

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-79 of 2022
Criminal Appeal No.D-80 of 2022

Present:-

Mr. Justice Mahmood A.Khan,
Mr. Justice Zulfiqar Ali Sangi

Appellants: Abdul Rasheed Mahar [Criminal Appeal No.D-79/2022] through Mr. Muhammad Sachal R. Awan, Advocate.
Faiz Muhammad Sheikh [Criminal Appeal No.D-80 of 2022] through Mr. Muhammad Zubair Malik, Advocate.

Respondent: The State through Agha Abdul Nabi, Special Prosecutor for ANF.

Date of hearing: 15.08.2023 & 04.10.2023.

Date of Decision: 13.10.2023.

J U D G M E N T

ZULFIQAR ALI SANGI, J. Since both these criminal appeals are arising out of one and the same crime as well as judgment, as such, the same are decided together. The appellants, through their Appeals have respectively assailed the conviction judgment dated 27.05.2022, passed by learned Special Judge Control of Narcotic Substance / Model Criminal Trial Court-II / Vth Additional Sessions Judge, Hyderabad in Special Case No.109 of 2021, emanating from Crime No.11 / 2021 for the offence punishable under section 9-C CNS Act, 1997, registered at PS ANF, Hyderabad. The impugned judgment was pronounced after finding the appellants guilty whereby both the appellants were convicted for the offence punishable under section 9-C CNS Act, 1997 and appellant Abdul Rasheed was sentenced to suffer R.I. for ten years with fine of Rs.200,000/- ; in case of default whereof, he shall suffer S.I. for six months more whereas, appellant Faiz Muhammad was sentenced to suffer Life Imprisonment (R.I.) with fine of Rs.500,000/- in case of default whereof, he shall suffer S.I. for one year more. However, they were extended the benefit of Section 382-B of Cr.PC.

2. Brief facts of the prosecution case are that on 02.07.2021 complainant Inspector/SHO Naeem Khan of Police Station ANF Hyderabad was on duty, spy appeared and shared information that inter-provincial drug paddler namely, Faiz Muhammad and Abdul Rasheed after concealing huge quantity of narcotic in Suzuki Khyder Car No.U-5863 will pass Giddu Chowk between 1200 hours to 1300 hours to supply the same to their specific customer via National Highway Shikarpur to Hyderabad and an immediate action can bring the definite arrest and recovery. On receiving such information, in view of directions of high ups, a raiding party consisting upon complainant, ASI Iqbal Hussain, PC Asim Saleem, PC Mudasar Khan, PC Ameer Hamza, PC Shafat, PC Dilshad, PC Asif Ali, PC Gulsher and Driver Ashique Hussain was constituted and they along with informer in Government Mobile vehicle duly equipped with weapons vide entry No.06 at 12:00 noon proceeded towards shed light place and arrived at pointed place viz. road coming from Kotri to Giddu Chowk at 12:15 p.m. where started secret surveillance. Near about 12:45 p.m., above noted Car was coming from Kotri and reached near to complainant party, they on signal got stopped it on left side of the road. Both the persons sitting in Car were apprehended. Though the police tried to act passerby as witnesses of the recovery proceedings but they refused, as such, P.C Asim Saleem and P.C Mudasar Khan were nominated as mashirs. On inquiry driver disclosed his name to be Abdul Rasheed s/o Muhammad Ramzan, by caste Mahar and other person sitting on second seat disclosed his name as Faiz Muhammad s/o Mir Muhammad. On query about charas, after a tiny resistance, apprehended person sitting on driver seat disclosed the availability of packet of charas beneath the driver seat and he himself took out five multi colour foil packets and handed over the same to complainant, which were checked and found containing two slabs of charas in each foil packet. On query, another person namely Faiz Muhammad after short confrontation admitted the presence of charas in a white colour nylon sack lying in the mid of his legs and handed over the same to complainant, which was checked and found containing 28 multi colour foil packets and each packet was containing two slabs of charas. Complainant weighed five foil packets recovered from Abdul Rasheed and found each weighing one kilogram total five kilograms. Out of each slab, 10/10 grams charas viz. 20 grams was separated and such five samples in Khaki envelope were prepared for Chemical

