HIGH COURT OF SINDH, CIRCUIT COURT MIRPUR KHAS

Criminal Appeal No. S-44 of 2025

(Ghulam Abbas v. The State)

&

Criminal Appeal No. S-45 of 2025

(Ghulam Abbas v. The State)

&

Criminal Appeal No. S-46 of 2025

(Ghulam Abbas v. The State)

Appellant: Ghulam Abbas s/o Ghulam Hussain

Through Mr. Touseef Ahmed Chandio, Advocate

Respondent: The State

Through Mr. Neel Parkash, Deputy P.G Sindh.

Date of hearing: 03.11.2026

Date of Judgment: 03 .11.2026

J U D G M E N T

Nisar Ahmed Bhanbhro J.- Through this single judgment, I propose to decide the fate of captioned Appeals, as they arise out of a single transaction.

2. In **Criminal Appeal No.S-44/ 2025**, the appellant Ghulam Abbas s/o Ghulam Hussain has assailed the judgment dated 13-09-2024 (**1st impugned judgment**) passed by the learned Additional Sessions Judge, Shahdadpur, (**Trial Court**) in Sessions Case No.644/ 2023 "Re *The State v. Ghulam Abbas and another*" (arising out of F.I.R bearing Crime No. 137/ 2023 for offence punishable under

section 394, 34 P.P.C of P.S Shahdadpur), whereby he was convicted under section 394 P.P.C and sentenced to suffer R.I for four years and to pay fine of Rs.10,000/- (Rupees Ten Thousand only). He was further convicted under section 337-A(i) P.P.C and sentenced to pay Daman of Rs.10,000/- and to suffer R.I for two months. He was also convicted under section 337-F(i) P.P.C and sentenced to pay Daman of Rs.10,000/- and to suffer R.I for two months and in default of payment of Daman and fine, the appellant/ accused shall suffer S.I for six months more. The benefit of section 382-B Cr.P.C was extended to the appellant/ accused and his sentences were ordered to run concurrently

3. In **Criminal Appeal No. S-45/ 2025**, the appellant Ghulam Abbas s/o Ghulam Hussain has assailed the judgment dated 13-09-2024 (**2nd impugned judgment**) passed by the learned Additional Sessions Judge, Shahdadpur, (**Trial Court**) in Sessions Case No.643/ 2023 "Re *The State v. Ghulam Abbas and another*" (arising out of F.I.R bearing Crime No. 138/ 2023 for offence punishable under section 324, 353, 34 P.P.C of P.S Shahdadpur), whereby he was convicted under section 324 P.P.C and sentenced to R.I for five months and to fine of Rs.10,000/- (Rupees Ten Thousand only) and in default thereof to suffer S.I for two months more. He was further convicted under section 353 P.P.C and sentenced to suffer R.I for two months. The benefit of section 382-B Cr.P.C was extended to the appellant/accused and his sentences were ordered to run concurrently.

4. In **Criminal Appeal No. S-46/ 2025**, the appellant Ghulam Abbas s/o Ghulam Hussain has assailed the judgment dated 13-09-2024 (**3rd impugned judgment**) passed by the learned Additional Sessions Judge, Shahdadpur, (**Trial Court**) in Sessions Case No.645/ 2023 "Re *The State v. Ghulam Abbas*" (arising out of F.I.R bearing Crime No. 139/ 2023 for offence punishable under section 24 of Sindh Arms Act, 2013 of P.S Shahdadpur), whereby he was convicted under section 24 of Sindh Arms Act, 2013 and sentenced to suffer R.I for two

years and to pay fine of Rs.20,000/- (Rupees Twenty Thousand only) and in case of default thereof to suffer S.I for six months more. The benefit of section 382-B Cr.P.C was extended to the appellant/ accused.

