

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

**Before:**

**Mr. Justice Riazat Ali Sahar,  
Mr. Justice Ali Haider 'Ada'**

**Criminal Jail Appeal No.D-45 of 2021**

Appellants: 1. Abdul Shakoor S/o Arbelo Sarki,  
2. Ghulam Abbas S/o Muhammad Bux  
Kanrani, *Through* Mr. Habibullah G.  
Ghouri, Advocate.

The State: *Through* Mr. Nazir Ahmed Bagnwar,  
Deputy Prosecutor General.

**Criminal Jail Appeal No.D-46 of 2021**

Appellant: Abdul Shakoor S/o Arbelo Sarki,  
*Through* Mr. Habibullah G. Ghouri,  
Advocate.

The State: *Through* Mr. Nazir Ahmed Bagnwar,  
Deputy Prosecutor General.

Date of Hearing: 08.06.2026.  
Date of Decision: 08.06.2026.  
Date of Reasons: 24.06.2026.

**J U D G M E N T**

**Ali Haider 'Ada', J.-** Through the captioned Criminal Jail Appeals, the appellants have called in question the judgment dated 18.11.2021, passed by the learned Special Judge, Anti-Terrorism, Shikarpur, in Special Case No.45 of 2020 arising out of FIR Crime No.154/2020 registered at Police Station A-Section Thull, District Jacobabad, for offences punishable under Sections 302, 324, 353, 34 PPC read with Section 6/7 of the Anti-Terrorism Act, 1997, and Special Case No.45-A of 2020 arising out of FIR Crime No.162/2020 registered at the same Police Station for offences punishable under Sections

23(i)-A and 25 of the Sindh Arms Act, 2013, whereby the appellants were convicted and sentenced as under:

a. Accused Abdul Shakoor and Ghulam Abbas were convicted for an offence punishable under Section 302(b) PPC read with Section 34 PPC and sentenced to suffer imprisonment for life. They were also directed to pay compensation of Rs.5,00,000/- (Rupees Five Lacs) each to the legal heirs of deceased ASI Abdul Razzaq Golo under Section 544-A Cr.P.C. In case of default in payment of compensation, they were further directed to undergo simple imprisonment for one year.

b. Accused Abdul Shakoor and Ghulam Abbas were convicted for an offence punishable under Section 324 PPC read with Section 34 PPC and sentenced to suffer rigorous imprisonment for ten years. They were also directed to pay fine of Rs.50,000/- (Rupees Fifty Thousand) each. In case of default in payment of fine, they were further directed to undergo simple imprisonment for three months.

c. Accused Abdul Shakoor and Ghulam Abbas were further convicted for an offence punishable under Section 353 PPC read with Section 34 PPC and sentenced to suffer rigorous imprisonment for two years.

d. Accused Abdul Shakoor and Ghulam Abbas were also convicted for an offence punishable under Section 7(a) of the Anti-Terrorism Act, 1997 and sentenced to suffer imprisonment for life. They were further directed to pay fine of Rs.200,000/- (Rupees Two Lacs) each. In case of default in payment of fine, they were directed to undergo simple imprisonment for six months.

e. Accused Abdul Shakoor was also convicted for an offence punishable under Section 24 of the Sindh Arms Act, 2013 and sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.30,000/- (Rupees Thirty Thousand). In case of default in payment of fine, he was directed to undergo simple imprisonment for three months.

All the sentences awarded to the appellants shall run concurrently, and the benefit of Section 382-B, Cr.P.C. shall be extended to them.

2. Brief facts of Crime No.154/2020, as disclosed in the FIR lodged by complainant ASI Bashir Ahmed Naseerani of Police Station A-Section Thull on 05.09.2020 at 1100 hours, are that on the same day he, alongwith police officials, proceeded for patrol duty. During patrolling, on receiving spy information that accused Ghulam Abbas Kanrani alongwith another person was coming on a motorcycle towards Imam Shah Street, the police party reached the pointed place. There they saw accused Ghulam Abbas alongwith an unknown accused approaching on a motorcycle. When signaled to stop, the accused allegedly took out T.T pistols and opened fire upon the police party. In the retaliatory firing, accused allegedly caused firearm injury to ASI Abdul Razzaq Golo, who succumbed to his injuries at the spot. The accused persons escaped, leaving behind their motorcycle. Thereafter, the complainant shifted the dead body to Taluka Hospital Thull and lodged the FIR, alleging that the accused persons obstructed the police party in the discharge of official duty and committed murder of ASI Abdul Razzaq Golo.

