IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Before:
Mr. Justice Amjad Ali Bohio, J.
Mr. Justice Khalid Hussain Shahani, J.

Spl. Anti-Terrorism Appeal No. D-77 of 2024

Appellant : Muhammad Yousuf son of Lal Bux, Kalwar
Through Mr. Alam Sher Khan Bozdar, Advocate

Spl. Anti-Terrorism Appeal No. D-80 of 2024

Appellants : 1) Akram Ali son of Jatoi, Pitafi
2) Rashid Hussain son of Ali Nawaz, Shaikh
Through Mr. Rukhsar Ahmed Junejo, Advocate

The State : Mr. Aftab Ahmed Shar, Addl. P.G

Date of hearing : 25.11.2025
Date of Judgment : 17.12.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J. – By this single judgment, we intend to dispose of Special Anti-Terrorism Appeals No.D-77 and D-80 of 2024, as both arise out of the same impugned judgment dated 10.07.2024 passed by the learned Judge, Anti-Terrorism Court-I, Sukkur, in Special Case No.18 of 2023 Re- *(The State v. Akram Ali and others)*, emanating from FIR No.23/2023 registered at Police Station CTD Sukkur for offences punishable under Sections 4/5 of the Explosive Substances Act, 1908 read with Sections 7(1) (ff) of the Anti-Terrorism Act, 1997 and 34 PPC, whereby the appellants were convicted and sentenced to undergo rigorous imprisonment for seven years under Section 5 of the Explosive Substances Act and fourteen years under Section 7(1)(ff) of the Anti-Terrorism Act, 1997, with forfeiture of property.

2. The facts of the prosecution case, concisely stated, are that on 14.08.2023, the complainant SIP Sajid Ali Gadani of PS CTD Sukkur, along with his subordinate staff, left the police station for patrolling vide Roznamcha Entry No. 08 at 1645 hours. It is alleged that upon reaching Ring

Road near Dargah Peer Musafir, a white Cultus car bearing registration No.ARQ-538 passed them in a suspicious manner. The police party chased and intercepted the said vehicle near Hira Residency on Jaffarabad Link Road at 1800 hours. Three persons were found in the car: Akram Ali (driver), Rashid Hussain (front seat), and Muhammad Yousuf (back seat). The police claimed to have recovered five non-electric detonators from the possession of Akram Ali, five non-electric detonators from Rashid Hussain, and ten non-electric detonators from Muhammad Yousuf. Additionally, a black bag allegedly recovered from Muhammad Yousuf contained three hand grenades (HE-36), a timer, explosive powder weighing 400 grams, and other explosive materials. The police prepared the memo of arrest and recovery at the spot, nominating police officials HC Muhammad Nawaz and PC Ashfaque Ahmed as mashirs, citing the non-availability of private witnesses, and subsequently lodged the FIR.

3. The genesis of the trial commenced after the submission of the challan, whereafter the learned trial court framed the charge against the accused persons, to which they pleaded not guilty and claimed trial. To substantiate its case, the prosecution examined seven witnesses, including the complainant SIP Sajid Ali (PW-1), mashir HC Muhammad Nawaz (PW-2), BDU expert ASI Mumtaz Ahmed (PW-3), and Investigating Officer Inspector Ashraf Ali Mangi (PW-7), among others. The prosecution also produced documentary evidence including the chemical examiner's reports and BDU clearance certificates. In their statements recorded under Section 342 Cr.P.C., the appellants denied the allegations, pleading that they were innocent and had been picked up by law enforcement agencies from their homes on 17.07.2023, weeks prior to the alleged arrest and were falsely implicated due to their inability to pay illegal gratification. In defense, they examined DWs Pehlwan, Asad Ali, and Muhammad Younis to substantiate

the plea of prior detention. However, the learned trial court, relying on the police testimonies, convicted the appellants vide the impugned judgment.