5. The facts pertaining to the **Criminal Appeal No.S-44/ 2025** are that complainant Abid Ali Thaheem lodged F.I.R bearing Crime No.137 of 2023 on 22.04.2023 at P.S Shahdadpur are that on the same date he alongwith his relative Haji Khan was going towards village Landhi from Shahdadpur city on his motorcycle and when reached near Masjid at village Muhammad Hassan Brohi at Sanghar road where two persons armed with pistols riding on motorcycle intercepted them at 2115 hours, they pointed pistols and asked them to hand over whatever they had, the complainant refused and resisted on which one person inflicted butt of his pistol on right side forehead of complainant; due to which blood started oozing, thereafter, accused robbed ten currency notes of Rs.1000/- each (total Rs.10,000/-) and one keypad Vigo Tel Mobile phone from complainant, so also robbed one keypad Vigo Tel mobile phone from Haji Khan. They identified one person as Ghulam Abbas Shahi and the other was unknown, who could be identified if seen again. Then accused persons fled away on their motorcycle towards Shahdadpur City. The complainant obtained letter for medical treatment from PS Shahdadpur and subsequently lodged instant F.I.R.

6. After usual investigation, I.O submitted report under section 173 Cr.P.C before the concerned Judicial Magistrate. Since the alleged offence is exclusively triable by the Court of Sessions, therefore, learned Magistrate sent up the R&Ps of instant case to the Court of Sessions Judge, Sanghar, who transferred the same to the trial court for disposal in accordance with law.

7. After supplying the copies of case papers to the appellant and co-accused in compliance to provisions of Section 265- C Cr.P.C. charge was framed against them; to which they pleaded not guilty and claimed trial.

8. At the trial, to substantiate charge prosecution examined following witnesses:

01. ***Complainant Abid Ali*** *examined at Exh.5, who produced FIR at Exh.5/A and further statement U/s 162 Cr.P.C at Exh.5/B.*
02. ***PW-2 Haji Khan*** *examined at Exh.6, who produced memo of injuries at Exh.6/A and memo of site inspection at Exh.6/B.*
03. ***PW-3/I.O SIP Rajab Ali*** *Rind examined at Exh.7, who produced roznamcha entries No.18 & 19 at Exh.7/A, entries No.4 and 6 on one page at Exh.7/B, medical letter at Exh.7/C, memo of arrest and recovery in respect of the accused Ghulam Abbas at Exh.7/D.*
04. ***PW-4 ASI Faryad Ahmed*** *examined as mashir of arrest and recovery in respect of accused Ghulam Abbas at Exh.8, who produced memo of injuries at Exh.8/A.*
05. ***PW-5 Dr. Irfan Khan*** *examined at Exh.9, who produced police letter at Exh.9/A, final medical certificate of complainant Abid Ali at Exh.9/B, final medical certificate of injured Haji Khan at Exh.9/C, police letter of injured accused Ghulam Abbas at Exh.9/D, provisional medical certificate of injured accused Ghulam Abbas at Exh.9/E, referral letter at Exh.9/F, Final medical certificate of accused Ghulam Abbas at Exh.9/G, receipt of department of Radiology at Exh.9/H.*
06. ***PW-6 Riaz Hussain*** *examined at Exh.10, who produced memo of formal arrest of accused Ayaz Ali at Exh.10/A.*

9. Then learned Prosecutor closed the prosecution side by filing such statement. Thereafter, statements of the appellant and co-accused under section 342 Cr.P.C were recorded wherein they denied the allegations being false and claimed their innocence. However, they did not examine themselves on oath as required u/s 340(2) Cr.P.C nor lead evidence in defence.

10. After hearing the learned counsel for the parties, learned trial court acquitted co-accused Ayaz Ali s/o Haji Khan Bhanbhro while convicted the appellant through 1st impugned judgment.

