

IN THE HIGH COURT OF SINDH, AT KARACHI
Special Crl. A.T. Jail Appeals No. 216 of 2023 and 41 of 2024

Before:
Acting Chief Justice Zafar Ahmed Rajput
Justice Miran Muhammad Shah

Applicant in Spl. Crl. A.T. Jail Appeal No. 216 of 2023 : Imran @ Lamba s/o Ahmed Hussain,

Applicant in Spl. Crl. A.T. Jail Appeal No. 41 of 2024 : Muhammad Farhan s/o Muhammad Mushtaq Qureshi

Both through Ms. Abida Parveen
 Channar, Advocate.

Respondent : The State, through Mr. Abrar
 Ali

Khichi, Addl. P.G.

Date of hearing : 22.09.2025

Date of order : 01.10.2025

JUDGMENT

ZAFAR AHMED RAJPUT, ACTING CHIEF JUSTICE. - By this common order, we intend to dispose of above listed both the Appeals, as being arisen out of same judgment, they have been heard by us together.

2. These Special Crl. A.T. Jail Appeals have been preferred by the Appellants, Imran @ Lamba s/o Ahmed Hussain and Muhammad Farhan s/o Muhammad Mushtaq Qureshi, respectively, against the judgment, dated 27.09.2023, passed by the Anti-Terrorism Court No. XX, Karachi (**“Trial Court”**) in Sessions Case No.302/2022 (*Re. The State v. Imran Amed & another*) and Sessions Case No.302-A/2022 (*Re. The State v. Imran Amed*) arisen out of Crime No.144/2022, registered under sections 353, 324, 34, P.P.C. r/w section 7 of the Anti-Terrorism Act, 1997 (**“Act of 1997”**) and Crime No.145/2022, registered (*against the Appellant Imran @ Lamba*) under section 23(1)(a), Sindh Arms Act, 2013 (**“Act of 2013”**), respectively, at Police Station Sir Syed, Karachi-Central, whereby both the Appellants have been convicted for the offence under section 324, P.P.C. r/w section 7 of

the Act of 1997 and sentenced to suffer R.I for **five (05) years** and to pay fine of Rs. 20,000/- or in default thereof, to undergo R.I for six (06) months more; for offence under section 353, P.P.C. to suffer R.I for one **(01) year**. While Appellant Imran @ Lamba has additionally been convicted and sentenced for the offence under section 23(1)(a) of the Act of 2013 to suffer R.I for **five (05) years** and to pay fine of Rs. 20,000/- or in default thereof, to undergo S.I for three (03) months more. All the sentences have been ordered to run concurrently and the benefit of section 382-B, CrPC has been extended to Appellants.

3. It is the case of the prosecution that, on 13-03-2022, a police party headed by the complainant SI Khalid Mehmood during patrolling along with subordinate staff, on a tipoff regarding presence of two drug peddlers, reached inside Muhammad Shah Graveyard, Bilal Colony, Sector 7-B, North Karachi, where Appellants/accused, riding on a motorcycle bearing registration No. KGZ-2843, made direct fire on them with intention to commit their murder and prevent their arrest. In retaliation, police party also made fire on them, causing injury to Appellant Imran @ Lamba, sitting on the rear seat of the motorcycle, on his left leg. Both the Appellants fell down on the ground and police apprehended them. From the search of Appellant Imran, police recovered one unlicensed 30-bore, without number black pistol along with loaded magazine containing two live bullets in its magazine; one live bullet in its chamber and one plastic shopper containing 1100 grams charas and seven packets of heroin weighing 11 grams. while, from search of Appellant Muhammad Farhan, police recovered four packets of heroin weighing 6 grams and Rs: 70/-from his possession. Police secured three empties of 30 bore; two of 9 mm bore and one of SMG from the spot and seized the motorcycle, for which the present cases were registered. At trial, both the cases, one relating to a police encounter and the other for recovery of an unlicensed pistol from

