

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

Criminal Appeal No.D-46 of 2023

Present:

Mr. Justice Muhammad Faisal Kamal Alam

Mr. Justice Amjad Ali Sahito

Appellant : Kareem Bux Son of Hussain Bux,
Through Syed Shahzad Ali Shah,
Advocate,

Complainant : The State through Mr. Shaharyar Shar,
Special Prosecutor ANF.

Date of hearing : **27.11.2024**

Date of decision : **10.12.2024**

JUDGMENT

AMJAD ALI SAHITO, J; This judgment shall dispose of the fate of the instant Criminal Appeal filed by the above-named appellant/accused, assailing the judgment dated 15.04.2023, passed by learned 2nd Additional Sessions Judge /Special Judge, for Control of Narcotic Substances Hyderabad, in Special Case No.203 of 2022 (*Re.The State Vs. Kareem Bux*), the outcome of FIR bearing No.18 of 2022, offence under sections 6, 9 (c) of Control of Narcotic Substance Act, 1997, registered with Police Station, ANF Hyderabad, whereby he was convicted for an offence punishable U/S.9 (c) of Control of Narcotics Substance Act, 1997, and sentenced to undergo imprisonment for *fourteen years* and to pay a fine of rupees four lac or in default thereof, to undergo simple imprisonment for one year more, with the benefit of Section 382-B Cr.PC.

2. The brief facts of the prosecution case as disclosed in the FIR are that on 28th September 2022, Complainant

Zahoor Shah, received information from spy at PS Anti-Narcotics Force (**ANF**) Hyderabad that drug dealer namely Kareem Bux Son of Hussain Bux with huge quantity of narcotics boarding on his motorcycle HONDA 125 having Registration No.HCA-0639 would come after sometime to supply the narcotic to customer near Bus stop Tando Muhammad Khan Road Fateh Chowk Hyderabad, as such, an immediate action would result of his arrest and recovery of narcotics. Thereafter, a raiding party was formed comprising complainant himself, HC Azhar Iqbal, PC Asim Saleem, PC Mudasir Khan, PC Mohsin Ali, PC Shahid, PC Zafar and driver PC Gulsher alongside spy informer left PS vide entry No.06 at 1100 hours when they reached at pointed place in between 1140 to 1200 hours where they saw a person on motorcycle having gray colour bag coming from Fateh Chowk side and they apprehended him with said bag. The FIR further reveals that complainant asked the passerby to become mashir of the incident but they excused to do so. Thereafter he made PC Asim Saleem and PC Mudasir Khan as Mashirs and enquired from the accused in respect of his particulars, to which, he disclosed his name to be Kareem Bux Son of Hussain Bux by caste Pitafi, resident of Village Ghulam Muhammad Pitafi Taluka Chamber District Tando Allahyar. Accused / appellant admitted the presence of narcotics in his bag. Complainant checked the bag, which was found containing eight multicolor foil packets. Seven multicolor foil packets containing double slabs of Chars, which were weighed on electronic scale and found containing one kilogram of Chars of each slab total 7 kilograms while one multicolor foil packet containing single slab of Chars, which was weighed on electronic scale and found containing 400 grams of Chars. **Total 7 kilograms and 400 grams of Chars.** ANF separately sealed the 20 grams of Chars from seven slabs of Chars in a white transparent plastic shopper marked as 1 to 7 and 10 grams of Chars from one slab of Chars in a

white transparent plastic shopper marked as 8 for chemical analysis and remaining Chars was sealed in a same recovered bag and also marked as 1 to 8. From the bodily search of accused, complainant recovered cash amount of Rs.1500/-, one Samsung mobile along with Sim and one photocopy of CNIC of accused. The documents of motorcycle registered in the name of accused. Thereafter complainant prepared the mashirnama of arrest and recovery in presence of above named mashirs. Then they took the accused, recovered case property at PS where complainant lodged the instant FIR against the accused.

3. After completion of the usual investigation, the investigation officer submitted a report under section 173 Cr.PC before the competent Court of law and thereafter the case papers were supplied to the accused under receipt.

4. The charge against present appellant/accused was framed at Exh.2, to which he pleaded not guilty and claimed trial vide his plea recorded at Ex.3.