3. Brief facts of Crime No.162/2020 are that on 27.09.2020, accused Abdul Shakoor, while in custody in Crime No.154/2020, allegedly led the police party headed by Inspector Sudheer Ahmed Bhayo, SHO Police Station A-Section Thull, to the northern side of railway track near Dingri Bridge, where he produced an unlicensed 30-bore T.T pistol along with an empty magazine, claiming it to be the weapon used in the commission of the main offence. Consequently, the present FIR was registered.

4. After completion of the usual investigation, the challan was submitted before the competent Court. The learned trial Court framed amended charge against the

appellants/accused Abdul Shakoor and Ghulam Abbas on 19.03.2021, to which they pleaded not guilty and claimed trial.

5. The prosecution thereafter produced its evidence and examined PW-01 complainant ASI Bashir Ahmed Naseerani, who produced Roznamcha entries, memo regarding inspection of dead body of deceased ASI Abdul Razzaq, memo regarding securing of motorcycle left by accused, Danistnama, FIR No.154/2020, copy of handing over police papers to the Investigating Officer, and photographs of the secured motorcycle. PW-02 Ameerullah Noonari, an alleged eye-witness/mashir, produced memo of vardat, memo of receiving blood-stained uniform of deceased, and memo regarding preparation of sketch of suspected accused Abdul Shakoor. PW-03 PC Mehboob Ali Bugti was examined. PW-04 PC Muhammad Asghar Banglani produced memo of arrest of accused Abdul Shakoor. PW-05 HC Abdul Ghani Mahar produced the relevant memo of arrest of accused. PW-06 Inspector Sudheer Ahmed Bhayo, Investigating Officer, produced Roznamcha entries, list of legal heirs, photographs of deceased, criminal record of accused, copy of CNIC of accused Ghulam Abbas, chemical report, identification parade proceedings, memo regarding securing pistol, FIR of Crime No.162/2020, memo of place of occurrence of offshoot case, and FSL report. The prosecution further examined PW-07 ASI/Mashir Muhammad Saleh Rahoojo; PW-08 Tapedar Ghulam Asghar Sarki, who produced the sketch of the place of occurrence; PW-09 Dr. Abdul Rasheed Noonari, who produced Lash Chakas Form and postmortem report of deceased ASI; PW-10 Inspector/SHO Bashir Ahmed Magsi, who produced Roznamcha entries and receipt of depositing case property i.e. T.T pistol and FSL; PW-11 SIP/SHO Faqir

Muhammad Brohi; PW-12 ASI Sohrab Odho, author of FIR of offshoot case; PW-13 PC Ghulam Shabir Bhatti, who produced road certificates; and PW-14 Mr. Ramzan Ahmed Kalhoro, learned Civil Judge & Judicial Magistrate, Taluka Thull, who produced the application of Investigating Officer for holding identification parade of accused Abdul Shakoor, statements of PWs recorded under Section 164 Cr.P.C., identification parade memo, and other relevant documents. Thereafter, the prosecution closed its side.

6. Subsequently, statements of the appellants/accused were recorded under Section 342 Cr.P.C., wherein they professed their innocence and claimed false implication. They produced certain documents in support of their defence. After hearing the learned counsel for the parties, the learned trial Court delivered the impugned judgment, which has been assailed through the instant appeals.

