

CERTIFICATE OF THE COURT IN RECORD NO. ---

SINDH HIGH COURT

Spl. Cr. A.T.A. NO. 42/2014 for C.C. 04/07.

Composition of Bench.

~~Single~~ D.B.

Justice Muhammed Kaium Khan Agha. J.

Dates of hearing: 27/03/20

Decided on 09/04/20

(a) Judgment approved for reporting.

Yes
~~No~~

[Signature]

CERTIFICATE

Certified that the judgment */Order is based upon or enunciates a principle of law */decides a question of law which is of first impression/distinguishes/over-rules/ reverses/explains a previous decision.

*Strike out whichever is not applicable.

NOTE:—(i) This slip is only to be used when some action is to be taken.

(ii) If the slip is used, the Reader must attach it to the top of the first page of the judgment.

(iii) Reader must ask the Judge writing the Judgment whether the Judgment is approved for reporting.

(iv) Those directions which are not to be used should be deleted.

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IN THE HIGH COURT OF SINDH AT KARACHI
(CRIMINAL APPELLANT JURISDICTION)

42

Special Criminal Anti-Terrorism Appeal No. _____/ 2014

Abdul Hameed Bugti
Son of Ali Murad Bugti,
Muslim, adult, resident of
Sui, Balochistan.
(Presently confined in Central
Prison, Karachi).....

17-6-2014
D.R. (Wid)
(on vacation)
Appellant
2487

VERSUS

The StateRespondent

FIR No. 145/2005
Under Section 302/324/427/34
109 PPC, R/w Section 3/4 Explosive Act
and 7, ATA 1997,
Police Station: Artillery Maidan, Karachi

APPEAL UNDER SECTION 25 OF THE ANTI - TERRORISM
ACT, 1997 READ WITH SECTION 410 OF CRIMINAL
PROCEEDURE CODE

Being aggrieved and dissatisfied with the Judgment dated 10-06-2014, passed by the learned Special Judge Anti-Terrorism Court No.V, Karachi (Mrs. Khalida Yaseen) in Special Case No.37/2005 (The State V/s Abdul Hameed Bugti) vide FIR No.145/2005, under Section 302/324/427/109/34 PPC, R/w 3/4 Explosive Substances Act, 1908, R/w 7 of ATA, 1997, Police Station Artillery Maidan Karachi, convicted the appellant of an offence under section 7(a) of ATA, 1997 and awarded death sentence, and also convicted him to undergo Rigorous Imprisonment for 10 years and a fine of Rs.50,000/- to each injured, as well as under Section 3 of Explosive Substance Act 1908, awarded imprisonment for life, and forfeited his property, and for causing

IN THE HIGH COURT OF SINDH AT KARACHI

Spl. Crl. Anti-Terrorism Appeal No.42 of 2014.
Confirmation Case No.04 of 2007

Present:

Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Zulfiqar Ali Sangi,

Appellant Abdul Hameed Bugti son of Ali Murad Bugti
through Shaikh Jawaid Mir, Advocate.

Respondent The State through Mr. Saleem Akhtar Buriro,
Additional Prosecutor General Sindh.

Date of hearing: 27.03.2020

Date of Announcement 09.04.2020.

J U D G M E N T

Mohammad Karim Khan Agha, J:- Accused Abdul Hameed Bugti son of Ali Murad Bugti was tried by learned Judge, Anti-Terrorism Court No.II Karachi in Special Cases No. 37 of 2005 arising out of Crime No.145/2005 u/s. 302/324/427/109/34 PPC 3/4 Explosive Substances Act 1908 r/w. Section 7 ATA 1997 registered at PS Artillery Maidan Karachi. After trial vide judgment dated 10.06.2014 the appellant Abdul Hameed Bugti son of Ali Murad Bugti was convicted and sentenced as under:-

- a) For causing death to four persons Sabz Ali, Iftikhar Ahmed, Jawed Iqbal and Noor Rehman, by bomb blast he was sentenced to death.
- b) For causing injuries to 20 persons he is sentenced to Rigorous Imprisonment for 10 (Ten) years and payment of a fine of Rs.50,000/-(Fifty Thousand) to each injured.
- c) For causing bomb blast punishable u/s. 3 of the Explosive Substances Act, 1908 to R.I for life and to forfeit his property to the Government u/s. 5-A of the Explosive Substances Act, 1908.
- d) For causing damage to the buildings of Muslim Commercial Bank and PIDC House u/s.7(d) of Anti-Terrorism Act, 1997 to R.I. for 14 years.