5. In order to establish the accusation against the present appellant/accused, the prosecution examined PW-01 complainant/Inspector/I.O Zahoor Shah at Exh.04, he produced numerous documents at trial to support his evidence. PW-02 Mashir PC Asim Saleem at Exh.05. PW-03 PC Amir Hamza who took the sealed parcel of case property to the Laboratory at Exh.6 and P.W-4 ASI Iqbal Hussain who kept the property in Malkhana after receiving from complainant Zahoor Shah at Ex.07. Thereafter, learned State Counsel closed the side of prosecution vide statement kept on record at Exh.8.

6. The appellant/accused in his statement recorded in terms of Section 342 Cr.PC, denied the allegations leveled against him by pleading his innocence. However, he did not examine himself on oath nor led any evidence in his defence.

Appellant/accused Kareem Bux in his last question stated as under;

“I am innocent and have been falsely implicated in this case at the instance of Khokhar Community with which I have enmity”.

7. The learned trial Court on evaluation of the evidence and after hearing the counsel for the parties, convicted and sentenced the appellant/accused vide **Judgment dated 15.04.2023**, which he has impugned before this Court by preferring instant Criminal Appeal.

8. Per learned defence counsel, the appellant being innocent has been falsely in this case by foisting huge quantity of Chars; that time of leaving PS to proceed at place of offence is written in the FIR as 1100 hours while incident is alleged to have taken place in between 1140 to 1200 hours which is contradictory to the contents of mashirnama of arrest and recovery wherein time of offence shown as 1100 hours and even in question No.1 of statement of accused the same time has been shown as 1100 hours instead of 1200 hours, as such, recovery become doubtful; that it is unbelievable such a huge quantity were transporting on the motorcycle to deliver specific person and the entire quantity has not been sent for chemical analysis even same checked, weighed, separated for chemical analysis and sealed at spot in such a short span of time which is not appealing to prudent mind; that no record is collected during investigation against appellant in respect of selling charas in fact which was never available with the prosecution to suggest that appellant previously was involved or awarded conviction by any Court of law in such type of offences, as such, he has falsely been implicated due to enmity by the police in order to show their efficiency; that the Chemical Examiner's report is not with protocol of the test, hence it has lost its sanctity in the eyes of law; that there are

several contradictions in the evidence of prosecution witnesses which have shattered the veracity of their evidence; that safe custody/transmission of Chars to the Chemical Examiner has also not been established; that the evidence of such interested witnesses requires independent corroboration, which is also lacking in present case; that the complainant and his witnesses are ANF officials and no independent person has been cited to witness the recovery proceedings, which has clearly disregarded the mandatory provisions of Section 103 Cr.PC and that the complainant himself has acted as an investigating officer which also impaired the transparency of the investigation of the present case. He lastly contended that the prosecution has miserably failed to prove its case against the appellant and in such circumstances, he is entitled to his acquittal. In support of his contentions, learned counsel for appellant has placed reliance on the cases of Muhammad Shafi Vs. The State [2024 YLR 1425], Mir Muhammad and others Vs. The State [2024 P Cr. L J 370], Muhammad Hassan and another Vs. The State [2024 MLD 853], Zain Shahid Vs. The State and another [2024 SCMR 843], Ahmed Ali and another Vs. The State [2023 SCMR 781], & Nisar Ahmed Shah Vs. The State [2021 P Cr. L J Note 87].

9. On the other hand, learned Special Prosecutor ANF while supporting the impugned judgment has contended that the prosecution has successfully proved its case against the appellant who was found transporting huge quantity of Chas through his motorcycle; that the ANF officials had no hostility to foist such a huge quantity of narcotics substance against the appellant of its own, as such, he prayed for dismissal of the instant Criminal Appeal.

10. We have heard learned counsel for the parties and have minutely gone through the material made available on record.

11. The appellant was caught red-handed by the police party of PS ANF Hyderabad and a huge quantity of 7400 kilograms of Chars containing eight multicolor foil packets were recovered from the bag available on motorcycle, which was driven by appellant Kareem Bux. The deeper analysis of the material brought on record is entailing that the entire case of prosecution is based upon the evidence of Complainant/Investigating Officer Inspector Zahoor Shah (PW-1), Mashir PC Asim Saleem (PW-2), PC Amir Raza (the person who took the case property to the chemical examiner) and ASI Iqbal Hussain (PW-4), who received the property from investigatin officer and kept the same in Malkhana. All these witnesses have narrated the prosecution story in a natural manner and remained consistent throughout and their testimony could not be shattered by the defence despite lengthy cross-examination. The said witnesses had no enmity with the appellant to falsely implicate him in the present case. Even otherwise a huge quantity of 7400 kilograms of Chars in no circumstances can be planted/foisted against the appellant by the complainant/I.O. of his own.

