

Order Sheet  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

Cr. Appeal No. S- 13 of 2016  
Cr. Rev. Appl. No. S- 34 of 2016

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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Mr. Muhammad Hashim Leghari, Advocate for applicant.

Mr. Altaf Hussain Khokhar, A.P.G.

Date of Hearing : 28.01.2026

Date of Announcement : 02.02.2026

**ORDER**

**Omar Sial, J.** - On 10.01.2011, at 5:00 pm, Maqsood Ali was at home with his wife, Mst. Jameela, and his brother, Mushtaque, Nabi Bux, his wife (Mst. Rabiatal-Nisa), and his son (Umair) arrived and demanded that the complainant withdraw the Anti-Corruption application. Upon Maqsood's refusal, Mst. Rabiatal-Nisa instigated her son, Umair, to open fire. Umair fired his pistol at Maqsood with the intent to kill, but missed. Maqsood attempted to flee toward the stairs but Nabi Bux snatched the pistol from Umair and fired twice at Maqsood. The bullets struck Maqsood in the right thigh and the left leg near the knee, causing him to collapse. F.I.R. No. 11 of 2011 was registered under sections 324, 452, 114 and 34 P.P.C. at the Airport police station against Nabi Bux, his wife Rabiatal-Nisa and son Umair on the complaint of Maqsood Ahmed.

2. All three members of the family pleaded not guilty and claimed to be tried. At the trial the prosecution examined PW-1 Maqsood Ahmed (the injured and the complainant); PW-2 Jameela (Maqsood's wife); PW-3 A.S.I. Misri (the investigating officer) and PW-4 Dr. Pir Zainuddin (the doctor who treated Maqsood). In their respective section 342 Cr.P.C. statements the family professed innocence. At the end of the trial, the learned 3rd Additional Sessions Judge, Shaheed Benazirabad, acquitted Rabiatal-Nisa and Umair, but sentenced Nabi Bux to three years for an offence under section 337-F(v); two years each for

offences under section 337-F(ii) and (iii) as well as ordered him to pay daman. This judgment has been challenged in Criminal Appeal No. S-13 of 2016.

3. I have heard the learned counsel for the applicant and the learned Assistant Prosecutor General. The complainant was present but did not engage a lawyer to represent him. My observations and findings are as follows.

4. The complainant alleged that he was running down the stairs of their common shared house when three to four shots were fired upon him out of which two hit him. One on his thigh and one at the back of his knee. The police however found only one empty from the incident's place. The complainant's shalwar was inspected by A.S.I. Misri Khan, the investigating officer, who testified that the shalwar had only one hole in it. For reasons best known to the officer, that shalwar was not seized under a memo. No blood was seen or collected from the place of incident and the shalwar, said to be soaked in blood, was not produced as case property at the trial. The complainant said that more than a hundred people had gathered on the spot; however, not one of those hundred people was cited as a witness. The complainant said that he was taken to the hospital by his brother Mushtaque but, as mentioned, above, Mushtaque did not appear as a witness. This situation would give rise to an Article 129 presumption that had he testified he would have not supported the prosecution case. No bullet marks were found in the stairway or the house. That is odd as it was alleged that three to four shots were fired in a closed stairway/corridor. The incident occurred on 10.01.2011. Maqsood said that his brother Mushtaque took him to the hospital where he was admitted for two to three days. How then did he go to the police station to register the F.I.R. was not explained. He testified that the police had visited the incident's place in his absence. The memo prepared however states that the site was identified and seen at Maqsood's lead. Once again, that would be difficult to do in light of Maqsood's assertion that he was admitted in hospital. If he was not present and still a false memo was made, sheds a negative light on the investigating officer. Whether the site was even inspected became further shrouded in mystery when Jamila testified that the police had not come to their house after the incident.

5. The testimony of the doctor PW-3 Dr. Pir Zainuddin created further doubt in the prosecution case. He testified that "it is correct that injury no. 1 which is on inside of knee cannot be caused from front or back side." He also acceded that "it is correct that injury nos. 1 and 2 can be self-sustained." He also acknowledged that the medical certificate he had issued to Maqsood was challenged before a Special Medical Board and that the Board had suspended the

certificate and ordered disciplinary action against him for negligence and misconduct. Finally, he acceded that the Certificate he has given Maqsood was not submitted before the Board.

6. Given the above, the prosecution was unable to prove its case against the appellant beyond reasonable doubt. On the contrary this appears to be an action initiated with malice and ill-intent. The appeal is allowed and the applicant acquitted of the charge. He is on bail. His bail bonds are cancelled and surety discharged.

7. In view of the decision in Criminal Appeal No. S-13 of 2016, Criminal Revision Application No. S-34 of 2016 seeking enhancement of sentence is dismissed.

JUDGE

karar\_hussain/PS\*