Examination by applying Nos.1 to 5 on each sample, and then sealed all the samples in a white cloth bag. Complainant also sealed remaining foil packet of charas in white cloth bag by applying Nos.1 to 5 for identification. After that complainant weighed each foil packet recovered from Faiz Muhammad separately and found each packet weighing one kilogram total 28 kilograms, then separated 10/10 grams from each slab viz. 20 grams from each foil packet by preparing 28 samples of 20 grams for Chemical Examination and kept the same in Khaki envelope after applying Nos. 1 to 28 on each sample, then sealed all the samples in a white cloth bag. Complainant also sealed remaining foil packet of charas in same sack by applying Nos.1 to 28 for identification. On personal search of accused Abdul Rasheed, one mobile phone VGOTEL along with SIM, colour copy of running paper of above Car bearing No.U-5863 in the name of Muhammad Aslam Kamal s/o Kamaluddin, R/o 478-A, Korangi No.5, Karachi and one note of Rs.500/- from his right side pocket were recovered. Complainant also took personal search of accused Faiz Muhammad and secured one original CNIC in his name, one mobile phone VGOTEL along with SIM and Pak currency notes of Rs.600/-. On query about Car, accused Abdul Rasheed disclosed that it is owned by him. Thereafter, entire recovered property was taken into custody, and then such memo of arrest and recovery was prepared in presence of above mashirs. Thereafter, accused and case property were brought at Police Station where complainant registered the present FIR.

3. After the usual investigation challan of the case was submitted before the court having jurisdiction. The legal formalities including the supply of documents were completed and then the charge against appellants was framed to which they pleaded not guilty and claimed trial. At the trial, the prosecution examined P.Ws. PC Ameer Hamza (messenger of sealed parcel), Inspector/SHO Naeem Khan who was complainant and also an investigation officer and mashir PC Muhammad Asim Saleem, who produced relevant documents and the items in support of their evidence and then the prosecution closed its side.

4. After examination of the prosecution witnesses, the appellants were given a chance to explain the prosecution evidence by recording their statements under Section 342 Cr. P.C., in which

they denied all the allegations and claimed to be innocent. However, neither they examined themselves on oath nor led defence evidence to disprove the allegations levelled against them.

5. On conclusion of the trial, learned trial court after hearing the parties convicted and sentenced the appellants through the impugned judgment as stated above.

6. Learned counsel for the appellants mainly argued that the appellants are innocent and have been falsely implicated in this case; that no independent witness was associated despite information in advance which makes the case doubtful; that the police had information that the accused are transporting contraband material from Shikarpur and would reach at Hyderabad between 12.00 noon to 1300 hours and reached at 12.45 noon and how it is possible that they (accused) can reach at accurate time as calculated by the police and in the way there are number of police pickets but none secured the contraband material which was alleged to have been kept beneath the driver seat, as such, on this score the case of prosecution is doubtful; that description of alleged recovered foils containing charas such as colour, shape etc. are not mentioned in the memo of recovery; that there is violation of Article 17 and 79 of the Qanoon-e-Shahadat, 1984, as the complainant was acting as complainant, investigation officer as well as the scribe of the memo of recovery and only one mashir and messenger of sealed parcel were examined by the prosecution and the others were left without any reason; that the prosecution was required to examine at least two mashirs of the recovery to prove the mashirnama of recovery; that though it was alleged that appellants were coming from Shikarpur but the receipt of tool plaza or the receipt of any petrol pump were not recovered from them to prove their traveling; that major contradictions were available in the evidence of witnesses but the same were not considered by the trial court; that all the witnesses are police officials and the mashir is subordinate of the complainant, therefore, their evidence cannot be relied upon. Lastly, they submit that the entire case of the prosecution is doubtful therefore by extending the benefit of the doubt the appellants may be acquitted by allowing their appeals. In support of their contentions they relied upon the cases of The State through Regional Director ANF v. IMAM BAKHSH and others (2018 SCMR 2039), SUBHANULLAH v. The