12. The prosecution examined PW-4/Iqbal Hussain (Ex.No.07) to prove the **safe custody** of recovered narcotics. He had stated in his evidence that on 28.09.2022 he was posted as ASI at PS ANF Hyderabad. On the same date, complainant Zahoor Shah handed over case property to him for keeping the same in Malkhana. He kept the case property in safe custody of Malkhana vide entry No. 251. On 29.09.2022, he handed over the case property to complainant Zahoor Shah for sending the same to Chemical Examinar through PC Amir Raza. In cross-examination he admitted that case property was sealed in white bag, which was handed over to him by keeping the same in safe custody. His statement was recorded under section 161 Cr.P.C. However

he has denied the suggestion that the case property was not kept by him in safe custody.

13. To prove the **safe transmission** the prosecution examined PW-3/PC Amir Hamza, who in his deposition (available at Exh.06), deposed that being posted at PS ANF Hyderabad on 29.09.2022, had received the sealed parcel of case property containing Chars relating to this crime from I.O/ Inspector Zahoor Shah for depositing it with the office of Chemical Examiner Karachi, which on the same date he had gone to Karachi and deposited such sealed parcel of case property to the office of chemical examiner Karachi and obtained receipt therefrom. On the said date, he returned back at their office and handed over such receipt to Inspector Zahoor Shah who then recorded his statement under section 161 Cr.P.C. In cross-examination, he deposed that he received one sealed bag in which samples were lying which he deposited in the office of chemical examiner but denied the suggestion that he deposed falsely against the appellant.

14. From the evidence, it appears that appellant Kareem Bux was bringing on his motorcycle huge quantity of chars to deliver the same to his customer but was apprehended by ANF officials as such, he is responsible for possessing contraband. It is well-settled principle of law as held by the Hon'ble Apex Court that a person on a driving seat shall be held responsible for transportation of such huge quantity of narcotics substance. The reliance in this context is placed upon case of **Kashif Ameer Vs. The State (PLD 2010 SC-1052)**, wherein the Hon'ble Supreme Court of Pakistan has held that:

“It is well-settled principle that a person who is on driving seat of the vehicle, shall be held responsible for transportation of the narcotics having knowledge of the same as no condition or qualification has been made in section 9(b) of CNSA that the possession should be an exclusive one and can be joint one with two or

more persons. Further, when a person is driving the vehicle, he is incharge of the same and it would be under his control and possession, hence, whatever articles lying in it would be under his control and possession. Reference in this behalf may be made to the case of Muhammad Noor Vs. The State(2010 SCMR-927). Similarly, in the case of Nadir Khan Vs. The State (1988 SCMR-1899). This Court has observed that knowledge and awareness would be attributed to the incharge of the vehicle. Another aspect of the case is that once the prosecution has prima facie established its case then under section 29 of the CNSA burden shifted upon the accused to prove contrary to the plea of the prosecution. Reliance in this behalf may be made to the case of Ismaeel Vs. The State (2010 SCMR-27). Wherein, this Court while relying upon the cases of Muhammad Arshad Vs. The State (2007 SCMR-1378) and Mst.Taj Bibi Vs. The State (2007 SCMR-1591) has held that chemical examiner's report regarding Charas and Opium were sufficient to prove that the substance recovered from the accused was Charas which can be used to cause intoxication; the prosecution had discharged its initial onus while proving that substance was recovered from him whereas the petitioner had failed to discharge its burden in terms, of Section 29 (d) of CNSA.”

15. Furthermore, the Hon'ble Supreme Court of Pakistan while dismissing the appeal of appellant Hussain Shah by way of the judgment dated 20-09-2019 passed in **Criminal Appeal No.7-P of 2017**, has held that;-

“Hussain Shah appellant was driving the relevant vehicle when it was intercepted and from a secret cavity of that vehicle a huge quantity of narcotic substance had been recovered and subsequently a report received from the Chemical Examiner had declared that recovered substance was charas. The prosecution witnesses deposing about the alleged recovery were public servants who had no ostensible reason to falsely implicate the said appellant in a case of this nature. The said witness had made consistent statements fully incriminating the appellant in the alleged offence. Nothing has been brought to our notice which possibility could

be used to doubt the veracity of the said witnesses.

