

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

*Cr. Jail Appeal No.D-19 of 2017*

**PRESENT:**

*Mr. Justice Naimatullah Phulpoto  
Mr. Justice Shamsuddin Abbasi*

*Date of Hearing: 18.04.2018*

*Date of Judgment: 15.05.2018*

*Appellant/accused: Imran S/o Ghulam Mustafa Solangi,  
through Mr. Muhammad Sachal R.  
Awan, Advocate*

*The State: Through Mr. Shahzad Saleem  
Nahiyoon, Deputy Prosecutor General,  
Sindh.*

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

**SHAMSUDDIN ABBASI, J:-** This is criminal jail appeal filed by appellant Imran S/o Ghulam Mustafa, impugning the judgment dated 24.02.2017 passed by the learned Judge, Anti-Terrorism Court, Naushehro Feroze, in Special Case No.14 of 2014, arising out of Crime No.14 of 2014, registered at P.S Johi District Dadu, whereby the appellant has been convicted and sentenced to imprisonment for life and to pay compensation of Rs.100,000/-, to be paid to the legal heirs of deceased PC Muhammad Younis as envisaged under Section 544-A Cr.P.C. In case of default in payment of compensation amount, to further undergo rigorous imprisonment for one year. Benefit of Section 382-B Cr.P.C was extended to the appellant.

2. Concisely, the facts of the prosecution case as emerged in the FIR are that complainant ASI Ghulam Abbas Panhwar of PS Johi lodged FIR on 03.02.2014, alleging that on the same day, PCs Ghulam Murtaza and Muhammad Younis alongwith other police officials namely HC Muhammad Yousif and PC Abdul Raheem with arms and ammunitions vide roznamcha entry No.19 left police station for patrolling by foot at 2145 hours. During patrolling, when they reached at Mastoi Mohalla near the house of Ayoub Mastoi, they saw six persons on torch light duly armed with weapons going towards the house of Manzoor Laghari. The police party followed them and on the torch light PC Muhammad Younis identified accused Imran S/o Ghulam Mustafa Solangi, armed with K.K, Khalil Ahmed S/o Soomar Solangi, armed with TT Pistol, Zulfiqar S/o Jumoo Solangi, armed with K.K and three unidentified persons duly armed with pistols. The police party asked them to stop and in the meantime, accused Zulfiqar made straight fire upon PC Muhammad Younis with intention to kill him, which hit on the back left rib (Phanee), while accused Imran fired upon PC Muhammad Younis also with intention to kill him, which hit on the backside rib, who raised cries and fell down. The police party also fired upon the accused in self-defense. Thereafter, all the accused persons making straight fires upon police party escaped away. Resultantly, PC Muhammad Younis sustained two firearm injuries and blood was oozing from his injuries. Such information was communicated to the DSP / SDPO and SHO P.S Johi through cell phone. Thereafter, DSP and SHO Johi arrived at the place of incident. The complainant party then shifted injured PC Muhammad Younis to the Civil Hospital in government vehicle for treatment, where he was provided first aid and then was referred to Hyderabad for further treatment, where PC Muhammad Younis succumbed

to the injuries. His dead body was shifted to the Civil Hospital, Dadu for postmortem. After conducting postmortem, deceased's dead body was handed over to his brother Ali Asghar Shahani, hence the instant FIR.

3. After usual investigation, the Investigating Officer submitted challan against the accused under Section 512 Cr.P.C before the trial Court, showing them as absconder. Thereafter, accused Imran Solangi and Yaqoob Solangi were arrested and produced before the trial Court alongwith supplementary challan.

4. The learned trial Court framed the charge against the accused under Sections 302, 149 PPC r/w Section 7(1)(a) of Anti-Terrorism Act, 1997 at Ex-11. The accused did not plead guilty and claimed to be tried.

