged that bullet type weapon was not used in the commission of crime but gun type weapon (cartridge) was used. This aspect of the case belied the entire prosecution story.

(f) The prosecution witnesses including injured deposed during trial that accused entered into the house and fired upon injured Dr Bushra.

They have not explained that whether fire hit injured at backside or on front side of the abdomen, contrary to it, on re-appraisal of the evidence of prosecution witnesses strong opinion can be formed that injured was face on face to accused when a fire was shot. However, per MLC the injured sustained injuries on the back of abdomen through and through, this inconsistency in the prosecution evidence also hits at its roots.

(g) Eye witnesses of the occurrence including injured Dr Bushra appeared before the police after considerable delay for recording statements under section 161 Cr.P.C., which creates doubt on the veracity of such statements.

(h) Motive behind the occurrence was stated to be the refusal of Dr Bushra to contract marriage with Noor Ahmed, which however was not proved. Contrary, defence proved that sister of Dr Bushra had contracted marriage of free will with brother of appellant Noor Ahmed. The motive is a double edged weapon that cuts both ways and on independent reappraisal of the material available on record, it can be held that Noor Ahmed had not demanded the hand of Dr Bushra.

17. When confronted to above infirmities, improvements and fraught contradictions in the prosecution case, the learned Deputy Prosecutor General and Learned Counsel for the complainant contended that the injury sustained by PW-Dr Bushra serves as definitive evidence of her presence at the scene, thereby rendering her testimony inherently credible, independent of the need for additional corroboration. At this point, it is important to note that while the firearm injury sustained by Dr Bushra suggests that she was the victim of offence, however it does not serve as definitive evidence to substantiate the veracity of her testimony before the court that present appellants committed the crime. Evidentiary vlaue of an injured witnesses depends upon the veracity of account, as presented to the court, and it must be assessed within

the context of the surrounding facts and circumstances of the case. Injuries do not inherently grant access to the truth and, therefore, a narrative must resonate with authenticity to warrant trust. Evidence of Dr Bushra did not inspire confidence, particularity when during investigation her statement under section 161 Cr.P.C was recorded with delay, incident was that of night time and no source of light was shown to identify the accused persons. The record indicates that Dr Bushra purportedly sustained injuries at the time of occurrence on 23.07.2025, however, she failed to present herself to the police, nor was she summoned to provide her statement promptly, until police came to her twenty days after the incident. Though mere failure to examine a witness by the police does not preclude the admissibility of that individual's statement as evidence, nevertheless, the primary consideration for the courts is whether the delay in examination under section 161 Cr.P.C has resulted in any prejudice to the accused. Prolonged silence of the witness to come forward and record her statement warrants to invalidate the entire evidence, as her behavior was exceedingly irregular. No doubt conviction can be awarded on the basis of solitary statement of witness being worthy of credence, dependable and consistent, but a blind reliance upon the testimony of the injured witness is never a hard and fast rule. Reference in this regard can be made to the case of **Nazir Ahmad v. Muhammad Iqbal (2011 SCMR 527)**, wherein it is held by the Honorable Supreme Court that:

> "*It is settled law that injuries of P.W are only indication of his presence at the spot but are not affirmative of his credibility and truth.*"

18. To substantiate its case, prosecution has relied upon the forensic report, which revealed that empty shell secured from the place of incident matched with the pistol allegedly recovered from appellant. Recovery of pistol at the instance of the appellant was not believable, as during investigation, appellant Noor Ahmed was arrested by police and remained under police custody for a

considerable period of time and produced on 06.08.2025 before Learned Magistrate alongwith a request for extension of remand, the same was declined. Prosecution filed revision application under section 439-A Cr.P.C. before Learned Sessions Judge which was allowed and two days physical police custody remand of the appellant was granted up to 08.08.2025. During the said period it was stated that appellant volunteered to produce the weapon used in the commission of crime and led the police party to his house, where he produced pistol underlying quilts on a table in his personal room. It was surprising that complainant and witness Sharaft were also in company of the police at the time of alleged recovery. It is hardly understandable that an accused will keep the crime weapon in his house that too located near the house of complainant party to expose himself. The positive Forensic Science Laboratory report was inconsequential as the empties were recovered two days after the incident and it is not the prosecution case that crime scene was secured on the very day. Presence of empty shell at the scene of offence for two days thus created doubt, moreover the recovered weapon and empty shell were sent to laboratory on the same date without any explanation, which makes the FSL report unreliable. Reliance in this regard is placed on the case of Muhammad Abras V. The State (**2025 S C M R 1145) wherein it is held by Honorable Supreme Court of Pakistan that:**

> *7. In reconsidering the purported recovery of the crime weapon based on the appellant's indication, we note that the crime empties were collected on 03.06.2010 from the scene of the incident, while the alleged recovery of the crime weapon occurred on 16.08.2010. Notably, both items were subsequently received by the Forensic Science Laboratory, Punjab on 03.09.2010 from an individual named Faheem Ahmed No.7685-C, which transpired approximately 18 days after the claimed recovery. In the matter of Nasrullah v. State (2017 SCMR 724),*

this Court noted that the retrieval of the pistol from the appellant's possession bore no legal significance, as the laboratory's report revealed that both the recovered pistol and the secured crime empties had been submitted on the same day, thereby casting doubt on the potential for fabrication. In a comparable manner, the samples were dispatched to the laboratory following a considerable delay, which stripped the positive report (Ex.PFF) of any evidentiary significance.