16. As regards the contention of learned defence counsel that the prosecution has failed to prove safe custody/transmission of Chars to the office of Chemical Examiner and that too with considerable delay. It may be mentioned here that in the cross-examination of PWs, no such question has been raised by the defence that there was tampering with the case property at the police station or during its transmission to the Chemical Laboratory. In this regard, PC Amir Hamza in his evidence (Exh.6) deposed that he received a sealed bag of case property containing samples on 29.09.2022 from I.O/Inspector Zahoor Shah for depositing it with Chemical Examiner office Karachi which he deposited, as such, the prosecution examined the person who had taken the case property to the Chemical Laboratory and also the complainant/I.O being investigating officer of the case. Further, the complainant in his examination-in-chief has deposed that the samples were deposited on the very next day of the incident with Chemical Analyzer for its analysis and such report was received in positive which he produced at **(Exh.04/I)** and the report confirms that the parcel received through PC Amir Hamza on 29.09.2022, therefore, **it can safely be said that the safe chain of custody of the recovered narcotics and its transmission without any delay was not compromised at all.** The reliance is placed to the case of ***Faisal Shahzad Vs. The State [2022 SCMR-905] and Ajab Khan Vs. The State [2022 SCMR-317]***.

17. The procedural detail is mentioned in the Chemical Examiner's report Ex.04/I about the tests applied do not fall short of "**protocol**". In an unreported case of **Mushtaq Ahmed Vs. The State & others (Criminal Petition**

No.370 of 2019) the Hon'ble Supreme Court of Pakistan has held that;

“3... Argument that Forensic report sans protocols as mandatorily required in the case of State Vs. Imam Bakhsh (2018 SCMR 2039), is beside the point and so is a reference to Rule 6 of the Control of Narcotic Substance (Govt. Analysis) Rules, 2001, for the convenience of reference reproduced below:-

“Report of the result of test analysis:--After test or analysis the result thereof together with full protocols of the test applied, shall be signed in quadruplicate and supplied forthwith to the sender as specified in Form-II”.

The above requires reference to the test applied for analysis, specifically mentioned in Form-II thereof. We have perused the forensic report, relied upon the prosecution, which substantially meets the legal requirements in the following terms:-

“Test Performed on Received Item(s) of Evidence

- 1. Analytical Balance was used for weighing.***
- 2. Chemical spot Tests were used for Presumptive Testing.***
- 3. Case Chromatography-Mass Spectrometry was used for confirmation.***

Results and conclusions

“Item # 01 72.87 gram(s) of blackish brown resinous material in sealed parcel contains Charas”

Details mentioned in the Forensic report procedure/test applied do not short of ‘protocol’ as insisted by this court in the supra case. According to the Oxford English Dictionary, 6th Edition, the expression “protocol’ in relation to a forensic test means.

“A formal or official statement of a transaction or proceedings; spec, a record of (esp. scientific) experimental observations”.

18. The reliance is also placed on an un-reported case of Hon'ble Supreme Court of Pakistan, vide judgment dated

09-01-2020 passed in **Criminal Petition No.370 of 2019**
Re. Mushtaq Ahmad Vs The State & another;

“4. It has been argued before us that the report submitted by the Chemical Examiner did not mention the necessary protocols followed or tests applied but we have seen the said report available on the record of the trial court and have found that the said report not only referred to the protocols adopted but also to the tests applied and, thus, we have not been able to find any deficiency in the said report.”

19. As regards the arguments of learned counsel for the appellant about violation of Section 103 Cr.PC is concerned, it would be appropriate to refer Section 25 of the Control of Narcotics Substance Act 1997, which reads as under;-

“25. Mode of making searches and arrest.-- The provisions of the Code of Criminal Procedure, 1898, except those of section 103 Cr.P.C shall mutatis mutandis, apply to all searches and arrests in so far as they are not inconsistent with the provisions of section 20, 21, 22 and 23 to all warrants issued and arrest searches made under these sections.

20. It means that the applicability of Section 103 Cr.P.C in the narcotics cases has been excluded and the non-inclusion of any private witness is not a serious defect to vitiate the conviction. The complainant in his evidence admitted that there was only one accused person was available on the motorcycle.