4. The learned counsels for the appellants, Mr. Alam Sher Khan Bozdar (for Muhammad Yousuf) and Mr. Rukhsar Ahmed Junejo (for Akram Ali and Rashid Hussain), have submitted a comprehensive and well-articulated case for acquittal. They contend, firstly, that the appellants are innocent persons who have been falsely and maliciously implicated in this case by the police machinery. The learned counsels argue that nothing whatsoever has been recovered from the possession of the appellants, and that the entire case property the detonators, hand-grenades, explosive powder, and fuse wire has been foisted upon them in a calculated bid to demonstrate police efficiency and justify the counter-terrorism operations. They further contend that the appellants had, in fact, been abducted by law enforcement agencies on 17th July, 2023, from their respective homes in Mirpur Mathelo, held incommunicado, and subjected to torture and threats of death. They argue that the appellants were then unlawfully handed over to the CTD Police at PS CTD Sukkur on 13th August, 2023, after a gap of 27 days, and a false FIR was registered against them to cover up this illegal detention. The learned counsels point out material contradictions in the statements of the prosecution witnesses concerning the nature, timing, and manner of the alleged recovery. They highlight that the police witnesses have contradicted each other on critical particulars such as the number of vehicles seen during patrol, the person who extracted the accused from the vehicle, the dimensions of the digital weighing scale, and the instrument used to seal the explosive material. The learned counsels emphasize that the place of the alleged incident was a busy, populated thoroughfare Hira Residency and Jaffarabad Link Road yet not a single private witness was associated with the memo of arrest and recovery despite the legal obligation under Section

103 Cr.P.C to ensure the presence of independent witnesses. They further argue that the Bomb Disposal Unit team conducted the defusing of hand-grenades within the police station premises, which is contrary to standard safety protocols and raises a grave doubt as to whether the grenades were genuinely "live" or serviceable. The learned counsels also emphasize the procedural irregularities: the sealed parcels were not dated, the currency notes and mobile phones were not sealed, and no proper chain of custody was maintained. They submit that the cumulative effect of these defects is so substantial that it creates not just a reasonable doubt but insurmountable doubt in the prosecution case, warranting acquittal. In support of their submissions, the learned counsels have cited legal authorities including (2025 SCMR 1008), (2025 SCMR 639), (2018 SCMR 495) and (2025 P.Cr.L.J 1326), establishing the principles that in cases where the investigation is defective, the motive is absent, and the ocular account is unreliable, the appellate court must extend the benefit of reasonable doubt in favour of the accused.

5. The learned Additional Prosecutor General, Mr. Aftab Ahmed Shar, has valiantly endeavoured to support the impugned judgment. He submits that the appellants were apprehended red-handed by the police during patrolling, and explosive materials of a heinous nature were recovered from their exclusive possession. He argues that the complainant and the police witnesses have consistently supported the prosecution case and have provided a coherent narrative of the recovery. The learned Addl. P.G submits that while there may be some minor discrepancies such as the number of vehicles observed or the size of the weighing scale, these are inconsequential and can be attributed to the passage of time since the incident occurred in August 2023 and the trial took place in early 2024. The learned Addl. P.G contends that the defence plea of prior abduction is unsupported and is

merely an afterthought to exculpate the appellants. He argues that the defence witnesses themselves admitted in cross-examination that no application or complaint was filed with any authority regarding the alleged abduction, and that no independent persons from the neighbourhood witnessed the claimed kidnapping. The learned Addl. P.G submits that the prosecution has sufficiently proved the case through the testimony of the complainant, the mashirs, the bomb disposal experts, and the investigating officer, and that the chain of custody has been adequately established through roznamcha entries and the production of case property in court. He further contends that in the jurisprudence of counter-terrorism cases, a degree of credence must be extended to the investigating agency, and the appellate court should not, without substantial reason, discard the conviction based on minor inconsistencies.

6. We have extended our anxious consideration to the submissions advanced by the learned counsel for the parties and have meticulously scanned the entire record, including the depositions of the seven prosecution witnesses, the examination statements of the appellants under Section 342 Cr.P.C, and the examination of the three defence witnesses. We shall now proceed to analyse the evidence witness by witness, highlighting the contradictions, omissions, and procedural irregularities that have come to our notice, before arriving at our ultimate determination.

7. The complainant, SIP Sajid Ali Gadani, is the nodal witness in this case as the initiator of the patrol and the person who prepared the memo of arrest and recovery. In his examination-in-chief, he narrated the prosecution case with apparent straightforwardness: he and his staff left the police station at 1645 hours, reached Dargah Peer Musafir at 1750 hours (as stated by PWs upon cross-examination, though the complainant did not specify this time in chief), observed the Cultus car crossing them

suspiciously, gave chase, and intercepted it near Hira Residency at 1800 hours. From personal searches of the three accused, he recovered detonators, currency notes, and a mobile phone. From the hand bag of Muhammad Yousuf, he recovered three hand-grenades, a timer, and explosive material. He then prepared the memo of arrest and recovery, nominating HC Muhammad Nawaz and PC Ashfaque Ahmed as mashirs, allegedly due to the non-availability of private witnesses.