5. In order to substantiate the charge, the prosecution examined P.W-1 Dr. Niaz Ahmed Kalhoro, Medical Officer at Ex-14, who produced letter of police at Ex-14/A, lash chakas form at Ex-14/B, postmortem report at Ex-14/C, receipt of dead body at Ex-14/D. P.W-2 Complainant ASI Ghulam Abbas Panhwar was examined at Ex-15, who produced Danishnama at Ex-15/A, inspection of dead body at Ex-15/B, memo of last wearing of deceased at Ex-15/C, receipt of dead body at Ex-15/D, copy of FIR at Ex-15/E, memo of inspection of place of incident at Ex-15/F, copy of DD entry No.27 and 19 at Ex-15/G, copy of his further statement at Ex-15/H. P.W-3 PC Ghulam Murtaza Laghari was examined at Ex-16, who produced copy of his further statement at Ex-16/A. P.W-4 HC Muhammad Yousuf Hingoro was examined at Ex-17, who produced copy of his statement at Ex-17/A. P.W-5 SIP Rasool Bux Panhwar was examined at Ex-18. P.W-6 Tapedar Iqbal Ahmed was examined at Ex-19, who produced

copy of sketch at Ex-19/A. P.W-7 ASI Ghulam Rasool was examined at Ex-20, who produced copy of memo of arrest of accused Imran at Ex-20/B, certificate from Superintendent District Prison, Dadu at Ex-20/B, copy of memo of arrest of accused Yaqoob at Ex-20/C, copy of DD entry No.13 and 18 at Ex-20/D. P.W-8 PC Ghulam Rasool was examined at Ex-21. P.W-9 Muhammad Idrees Shahani was examined at Ex-22. P.W-10 I.O Inspector Akhtar Ahmed Abbasi was lastly examined at Ex-23, who produced chemical examiner's report at Ex-23/B. Thereafter, the prosecution closed its side.

6. Statement of the accused under Section 342 Cr.P.C was recorded by the trial Court at Ex-25, wherein the accused denied all the allegations leveled by the prosecution. Accused did not examine himself on oath nor led any evidence in his defence.

7. The learned trial Court after hearing learned Counsel for the parties and examining the evidence, vide judgment dated 24.02.2017, convicted the accused under Section 302 (b) PPC read with Section 7(1)(a) of Anti-Terrorism Act, 1997 and sentenced him as mentioned in the foregoing paragraph, hence, the appellant / accused has filed the instant jail appeal.

8. The learned Counsel for the appellant has contended that the appellant is innocent and he has been falsely involved in this case for the reasons that second I.O namely Amanallah was not examined by the prosecution; that it was night time incident and the identification of the accused was highly doubtful as the torch used by the police party in identifying the accused was also not produced during the trial; that there was enmity between Shahani and Solangi community, which has created

reasonable doubt in the prosecution story. Learned Counsel for the appellant further contended that co-accused Zulfiqar was declared as proclaimed offender, who after facing trial was acquitted of the charge on the evidence adduced by the prosecution and under consideration of the same evidence the trial Court has convicted the present appellant, which is against the principles of natural justice, therefore, he prays for acquittal of appellant Imran, whose case is identical to that of co-accused Zulfiqar.

9. Learned Deputy Prosecutor General has supported the judgment passed by the trial Court on the ground that eye witnesses have fully implicated the appellant. However, he has admitted that co-accused Zulfiqar has been acquitted by the trial Court considering the evidence on record but on the basis of same evidence appellant Imran has been convicted. He also admitted that further statement is concerned, which is not with regard to the appellant, as such, evidentiary value of further statement may not be assessed in appellant's case. He lastly admitted that report of ballistic expert with regard to the allegedly recovered weapon has not been produced in the case. He, however, opposed the present appeal.

10. We have heard the learned Counsel for the appellant, learned D.P.G as well as scanned the material whatever available before us.

11. In order to prove the ocular testimony against the appellant, the prosecution had examined P.W complainant ASI Ghulam Abbas Panhwar, P.W / PC Ghulam Murtaza, P.W / HC Muhammad Yousif as eye-witnesses of the incident.

12. P.W-2 ASI Ghulam Abbas being complainant of the case has stated that on 03.02.2014 he alongwith HC Muhammad Yousif and PC Abdul Raheem left P.S for patrolling within the jurisdiction of P.S Johi by