21. So far the evidence of ANF officials is concerned, they are more competent than others and their evidence cannot be discarded merely for the reason that they are ANF officials. They have furnished straightforward and confidence-inspiring evidence and there is nothing on record to show that they have deposed against the accused maliciously or out of any animus thus it cannot be believed that the ANF officials

would plant or foist such a huge quantity of narcotics substance (7400 K.Gs) against the accused from their own resources. It is a settled principle of law that the statement of the official witness cannot be discarded only on the pretext that they are ANF officials. The reference in this context is made to the case of **Zaffar Vs. The State (2008 SCMR-1254)**, the Hon'ble Supreme Court of Pakistan has held that;-

“Police employees are the competent witnesses like any other witnesses and their testimonies cannot be discarded merely on the ground that they are police officials”

22. In the instant case, no proof of enmity with the complainant or the other witnesses has been brought on the record, thus, in the absence thereof, the competence of prosecution witnesses being ANF officials was rightly believed. 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 reference in this context is made to the case of the **State/ANF Vs. Muhammad Arshad (2017 SCMR-283)**, wherein the Hon'ble Supreme Court of Pakistan 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”.

23. Even otherwise, mere status of one as an **official** would not alone prejudice the competence of such witness until and unless he is proved to be **interested**, who has a motive, to falsely implicate an accused or has the previous enmity with the person involved. The reliance in this context is made to the case of **Farooq Vs. The State (2008 SCMR-970)**.

24. It is now settled proposition of law that by afflux of time in the case of transportation or possession of narcotics, technicalities of procedural nature or otherwise should be overlooked in the larger interest of the Country if the case stands otherwise proved, the approach of the Court should be dynamic and pragmatic, in approaching true facts of the case and drawing correct and rational inferences and conclusions while deciding such type of cases. The Hon'ble Supreme Court of Pakistan in the case of **Ghulam Qadir Vs. The State** reported in (**PLD 2006 SC-61**) has held that;-

“S.9(c)---Appreciation of evidence---No acquittal on technicalities---Court in such like cases are supposed dispose of the matter with dynamic approach, instead of acquitting the drug paddlers on technicalities.”

25. Turning to the next contention of learned defense counsel that the complainant himself has acted as investigating officer in this case and all the witnesses are ANF officials, is of no helpful to him, as there is no bar in the law for a complainant not to act as investigation officer of the case. The reliance in this context is placed upon the case of **The State V. Zaffar (2008 SCMR-1254)**, wherein the Hon'ble Supreme Court of Pakistan has held that;-

“Police officials are 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”.

26. On re-assessment of evidence of the prosecution witnesses, we find it confidence-inspiring and trustworthy; as such appellant Kareem Bux was trying to transport 7400 K.Gs of Chars on Motorcycle and was arrested on 28.09.2022 at about 1200 hours from Hyderabad-Tando Muhammad

Khan near Fateh Chowk. The version of the complainant/I.O/ Inspector Zahoor Shah has been fully corroborated by mashir of arrest and recovery, which is substantiated with the memo of arrest and recovery (Exh.04/B), and FIR (Exh.04/C). He produced Chemical Examiner's report in **positive** (Exh.04/I).

27. No previous enmity, ill-will or grudge has been alleged or proved against prosecution witnesses to implicate appellant Kareem Bux falsely in this case. The prosecution successfully discharged its lawful duty thereby shifting the burden upon the appellant within the meaning of Section 29 of the Act. Such burden would require the accused to firstly cause a dent in the prosecution case and secondly to establish at least justify the possibility of false implication or foistation of huge quantity of Chars but the defense has failed to do so. While recording his statement in terms of Section 342 Cr.PC, appellant Kareem Bux has taken the plea that he has been involved due to enmity with Khokhar community, the ANF Police had foisted Chars upon him. Neither was he a motorcycle Driver nor had been arrested by the ANF Police nor any recovery effected from his possession but the same alleged recovery had been foisted upon him hence falsely implicating him otherwise he is innocent. Strangely, the appellant/accused had failed to produce any evidence or person in support of his plea that he was implicated due to enmity with Khokhar community and he simply declined to take ownership of motorcycle without cogent evidence during the course of his statement. In cross-examination, PW-01 Complainant Inspector Zahoor Shah denied the suggestion ***“It is incorrect that case property has been foisted upon accused.”***