STATE (2022 SCMR 1052), AKHTAR MEEN v. The STATE (PLD 2022 Sindh 84), ABDUL GHANI and others v. The STATE and others (2019 SCMR 608), IKRAMULLAH and others v. The STATE (2015 SCMR 1002), MAULA JAN v The STATE (2014 SCMR 862), ZAHOOR AHMED AWAN and another v. THE STATE (1997 SCMR 543), TARIQ PERVEZ v THE STATE (1995 SCMR 1345) and NOORUL HAQ v. THE STATE (1992 SCMR 1451).

7. On the other hand, learned counsel for the ANF has contended that the prosecution has successfully proved its case by examining the P.Ws, who have no enmity with the appellants; that there are eyewitnesses who deposed that in their presence the appellants were arrested and narcotics was recovered from them under the mashirnama of arrest and recovery; that no major contradiction is pointed out by the defence counsel; that all the P.Ws have supported the prosecution case, therefore, conviction and sentence awarded by the trial court requires no interference by this court and the appeals of the appellants are liable to be dismissed. Learned special prosecutor has relied upon the cases of GULSHAN SHAIKH v. The STATE (2016 PCr.LJ 1860), The STATE/ANF v. MUHAMMAD ARSHAD (2017 SCMR 283), FAISAL SHAHZAD v. The STATE (2022 SCMR 905) and Raja EHTISHAM KIYANI v The STATE (2022 SCMR 1248).

8. We have heard learned counsel for the appellants as well as learned special prosecutor for the ANF and perused the material available on record with their able assistance.

9. The re-appraisal of evidence brought on record established that the prosecution has successfully proved its case against the appellants/accused beyond any reasonable shadow of doubt by producing reliable, trustworthy and confidence-inspiring evidence. The prosecution to prove the case against the appellants has examined two eyewitnesses in respect of the arrest and recovery of contraband material from the possession of the appellants. PW Inspector/SHO Naeem Khan, the complainant so also the investigating officer of the case, whereas, PW P.C Muhammad Asim Saleem is the eyewitness and the mashir. Both the witnesses deposed against the appellants in the same line and stated that on 02.07.2021, they were available at PS ANF Hyderabad. The informer provided information to fame drug peddlers namely Abdul Rasheed

and Faiz Muhammad (appellants) are bringing narcotics in huge quantities by car bearing No.U-5863 of grey colour via National Highway from Shikarpur to Hyderabad to supply drug to their customer and they will cross Giddu Chowk between 1200 hours to 1300 hours and if rapid action could be taken, then the arrest and recovery would be made. On receipt of such information, on the instruction of higher authority, a raiding party was constituted comprising over complainant, ASI Iqbal Hussain, Police Constables namely Mudasar Khan, Asim Saleem, Shafat, Asif Ali, Ameer Hamza, Gul Sher and driver Ashique Hussain. They left PS along with informer in a government vehicle equipped with weapons vide entry No.06 at 1200 hours and at 1245 hours they arrived at the pointed place viz. Giddu Chowk at the road coming from Kotri where they started surveillance. It was about 1245 hours, the said car was spotted coming from Kotri side, which was signaled to stop under the pointation of spy informer. The car was stopped on the left side of the road. The passerby was asked to act as mashir but they regretted. They then apprehended the persons who were sitting in the driver's seat and in the front seat. The person who was sitting in the driver's seat was asked about his identity who disclosed his name as Abdul Rasheed s/o Muhammad Ramzan by caste Mahar, r/o Taluka Lakhi Ghulam Shah, District Shikarpur. Second person sitting on passenger seat of front side disclosed his name as Faiz Muhammad s/o Mir Muhammad by caste Shaikh r/o Taluka Lakhi Ghulam Shah, District Shikarpur. They inquired from driver about the presence of narcotics in their vehicle, who after a short resistance disclosed about the narcotics available under the driving seat and he himself took out five multi colour foil packets and handed over the same, which were checked by applying cut and found containing two slabs of charas in each foil packet. On inquiry, second person namely Faiz Muhammad after some resistance admitted the presence of charas in a sack lying in the mid of his legs and handed over the same, which was checked and found containing 28 multi colour foil packets, which were also checked by applying cuts and found each foil containing two slabs of charas. Each packet recovered from Abdul Rasheed was weighed separately and found each packet weighing one kilogram, total five kilograms. They separated 10 grams from each slab i.e. 20 grams from each foil packet and prepared five samples of 20 grams for chemical examination by putting the same in Khaki envelope and applying numbers 1 to 5 on each sample, then sealed