foot vide entry No.27 at 2145 hours. He further stated that after visiting the different places and checking the officials deployed at different places, when they reached at Mastoi Mohalla at 0015 hours on 04.02.2014, he found PCs Muhammad Younis Shahani and Ghulam Murtaza available on their duty. They met with them and it was 0030 hours they saw that six persons duly armed with weapons on flash of torch light and were identified to be Imran armed with K.K, Zulfiqar armed with K.K, Khalil armed with 30 bore pistol and three unidentified persons armed with K.Ks. Police asked them to surrender but accused Imran made straight fire on them, which hit PC Muhammad Younis Shahani. Accused Zulfiqar also fired upon them with intention to commit their murder, which also hit PC Muhammad Younis. Other accused also fired upon them and in their defense the police party fired upon the accused persons but they fled away towards west. Thereafter, they saw that PC Muhammad Younis was lying near the house of Manzoor Leghari in injured condition and then P.W Ghulam Abbas conveyed such message to DSP and SHO P.S Johi on mobile phone, who reached at the place of incident. P.W Ghulam Abbas, HC Muhammad Yousif, PCs Abdul Raheem and Ghulam Murtaza brought the injured PC Muhammad Younis to the Civil Hospital at Dadu in police mobile and at that time the injured was in serious condition, therefore, doctor referred him to LUMHS Hyderabad, where the injured succumbed to the injuries. Thereafter, the complainant party again shifted the dead body to Civil Hospital, Dadu and after completing the formalities the dead body was referred to the doctor for postmortem. After conducting such postmortem, ASI Ghulam Abbas lodged FIR of the incident. He further stated that after registration of FIR he alongwith private mashirs Abdullah and Muhammad Idrees visited the place of incident and secured blood-stained earth, 09

empties of SMG and 07 empties of 30 bore pistol fired by the accused persons from their weapons. He also secured 06 empties of K.K and 05 empties of G-3 rifle fired from the police side. Thereafter, he sealed the empties as well as secured blood-stained earth. He further stated that he recorded the statements of the witnesses under Section 161 Cr.P.C. Thereafter, he handed over the case papers alongwith case property to SIP / SHO Amanullah Channa for further investigation. He further stated that on 19.02.2014 the I.O SIP Rasool Bux Panhwar called him, HC Muhammad Yousif, PCs Ghulam Murtaza and Abdul Raheem at P.S Johi, where he recorded their further statement in which they disclosed the names of two unknown accused as Yaqoob Solangi and Adnan Rind. During cross-examination, he stated that he and HC Muhammad Yousif were duly armed with SMGs and PC Abdul Raheem was armed with G-2 rifle. He further stated that they saw the accused persons at the distance of 50 / 60 feet and encounter was continued for about 5 / 6 minutes. He has further stated that he fired 19 rounds of SMG and he admitted that none from the accused side sustained firearm injury. He further stated that they did not follow the accused persons. He has denied that people of Leghari community had committed the murder of PC Muhammad Younis. He further stated that he did not know whether dispute between Shahani and Solangi communities was continued. He also admitted that accused Imran is relative of main accused Zulfiqar. He further stated that he did not know whether the case bearing FIR No.51 of 2013 was registered against Shahani community at P.S Ranipur. He further stated that he did not know whether Leghari and Shahani communities had patched up at the night of incident and received Rs.20 Lacs as compensation and on their directions he registered this FIR against the accused falsely.

13. We have also examined the statement of P.W / PC Ghulam Murtaza (Ex-16). He has stated that on 03.02.2014 he alongwith PC Muhammad Younis Shahani were deputed jointly for patrolling duty at Mastoi Mohalla. He further stated that on 04.02.2014 at 0015 hours when they were available at Mastoi Mohalla, ASI Ghulam Abbas alongwith HC Muhammad Yousif and PC Abdul Raheem came there for checking their position, it was 0030 hours and they were available at the house of Manzoor Leghari, when they saw six accused persons on torch light and identified them to be Zulfiqar Solangi armed with K.K, Imran Solangi armed with K.K and Khalil Ahmed Solangi armed with pistol, while the remaining three unidentified persons were armed with pistols. ASI Ghulam Abbas, HC Muhammad Yousif and PC Abdul Raheem were also present at some distance. They informed the accused about presence of the police and asked them to surrender and on that accused Imran fired upon them, which hit PC Muhammad Younis. Accused Zulfiqar also fired from his K.K, which also hit PC Muhammad Younis. He further stated that accused persons also fired upon them with intention to kill them and the police party also made firing in their defense. Thereafter, the accused persons fled away towards western side. They saw that PC Muhammad Younis was in injured condition. ASI Ghulam Abbas informed the DSP and SHO P.S Johi about the incident through mobile phone. They immediately reached at the spot. He further stated that he alongwith ASI Ghulam Abbas, HCs Muhammad Yousif and Abdul Raheem shifted the injured to the Civil Hospital, Dadu but due to his serious condition, the injured was referred to LUMHS Hyderabad. They got the injured at LUMHS Hyderabad where the doctor examined and disclosed that injured has expired. Thereafter, they got the dead body to PC Muhammad Younis at Civil Hospital, Dadu. The Police completed the