28. There is no denial to the fact that appellant Kareem Bux was driving the motorcycle containing a huge quantity of Chars. No convincing material has been produced

by him denying the fact that how it is possible that he was not having any knowledge about the Chars present on his motorcycle which he was driving all the way from Fateh Chowk. It is hard to believe that the driver had no idea or knowledge about the contents and articles being transported by him or present on his motorcycle on which he was driving. The deeper analysis of the whole prosecution evidence i.e, the recovery of a huge quantity of narcotics, the happening of occurrence in the main road, during day time; sealing the entire material in a prescribed manner and sending the same to the Chemical Examiner, report of the Chemical Examiner and the evidence of the prosecution witnesses when evaluated conjointly leaves no room to conclude that appellant Kareem Bux is a real perpetrator.

29. No illegality or irregularity and mis-appreciation of evidence were found, so far as his case is concerned. The case of the prosecution is based upon the appraisal of the evidences, supported with reasons placed on record. No incriminating evidence was produced to show misreading and omission from consideration of the evidence. The incomes of narcotics are largely utilized in anti-state/terrorist activities which this country has been facing for decades and it obviously has affected the society at large. When the prosecution can prove its case on its salient features then unnecessary technicalities should not be allowed to hamper the very purpose of the law on the subject. Reliance is placed in the case of ***FAISAL SHAHZAD v. THE STATE (2022 SCMR 905)***.

30. It is a trite proposition of law that items recovered from the vehicle in possession of the driver are presumed to be assenting to be in his control and in his knowledge. If the drugs are secured from the possession of an accused then it is normally believed that he has a direct relationship with the

drugs and the burden of proof that he did not know the same lies heavily on him. We in this regard would like to refer to a judgment given by the Hon'ble Supreme Court in the case of **Muhammad Noor Vs. The State reported in 2010 SCMR 927**, wherein the Hon'ble Court observed as under:

8. As regards Driver of the vehicle, it is important to note that when he is driving the vehicle, he is Incharge of the same, therefore, it would be under his control and possession. Hence, whatever articles lying in it would be under his control and possession. The liability of the driver, in view of provisions of section 27 of P.P.C., has been considered by this Court in the case of Sherzada v. State 1993 SCMR 149, wherein it was observed as under:--

The next point raised by the learned Counsel was that it is provided in section 27, P.P.C. that when property is in the possession of wife, clerk or servant on account of that person, it is in that person's possession within the meaning of this Code. The learned Counsel argued that the appellant was a driver, hence an employee of the owner of the car and even if he is admitted to be in possession of the contraband article on behalf of the owner, he cannot be said to be liable for that possession. But this argument of the learned Counsel is without force on the face of it because section 27, P.P.C. is confined to the Pakistan Penal Code only, as the words "within the mean of this Code" appearing in that section clearly indicate. This section has not been made applicable to the Prohibition (Enforcement of Hadd) Order, 1979 as is evident from Article 26 of that Order where certain other provisions of the P.P.C. have been made applicable.

This Court in the case of Adil Ahmed v. Deputy Collector, C & CE 1991 SCMR 1951 has observed that in view of provisions of Customs Act, the drivers and owners were both responsible.

In the case of Rab Nawaz v. The State PLD 1984 SC 858, the liability of drivers was again considered and lenient view was taken, as they expressed their ignorance about the contents and claimed to be simple carriers. In the present case the appellant did not claim to be carrier.

This Court in the case of Nadir Khan v. State 1988 SCMR 1899 has observed that knowledge and awareness would be attributed to the Incharge of the Vehicle. The relevant portion reads as under:--

“We have gone through the evidence on record and find that the petitioners had the charge of vehicle for a long journey starting from Peshawar and terminating at Karachi. They had the driving license also. As being person Incharge of the vehicle for such a long journey, they must be saddled with the necessary knowledge with regard to the vehicle and its contents”.

31. For what has been discussed above and while relying upon the case laws of the Hon'ble Supreme Court, we are of the unanimous view that the prosecution has successfully established the charge of transportation of a huge quantity of narcotics substance through a motorcycle against the appellant Kareem Bux being its driver, beyond a shadow of any reasonable doubt. Resultantly, the Criminal Appeal in his respect being devoid of merits is **dismissed** accordingly. The conviction and sentence awarded to him by the learned trial Court are hereby **maintained**.

JUDGE

JUDGE