

IN THE HIGH COURT OF SINDH AT KARACHI

Sp. Cr. AT Appeal No.24 of 2025  
Sp. Cr. AT Appeal No.25 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
Appellant	: Zahid Sharif @ Tanki son of Muhammad Sharif, through Mr. Javaid Ahmed Chhatari, Advocate in Sp. Cr. AT Appeal No.24/2025.
Appellant	: Zahid Sharif @ Tanki son of Muhammad Sharif, through Mr. Ghulam Fareed Baloch, Advocate in Sp. Cr. AT Appeal No.25/2025.
Respondent	: The State through Mr. M. Iqbal Awan, Additional Prosecutor General, Sindh.
Date of hearing	: 08.9.2025
Date of decision	: 16.9.2025

J U D G M E N T

**Dr. Syed Fiaz ul Hassan Shah, J.** – Since common questions of law and facts are involved in the above-captioned Special Criminal Anti-Terrorism Appeals No.24 and 25 of 2025, they are being decided through this common order.

2. Briefly, the facts of the case, as set forth in the FIR, are that the complainant, Muhammad Aalam Khan, lodged a report under Section 154 Cr.P.C. at Police Station Surjani Town, Karachi, through ASI Abdul Khaliq. The complainant alleged that on 27.03.2022, he had submitted an application to the police against accused persons Muhammad Hassan Pathan and Zahid Sharif alias Tanki, stating that they had forcibly snatched his gold ring at gunpoint.
3. Thereafter, on 30.03.2022 at about 12:45 p.m., the complainant received a threatening phone call from accused Muhammad Hassan Pathan, who

warned him to withdraw the said application, failing which he would face dire consequences. He was also demanded to pay Rs. 1,000,000/- as extortion (bhatta). At that time, the complainant was present at Arz Muhammad Goth but immediately returned to his Estate Agency.

4. Upon his return, the complainant was informed by his employee that accused Muhammad Hassan and Zahid alias Tanki had visited the premises earlier, accompanied by two unidentified persons, and had inquired about him. Shortly thereafter, a white-colored car stopped in front of the Estate Agency. Four individuals, including Zahid Tanki, Muhammad Hassan Pathan, Abdul Rehman Pathan, and an unknown person, entered the Estate Agency and, at gunpoint, again demanded withdrawal of the complaint and extortion payment.
5. Out of fear, the complainant handed over Rs. 100,000/- in cash from the pocket of his shalwar, which was received by Muhammad Hassan. This incident occurred in the presence of witnesses Izzat Khan, Kamran alias Fauji, and others. The accused again reiterated their demand for payment of Rs. 1,000,000/- and threatened the complainant with consequences if the demand was not fulfilled. Thereafter, the accused left the scene.
6. The complainant then submitted an application at the Police Station and also filed Constitutional Petition No.1628/2022 before the Hon'ble Court. In compliance with the Court's directions, he approached the police again and recorded his formal statement under Section 154 Cr.P.C. Consequently, FIR was registered against the named accused persons.
7. Investigation of the case was entrusted to SIO/Inspector Misal Khan, who visited the place of incident on the pointation of the complainant. He prepared the site sketch, took photographs of the crime scene, and recorded statements of the witnesses under Section 161 Cr.P.C. During the investigation, accused Zahid Sharif and Muhammad Hassan Pathan were interrogated after obtaining pre-arrest bail from the competent court.
8. The Investigating Officer also obtained the Criminal Record (CRO) of the accused persons and retrieved the Call Detail Records (CDRs) of the

complainant and witness Izzatullah. Upon completion of the investigation, final challan was submitted against the accused Zahid Sharif, Muhammad Hassan Pathan, absconding accused Abdul Rehman Pathan, and one unidentified co-accused.

