

IN THE HIGH COURT OF SINDH AT BENCH AT SUKKUR

Cr. Appeal No. S-43 of 2024

Appellant : Sajid Ali son of Ghulam Hyder Jatoi
Through Mr. Ghulam Murtaza Buriro, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 23.10.2025
Date of order : 23.10.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J.- This criminal appeal has been instituted under Section 410 of the Criminal Procedure Code challenging the conviction and sentence passed by the learned Additional Sessions Judge-IV (Hudood), Sukkur, recorded in Sessions Case No.489 of 2023 (The State vs Adnan and another) dated 08.04.2024. The appellant was convicted under Section 324 PPC and sentenced to imprisonment for five years; along with a conviction under Section 337-D PPC, accompanied by imprisonment for five years and a fine of Rs.2,252,634/- as *Diyat*, with default stipulating continued imprisonment until payment is made. Both sentences were ordered to run concurrently, with the benefit of Section 382-B, Cr.P.C extended to the appellant.

2. The prosecution's case, in brief, is that on 05.07.2023, the complainant Muhammad Azam with his son Muhammad Anas proceeded to Allah Wali Masjid to offer Maghrib prayer. Upon their return around 2010 hours, the accused Sajid Ali and Adnan @ Battu arrived on a motorcycle and demanded money from Muhammad Anas. The accused Sajid Ali then allegedly drew a pistol from his shalwar and fired directly at Muhammad Anas, who collapsed while raising cries. Subsequently, both accused fled the scene. The complainant promptly took the injured to the Police Station, secured a medical examination letter, and lodged the FIR.

3. Before the court, learned counsel for the appellant highlighted a critical procedural irregularity regarding the recording of statements of the accused under Section 342 Cr.P.C., marked as Ex.16 & 17. The computerized proforma was produced; however, it conspicuously lacks recorded answers from the accused, their signatures, the signature of the Presiding Officer, and the requisite certification. Learned DPG candidly acknowledged this omission. This court summoned the record and proceedings from the trial court, which upon review, corroborated the absence of compliant statement recordings.

4. In light of this, it emerges that the statements of the accused were not recorded in strict accordance with the mandates of law. The practice of convicting the accused on such defective recording flagrantly violates the fundamental rights guaranteed under Article 10-A of the Constitution of Pakistan, which safeguards fair trial guarantees.

5. Consequently, with the consent of the parties, the conviction and sentences impugned in this appeal are hereby quashed and set aside. The matter is remanded to the trial court for de novo recording of the accused's statements, ensuring full compliance with legal prescriptions, after which the trial court shall proceed to decide the case on its true merits in accordance with law.

6. Learned counsel for the appellant further submitted that the application under Section 426 Cr.P.C may be considered and adjudicated upon by the trial court. Given that the original sentence was relatively short, and considering the allowance of this appeal with remand, the appellant remains at liberty to file any appropriate application before the trial court, which shall be decided strictly on merit.

J U D G E