7. Learned counsel for the appellants contended that the appellants have been falsely implicated due to previous enmity, as the mother of accused Ghulam Abbas had filed an application under Sections 22-A and 22-B Cr.P.C. against the complainant and other police officials. It was argued that due to such grudge, the name of appellant Ghulam Abbas was introduced in the FIR, whereas the name of the co-appellant Abdul Shakoor did not appear therein. His subsequent identification parade was argued to be doubtful and not in accordance with the settled principles governing identification proceedings. Learned counsel further argued that the alleged recovery was not connected with the crime, as the recovered weapon did not corroborate the prosecution version and the chain of evidence remained incomplete. According to him, the prosecution case was surrounded by serious doubts and

discrepancies, and the appellants were entitled to the benefit of doubt. He, therefore, prayed that the impugned judgment be set aside and the appellants be acquitted. He placed reliance upon the case of PLD 2019 SC 488 and 2012 SCMR 428.

8. Conversely, learned Deputy Prosecutor General supported the impugned judgment and argued that a police official was murdered during an encounter and there was no possibility of false implication of the appellants. He submitted that the prosecution had successfully proved its case before the trial Court and the alleged discrepancies were minor in nature, which did not affect the prosecution case. He prayed for maintaining the conviction and sentence awarded by the learned trial Court.

9. Heard the learned counsel for the parties and perused the material available on record with due care and caution under judicial scrutiny.

10. The prosecution case primarily rests upon the allegation that on 05.09.2020, deceased ASI Abdul Razzaq Golo was murdered as a result of firearm injury allegedly caused by accused Ghulam Abbas during an encounter with the police party. So far as co-accused Abdul Shakoor is concerned, his name was not mentioned in the FIR initially; however, subsequently, his involvement was introduced through an identification parade, with the allegation that he had also participated in the alleged encounter and fired upon the police party. The record reflects that a sketch of accused Abdul Shakoor was prepared by the Investigating Officer with the assistance of the IT Branch, and thereafter accused Abdul Shakoor was arrested on 23.09.2020. His identification parade was conducted on 26.09.2020. Whereas accused

Ghulam Abbas is shown to have been arrested on 07.01.2021, with the prosecution explaining that he was already confined in another case, and consequently an imaginary arrest memo was prepared. It is further the case of the prosecution that after the alleged occurrence, the accused persons left behind their motorcycle at the spot, which was secured by the complainant party. After registration of the FIR, investigation was entrusted to Inspector Sudheer Ahmed Bhayo, who inspected the place of occurrence on the same day and secured 12 empties allegedly fired from the side of accused persons. Besides this, 13 empties of 7.62 bore and 04 empties of G-3 rifle were secured from the place of occurrence, which according to the prosecution were fired from the side of police officials during the encounter. The above-mentioned circumstances, evidence, and manner of introduction of accused in the case require careful scrutiny. It is settled principle of criminal jurisprudence that the prosecution is required to establish its case beyond reasonable doubt through reliable, confidence-inspiring, and corroborative evidence. Therefore, each piece of evidence brought on record is required to be examined independently as well as collectively to determine whether the prosecution has succeeded in establishing an unbroken chain connecting the appellants with the commission of the alleged offence.

11. It is an important circumstance requiring careful consideration that, according to the prosecution version, the police party consisted of several police officials equipped with official weapons, including SMG and G-3 rifles. During the alleged encounter, the police officials allegedly retaliated and fired 13 rounds from SMG and 04 rounds from G-3 rifles towards the accused persons. However, surprisingly, no injury was sustained by any accused person, nor was any

evidence brought on record to establish that any bullet had struck the accused persons. The prosecution has taken the stance that the accused persons had taken shelter behind the motorcycle; however, the said motorcycle was not found having any bullet marks, scratches, or damage indicating that it had been hit during the alleged encounter. Conversely, the prosecution alleges that the fire of accused Ghulam Abbas hit deceased ASI Abdul Razzaq Golo, who was allegedly positioned with the protection of the police mobile. Nevertheless, no evidence has been produced to show any bullet mark or damage on the police mobile vehicle. The absence of any mark of firing upon the official vehicle assumes significance, particularly when, as per the prosecution version, the accused persons were armed with pistols and had the daring to directly open fire upon the police party. The sketch plan prepared by the Tapedar further reflects that the distance between the accused party and police party was approximately 12 feet. In such close proximity, the absence of any bullet mark upon the police mobile, or any other corroborative sign of firing creates a serious doubt regarding the manner of occurrence as narrated by the prosecution. It is settled principle that the Court is required to examine the prosecution story on the touchstone of natural conduct, probabilities, and surrounding circumstances. Where the alleged encounter does not find support from physical evidence available at the spot, such omission cannot be ignored while appreciating the evidence. Reliance in this regard may be placed upon the judgments of the Division Bench of this Court in the cases of ***Faiyaz Khan versus The State (2024 YLR 905)*** and ***Khalid Zafar versus The State (2024 MLD 1489)***.