formalities and got conducted postmortem. The police also recorded the statements of the P.Ws under Section 161 Cr.P.C. He further stated that on 19.02.2014 he was called by SIP Rasool Bux at P.S Johi and recorded his further statement in which he had disclosed the names of two unknown accused persons as Adnan Rind and Yaqoob Solangi. During his cross-examination, he stated that firing was made from the distance of 50 / 60 feet and encounter was continued for 5 / 6 minutes. He also stated that PC Muhammad Younis was lying near the house of Manzoor Leghari and he admitted that they did not chase the accused persons. He further stated that soon after the incident, SHO Ahtisham Jamali and DSP Muhammad Umar Shahani arrived at the place of incident . He further stated that he did not know whether the deceased was relative of DSP Muhammad Umar Shahani. He further denied that PC Muhammad Younis was murdered by Leghari community due to Karap matter. He further stated that he did not know about matrimonial dispute between Shahani community and Solangi community. He further stated that he did know whether any patched up was held between Leghari and Shahani community and they have received Rs.20 Lacs, as such, this FIR registered against Solangi community. He further stated that he fired 12 rounds.

14. Thereafter, we have examined the statement P.W-4 HC Muhammad Yousif (Ex-17). Almost he has stated on the same line as stated by P.W / ASI complainant Ghulam Abbas. Surprisingly, he has also given the same distance in between them and accused persons by disclosing that the distance was 50 / 60 paces. He further stated that the distance in between PC Muhammad Younis and accused persons was about 10 feet. He also stated that he fired 15 rounds and was holding SMG rifle. He further denied that the people of Leghari community had committed

the murder of PC Muhammad Yonis. He further stated that he did not know whether the dispute was going on in between Shahani and Solangi community, though he admitted the relating in between the main accused Zulfiqar and the present appellant Imran. The learned Counsel for the appellant had put all the said questions in their defense which the P.W had denied.

15. We have also examined the statement of P.W-5 SIP Rasool Bux (Ex-18). He has stated that on 07.02.2014 he received case papers of Crime No.14 of 2014. On 19.02.2014 he called ASI Ghulam Abbas, HC Muhammad Yousif, PC Abdul Raheem and PC Ghulam Murtaza and recorded their further statements under Section 162 Cr.P.C in which all the witnesses disclosed two more accused persons namely Yaqoob Solangi and Adnan Rind, who were also involved in the commission of the crime.

16. We have also examined the statement of P.W-6 Iqbal Ahmed, who prepared the sketch of the place of incident, which is reproduced as under:-

Point-A: Denotes the place where PC Muhammad Yonis was said to have received injuries near the house of Manzoor Leghari in the street.

Point-B: Denotes the place wherefrom accused persons fired upon PC Muhammad Yonis Shahani, distance between B and A point would be 15 feet.

Point-C: Denotes the place where complainant and witnesses HC Muhammad Yousuf, PC Abdul Raheem and PC Ghulam Murtaza were said to be present, distance between point-C and A would be 20 feet and from point-B to C will be 35 feet.

17. We have then examined the statement of P.W-7 ASI Ghulam Rasool S/o Jumo Khan, who arrested the present appellant Imran from District Jail Dadu in this case in presence of mashirs HC Ghulam Nabi and PC Ghulam Rasool.

18. Thereafter, we have examined the statement of P.W-8 PC Ghulam Rasool S/o Lal Bux, who has been cited as mashir of the arrest of appellant Imran. He stated that ASI Ghulam Rasool had arrested the accused Imran from the District Jail, Dadu.

19. We have also examined the statement of P.W-9 Muhammad Idrees, who has also been cited as mashir of the scene of dead body and signed mashirnama of inspection of dead body and danishnama, which were prepared at Civil Hospital, Dadu on 04.02.2014. During his cross-examination, he stated that PC Muhammad Younis was his brother-in-law.