appellant Imran were amalgamated by the Trial Court in terms of section 21-M of the Act of 1997. The Trial Court framed the charge against the Appellants, to which they pleaded not guilty and claimed trial. During trial, complainant SI Khalid Mehmood passed away and in this regard SIP Shahid Taj appeared before the Trial Court and recorded his statement at Ex: 05 and produced documents at Ex: 5-A to Ex: 5-D. In support of its case, the prosecution examined **PW.01**, Dr. Mohammad Yaseen, the MLO, at Ex.06; **PW-02**; PC Faraz Ali (*mashir of arrest*) at Ex. 7; **PW-03**, PC Mohammad Asif (*mashir of arrest*) at Ex. 8; **PW-04**, SIP Ali Nawaz at Ex. 10; **PW-05**, Inspector Amanat Ali at Ex. 11; **PW-06**, PC Ghulam Rasool at Ex. 12 and **PW-7**, Inspector Abdul Ghani Rind (*I.O.*) at Ex.14. They have produced and exhibited in their evidence the relevant documents. The statements of Appellants under section 342(1) CrPC were recorded at Ex. 16 and Ex: 17, respectively, wherein they claimed to be innocent and prayed for justice. They, however, neither examined themselves on oath nor produced any witness in their defence. The learned Trial Court after hearing the learned counsel for the parties convicted the Appellants and sentenced them as mentioned above vide impugned judgment.

4. Learned counsel for the Appellants has maintained that the conviction recorded and sentences awarded to appellant for the offences under section 324 & 353, P.P.C. r/w section 7 of the Act of 1997 are not sustainable in law, as it is an admitted position that none of the police officials has sustained any injury, while the alleged pistol has been foisted upon the Appellant Imran by the police to save themselves from legal consequences for causing fire shot injury to them.

5. Conversely, learned Addl. P.G. has fully supported the impugned conviction and sentences recorded by the Trial Court vide impugned judgment.

7. Heard record perused.

8. It appears from the perusal of the record that there is no independent witness of the incident. The arms encounter was straight, yet surprisingly none sustained fire shot injury except Appellant Imran on his left leg. As per memo of arrest and recovery and FIR (*Ex. 7/C & Ex. 7/F*), the pistol recovered from Appellant Imran was without number, but the forensic report (*Ex. 14/K*) discloses that the number on pistol were rubbed. There is distinction between pistol without number and the pistol with rubbed number; such inconsistency leads to an inference of its manipulation and foistation. Besides, the alleged recovered motorcycle has not been produced at the trial and its non-production could not be ignored. It is an admitted position that PW-7, Inspector Abdul Ghani Rind (*I.O.*) has not collected the blood-stained earth from the place of incident during its inspection, which suggests that the incident has taken place in a manner other than the one alleged by the prosecution. Under the circumstances, the contentions of the Appellants that they have been involved in this case falsely by the police and that the pistol has been foisted on Appellant Imran to save them from legal consequences for causing fire shot injury to him could not be flouted.

9. For the foregoing facts, discussion and reasons, we are of the view that the prosecution has failed to bring home charge against the Appellants. It is not necessary that there should be more than one reason; in the circumstances, if one reason creates reasonable doubt in the prudent mind, which alone would be sufficient for discarding the prosecution evidence as held in the case of *Riaz Maeesh alias Mithu vs. State (1995 SCMR 1730)* and *Saeedullah vs. Shah Nazar and others (2001 P Cr. LJ 1740)*.

10. In the light of these observations, it can be safely concluded that the conviction of the Appellants is not supported by confidence inspiring evidence. Consequently, we allow these Appeals by setting aside their conviction and sentence recorded vide impugned judgment and acquit them of the charge. The Appellants shall be released forthwith by the jail authorities if their custody is not required by any other court in any other case/offence.

ACTING CHIEF JUSTICE

JUDGE

Athar Zai