All the sentences were to run concurrently. The sentence of death awarded to the accused was subject to the confirmation by the Hon'ble High Court of Sindh, Karachi.

2. Being aggrieved and dissatisfied by the judgment passed by learned Judge, Anti-Terrorism Court No.II, Karachi the aforesaid appeal has been preferred by the appellant against his conviction.

3. The brief facts of the prosecution case are that on 15.11.2005 at about 1015 hours the complainant SHO Farooq Umer lodged FIR No.145/2005, through his 154 Cr.P.C statement stating therein that he was patrolling the area along with his subordinates in police mobile van. When he reached at Dr. Ziauddin Ahmed Road near Polo ground at about 0845 hours he heard noise of blast from the side of PIDC House, Karachi as such, he immediately reached there and saw that a car bearing Registration No.ACB-490 having Bogus No.AEG-087 (which he knew through its Engine No.B-214704) in which bomb had exploded in front of Muslim Commercial Bank, PIDC House, Karachi. Due to said explosion many vehicles were burnt i.e. Car Nos.ABZ 634, ACS-483, AFM-459, AFM-978, ACV-344, AGS-522, AJH-139 and AHB-643 whereas the victim car was totally destroyed. The passers by and security guards of PIDC and Muslim Commercial Bank namely 1) Faisal s/o Dilawar Hussain, 2) Muhammad Aslam s/o Kafeel Ahmed, 3) Noor-ur-Rehman s/o Rahim-u-Din, 4) Ilyas s/o Farzand 5) Allah Ditta s/o Saifal Khanl, 6) Asad Ali s/o Muhammad Amin, 7) Asif s/o Ahmed Ali, 8) Saeed Ahmed s/o Abdul Qadir, 9) Muhammad Sabir s/o Abdul Latif, 10) Muhammad Riaz s/o Sirraj, 11) Hassan Ali Khan s/o Rahmat-u-llah, 12) Sabz Ali s/o Zargoos Shah, 13) Iftikhar Ahmed s/o Mir Afzal, 14) Khan Bahadur s/o Nadir Khan, 15) Nasir s/o James Masih, 16) Sirraj s/o Noor Ali, 17) Mir Zaman s/o Noor-u-llah, 18) Javed Iqbal s/o Noor Khan, 19) Liouis Meja, 20) Mst. Sadhwa w/o Pursee, and 21) Kashif Muhammad s/o Ikram-ur-Rahman received injuries. The nearby building of PIDC i.e. Muslim Commercial Bank and KFC was also damaged by the blast. While injured Sabz Ali, Iftikhar Ahmed, Jawed Iqbal and Noor Rehman succumbed to their injuries prior to reaching Hospital. The incident and circumstances show that the terrorist to terrorize the public at large by killing and damaging the property had caused bomb blast therefore case be registered against unknown accused.

4. After registering the case the investigation was entrusted to Inspector Muhammad Tariq who visited the place of incident and prepared memo of place of incident, he also recorded statements of witnesses under 161 Cr.PC and prepared sketch of place of incident. On 16.11.2005 he arrested the accused Aziz Khan and Mangla Khan who were already confined at Police Station Gulshan-e-Iqbal, Karachi in another case Crime Nos.582/05 u/s 4/5 Explosive Substances Act and Arms Ordinance at Police Station Gulshan-e-Iqbal, Karachi.

5. After completion of the investigation the I.O. submitted charge sheet before the trial court and the trial court showing **accused Abdul Hameed son of Ali Murad Bugti** and Behram Daghdag son of Rehan Bugti in Column No.2 with red ink as **absconders**. Subsequently accused Aziz Khan and Mangla Khan were convicted vide judgment dated 31.05.2007. Thereafter, present accused **Abdul Hameed Bugti** son of Murad Ali Bugti was **arrested in this case on 29.06.2007** and after usual investigation I.O. submitted Challan.

6. The charge was framed against the accused Abdul Hameed Bugti who pleaded not guilty and claimed to be tried.

7. To prove its case the prosecution examined 20 prosecution witnesses and exhibited numerous documents and other items and thereafter the side of the prosecution was closed. The statement of the accused was recorded u/s 342 Cr.P.C in which he denied all the allegations leveled against him and claimed false implication. He did not examine himself on oath or call any witness in support of his defense case.