8. *Oral and medical evidence also contradict each other. PW-Haroon Rasheed claimed to have sustained a firearm injury on his left ankle at the time of occurrence, but the medical certificate provided by Dr. Faisal Kakar shows that the injury occurred on his right lower leg. This disparity calls into question the validity of the evidence used against the appellant.*

19. It was held by the Honorable Supreme Court of Pakistan in the case of **Imran V. The State (2026 S C M R 47)** that**:**

5. Insofar as the recovery of pistol at the pointing out of the petitioner and the positive repot of FSL (Ex.PK/1), are concerned, we have noted that the empties and the pistol were deposited together in the office of FSL, therefore, the said recovery and positive report of FSL are of no avail to the prosecution as observed in the cases reported as "Abdul Wahid v. The State" (2023 SCMR 1278) and "Sarfraz v. The State" (2023 SCMR 670).

20. Three natural witnesses of the occurrence, who are inmates of the house viz. Liaqat Ali (father of the injured), Asalm (brother of the injured) and wife of the complainant (sister in law of injured) were not cited as witnesses and neither produced before police nor at the trial for recording evidence. The incident was a late night happening and natural witnesses could have provided the first degree

of evidence of reliable nature, thus, adverse inference has been drawn that because they were not supporting the prosecution case so set up, therefore, they were dropped at the initial stage. In this way, the best evidence in shape of natural witnesses, was withheld for obvious reasons. This fact by itself is sufficient to discard the evidence of the chance and interested witnesses due to the unnatural conduct of complainant.

21. Casual discrepancies or minor contradictions in the prosecution case happen for various reasons and can be ignored. In this regard learned counsel for the complainant has rightly placed reliance upon the case of **Amanullah and another V. The State and others (2023 S C M R 723)** wherein it has been held by the Honorable Supreme Court of Pakistan that:

> *"It is settled principle of law that the value and status of medical evidence and recovery is always corroborative in its nature, which alone is not sufficient to sustain the conviction. Casual discrepancies and conflicts appearing in medical evidence and the ocular version are quite possible for variety of reasons. During occurrence witnesses in a momentary glance make only tentative assessment of the distance between the deceased and the assailant and the points where accused caused injuries. It becomes highly improbable to correctly mention the number and location of the injuries with exactitude. Minor discrepancies, if any, in medical evidence relating to nature of injuries do not negate the direct evidence as witnesses are not supposed to give photo picture of ocular account. Even otherwise, conflict of ocular account with medical evidence being not material imprinting any dent in prosecution version would have no adverse affect on prosecution case. As far as the question that the prosecution witnesses are interested and related, therefore, their evidence has lost its sanctity is concerned, it is now settled that mere relationship of the*

prosecution witnesses with the deceased cannot be a ground to discard the testimony of such witnesses."

22. Yet in another case of **Aqil V. The State** (2023 S C M R 831) it was held by the Honorable Supreme Court of Pakistan that:

"Learned counsel for the petitioner could not point out any plausible reason as to why the complainant has falsely involved the petitioner in the present case and let off the real culprit, who has committed murder of her mother and sister. Substitution in such like cases is a rare phenomenon. The medical evidence available on the record further corroborates the ocular account so far as the nature, time, locale and impact of the injuries on the person of the deceased and injured is concerned. Even otherwise, it is settled law that where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused."

23. In the instant case, the prosecution has failed to produce convincing and confidence inspiring evidence to bring the guilt of appellants home. The improvements, contradictions and inconsistencies in prosecution case made it highly doubtful and benefit of the same has to be resolved in favor of the accused as a matter of right and not as of grace. Keeping in view all the aforementioned facts, the Court has come to this irresistible conclusion that the prosecution has failed to prove its case against the appellants beyond the shadow of doubt. It is by now well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused, whereas the instant case is replete with number of circumstances, which have created serious doubts in the prosecution story. Reference in this context may be made to the judgments reported as **"Tariq Pervez v. The State" (1995 SCMR 1345)** and "**Muhammad Akram v. The State" (2009 SCMR 230)**.

24. Consequently, the captioned appeals are allowed. The **1st impugned judgment** dated 30-03-2026 passed by the learned Trial Court in Sessions Case No.133/2025 *" Re- The State vs. Noor Ahmed and another"* (arising out of F.I.R bearing Crime No.129/ 2025 for offence punishable under section 324, 459, 34 PPC of PS Kunri) and **2nd impugned judgment** dated 30.03.2026 passed by the learned Trial Court in Sessions Case No.114/2025 *"Re - The State vs. Noor Ahmed"* (arising out of F.I.R bearing Crime No.143/ 2025 for offence punishable under section 24 of Sindh Arms Act 2013 of PS Kunri) are hereby set aside the appellants Noor Ahmed son of Rehmatullah and Habibullah son of Fakir Muhammad Chandio are acquitted of the charge in both the sessions cases and directed to be released forthwith if not required for incarceration in any other custody case.

25. These are the reasons for short order dated 26.10.2026 by which the captioned appeals were allowed.

Office is directed to keep signed copy of judgment in the connected file.

Approved for reporting Judge

"Chander"