all the samples in a white cloth bag. They also sealed rest foil packets of charas recovered from accused Abdul Rasheed in white cloth bag by applying Nos.1to5 for identification. Thereafter complainant weighed each foil packet recovered from Faiz Muhammad separately and found each packet weighing one kilogram total 28 kilograms, from each slab they separated 10 grams i.e. 20 grams from each foil packet and prepared 28 samples of 20 grams for chemical examination by putting the same in Khaki envelope and applying numbers 1 to 28 on each sample, then sealed all the samples in a white cloth bag. The rest foil packet of charas recovered from accused Faiz Muhammad was sealed in same sack by applying Nos.1 to 28 for identification. Thereafter, a physical search of both persons was conducted. From accused Abdul Rasheed they secured one mobile phone Vigo Tel along with Sim, one note of Rs.500/- and running paper of said Car, which was in the name of Aslam Kamal s/o Kamal Din r/o Korangi. On inquiry about the Car, Abdul Rasheed disclosed that he is owner of the same. On personal search of accused Faiz Muhammad they secured one original CNIC in his name, one mobile phone Vigo Tel along with Sim and Pak currency notes of Rs.600/-. Then complainant took custody of entire property including vehicle and its key and prepared memo of arrest and recovery in presence of mashirs. The accused, recovered case property and car were brought at police station where Car was parked in the premises of police station and maintained such arrival entry in Register bearing No.7 and registered FIR. ***The complainant kept the case property in the Malkhana being in-charge of Malkhana for safe custody purposes and maintained entry in Register No.19 vide No.224.*** On the same date, the complainant conducted the investigation and recorded the 161 Cr.P.C. statements of witnesses. Due to weekend Holidays, on 05.07.2021, complainant sent the samples of sealed parcels to Chemical Examiner at Karachi through PC Ameer Hamza, who after depositing the same came at police station, hence, his 161 Cr.P.C. statement was recorded. Both the witnesses were cross-examined at length by the defence counsel but nothing favoring the appellants come from their mouth hence their evidence seems to be reliable, trustworthy and confidence inspiring. Though some minor discrepancies in their evidence are available but we do not find the same to be of such standard to acquit the appellants.

10. To prove the safe transmission of the recovered contraband from the police station to the chemical examiner the prosecution examined PW PC Ameer Hamza who in his evidence has stated that on 05.07.2021, he was serving at PS ANF Hyderabad when complainant handed over him the sealed parcels of instant crime consisting upon five Khaki envelopes of samples of charas duly sealed in white cloth bag and another cloth parcel containing 28 Khaki envelopes of samples of charas for depositing the same at Sindh Chemical Laboratory Karachi. Thereafter, he along with necessary documents and letter left the police station vide entry No.6 went to Sindh Chemical Laboratory Karachi where he deposited the sealed parcel under receipt and then returned back to police station vide entry No.12 and handed over the receipt to complainant and his 161 Cr.P.C. statement was recorded by the complainant being the investigation officer. To prove the safe custody of the charas in the Malkhana the prosecution already examined the complainant who clearly deposed that he being the Malkhana in charge on the same day has deposited the entire property in the Malkhana. We do not find any substantial dent in their evidence which took us to another aspect of the case favourable to the appellants. On perusal, no major contradiction was found in their evidence. The evidence of above witnesses was when scrutinized with the Chemical Examiner's report the same was found reliable, trustworthy and confidence inspiring. As per the Chemical Examiner's report, the property reached the lab on 05.07.2021 through PC Ameer Hamza. The property as per the report was found to be the same sent by the Investigating Officer. The property as per report was with two sealed cloth parcels Pcl. No.1 containing 05 Khaki envelopes each containing two dark brown pieces each weight 10 gm of charas while Pcl. No.2 containing 28 Khaki envelopes each containing two dark brown pieces each weight 10 gm of charas.