8. Learned Judge, Anti-Terrorism Court No.II Karachi, after hearing the learned counsel for the parties and assessment of evidence available on record, vide the impugned judgment dated 10.06.2014, convicted and sentenced the appellant as stated above, hence this appeal has been filed by the appellant against his conviction.

9. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment, therefore, the same are not reproduced here so as to avoid duplication and unnecessary repetition.

10. Learned counsel for the appellant has contended that the whole of the evidence given by the prosecution witnesses has been manipulated by the police and that and some of them were not even present at the place of the incident, that the judicial confessions made by the appellant's co-accused implicating him in this case cannot be safely relied upon, that the evidence of the eye witness cannot be safely relied upon, that the identification parade has not been carried out in accordance with the law and cannot be relied upon and as such the appellant for any of the above reasons should be acquitted of the charge by extending him the benefit of the doubt. In support of his contentions he placed reliance on *Irfan alias Shani v. The state and another* (2020 YLR 372), *Hakeem and others v. The State* (2017 SCMR 1546), *Usman Ali v. Additional Sessions Judge, Toba Tek Singh and 9 others* (2017 P.Cr.LJ 155), *Allah Warrayo v. Mst. Ladan and 3 others* (2020 MLD 334), *Abdul Haq and others v. The State* (2020 SCMR 116), *Naeem alias Titu and 4 others v. The state* (2020 YLR 74), *Noor Islam v. Ghani-ur-Rehman and another* (2020 SCMR 310), *Mst. Nazia Anwar v. The state and others* (2018 SCMR 911), *Sabir Ali alias Fauji v. The State* (2011 SCMR 563), *Shafqat Mehmood and others v. The State* (2011 SCMR 537), *Muhammad Ayaz and others v. The State* (2011 SCMR 769), *Nazir Ahmad v. Muhammad Iqbal and another* (2011 SCMR 527), *Sarfraz alias Mattu v. The State* (2005 YLR 980), *Pir Noroz Ali Shah v. The State* (2019 P.Cr.LJ 457), *Muhammad Akram v. The State* (2009 SCMR 230), *Muhammad Mansha v. The State* (2018 SCMR 772), *Kanwar Anwaar Ali, Special Judicial Magistrate: in the matter of Criminal Miscellaneous Application No.183 of 2019 in Criminal appeal No.259 of 2018* (PLD 2019 Supreme Court 488), *Mst. Asia Bibi v. The State and other* (PLD 2019 Supreme Court 64), *Mian Sohail Ahmed and others v. The State and others* (2019 SCMR 956), *Wazir v. The State and another* (2019 SCMR 1297), *Wajeel-ul-Hassan v. The State* (2019 SCMR 1994), *Muhammad Ashraf alias Acchu v. The State* (2019 SCMR 652), *Abdul Jabbar and another v. The State* (2019 SCMR 129), *Gangoo Ram v. The State* (2003 P.Cr.LJ 1608), *Muhammad Afzal alias Abdullah and another v. State and others* (PLJ 2009 SC 333) and *Dhani Bux alias Dhanoo and 2 others v. The State* (2000 P Cr.LJ 239).

11. On the other hand learned APG appearing on behalf of the State has fully supported the impugned judgment and in particular contended

that there was no evidence to show that the case against the appellant had been manipulated by the police, that all PW's who gave evidence that they were present or visited the scene of the incident is supported by other evidence and as such all PW's who gave evidence in this respect can be relied upon, that the retracted judicial confessions of the appellants co-accused were made voluntarily and can be relied upon against the appellant, that the eye witness was reliable, trust worthy and confidence inspiring and had correctly identified the appellant as being the person who parked the car behind the car of the car bombers and that the co-accused who had parked the car bomb with the car bomb in it then got into his car which drove off shortly before the bomb in the car parked by his co-accused exploded injuring 17 people and murdering 4 others and had correctly identified him at the identification parade which was carried out in accordance with the law; that the appellant was arrested with narcotics and an unlicensed firearm and as such the appeal against conviction should be dismissed and the confirmation reference answered in the affirmative. In support of his contentions he placed reliance on the **High Court Rules for conducting identification parades and recording confessions, Special Criminal ATA No.39, 40 and 41 of 2010 Muhammad Ashfaq & others V The State** dated 16.12.2019 (DB of Sindh High Court-Unreported), **Ghazanfar Ali @ Pappu and another V The State** (2012 SCMR 215), **Joygun Bibi V The State** (PLD SC 313), **Khan Muhammad and others V The State** (1999 SCMR 1818), **Muhammad Amin V The State** (PLD 2006 SC 219), **The State V Minhun alias Gul Hassan** (PLD 1964 SC 813), and **Raz Muhammad V The State** (PLD 2002 SC 56).