11. The facts pertaining to the **Criminal Appeal No.S-45/ 2025** are that complainant ASI Rajab Ali Rind lodged F.I.R bearing Crime No.138/2023 at P.S Shahdadpur are that he was posted as incharge at PP Jatia, on 22/4/2023 he alongwith his subordinate staff HC Faryad Ahmed, PC Ghulam Mustafa, PC Allah Warayo and DPC Abdul Rasheed left the police post in police mobile vide entry No.21 at 2210 hours for patrolling and when reached at Shahdadpur Chowk, Barhoon Road Pir Koral Shah Rasti at 2330 hours where saw that a motorcycle was coming with speed towards road from Pir Koral Rasti, they parked police mobile and signaled the motorcycle with torch to stop but the accused persons alighted from their motorcycle. They identified them on torch light as Ghulam Abbas Shahi and Ayaz Ali Bhanbhro to whom the complainant asked to raise their hands but they took out pistols from folds of their shalwar and made straight firing on police party with intention to commit their murder. They also retaliated with firing in self defence. After 20 minutes of firing one accused raised hakkal and said to co-accused that his fire hit him and he fell down, the other accused while taking benefit of jungle fled away leaving behind the motorcycle. The complainant apprehended accused in injured condition, who sustained fire arm injury on the knee of his right leg. The complainant recovered 30 bore pistol from the possession of accused so also seized the motorcycle. The apprehended accused disclosed his name as Ghulam Abbas Shahi and the name of absconding accused as Ayaz Ali Bhanbhro. The apprehended accused was wanted in Crime No.137/2023, U/s 394, 34 PPC. The accused disclosed that the pistol was unlicensed, the complainant unloaded the pistol which was empty and it was of 30 bore without number and the motorcycle was CD-70 registration No.Nil, Engine No.0726581, Chasis No. GH-

484064 of red colour, Model 2021. The accused failed to produce documents of the motorcycle. The complainant secured 6 empties of 30 bore and 4 empties of SMG from spot under torch light and recovered two Vigo Tel mobile phones from the possession of accused which was stolen property of Crime No.137/2023 U/s 394, 34 PPC. The complainant sealed the empties, pistol and mobile phones separately; prepared such memo and then brought accused at SIMS Hospital for medical treatment. Then complainant came at PS and lodged instant F.I.R.

12. After usual investigation, I.O submitted report under section 173 Cr.P.C before the concerned Judicial Magistrate. Since the alleged offence is exclusively triable by the Court of Sessions, therefore, learned Magistrate sent up the R&Ps of instant case to the Court of Sessions Judge, Sanghar, who transferred the same to the trial court for disposal in accordance with law.

13. After supplying the copies of case papers to the appellant and co-accused in compliance to provisions of Section 265- C Cr.P.C charge was framed against them; to which they pleaded not guilty and claimed trial.

14. At the trial, to substantiate charge prosecution examined following witnesses:

01. ***Complainant SIP Rajab Ali Rind*** *examined at Exh.5, who produced roznamcha entries No.21 & 23 at Exh.5/A, memo of arrest and recovery at Exh.5/B and FIR at Exh.5/C.*
02. ***PW-2/ mashir ASI Faryad Ahmed*** *examined at Exh.6, who produced memo of site inspection at Exh.6/A.*
03. ***PW-3 Dr. Irfan Khan*** *examined at Ex.7, who produced police letter at Exh.7/A, OPD Slip at Exh.7/B, provisional medical certificate of injured/accused Ghulam Abbas at Exh.7/C and Final medical certificate of injured/accused Ghulam Abbas at Exh.7/D.*
04. ***PW-4 Riaz Hussain*** *examined at Ex.8 who produced memo of formal arrest at Exh.8/A.*

05. ***PW-5/I.O ASI Muhammad Moosa*** *examined at Exh.9, who produced entry No.112 at Exh.9/A, entries No.33 and 35 on one page at Exh.9/B, entries No.46 and 39 on one page at Exh.9/C, police letter with receiving at Exh.9/D, FSL report at Exh.9/E, CRO of accused Ghulam Abbas Shahi at Exh.9/F.*

15. Then learned Prosecutor closed the prosecution side by filing such statement. Thereafter, statements of the appellant and co-accused under section 342 Cr.P.C were recorded wherein they denied the allegations being false and claimed their innocence. However, they did not examine themselves on oath as required u/s 340(2) Cr.P.C nor lead evidence in defence.

16. After hearing the learned counsel for the parties, learned trial court acquitted co-accused Ayaz Ali s/o Haji Khan Bhanbhro while convicted the appellant through 2nd impugned judgment.