20. We have also examined the statement of P.W-10 Inspector Akhtar Ahmed, who had conducted the investigation of the case. Thereafter, the prosecution had closed its side and the learned trial Court recorded the statement of accused Imran under Section 342 Cr.P.C in which he has stated that he had enmity with Shahani community and his cousin Zulfiqar was eye witness of Crime No.51 of 2013 of P.S Ranipur registered against Shahani community and the said case is pending before the Anti-Terrorism Court, Khairpur. He further stated that they refused to oblige the Shahani community, therefore, this false case was registered against him and he finally prayed for justice. The accused had also produced copy of FIR bearing No.51 of 2013 registered at P.S Ranipur under Section 365-A, 302, 147, 148, 149 PPC.

21. The learned trial Court had acquitted accused Yaqoob on the same set of evidence on the ground that the name of accused Yaqoob does not transpire in the FIR and the complainant party disclosed his name in their further statement recorded on 19.02.2014 under Section 162 Cr.P.C. After perusal of the evidence of all the witnesses, it appears that the

incident had taken place in the odd house of the night and the source of identification was disclosed as torch light, which is already treated as very and usual source of identification particularly when the complainant party did not disclose the fact that how they know the accused person. The case of the prosecution is doubtful on the ground that the source of identification has been disclosed on torch light but neither the said torch light was secured during the investigation, nor was produced during the trial, which itself makes the whole prosecution case doubtful. Learned Counsel for the appellant had also produced certified true copy of the judgment dated 06.03.2018 passed in Special Case No.78 of 2017 (re: The State v. Zulfiqar Solangi & another), in which the learned trial Court had acquitted the main nominated accused to whom specific role has been assigned that accused Zulfiqar fired from his Kalashnikov, which hit deceased Muhammad Younis. This co-accused Zulfiqar remained absconder and he after conviction of the present appellant was arrested and police submitted supplementary challan before the same Court where appellant was tried and finally the learned trial Court had acquitted co-accused Zulfiqar for the following reasons.

19. Heard learned APG for the State, learned Counsel for the accused and perused evidence brought on the record. P.W / Complainant has not supported the case of prosecution by deposing that he cannot identify accused present in the court due to lapse of time, he was declared as hostile by the learned APG for the State but nothing favourable to prosecution has come on record. PW-HC Muhammad Yousif Hingoro and PC Ghulam Murtaza Laghari eye witnesses of the incident also not supported the case of prosecution by deposing that due to lapse of time they could not identify accused present in the court. The evidence of remaining witnesses is not helpful to prosecution to prove its case when complainant and both eye witnesses have not supported the case of prosecution by not implicating accused in the commission of offence. From above discussion I have come to the conclusion that the prosecution has failed to prove the guilt of accuse beyond shadow of reasonable doubt therefore, I answer this point as doubtful.

Point No.3.

In view of my findings on point No.2 supra, I have come to the conclusion that prosecution has miserably failed to establish its case against present accused beyond any shadow of reasonable doubt, I, therefore, while extending benefit of doubt acquit Zulfiqar Solangi son of Jumo Solangi from charge of this case. He is produced in custody, remanded back with release writ with directions to be released forthwith if not required in any other custody case.”

22. The case of the present appellant rests upon the same set of evidence to the extent that the learned trial Court extending the benefit of doubt co-accused Yaqoob was acquitted of the charge, who was tried alongwith the present appellant. On the other hand, the learned trial Court has also acquitted the main nominated co-accused Zulfiqar as the prosecution witnesses comprising of the police officials did not implicate him and also not supported the case of prosecution against co-accused. At this juncture, we are of the considered view that conviction of appellant is beyond reasonable shadow of doubt and the evidence of the prosecution witnesses is not reliable, trustworthy and confidence inspiring, therefore, in absence of cogent and persuasive evidence we are unable to hold the appellant guilty of an offence in which co-accused has already been acquitted though he remained absconder. The law provides various parameters for conviction particularly in case of life imprisonment or death and we have to remain very cautious and careful while awarding major punishment to an accused, whose case depends upon highly doubtful reasons as are emerging in this case that identification of accused is on torch light but neither said torch was secured during investigation, nor was produced by the prosecution during trial. In this respect, reliance is placed on the case of *NAZEER AHMAD V/S. GEHNE KHAN & OTHERS* reported as *2011 SCMR 1473*, wherein the Honourable Supreme Court of Pakistan has stipulated as under:-

“3. Having heard learned counsel for the petitioner at some length, we find that in disbelieving the prosecution evidence, learned High Court was persuaded by the fact that there was an unexplained delay of seven hours in lodging the F.I.R; that the two eye-witnesses resided at a distance of six / seven acres from the place of occurrence; that the respondents were declared innocent during investigation; that it was a night occurrence and the source of light was allegedly a torch which was never taken into possession and that there was a delay even in having postmortem conducted, which adversely reflected on the credibility of the prosecution version.”