12. We have heard the arguments of the learned counsel for the parties, gone through the entire evidence which has been read out by the appellant and the impugned judgment with their able assistance and have considered the relevant law including that cited at the bar.

13. In our view after our reassessment of the evidence based on the evidence of the PW's especially, PW MLO's, post mortem reports and other medical evidence, PW police witnesses and IO, recoveries made on the spot, other PWs' and engine of the car which was used as a car bomb along with No. plates of other damaged vehicles, damage to surrounding properties and the recovered CD which showed the blast we are satisfied that the prosecution has proved beyond a reasonable doubt that on

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15.11.2005 at about 0845 hours a car bearing registration No.ACB-490 having Bogus No.AEG-087 planted with a bomb in front of Muslim Commercial Bank , PIDC House Karachi was exploded causing serious injuries to 1) Faisal s/o Dilawar Hussain, 2) Muhammad Aslam s/o Kafeel Ahmed, 3) Noor-ur-Rehman s/o Rahim-u-Din, 4) Ilyas s/o Farzand 5) Allah Ditta s/o Saifal Khanl, 6) Asad Ali s/o Muhammad Amin, 7) Asil s/o Ahmed Ali, 8) Saeed Ahmed s/o Abdul Qadir, 9) Muhammad Sabir s/o Abdul Latif, 10) Muhammad Riaz s/o Sirraj, 11) Hassan Ali Khan s/o Rahmat-u-llah, 12) Sabz Ali s/o Zargoos Shah, 13) Iftikhar Ahmed s/o Mir Afzal, 14) Khan Bahadur s/o Nadir Khan, 15) Nasir s/o James Masih, 16) Sirraj s/o Noor Ali, 17) Mir Zaman s/o Noor-u-llah, 18) Javed Iqbal s/o Noor Khan, 19) Lioua Meja, 20) Mst. Sadhwa w/o Pursee, and 21) Kashif Muhammad s/o Ikram-ur-Rahman of whom injured Sabz Ali, Iftikhar Ahmed, Jawed Iqbal and Noor Rehman succumbed to their injuries and died prior to reaching hospital and damaging the building of Muslim Commercial Bank and PIDC House, and 08 vehicles parked there. This position is admitted by counsel for the appellants and APG.

14. The only issue therefore, in our view, left before us is whether the appellant was one of the persons who was involved with the other co-accused in leaving the car bomb in front of Muslim Commercial Bank, PIDC House Karachi which exploded causing serious injuries to 17 people mentioned above and murdered 4 other people mentioned above and in particular was the driver of the car which drove off with the co-accused after they had planted the car bomb which exploded shortly after he drove away causing the aforesaid injuries, deaths and damage to property and as such enabled them to make their escape good.

15. In our view after our reassessment of the evidence we find that the prosecution has **NOT** been able to prove beyond a reasonable doubt that the appellant (Abdul Hameed Bugti) was involved with the co-accused who planted the car bomb in front of Muslim Commercial Bank, PIDC House Karachi which exploded causing serious injuries to 17 people mentioned above and murdered 4 other people mentioned above and damaged property as mentioned above and drove them away from the scene of the offense shortly after the bomb went off with the car bombers allowing them to make their escape good for the following reasons;

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(a) In our view the foundation of the prosecution case against the appellant rests on **two key** pieces of evidence (i) Whether we can safely rely on the retracted judicial confessions of both the appellants co-accused (Aziz Khan and Mangala Khan) **and** (ii) the eye witness evidence in terms of whether the eye witness has been able to correctly identify the appellant. We will deal with each aspect individually in turn.

(b)Turning firstly to the retracted judicial confessions:

(i) the two later retracted judicial confessions made by the appellant's co-accused (Aziz Khan and Mangla Khan) for ease of reference are set out below:

S.164 Statement of Aziz Khan.