8. However, upon meticulous scrutiny of his cross-examination, several stark contradictions and discrepancies emerge. *First,* the complainant admitted that the area was not deserted or isolated. He acknowledged that Hira Residency is situated at a distance of about 2 kilometers from Dargah Peer Musafir, and that there are residential societies on both sides of the Jaffarabad road. He further admitted that there was a police post surrounded by villages at a distance of about one kilometre from the place of incident. Yet, despite this densely populated locale, he never made any effort to associate a private witness as a mashir. When confronted with the proposition that about 8-10 houses existed at the place of incident, he merely said that *"no private person was available till our presence at the place of incident,"* a response which is inherently improbable and suggests a deliberate disregard for the statutory mandate of Section 103 Cr.P.C that recovery be witnessed by respectable independent persons. *Second,* the complainant's account of the patrol route and the distances involved raises questions. He stated that he left the police station, first went to the Bus Stand, stayed there for about 30 minutes, and then proceeded to Dargah Peer Musafir. The distance between Bus Stand and Dargah Peer Musafir is 3-4 kilometres, which he claimed to have covered in 20 minutes, and the distance from Dargah Peer Musafir to Hira Residency is 2 kilometres, covered in 15 minutes. These timings, though not impossible, combined with his

observation that *"about three motorcycles and cars crossed them before the Cultus car,"* stand in stark contradiction with PW-2's statement that *"about 25 vehicles crossed them before the car of accused near Dargah Pir Musafir."* This material discrepancy regarding the density of traffic at the location where the alleged incident occurred is not trivial; it speaks to the nature of the place and the likelihood of independent witnesses being available.

9. *Third,* the complainant's testimony regarding the identity and extraction of the accused from the vehicle is inconsistent. He stated that *"PC Abdul Qadir first got down the accused driver Akram from the car and then he got down accused Rashid sitting with him on the front seat of the car."* However, PW-2 (HC Muhammad Nawaz) stated in cross-examination: *"PC Ashfaq got down the accused persons from the car."* This discrepancy, though seemingly procedural, goes to the heart of the credibility of the complainant's testimony and suggests that either the complainant was not present at all material times or is embellishing the facts.

10. *Fourth,* the complainant's testimony regarding the weighing of explosive material is fraught with inconsistency. In his cross-examination, he stated: "*We have digital weighing scale white colour in investigation bag having capacity of weigh up to 02 KG. The size of digital weighing scale was about 08 inch x 08 inch*." However, PW-2 categorically stated: "*The complainant himself weighed the property on digital weight scale of white colour. The size of weighing scale was 18 inch x 18 inch having capacity of about 05 to 08 KG."* A digital weighing scale of 18 inches by 18 inches is substantially different in size from an 8 inch by 8 inch scale, and the difference in capacity (from 2 KG to 5-8 KG) is also material. This contradiction raises doubt as to whether the complainant accurately recalls

or is truthfully representing the manner in which the explosive material was weighed.

11. *Fifth*, the method of sealing the parcels is inconsistent. The complainant stated: "*We put three seals on one bag and seals three sealed parcels by using lighter*." PW-2, however, stated: "*We sealed the property by using match box provided by the driver PC Jameel Ahmed. We sealed the property in cloth bag without sewing it."* The complainant explicitly denied the use of a lighter in his cross-examination, saying: "*It is correct that we sealed the property by using lighter*," yet PW-2 contradicted him by asserting the use of a matchbox. These are not merely inconsequential details; the method and instrument of sealing are crucial to demonstrating the integrity of the evidence chain.

12. *Sixth*, the complainant's statement regarding the documentation of the sealed parcels is deeply problematic. He admitted: "*We did not mention the date on the sealed parcels. It is correct that currency notes and mobile phones were not sealed nor mentioned the serial numbers of the same in the mashirnama.*" This is a glaring omission. The absence of dates on sealed parcels makes it impossible to verify when the material was actually sealed and whether it remained in inviolable condition throughout its custody. Similarly, the failure to seal or identify the currency notes and mobile phones leaves a critical gap in the chain of custody, making it vulnerable to the allegation that the property was tampered with or substituted at any point.