17. The facts pertaining to the **Criminal Appeal No.S-46/ 2025** are that complainant ASI Rajab Ali Rind lodged F.I.R bearing Crime No.139/2023 at P.S Shahdadpur are that he is posted as In-charge at PP Jatia. On 22.04.2023, during an encounter in connection with Crime No. 138/2023, registered at Police Station Shahdadpur under Sections 324, 353 and 34 PPC, accused Ghulam Abbas was arrested in injured condition. During his personal search, one unlicensed 30-bore pistol, used in the commission of the offence, was recovered.

18. After usual investigation, I.O submitted report under section 173 Cr.P.C before the concerned Judicial Magistrate. Since the alleged offence is exclusively triable by the Court of Sessions, therefore, learned Magistrate sent up the R&Ps of instant case to the Court of Sessions Judge, Sanghar, who transferred the same to the trial court for disposal in accordance with law.

19. After supplying the copies of case papers to the appellant in compliance to provisions of Section 265- C Cr.P.C charge was framed against him; to which he pleaded not guilty and claimed trial.

20 At the trial, to substantiate charge prosecution examined following witnesses:

1. ***Complainant SIP Rajab Ali Rind*** *examined at Exh.4, who produced roznamcha entries No.21 & 25 at Exh.4/A, memo of arrest and recovery at Exh.4/B and FIR at Exh.4/C.*
2. ***PW-2/ mashir ASI Faryad Ahmed*** *examined at Exh.5, who produced memo of site inspection at Exh.5/A.*
3. ***PW-3/I.O ASI Muhammad Moosa*** *examined at Exh.6, who produced entry No.112 at Exh.6/A, entries No.33 and 35 on one page at Exh.6/B, entries No.46 and 39 on one page at Exh.6/C, CRO of accused at Exh.6/D, FSL report at Exh.6/E.*

21. Then learned Prosecutor closed the prosecution side by filing such statement. Thereafter, statement of the appellant under section 342 Cr.P.C was recorded wherein he denied the allegations being false and claimed his innocence. However, he did not examine himself on oath as required u/s 340(2) Cr.P.C nor lead evidence in defence.

22. After hearing the learned counsel for the parties, learned trial court convicted the appellant through 3rd impugned judgment.

23. Learned Counsel for the appellant contended that appellant has been booked in a false case; per own narration of complainant the alleged offence took place during dark hours of night but no source of identification has been specified. He contended that there is mark different in between the prosecution story developed during investigation and that depicted during trial. He contended that per prosecution case, during incident only complainant Abid Ali sustained single injury whereas P.W-6 Dr. Irfan Khan deposed that he examined

injured and found seven injuries on the person of complainant Abid Ali and three injuries on the person of Haji. He further contended that there is delay of about 19 hours in registration of F.I.R though it is admitted position that the alleged incident had taken place near a police picket and per own deposition of P.W Haji the police personnel were deployed over there. He further contended that the complainant approached police station allegedly within 30 minutes time, but did not record his statement under section 154 Cr.P.C and press that appellant has been involved in this case under political motivation, which is evident from the fact that soon after registration of the F.I.R, appellant was arrested in a staged police encounter and recovery of pistol was affected from his possession. He lastly prays for allowing all instant appeals and acquittal of the appellant.

24. Learned D.P.G controverting submissions contended that prosecution has proved its case beyond shadow of doubt and learned trial court after appraisal of evidence has rightly convicted the appellant. He prays for dismissal of instant appeals.

25. Heard arguments and perused the material available on record.

26. From the scanning of evidence it transpires that prosecution case as initially built up was that appellant Ghulam Abass robbed mobile phones and cash amount of Rs.10,000/= from complainant Abid Ali and witness Haji by show of weapon and on resistance caused single injury to PW 1 Abid Ali; however, when he was referred for medical treatment, the M.L.O found seven injuries on his person, and three injuries on the person of P.W 2 Haji. PW 1 Abid Ali deposed that he sustained single injury, whereas P.W 2 Haji has categorically deposed that he did not sustain any injury at the hands of accused persons, which brings the ocular account in total conflict to the medical