"We have committed this offense on the insistence of Sardar people. I Abdul Aziz accompanied with Behram, Hameed and Mangla Khan had parked the white vehicle laden with explosive alongside PIDC and went away" (bold added)

S.164 Statement of Mangla Khan.

"We have committed this bomb blast on the insistence of Sardar Bugli" (bold added)

(ii) It is settled law that a retracted judicial confession can be legally admissible and used against its maker in certain circumstances in a capital case and even against those named in the statement provided that there is strong unimpeachable corroborative evidence from an independent source provided that certain requirements are met, namely that it is both voluntary and truthful.

(iii) In our view however we exclude these judicial confessions against the appellant made by his co-accused Aziz Khan and Mangla Khan and place no reliance on them for the following reasons;

(a) The judicial magistrate who recorded these judicial confessions **Khushi Muhammed** did not give evidence at trial and as such the appellant was not given the opportunity to cross examine the person who recorded these confessions who may have been shattered by the appellant on cross examination regarding the manner in which the confessions were recorded and there voluntary nature keeping in view that these confessions were crucial evidence against the appellant.

(b) The judicial confessions were exhibited by the IO PW 20 Mohammed Iqbal instead of the person who recorded the confessions **Khushi Muhammed without** any explanation as to why **Khushi Muhammed** was not able to come and give evidence and exhibit them himself.

(c) These confessions have been made by the co-accused against the appellant and the appellant himself has made no confession before any judicial magistrate of his involvement in this offense.

(d) Even if the confessions were relied upon they give little, if any, evidence against the appellant. Co-accused Mangla Khan does not name the appellant in his confession and co-accused Aziz Khan in his confession only refers to one "Hameed". No where has it come in evidence that the appellant was the Hameed who was referred to in co-accused Aziz Khan's confession. There are thousands of people named Hameed.

(c)Turning to the identification of the appellant.

(i) Eye witness PW 16 Muhammed Ashraf is the sole eye witness examined by the prosecution at trial who was a traffic constable on duty at PIDC house at the time of the incident. According to his evidence at about 8.15 am on the day of the incident (15.11.2005) he saw one private car and one taxi park in front of the PIDC house. He asked them to remove their car and taxi from the place. **The person who was sitting in the car requested him to allow him to park the vehicle at some distance and shortly thereafter the bomb blast occurred.** His presence on duty is corroborated by PW 20 Muhammed Tariq who was the IO and recorded his statement at the traffic chowki within hours of the incident on the same day and his presence at the scene was not challenged by the appellants. In our view he was not a chance witness, it was a day light incident and eye witness PW 16 Muhammed Ashraf got a good look at the man in the car which he was standing close to and said he could identify him if he saw him again. His S.161 statement was recorded within a matter of hours on the same day. He had no enmity towards the appellant and had no reason to falsely implicate the appellant in this case. He correctly picked out the appellant at the identification parade and again in court. Based on the particular facts and circumstances of this case keeping in view that each criminal case turns on its own particular facts and circumstances there was no need for an identification parade which in such circumstances was not mandatory.

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In this respect reliance is placed on **Ghazanfar Ali V The State** (2012 SCMR 215) which in relevant part at Para 13 at P.224 reads as under;

"Even otherwise the holding of identification parade is not mandatory and it is merely a corroborative piece of evidence. If the statement of a witness qua the identity of an accused even in Court inspires confidence, if he is consistent on all material particulars and there is nothing in evidence to suggest that he is deposing falsely, the absence of holding of identification parade would not be fatal to the prosecution. In Harbajan Sindli v. State of Jammu and Kashmir ((1975) 4 Supreme Court Cases 480), the Court upheld the conviction where no identification parade had been held and observed that the failure to hold identification parade would not be fatal in cases where enough corroborative and conclusive evidence was available. A similar view was taken in Jadunath Singh v. State of U.P. ((1970) 3 Supreme Court Cases 518). (bold added)

With regard to deficiencies in the identification parade reliance is placed on **Muhammed Siddique V State** (2020 SCMR 342) which held as under at Para 5 which is set out below;

"5. Castigating severely the evidence of test identification parade, the learned counsel relied upon the guidelines laid down in the case of Kanwar Antwar Ali (PLD 2019 Supreme Court 488) to urge exclusion thereof. The supra case indeed a fine piece of juridical literature, nonetheless, does not extend much help to the convicts; it mainly addressed laconic approach adopted by a Magistrate in holding the test identification parade in the said case while highlighting general principles of law on the subject.