12. As per the complainant, several houses were situated near the place of occurrence, and one house of Akber Sabayo was also located adjacent to the place of wardat. The mashir and eye-witnesses also deposed that houses and shops of other communities were situated near the place of occurrence. The sketch prepared by the Tapedar further reflects the existence of houses of Jumo Bugti and Jamal Din Bangulani. However, despite availability of independent persons in the vicinity, no independent witness was joined by the prosecution to corroborate the occurrence. No doubt, at the time of incident, persons present at the spot may hesitate to intervene or become part of the proceedings due to fear; however, subsequently, if any person had witnessed the alleged encounter or heard the sound of firing, such independent witness could have been associated by the prosecution. Failure to produce any such independent corroboration, despite the availability of inhabitants near the place of occurrence, is a serious omission in the prosecution case. Reliance in this regard may be placed upon the judgments of the Honourable Supreme Court in the cases of ***Muhammad Ramzan versus The State (2025 SCMR 762)*** and ***Muhammad Imtiaz Baig versus The State (2024 SCMR 1191)*** and ***Kashif Ali alias Kalu versus The State (2022 SCMR 1515)***.

13. The more important aspect requiring consideration is that, according to the prosecution version, the alleged encounter commenced at about 09:30 a.m. and continued till about 09:45 a.m., which is also shown to be the time of death of the deceased. However, the complainant deposed that he prepared the Danistnama/Inquest Report at the spot and also prepared the memo regarding inspection of the dead body and recovery of the motorcycle allegedly left by the accused

persons. The said memo was shown to has been prepared between 09:45 a.m. to 10:30 a.m., meaning thereby that such proceedings were conducted during said period. However, the Inquest Report reflects that the information regarding the occurrence was received by the police at about 10:00 a.m., and the police officials also inspected the dead body at about 10:10 a.m. This creates an apparent contradiction as it suggests that police officials other than the complainant party reached the place of occurrence between 10:00 a.m. and 10:10 a.m., whereas the Inquest Report mentions that ASI Bashir Ahmed (complainant) had informed the police regarding the incident. No corresponding Roznamcha entry or other material has been brought on record to establish when and through whom the police received information regarding the alleged occurrence. Such inconsistency regarding the time of information, arrival of police officials, and preparation of the relevant memos requires careful consideration while appreciating the prosecution evidence. Reliance in this regard may be placed upon the judgment in the case of ***Irshad Ali versus The State (2026 YLR 822)***. It is a settled principle of law that unexplained or unjustified delay in lodging the FIR provides an opportunity for consultation, deliberation, and subsequent improvement in the prosecution case. Reliance in this regard may be placed upon the judgments of the Honourable Supreme Court in the cases of ***Khial Muhammad versus The State (2024 SCMR 1490)***, ***Zafar Ali Abbasi and another versus Zafar Ali Abbasi and others (2024 SCMR 1773)***, and ***Muhammad Jahangir and another versus The State and another (2024 SCMR 1741)***.