11. In the case in hand, the prosecution examined the Malkhana Incharge to prove the safe custody and the person who brought the property to the lab for safe transmission even otherwise if the same witnesses were not examined and the Chemical Examiner's report supports that the property reached at the lab with perfect seals as per the document then it is sufficient to hold that the property was in safe custody and the same was safely transmitted. No question was put from the witnesses in respect of any tampering

with the samples during the cross-examination. The latest view of the Supreme Court on this point in Cr. Appeal No. 208 of 2022, **Zain Ali v. The State** (unreported) Judgment dated: 29-05-2023 (Three member bench) is as follows:-

*“During the course of arguments, learned counsel for the appellant had argued that **one Suleman Haider, Constable, who deposited the sample parcels in the office of Chemical Examiner was not produced in evidence, therefore, the safe custody of the allegedly recovered narcotic and its safe transmission is not established. However, this argument is of no help to the appellant. A bare perusal of the record shows that a huge quantity of 563 kilograms charas and 1500 grams opium was recovered from the appellant on 25.03.2013. The Investigating Officer separated 83 kilograms of charas in two separate parcels of 43/40 kilogram and sealed the same. The whole recovered 1500 grams opium was also separated and sealed in a parcel. All the three sealed sample parcels were sent to the office of Chemical Examiner on the very next day i.e. 26.03.2013. The report of the Chemical Examiner testifies this fact that the three sealed parcels were received on the said date, which were found to be charas and opium.** It also came in evidence that the whole recovered narcotics, except the parcels which were sent to the Chemical Examiner, was produced in Court in sealed parcels during trial as a case property. Although, Tahir Ahmed, Inspector/I.O. was cross-examined by the defence at length but no question was put to him, which could suggest that either the whole recovered narcotics was not produced in Court or the same was not sealed in separate parcels as stated by him. Similarly, no question was put to him, which could suggest that the recovered narcotics was planted on the Criminal Appeal No. 208/2022. In this view of the matter, it can safely be said that the safe chain of custody of the recovered narcotics was not compromised at all.”*

12. We have carefully examined the evidence of the prosecution witnesses and found the same reliable, trustworthy and confidence inspiring. The recovery of a huge quantity of charas was affected from the possession of accused persons and the same was kept in safe custody and with shortest period it was sent for chemical examination. The prosecution also proved the safe custody and its safe transmission by producing the witnesses in whose custody the property was in the Malkhana and through whom it was sent for chemical examination. All the chains from the recovery of the narcotics till sending the same for chemical examination have been proven by the prosecution beyond a reasonable doubt. The contention raised by the learned counsel for the appellants that PW Inspector Naeem Khan himself is the complainant and the

Investigating Officer of the case, therefore, his evidence cannot be relied upon and its benefit must be given to the appellants has no force as there is no prohibition in the law for the police officer to investigate the case lodged by him as has been held by the Supreme Court of Pakistan in the case of **Zafar v. The State (2008 SCMR 1254)**, wherein it is held as follows:-