evidence. It is further case of the prosecution that at the time of robbery accused were identified at spot but no source of light has been disclosed as the incident is alleged to have taken place in dark hours of night i.e. 2:45 a.m even it has not been denied that place of incident was near police picket, where police personnel were also deployed. It is quite surprising that accused and complainant party were known to each other and it is unbelievable that the dacoits would commit robbery from a known person and will leave evidence against him. PW 1 Abid Ali deposed in court that he sustained injury over head but per MLC there was no injury found over his head. In the present case complainant sustained simple bruises and was capable to set law into motion promptly but approached the police after 21 hours, which infers that prosecution case was set up. It is also case of prosecution that two mobile phones were robbed but complainant PW 1 Abid Ali and witness PW 2 Haji neither disclosed the S.I.M numbers used in both mobile phones nor deposed before Trial Court that after robbery the said SIMs were blocked. It further transpires from the record that after police encounter, the alleged robbed articles were also secured from the possession of the appellant, but no identification memo was ever prepared to say that the recovered articles were put to the witnesses and they identified the articles to be the same, as admittedly alleged recovered per own admission could be easily available in the market. PW 3 SIP Rajab Ali (investigation officer) deposed before the Trial Court that he did not get the sims used in mobile phones verified.

27. It is further case of prosecution that F.I.R of the robbery was lodged at 9:50 p.m after about 19 hours of alleged incident and quite surprisingly within one hour and 30 minutes after registration of first FIR on the same day, the appellant/ accused was arrested in a police encounter, wherein it was alleged that he sustained injury at the hands of his co-accused; however, this aspect of the prosecution case was belied from the deposition of P.W 5 Dr. Irfan Khan in

S.C No. 643/ 2023, who examined appellant Ghulam Abbas and found lacerated punctured wound with blackening margin, which reveals that appellant sustained injury from a very close range. It is the case of the prosecution that encounter took place wherein appellant Ghulam Abass was injured by the firing of co-accused, however none from police party sustained injuries. PW 1 Rajab Ali the complainant of encounter case did not produce departure entry in court through which they left police station for patrolling. The weapon was allegedly recovered on 23.04.2023 however sent for forensic analysis on 28.04.2023 and prosecution has failed to bring on record the reasons for such delay. The safe custody of weapon has also been compromised as PC Muhammad Irfan with whom the weapon was dispatched to forensic lab was not examined. Even the in charge of malkhana was not examined to prove the chain of safe custody of weapon during the intervening period.

28. Even while recording statement of the accused under section 342 Cr.P.C neither the arrest of the accused was put to him nor the alleged robbed articles were confronted to him that the same were recovered from his possession. From the observations rendered hereinabove it can safely be held that it was politically motivated case coupled with the fact that complainant Abid Ali during the proceedings before this court filed his affidavit negating his earlier stance of robbery and accorded his no objection for the acquittal of the appellant. It transpires that the robbery and subsequent recovery of robbed articles are managed as the mobile sets were easily available in the market and absence of any identification thereto hit at the roots of prosecution case.

29. It is settled proposition of law that multiple circumstances were not warranted to extend benefit of doubt to the accused but a single circumstance creating reasonable doubt in a prudent mind is sufficient to discredit the entire prosecution story and the benefit of which shall be extended to the accused not

as matter of grace but as a matter of right. Reliance in this regard is placed on case of ***Muhammad Akram v. The State*** **(2009 S C M R 230)**, wherein honorable Supreme Court has held that single circumstance was sufficient to record acquittal, if the same appears to be sufficient to discredit the prosecution story. In the instant matters, prosecution case suffers with material improvement and contradictions, which cut its root and benefit of same ought to be given to the accused as a matter of right.

30. For the foregoing reasons all the captioned three Criminal Appeals are allowed. Consequently, impugned judgments are set aside and appellant Ghulam Abbas s/o Ghulam Hussain is acquitted from the charge(s) of aforementioned all three cases. He is present on bail, his bail bond is canceled and surety stands discharged.

Office is directed to send copy of this judgment to the concerned police station for maintaining the record and so also keep signed copy of this judgment in the connected Criminal Appeals.

JUDGE

Approved for reporting

"Saleem"