13. *Seventh*, the complainant's responses concerning the alleged prior detention of the appellants are evasive and unconvincing. When confronted with the suggestion that *"accused were already in custody of law enforcement agency since 17th July, 2023 and they handed over the accused to us on 13th August, 2023,"* the complainant denied this in categorical terms: *"It is incorrect that accused were already in custody of law enforcement*

agency since 17th July, 2023 and they handed over the accused to us on 13th August, 2023 to involve them in this false case as they did not pay the demanded money." However, he did not provide any documentary evidence or contemporaneous record to refute the allegation. His bare denial, when confronted with the compelling testimony of defence witnesses and the suspicious 27-day gap between the alleged abduction and the so-called "interception," is insufficient to overcome the doubt. Furthermore, when asked directly: "*I don't know that accused Akram and Rashid were arrested by agencies on 17.07.2023 about 1030 hours from their houses at Gill Colony Mirpur Mathelo and thereafter on 13.08.2023 the accused were handed over to us at PS,"* the complainant's response was merely: *"It is incorrect."* This non-response is telling; it suggests that the complainant is either genuinely unaware of the prior detention (which raises questions about the provenance of the arrest) or is deliberately evading the issue.\

14. *Eighth,* the complainant's statement regarding the absence of any complaint or evidence that the accused were members of a terrorist organization is illuminating. He stated: "*It is correct that there no complaint against accused that they are belonging any terrorist organization that they were going make blst.*" This admission is critical; it means that the prosecution had no independent intelligence or evidence to suggest that the appellants were involved in terrorism or possessed explosives for terrorist purposes. The recovery, therefore, stands entirely isolated, with no corroborating intelligence or motive.

15. In light of these manifold contradictions and admissions, the testimony of PW-1 stands seriously compromised. The complainant's evidence, which is crucial to the case, is riddled with inconsistencies on material particulars, omissions in the preservation of evidence, and evasive

responses to grave allegations of false implication. His credibility, which is paramount in a criminal case, has been substantially eroded.

16. The second prosecution witness, HC Muhammad Nawaz, was nominated by the complainant as a mashir to witness the recovery of explosive material. In his examination-in-chief, he corroborated the complainant's version regarding the patrol, the interception of the vehicle, the search of the accused, and the recovery of the explosive material. However, upon cross-examination, his testimony reveals significant contradictions not only with that of the complainant but also with the internal coherence of his own account. First, PW-2's statement regarding the traffic density diverges materially from that of the complainant. Whereas the complainant stated that *"about three motorcycles and cars crossed them before the Cultus Car of the accused,"* PW-2 stated: *"About 25 vehicles crossed us before the car of accused near Dargah Pir Musafir."* This is not a minor discrepancy; a difference between three vehicles and twenty-five vehicles is substantial and speaks to the density and busyness of the location. If indeed 25 vehicles had crossed the police mobile before the suspected Cultus car, this suggests a highly trafficked area, further raising the question: Why could not a single private witness be found in such a crowded location to act as a mashir? Second, PW-2's testimony regarding the route and distances differs from that of the complainant. PW-2 stated: "*After leaving PS, we first went to Bus Stand Sukkur, stayed there for 30 minutes and then went to Jaffarabad road through City School. The distance between City School and Dargah Pir Musafir is about 07 to 08 kilo meters. We consumed 30 minutes to reach at Dargah Pir Musafir from Bus Stand*." The complainant, however, stated that the distance between Bus Stand and Dargah Pir Musafir is "*about 03 or 04 kilo meters which we covered in about 20 minutes*." These divergent accounts regarding distances 3-4 km versus 7-

8 km suggest either a fabricated narrative or a fundamental lack of precision in the police account, both of which are concerning.Third, PW-2's response regarding the person who extracted the accused from the vehicle contradicts the complainant's account. The complainant stated: "PC *Abdul Qadir first got down the accused driver Akram from the car and then he got down accused Rashid sitting with him on the front seat of the car.*" PW-2 stated: "*PC Ashfaq got down the accused persons from the car*." This discrepancy is material because it concerns the identity of the person who conducted the search and removal of the accused, which could affect the veracity of the subsequent recovery. Fourth, PW-2's testimony regarding the dimensions of the digital weighing scale and the sealing material is at variance with the complainant's account. Whereas the complainant stated the scale was 8 inches by 8 inches, PW-2 stated it was 18 inches by 18 inches. Whereas the complainant stated they used a *"lighter"* to seal the parcels, PW-2 stated they used a *"match-box."* These are not trivial discrepancies; they go to the heart of how the evidence was handled and preserved. Fifth, a critical admission by PW-2 deserves highlighting. He stated: "*It is correct that the 1.O did not ask any private person from PS to place of incident to act as mashir*." This is a clear and unequivocal admission that the investigating officer made no effort whatsoever to recruit a private witness from the police station and bring him to the place of incident to act as a mashir. This deliberate omission is inconsistent with the statutory mandate of Section 103 Cr.P.C and suggests a disregard for the safeguards intended to ensure the integrity of the recovery process. Sixth, PW-2's testimony regarding the nature of the area is revealing. He admitted: "*It is correct that Jaffarabad is busy running road. It is correct that there are residential societies and Ganang water course between Jaffarabad road*." These admissions directly contradict the complainant's assertion that "*no private person was available till our*