14. The Investigating Officer also secured blood-stained earth from the place of occurrence. Subsequently, after the

postmortem examination, the police constable handed over the blood-stained clothes of the deceased to the Investigating Officer, who prepared the relevant memo. The record reflects that both articles were received by the Chemical Examiner on 09.09.2020. However, there is nothing available on record to establish that the blood found on the clothes of the deceased was compared or matched with the blood-stained earth secured from the place of occurrence. The mere report showing the presence of human blood on the recovered articles, by itself, is not sufficient to connect such articles with the deceased unless the prosecution establishes, through scientific evidence, that the blood belonged to the deceased. It is noteworthy that despite availability of blood-stained soil collected from the place of occurrence and blood-stained clothes of the deceased, no request was made by the prosecution for blood grouping, or comparative analysis of the blood samples. The prosecution failed to produce any report demonstrating that the blood stains on the clothes of the deceased corresponded with the blood-stained earth collected from the place of occurrence. Such omission assumes significance, particularly when both articles were available before the Chemical Examiner and could have been subjected to comparative examination. In absence of such scientific corroboration, the evidentiary value of the alleged recovery of blood-stained articles becomes doubtful. Reliance in this regard can be placed upon the judgments of the Honourable Supreme Court in the cases of ***Muhammad Asif versus The State (2017 SCMR 486)*** and ***Khalid Javed versus The State (2003 SCMR 1419)***. Similar view has also been taken by the Honourable Lahore High Court in ***Muhammad Ramzan versus The State (2026 YLR 361 DB-Lahore)***.

15. The motorcycle allegedly recovered by the police at the instance of the accused was neither shown to be owned by the accused nor was any connection established between the said motorcycle and the accused persons. Mere recovery of a motorcycle, without any corroborative evidence linking it with the accused, carries no evidentiary value and creates a reasonable doubt. Reliance in this regard is placed upon the cases of **Sultan Bahadur Yousfzai versus The State, 2024 MLD 1134** and **Ghulam Shabbir versus The State, 2023 YLR 153**.

16. So far as the question of involvement of accused/appellant Abdul Shakoor is concerned, the police officials, at the first instance, failed to provide any description or identification features of the said accused. His name was not transpired in the FIR, and the entire prosecution case against him subsequently developed on the basis of the allegation that he had also participated in the encounter. However, it is the prosecution's own case that the firing allegedly made by accused Abdul Shakoor neither hit the deceased nor caused injury to any other person. Such aspect creates an element of improbability in the prosecution version. Surprisingly, even in the FIR, neither the name of accused Abdul Shakoor nor his description or distinctive features were mentioned, which subsequently raises serious doubt regarding his identification and involvement in the occurrence. Reliance in this regard may be placed upon the judgment of the Honourable Supreme Court of Pakistan in the case of **Syed Fida Hussain Shah versus The State (2024 SCMR 1622)**.

17. The prosecution case regarding accused/appellant Abdul Shakoor is concerned, it is alleged that he was arrested

on 23.09.2020 and his identification parade was conducted on 26.09.2020, i.e. after a delay of three days. It is a matter of serious consideration that after his arrest, the accused remained in custody at the same Police Station where the complainant and other police officials, who subsequently participated in the identification parade as witnesses, were also posted. Such circumstance creates a serious doubt regarding the fairness, independence, and evidentiary value of the identification proceedings. The possibility of the accused being seen by the police officials prior to the identification parade cannot be ruled out, which adversely affects the credibility of such exercise. Such identification proceedings, being inconsistent with the requirements of Article 22 of the Qanun-e-Shahadat Order, 1984, cannot be relied upon as substantive evidence for recording conviction. Reliance in this regard may be placed upon the judgment of the Honourable Supreme Court of Pakistan in the case of ***Muhammad Ramzan versus The State (2025 SCMR 1742)***.

18. The prosecution case further reveals that during interrogation, accused Abdul Shakoor allegedly disclosed the place where the crime weapon had been concealed, and pursuant to such disclosure, the alleged crime weapon was recovered on 27.09.2020 from near Dhangri Bridge. Consequently, an offshoot case bearing Crime No.162/2020 was registered against accused Abdul Shakoor for offences punishable under Sections 23(i)-A and 25 of the Sindh Arms Act, 2013. As far as the relevancy and admissibility of such discovery is concerned, **Article 40 of the Qanun-e-Shahadat Order, 1984**, becomes relevant, which deals with the admissibility of facts discovered as a consequence of information received from an accused person while in

custody. For ready reference, Article 40 of the Qanun-e-Shahadat Order, 1984, is reproduced as under:

*40. How much of information received from accused may be proved: When any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.*