*“11. So far as the objection of the learned counsel for the applicant that the Investigation Officer is the complainant and the witness of the occurrence and recovery, the matter has been dealt with by this Court in the case of **State through Advocate-General Sindh v. Bashir and others PLD 1997 SC 408, wherein it is observed that a Police Officer is not prohibited under the law to be complainant if he is a witness to the commission of an offence and also to be an Investigating Officer**, so long as it does not in any way prejudice the accused person. Though the Investigation Officer and other prosecution witnesses are employees of A.N.F., they had no animosity or rancor against the appellant to plant such a huge quantity of narcotic material upon him. The defence has not produced any such evidence to establish animosity qua the prosecution witnesses. All the prosecution witnesses have deposed in line to support the prosecution case. The witnesses have passed the test of lengthy cross-examination but the defence failed to make any dent in the prosecution story or to extract any material contradiction fatal to the prosecution case. The prosecution has been successful to bring home the guilt of the appellant to the hilt by placing ocular account, recovery of narcotic material, the Chemical Examiner report G.1, Exh.P.3. The learned counsel for appellant has not been able to point out any error of law in the impugned judgment and the same is unexceptionable.*

13. The objection raised by learned counsel for the appellants that having prior information no private persons were associated as witness/mashir in the recovery proceeding hence the provision of section 103 Cr. P.C was violated by the complainant and the evidence of police officials cannot be relied upon while awarding the conviction in cases of capital punishment also has no force as the reluctance of the general public to become a witness in such cases has become a judicially recognized fact and there was no way out but consider the statement of the official witnesses as no legal bar or restriction has been imposed and even then there was no time to collect independent witnesses. No direct enmity or ill will has been suggested by the appellants against the complainant or any of the officials who participated in recovery proceedings during cross-examination and therefore in the circumstances the police officials were good witnesses and could be relied upon if their testimony

remained unshattered during the cross-examination. Even otherwise, the provision of **Section 25 of the CNS Act** has provided the exclusion of Section 103 Cr.P.C. during recovery proceedings. The Supreme Court of Pakistan in the case of **Salah-uddin v. The State (2010 SCMR 1962)**, has held as under:-

“We are conscious of the fact that no private witness could be produced but it must not lost sight of that reluctance of general public to become witness in such like cases by now has become a judicially recognized fact and there is no way out but to consider the statement of an official witness as no legal bar or restriction whatsoever has been imposed in this regard. We are fortified by the dictum laid down in Hayat Bibi v. Muhammad Khan (1976 SCMR 128), Yaqoob Shah v. The State (PLD 1976 SC 53), Muhammad Hanif v. State (2003 SCMR 1237). It is well settled by now that police officials are good witnesses and can be relied upon if their testimony remained un shattered during cross examination as has been held in case of Muhammad Naeem v. State (1992 SCMR 1617), Muhammad v. State (PLD 1981 SC 635). The contentions of Mr. Kamran Murtaza, learned Advocate Supreme Court on behalf of petitioner qua violation of provisions as enumerated in section 103, Cr.P.C. seems to be devoid of merit when examined in the light of provisions as contained in section 25 of the Act which provides exclusion of section 103, Cr.P.C.”

14. It is observed that in the cases of narcotic substances, a recovery memo is a basic document, which should be prepared by the Seizing Officer, at the time of the recovered articles, containing a list thereof, in the presence of two or more respectable witnesses and memo to be signed by such witnesses. The main object of preparing the recovery memo on the spot and with the signatures of the witnesses is to ensure that the recovery is effected in the presence of the marginal witnesses, honestly and fairly, so as to exclude the possibility of false implication and fabrication. Once the recovery memo is prepared, the next step for the prosecution is to produce the same before the Trial Court, to prove the recovery of the material and preparation of the memo through the Scribe and the marginal witnesses. The complainant when was examined before the Trial Court he stated that people were asked to act as mashir but they refused and after recovery of contraband material was taken into possession through the recovery memo and on the said memo signature was obtained from two witnesses after they read and understand the contents. The PW Muhammad Asim Saleem claimed to be the recovery witness and contended that recovery was effected in his presence and the presence of other witnesses he also named those witnesses and further stated that he signed the recovery memo,

by giving details of the recovery of contraband material. The complainant and the witness of the recovery corroborate each other on material points, therefore, their statements are reliable and inspire confidence as such, and the prosecution has established the recovery of the contraband material from the accused persons beyond the reasonable doubt.