presence at the place of incident." If Jaffarabad is indeed a busy running road with residential societies nearby, then the proposition that no private person was available is highly improbable. Seventh, the time spent at the place of incident is vague and unaccounted for. PW-2 stated: "*About 30 to 45 minutes were consumed in arresting, recovery and sealing the property*." This is a wide range, indicating imprecision in the police account. More importantly, if 30 to 45 minutes were spent at a busy, populated location, it is inconceivable that no private citizen approached or was nearby who could have been invited to act as a witness.

17. In light of these contradictions and admissions, the testimony of PW-2 does not inspire confidence. While he ostensibly corroborates the complainant's version, his own testimony contains internal contradictions and material inconsistencies with that of the complainant, both of which undermine the reliability of his account.

18. The third prosecution witness, ASI Mumtaz Ahmed, was a member of the Bomb Disposal Unit of the Special Branch, Sukkur. His evidence concerns the inspection and examination of the explosive material to determine its live/serviceable status. In his examination-in-chief, he testified that he and ASI Qurban Ali, in compliance with the orders dated 16th and 17th August, 2023, came to PS CTD Sukkur on 18th August, 2023 and inspected the case property. He stated that upon de-sealing the parcels, he found five non-electrical detonators in the first parcel, five in the second, ten in the third, and three hand-grenades HE-36 in the fourth parcel, all of which were found to be *"live."* He further stated that he attempted to defuse the hand-grenades but could not do so due to rust, and that he took samples of the safety fuse wire (3 inches) and explosive powder (2.5 grams) for forwarding to the Forensic Science Laboratory. However, upon rigorous examination of his cross-examination, several critical flaws in his testimony

emerge. First, the timing of his inspection is problematic. He stated: "*I left my office at 1110 hours by police mobile vide entry No.10. PS CTD Sukkur is at the distance of about 2 to 3 KMs form my office. I kept arrival entry at PS CTD Sukkur. I started inspection of the property at 1200 hours.*" He further stated: "*We consumed about two hours to de-seal and checked all the sealed parcels.*" This means the inspection was conducted between 1200 hours and about 1400 hours. However, he then stated: "*It is correct that in technical report, it is not mentioned specifically that we ourselves weighed the property."* This is a significant admission; if the expert did not weigh the property during inspection, then how can he definitively assert the weight of the explosive materials as stated in the FIR? His reliance on the earlier weighing by the complainant is problematic given the contradictions regarding the scale's dimensions and capacity. Second, and more critically, PW-3 admitted a fundamental procedural irregularity. He stated: "*I am M.A Political Science and also completed BDS Courses. It is correct that I have no knowledge about computer operation. It is correct that technical report produced by me is prepared on computer. Voluntarily says that it was prepared by the computer operator under my dictation. I first prepared rough notes of the report which have not been produced by me.*" This admission raises a grave concern: the technical report, which is a crucial piece of expert evidence, was not prepared by PW-3 himself but by a computer operator based on his dictation. Moreover, the rough notes, which would contain the contemporaneous observations and calculations of the expert, have not been produced. This introduces a layer of removed testimony and raises the possibility of error, omission, or even fabrication in the transition from rough notes to the typed report. Furthermore, PW-3 admitted: "*It is correct that time of preparation of technical report is not mentioned on the same*." This absence of a timestamp on the report makes it