19. In order for the prosecution to successfully invoke Article 40 of the Qanun-e-Shahadat Order, 1984, it is required to satisfy certain foundational requirements. The prosecution must establish that the accused was in the custody of a police officer; that he voluntarily made a statement or provided information; that such statement or information led to the discovery of a new fact relevant to the offence; that the discovered fact was not previously within the knowledge of the police; and that the disclosure and recovery proceedings were properly documented, preferably through a written memo prepared in the presence of reliable witnesses. The above principle has been fortified by the judgment of the Honourable Supreme Court of Pakistan in the case titled ***Zafar Ali Abbasi and another versus Zafar Ali Abbasi and others, reported as 2024 SCMR 1773.***

20. In the present case, the opinion of an Ballistic expert has only corroborative value, if, it is useful for determining whether the direct evidence produced by the prosecution is trustworthy or otherwise. Reliance in this regard is placed upon the case of ***Noor Muhammad versus The State (2010 SCMR 97)***, wherein the Honourable Supreme Court held that recovery of crime empties and weapon with a positive FSL report may provide corroboration, but such evidence by itself is not sufficient to sustain conviction in the absence of

substantive evidence. Reliance is also placed upon the cases titled ***Zeeshan versus The State (2012 SCMR 428)*** and ***Nasir Javaid and another versus The State (2016 SCMR 1144)***.

21. In view of the foregoing discussion, when the prosecution evidence is found to be unreliable or remains unproved, and the witnesses fail to establish the guilt of the accused beyond reasonable doubt, the settled principle of benefit of doubt must be extended in favour of the accused. This principle is a cornerstone of criminal jurisprudence, founded upon the maxim **“In dubio pro reo”**, meaning that when there is doubt, it must operate in favour of the accused. The benefit of such doubt cannot be ignored, brushed aside, or discarded lightly; rather, it is the legal right of the accused and must result in his acquittal. Reliance in this regard may be placed upon the judgment of the Honourable Supreme Court of Pakistan in the case of ***Ahmed Ali versus The State (2023 SCMR 781)***, wherein it was held that:

*12. Even otherwise, it is well settled that for the purposes of extending the benefit of doubt to an accused, it is not necessary that there be multiple infirmities in the prosecution case or several circumstances creating doubt. A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle the accused to its benefit, not as a matter of grace and concession but as a matter of right. Reliance in this regard may be placed on the cases reported as Tajamal Hussain v. The State (2022 SCMR 1567), Sajjad Hussain v. The State (2022 SCMR 1540), Abdul Ghafoor v. The State (2022 SCMR 1527 SC), Kashif Ali v. The State (2022 SCMR 1515), Muhammad Ashraf v. The State (2022 SCMR 1328), Khalid Mehmood v. The State (2022 SCMR 1148), Muhammad Sami Ullah v. The State (2022 SCMR 998), Bashir Muhammad Khan v. The State (2022 SCMR 986), The State v. Ahmed Omer Sheikh (2021 SCMR 873), Najaf Ali Shah v. The State (2021 SCMR 736), Muhammad Imran v. The State (2020 SCMR 857), Abdul Jabbar v. The State (2019 SCMR 129), Mst. Asia*

*Bibi v. The State (PLD 2019 SC 64), Hashim Qasim v. The State (2017 SCMR 986), Muhammad Mansha v. The State (2018 SCMR 772), Muhammad Zaman v. The State (2014 SCMR 749 SC), Khalid Mehmood v. The State (2011 SCMR 664), Muhammad Akram v. The State (2009 SCMR 230), Faheem Ahmed Farooqui v. The State (2008 SCMR 1572), Ghulam Qadir v. The State (2008 SCMR 1221) and Tariq Pervaiz v. The State (1995 SCMR 1345).*

22. For the foregoing reasons and discussion, both the appeals were already allowed vide short order dated 08.06.2026, whereby the appellants were acquitted of the charge, the impugned judgment was set aside, and the Jail Authorities were directed to release the appellants forthwith, if they were not required in any other custody case. The following are the detailed reasons for the said short order.

**JUDGE**

**JUDGE**