9. We have heard the Counsel for the Appellant, Addl PG Sindh and with their assistance have perused the record.
10. **I. Evaluation of Prosecution Evidence and Allegations of Extortion—**the complainant (PW-1) has narrated two distinct incidents (1) On **27.03.2023**, Accused Mohammad Hassan Pathan allegedly snatched a gold ring and he made complaint to Surjani PS (Exhibit 4/A) and (2) on **30.03.2023**, as per the statement recorded under **Section 154 Cr.P.C** (Exhibit 4/C), Mohammad Hassan Pathan demanded extortion of Rs.10,00,000 via mobile call and, later that day, forcibly entered the complainant's office along with Appellant Zahid, Abdul Rehman Pathan, and one unknown accused, and have collected ransom Rs.1,00,000 in cash. During his deposition, PW-1 deposed: ***"Accused Zahid Sharif and Muhammad Hassan Pathan took out pistols from the fold of their shalwar. They loaded their pistols and pointed on me. Then Hassan Pathan demanded Rs.10,00,000/- as Bahtta from me. I scared due to this situation. I gave such amount of cash Rs.1,00,000/- from the pocket of my shalwar to Hassan Pathan."*** The testimony of PW-1, being the primary and best evidence, does not attribute the act of extortion or its collection to Appellant Zahid Sharif. The role assigned to Appellant Zahid is limited to his presence and possession of a weapon, without any overt act of demand or receipt of extortion money. In light of this, the prosecution has failed to establish the ingredients of the offence of extortion under **Section 384 PPC** (Punishment for extortion) and **Section 385 PPC** (Putting person in fear of injury in order to commit extortion) against the Appellant. Mere presence with a weapon, absent any act of demand or collection, does not suffice to attract criminal

liability under these provisions. Therefore, the charges levelled against the Appellant are un-sustainable and cannot be held valid.

- 11. II. Prior Enmity, FIRs, Civil Litigation, and Evidentiary Contradictions**—it is pertinent to note that PW-1, PW-2, and the absconding accused Mohammad Hassan Pathan are previously nominated in **FIR No.623/2021** registered at the same Police Station for the offence of extortion, lodged by one Momin Khan. Additionally, Momin Khan has also lodged another FIR against the present Appellants, while Appellant Zahid has instituted **Civil Suit No.797/2021** before the Civil Court, indicating ongoing property-related disputes. The Appellant has produced documentary evidence under **Section 340(2) Cr.P.C**, including (1) A cheque (No.10095509) issued by PW-2 in favor of the Appellant (2) Sale-purchase contracts of disputed plots (3) Jirga/Arbitration proceedings (4) A report from PS Surjani Town submitted to the Justice of Peace, confirming that the complainant was pressing for registration of FIR over a property dispute. These documents suggest that the parties were embroiled in civil and property-related conflicts, thereby casting doubt on the bona fides of the extortion allegations. The possibility of misuse of criminal process to exert pressure in civil disputes cannot be ruled out.
- 12. III. Contradictions in Witness Testimony and Investigative Deficiencies**—the complainant PW-1 in cross examination admitted ***"In the FIR No.623/2021, registered by Momin Khan, I, my Munshi Izzaatullah and Hassan Pathan were the accused persons. The complainant Momin Khan had leveled allegation of Bhatta of Rs.200,000/- against us in his FIR No.623/2021. .... The witness Izzatullah is working with me as Munshi at my Estate Agency for the last four years. It is incorrect to suggest that I had business terms with accused Zahid Sharif for the last several years. .... I have no knowledge that my Munshi Izzatullah had issued any Cheque to accused Zahid Shareef."*** The relevant portion of the evidence of PW-2 deposed ***"On 30.03.2022 at 1245 hours one white colour car came in***

***front of our said Estate Agency. Four persons appeared from the car. Two of them were Hassan Pathan and Zahid Tanki and two unknown persons. They came to me and asked about Aalam Khan, I replied them that Aalam Khan was not there. They asked me to make phone call to Aalam Khan and again I replied them that I have no balance in my cell phone.***

13. The testimony of **PW-2** materially contradicts the version of **PW-1 (Complainant)**. While PW-1 alleges that extortion was demanded telephonically at **12:45 PM**, followed by a forcible entry into his estate agency at around **1:00 PM**, **PW-2** deposed that at the same time, the absconding accused (Mohammad Hassan Pathan), the Appellant (Zahid), and two unknown individuals arrived at the estate agency but found PW-1 absent and asked him (PW-2) to make a call on the mobile phone of PW-1 (Complainant). He further states that the alleged culprits waited outside in a white-colored vehicle, thereby negating the occurrence of any extortion demand on Mobile phone or coercive entry as narrated by PW-1. This contradiction strikes at the root of the prosecution's case and failure of the PW-2 to discharge its burden of particular facts being eye witness under **Article 122 of the Qanun-e-Shahad Order, 1984** and on the contrary his testimony that at the time of commission of offence, the PW-1 complainant/victim was not present expressly negated the occurrence on 30.03.2022 at 12.45 PM and the Court, Under **Article 129(g) of the Qanun-e-Shahadat Order, 1984**, may presume that evidence which could be and is not produced would, if produced, be unfavorable to the person who withholds it or that evidence has not been produced being concocted story. The failure to reconcile these material discrepancies renders the prosecution narrative unreliable. Furthermore, **Article 71** of the Qanun-e-Shahadat mandates that oral evidence must be direct and consistent. Where two prosecution witnesses present mutually exclusive accounts of the same incident, the benefit of doubt must be extended to the accused. The Hon'ble Supreme Court in *PLD 2009 SC 5* and *2020 SCMR 755* has consistently held that material