15. In the case at hand, two eyewitnesses have fully supported the case as has been discussed above. However, the sole evidence of a material witness i.e. an eyewitness is always sufficient to establish the guilt of the accused if the same is confidence-inspiring and trustworthy and supported by another independent source of evidence because the law considers the quality of evidence and not its quantity to prove the charge. The accused can be convicted if the Court finds direct oral evidence of one eye-witness to be reliable, trustworthy and confidence-inspiring as has been held by the Supreme Court of Pakistan in the cases of ***Muhammad Ehsan v. The State (2006 SCMR 1857) and Niaz-Ud-Din v. The State (2011 SCMR 725)***. There can be no denial of the legally established principle of law that it is always the direct evidence that is material to decide a fact (charge). The failure of direct evidence is always sufficient to hold a criminal charge as 'not proved' but where direct evidence holds the field and stands the test of being natural and confidence-inspiring then the requirement of independent corroboration is only a rule of abundant caution and not a mandatory rule to be applied invariably in each case.

16. In the instant case, no proof of enmity with the complainant and the prosecution witnesses has been brought on the record, thus in the absence thereof, the competence of prosecution witnesses being ANF officials was rightly believed by the trial court. Moreover, a procedural formality cannot be insisted at the cost of completion of an offence and if an accused is otherwise found connected, then mere procedural omission and even allegation of improper conduct of investigation would not help the accused. The Supreme Court of Pakistan in the case of ***State/ANF v. Muhammad Arshad (2017 SCMR 283)***, has held that:-

"We may mention here that even where no proper investigation is conducted, but where the material that comes before the Court is sufficient to connect the accused with the commission of crime, the accused can still be convicted,

notwithstanding minor omissions that have no bearing on the outcome of the case".

17. In matters of huge quantity of narcotics, the absence of enmity or any valid reason for false involvement would also be circumstances tilting the case against the accused. The reliance may be placed on the case of ***Salah-ud-Din v. The State (2010 SCMR 1962)***, wherein the Supreme Court of Pakistan has held that:-

"...No enmity whatsoever has been alleged against the prosecution witnesses and there is hardly any possibility for false implication without having any ulterior motives which was never alleged. In view of overwhelming prosecution evidence the defense version has rightly been discarded which otherwise is denial simpliciter and does not appeal to logic and reasons..."

18. Learned counsel for the appellants emphasized that there are material contradictions in the case of prosecution but no such material contradiction has been highlighted to create doubt in the prosecution story. The courts are supposed to dispose of the matter with a dynamic approach, instead of acquitting the drug paddlers on technicalities as has been held by the Supreme Court of Pakistan in the case of ***Ghulam Qadir v. The State (PLD 2006 SC 61)***. In another case of ***The State/ANF v. Muhammad Arshad (2017 SCMR 283)***, it is observed by the Supreme Court of Pakistan that if in the case no proper investigation was conducted, but if the material that came before the court was sufficient to connect the accused with the commission of the crime the accused could still be convicted notwithstanding minor omissions that had no bearing on the outcome of the case. Though the appellants had an opportunity to examine themselves on oath and lead evidence in their defence to disprove the allegations of prosecution but they chose not to examine themselves on oath nor examined any witness in their defence for bringing reliable and trustworthy evidence in their favour for their acquittal

19. Thus based on the particular facts and the circumstances of the case in hand as discussed above, we have found that the prosecution has proven its case against the appellants beyond a reasonable doubt by producing reliable, trustworthy and confidence inspiring evidence in the shape of oral/direct and documentary evidence corroborated by the report of the chemical examiner. The impugned Judgment passed by the learned trial court

does not suffer from any illegality, gross irregularities or infirmities to call for interference by this court. Resultantly, these appeals are **dismissed**.

JUDGE

JUDGE