Test identification parade is a method of proof contemplated by Article 22 of the Qanun-i-Shahadat Order, 1984, reproduced below for the convenience of reference:-

"Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of anything or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose".

The above framework provides enough space to

admit evidence in prosecution of offenders previously unacquainted with the victims or the witnesses; appraisal of such evidence is subject to same principles as are universally applicable to any piece of evidence, under consideration in a criminal trial; there are no additional barricades as is evident from the plain reading of the Article *ibid*; without prejudice to the safeguards available to an accused at each stage of trial, essentially fair as guaranteed under the Constitution, nonetheless, it does **not** cast an artificially heavier onus on the prosecution to meet standards of proof beyond human capacity. Each criminal case is to be decided having regard to its own peculiar facts and circumstances. A test to be essentially applied in one case may absolutely be irrelevant in another, as the crimes are seldom committed in identical situations; there may be cases wherein prosecution must assign distinct roles played during the occurrence by the culprits for determination of their guilt as well as consequences thereof, however, there are cases in which totality of transaction may not warrant reparability for such determination, like the one in hand. Cases involving abductions, dacoities and sudden assaults, more often than not, constitute episodes wherein different roles played by the culprits merge into integral totality of the crime, thus, it would be too harsh as well as unrealistic to demand exact reenactment of roles by the witnesses. Capacities even intellectually most sharp dwindle drastically in calamitous situations, therefore, the administration of criminal justice, in such peculiar situations, has to be dynamically balanced upon fair trial without prejudice to the accused as well as due weightage to the prosecution evidence without being swayed by illusory notions, subjectively structured upon hypothetical beliefs

Having found the witnesses with no axe to grind, in a comfortable unison on all the salient features of the prosecution case as well as events collateral therewith, we do not feel persuaded by the arguments, **couched on hyper technical premise.** Petitions fail. Dismissed." (bold added)

The case which we are currently deciding attracts the above dicta as it is a case of sudden assault. Even a delay in holding the identification parade of over a year was not fatal to the identifier correctly identifying the accused. In this respect reliance is placed on the case of **Solat Ali Khan v. The State** (2002 SCMR 820) and in this case the identification parade was carried out after 20 months and in any

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event evidence flowing from an identification parade is only a corroborative piece of evidence and cannot supersede reliable, trustworthy, confidence inspiring direct evidence. In this respect reliance is placed on **Muhammad Ehsan v. The State** (2006 SCMR 1857).

His evidence was not shattered during lengthy cross examination and we find his evidence to be reliable, trust worthy and confidence inspiring and thus we believe the evidence of this witness in terms of his correct identification of the appellant as being the person who parked outside PIDC house just before the car bomb blast which injured over 17 people and murdered 4 people and we rely on such evidence based solely on his eye witness testimony having given little weight to the identification parade.

(d) The appellant was arrested approximately 18 months after the incident whilst he was carrying narcotics and an unlicensed pistol, and at which time there was nothing to connect him to this offense so why would he confess his involvement to the police (which is inadmissible anyway) to a capital case which he knew could lead to the death sentence at a time when there was hardly any evidence against him. This does not appeal to logic, reason or common sense. Significantly, he did not confess before a magistrate.

(e) Very little, if any, other evidence has come on record against the appellant.

16. Thus, although we believe the evidence of eye witness PW 16 **Muhammed Ashraf** who identified the appellant in a car just outside PIDC house before the bomb went off in the absence of any other significant corroborative evidence we do not consider that it is safe to convict the appellant of the charge based on this evidence alone and thus by extending the benefit of the doubt to the appellant we hereby acquit him of the charge as there seem to be doubts about his involvement in the car bombing outside PIDC house which lead to the injury of 17 and the murder of 4 others on 15.11.05. In this respect reliance is placed on the case of **Tariq Pervez V/s. The State** (1995 SCMR 1345), wherein the Supreme Court has observed as follows:-

"It is settled law that 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

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of the accused, then the accused will be entitled to the benefit not as a matter of grace and concession but as a matter of right."

17. As such we allow the appeal and set aside the impugned judgment and answer confirmation reference 04/2007 in respect of appellant Abdul Hameed Bugti in the negative who shall be released from custody unless wanted in any other custody case.

18. The appeal and confirmation reference are disposed of in the above terms

MAK/PS