contradictions between prosecution witnesses erode the credibility of the case and entitle the accused to acquittal.

- 14. IV. Delay in Lodging of FIR and Its Legal Consequences**—it is further observed that there exists a substantial and unexplained delay in the initiation of criminal proceedings. The complainant (PW-1) initially moved an application before Police Station Surjani Town on **26.03.2022**, yet no FIR was registered at that stage. Subsequently, after a lapse of approximately **three months**, the complainant approached the Justice of Peace by filing an application under **Section 22-A, Cr.P.C.** on **22.06.2022** seeking directions for registration of FIR. No plausible explanation or legally tenable justification has been furnished by the complainant for this inordinate delay. It is a settled principle of criminal jurisprudence that unexplained delay in lodging the FIR casts serious doubt on the veracity of the prosecution's case and creates room for deliberation, embellishment, and fabrication of facts. Reliance may be placed on **PLD 2005 SC 40 and 2020 SCMR 755**, wherein the Hon'ble Supreme Court held that delay in reporting a cognizable offence, unless satisfactorily explained, undermines the credibility of the complainant's narrative. In the present case, the delay appears to be tactical rather than circumstantial, thereby diminishing the evidentiary value of the complaint and weakening the prosecution's stance.
- 15.** Additionally, the record reflects that the complainant and the Appellants are embroiled in **property disputes**, with multiple FIRs of extortion registered at **PS Surjani Town**, raising concerns about the misuse of criminal process to settle civil scores. The unchecked registration of extortion cases, without scrutiny of whether the land involved is government-owned or privately held, suggests systemic abuse by land grabbers exploiting the criminal justice system. The conduct of the **Investigating Officer PI Mishal Khan** is also found wanting. He failed, inter alia, to Investigate the **business relationship** or prior acquaintance between the parties, bring on record the **civil suits** or prior FIRs involving the same parties, Ascertain the **status of the disputed land** to safeguard

the interest of State (lands) and the underlying cause of repeated extortion complaints. Such investigative lapses violate the principles of fair trial and impartial inquiry as enshrined in **Article 10-A of the Constitution of Pakistan**. The Hon'ble Supreme Court in *PLD 2018 SC 813* emphasized that a flawed investigation not only prejudices the accused but also undermines the integrity of the justice system. Had a transparent and diligent investigation been conducted and carefully supervise by the SSP, District West and SSP (Investigation), District West, the nexus between the parties, the nature of their dispute, and the pattern of FIRs would have surfaced, enabling the Court to adjudicate with greater clarity and fairness.

16. In view of the foregoing analysis, the prosecution has failed to prove the offence of extortion against Appellant Zahid Sharif. The evidence on record does not satisfy the legal threshold under **Sections 384, 385 or 386 PPC**, nor does it establish common intention under **Section 34 PPC** to commit extortion. The presence of prior enmity and civil litigation further undermines the credibility of the prosecution's case. Accordingly, the Appellant is entitled to acquittal. Therefore, we allow this Appeal and set aside the impugned Judgment of conviction dated 19.07.2025 passed by the trial Court and acquit the Appellant.
17. Special Criminal Anti-Terrorism Appeal No.24 of 2025 and Special Criminal Anti-Terrorism Appeal No.25 of 2025 stand disposed of with directions to send copy of Judgment to the DIG, Special Branch, Karachi for inquiry in the light of observation given at paragraph 15, determine nature of (State) Land and role or failure of public official and place such comprehensive report before the IGP, Sindh, Karachi and Head of relevant department for necessary action. Compliance report to be submitted through MIT-II within 60 days.

**JUDGE**

**JUDGE**