

Judgment Sheet
**IN THE HIGH COURT OF SINDH, BENCH AT
SUKKUR.**

Criminal Appeal No. S – 80 of 2022
(Tauqeer Ahmed vs. The State)

Criminal Appeal No. S – 81 of 2022
(Falak Sher vs. The State)

Criminal Appeal No. S – 82 of 2022
(Azad Ali vs. The State)

Syed Israr Ahmed Shah, Advocate for Appellants..
Mr. Imran Mobeen Khan, APG

Date of hearing & Judgment: 16.09.2023

J U D G M E N T

MEHMOOD A. KHAN, J. Through captioned appeals, appellants Tauqeer Ahmed, Falak Sher and Azad Ali have impugned judgments dated 13.10.2023 passed by learned Additional Sessions Judge-IV (Hudood) Sukkur respectively whereby the appellants in off shoot cases were convicted and sentences separately in Crime Nos.80, 81,82 of 2020 of Police Station Baiji Shareef under sections 24 and 25 of Sindh Arms Act,2013 as set out in the impugned judgments. However, appellants were extended benefit of Section 382-B Cr.P.C.

2. The facts of the cases as well as evidence produced before the trial Court find an elaborate mention in the impugned judgments, therefore, the same are not reproduced here so as to avoid duplication and unnecessary repetition.

3. At the very outset, it is contended by learned counsel for the appellants that the main case in the matter has since been compounded by way of Judgment dated 17.08.2023 wherein he stated that they paid the diyat amount. Learned counsel further contends that Investigation Officer was the complainant and that there is contradiction in his deposition as he has failed to identify the accused Tauqeer Ahmed by face during the evidence. It is further contended that I.O in the examination in chief stated that private mashirs were arranged whereas in the cross examination at page 65 it is stated that no private mashir was available. It is also contended that only one mashir Rabail has been examined who has stated in the evidence that the property was not sealed nor memo was prepared. It is also pointed that eight days delay is present in sending the alleged Arms to F.S.L and neither Road Certificate nor dispatch Register has been produced. It is finally contended that alleged offence in the circumstances has become doubtful and convictions to the appellants are liable to be set aside.

4. Learned Assistant Prosecutor General supported the impugned judgment, however, contends that Investigation Officer is not restricted to be a complainant in accordance with law and that the tampering having not been alleged. They delay does not cast a fatal error. He has also contended that the conviction as present in the matter is liable to be upheld.

5. I have heard learned counsels for the parties and gone through the record.

6. Indeed the variations as specified by the learned counsel for the appellant are appearing from the record; however, it is observed that all these three FIRs are off shoot of crime which has been compounded. The version as alleged in the FIR No.80 of 2020 is quite unbelievable as the

said illicit arm is alleged to have carried openly without even a cloth over it. It is, however, observed that the connection between the weapon and the appellant which was required to be proved by two witnesses as such to uphold the conviction found to be at very weak footing and where only the complainant who is himself Investigating Officer. In the said circumstances along with one witness was brought up the conviction in the matter are not found sustained the safe administration of justice.

7. For the above stated reasons, I have no hesitation to hold that trial Court made errors in assessing the evidence. There are multiple circumstances in the cases, which created reasonable doubt as discussed above, a conclusion is irresistible and inescapable that the prosecution has failed to prove its case against appellants beyond reasonable doubt. Resultantly, aforesaid appeals are allowed. Conviction and sentence separately recorded by the trial Court vide judgments dated 13.10.2022 are set aside and appellants are acquitted of the. Appellants are present on bail, their bail bonds stand cancelled and sureties are discharged.

Irfan/PA

JUDGE