23. In continuation of the above, this Court has also relied upon the case of *BASAR V/S. ZULFIQAR ALI & OTHERS* reported as *2010 SCMR 1972*, in which the Honourable Supreme Court has maintained as follows:-

“7. It is also alleged by the prosecution that the witnesses had identified the culprits on torch lights. The complainant and P.Ws. did not produce the torches before the police immediately but the same were produced after 10 days of the incident.”

24. In the case of *MUHMAMAD AFZAL V/S. THE STATE* reported as *2017 SCMR 1645*, it is held that if some accused are acquitted on the basis of same set of evidence the said evidence can be believed to the extent of the other accused facing the same trial but the courts have to be at guard and are required to look for corroborating evidence for maintaining conviction in such like cases. In this case no corroborative piece of evidence has been brought on the record by the prosecution for maintaining the conviction.

25. Furthermore, the evidence of all the prosecution witnesses is highly doubtful on the ground that they have stated that they met with each other and were standing at the place of incident but sketch prepared by the Tapedar on the direction of the complainant shows that the distance in between all the police officials and the deceased was 20 feet and it was shown that deceased was standing alone, which creates much doubt in a prudent mind that when the police officials were standing altogether then

how the deceased PC Muhammad Younis was standing alone. Another aspect of this case, which makes the prosecution case highly doubtful on the ground that all the six police officials were duly armed with highly sophisticated weapons and on the other hand six accused persons who were also armed with sophisticated weapons but none had received single injury from either side. It is pertinent to mention here that neither any prosecution witness has stated that they had taken any shelter nor stated that accused had taken shelter at the distance in between the police party and accused which was 50 / 60 feet, which is not possible where firing was continued for 5 / 6 minutes with automatic weapons in a narrow street but none had received any single scratch in this incident. Another aspect of the case which makes the whole case doubtful that there is inconsistency in between the medical evidence and the ocular evidence as all the prosecution witnesses have stated that deceased had received firearm injuries from his front side, whereas, the postmortem report reveals that;

- (1) Firearm injury measuring 0.5 c.m x diameter into cavity deep, would stitched burning present on the upper part of left scapular region. Injury of entrance.
- (2) Firearm injury measuring 1.5 c.m. into diameter into cavity deep on the upper part of left side of chest. Injury of exit.
- (3) Firearm injury measuring 0.5 c.m. into diameter into cavity deep burning present, wound stitched on the lower part of left scapular region. Injury of entrance.
- (4) Firearm injury measuring 1.5 c.m. into diameter into cavity deep wound stitched blow injury No.1. Injury of exit.

26. It is a matter of record that deceased had received both the injuries from his backside but eye witnesses have stated that deceased had received injuries from front side. In such situation, the prosecution has failed to prove its case beyond reasonable shadow of doubt and the benefit of such doubt has to be extended to the appellant. It is well settled principle

of law that if there creates some reasonable doubts in a prudent mind then the benefit whereof is to be extended in favour of the accused as observed in the case of TARIQ PERVEZ V/S. THE STATE, reported as 1995 SCMR 1345, wherein, the Honourable Supreme Court of Pakistan has held as under:

*“It is not necessary that there should be many circumstances creating doubts. If there is a single circumstance, which creates reasonable doubt in a prudent mind about the guilt of any accused, then the accused will be entitled to the benefit not as a matter of grace and concession but as a matter of right.”*

27. In view of the above stated reasons, we are of the considered opinion that the case of the prosecution was highly doubtful and the learned trial Court while passing the judgment has not appreciated the evidence against the appellant as was appreciated in the case of co-accused and in such circumstances we by extending benefit of doubt to the appellant, set aside the conviction and sentence recorded by the trial Court against the appellant vide judgment dated 24.02.2017 and consequently the present appeal is allowed. Appellant Imran S/o Ghulam Mustafa Solangi, who is confined in Central Prison, Hyderabad, is ordered to be released forthwith if he is not required in any other custody case.

**JUDGE**

**JUDGE**