impossible to verify when the report was actually prepared and whether it was prepared at the time of inspection or at some later date. Third, PW-3 made a particularly damaging admission regarding the testing of the detonators. He stated: "*I checked non-electrical detonators with BD equipments but it is correct that I have not mentioned specifically in the report about the BD equipments."* This is a critical omission; the expert has not documented the specific equipment used to test the detonators, the methodology employed, or the readings obtained. Without such documentation, the court cannot independently verify the basis for his conclusion that the detonators were "live." Fourth, PW-3 admitted that the detonators were not forwarded to the Forensic Science Laboratory. He stated: *"It is incorrect that we did not check non-electrical detonators and prepared the false report without inspection. I myself checked the property. It is incorrect that we did not de-seal three parcels of non-electrical detonators at the time of inspection. It is correct that detonators were... It is incorrect that I am not sent to the Laboratory. Deposing falsely*." The fragmented nature of this response suggests evasion, and the explicit statement "It is correct that detonators were... [incomplete]" followed by "It is incorrect that... [detonators were] not sent to the Laboratory" is confusing and contradictory. The record indicates that the detonators were not sent to the Laboratory for independent verification, which is a significant procedural defect. Independent laboratory verification would have provided an objective assessment of the nature and status of the detonators, but this was not done. Fifth, PW-3's testimony regarding the hand-grenades is also problematic. He stated: "*It is incorrect that hand-grenades were not in working condition. It is correct that hand-grenades were in rusted condition.*" The admission that the hand-grenades were in a "rusted condition" is significant. A hand-grenade in a rusted condition may not be serviceable or capable of

detonation. The fact that he "*tried to defuse them but due to rust I could not not so*" suggests that the grenades were in such poor condition that the expert could not even attempt a proper defusing procedure. This raises a grave question: Can a rusted hand-grenade, which is incapable of being properly defused, really be considered a "live" explosive device capable of causing harm? Sixth, the location where the hand-grenades were later defused is problematic. PW-3 stated that he attempted to defuse the grenades but could not due to rust. However, PW-4 (ASI Nasrullah) stated that on 05th September, 2023, the hand-grenades were taken to an "*open area infront of PS*" and defused there. This is a grave procedural irregularity. Standard practice in bomb disposal dictates that grenades should be defused at a designated bomb disposal site or in a safe, isolated location away from populated areas, not in an open area in front of a police station, which is itself an urban location. This non-compliance with standard operating procedure raises serious doubts as to the veracity of the claim that the grenades were genuinely "live" or the professional competence of the bomb disposal team. In light of these considerations, the testimony of PW-3 is marred by multiple procedural irregularities, omissions in documentation, and admissions that undermine the reliability of his expert opinion. The report itself was not prepared by the expert but by a computer operator based on dictation, the rough notes are missing, the methodology is not documented, the detonators were not sent for independent verification, and the hand-grenades were in such poor condition that proper defusing was not possible.

19. The fourth prosecution witness, ASI Nasrullah, was another member of the Bomb Disposal Unit. His evidence concerns the defusing of the three hand-grenades on 05th September, 2023. In his examination-in-chief, he stated that he and SIP Rustum Ali came to PS CTD Sukkur in compliance with orders and received three hand-grenades HE-36 in a rusted

condition, checked them and found them to be "live," and then defused all three in an open area in front of PS. However, upon scrutiny of his cross-examination, several issues emerge. First, regarding the timing and location of the defusing, PW-4 admitted: *"I left my office at 1015 hours. PS CTD Sukkur is at the distance of about 2 and half KMs from my office which we covered in 10 minutes. I did not keep roznamcha entry of arrival at PS CTD Sukkur. I went to PS CTD Sukkur by police mobile. We defused the hand-grenades at about 1100 hours. We consumed about 10 minute to defuse each hand-grenades*." The fact that he did not keep a roznamcha entry of arrival at PS CTD Sukkur is procedurally defective; there is no contemporaneous record of his arrival, which could allow for verification. More problematically, the defusing took place in an "*open area infront of PS,"* which is a violation of standard bomb disposal protocols. A proper bomb disposal operation requires a designated, secluded location away from populated areas to ensure public safety. Defusing grenades in an open area in front of a police station, which is itself an urban location with foot traffic and civilian presence, is professionally imprudent and raises serious questions about the authenticity of the operation. Second, PW-4 admitted regarding the condition of the hand-grenades: "*It is correct that the hand-grenades were in rusted condition. It is incorrect that the hand-grenades were not in working condition.*" This is a contradictory statement. If grenades are in a rusted condition, the reasonable inference is that they are not in working condition. Rust is a corrosive process that deteriorates metal and renders mechanical and electronic components non-functional. The assertion that grenades in "rusted condition" are nevertheless "working condition" is scientifically implausible and suggests either a misunderstanding of the term "working condition" or deliberate obfuscation. Third, PW-4's testimony regarding the inspection of the grenades is vague. He stated: "*We checked*

and found the same as live." However, he did not specify the methodology employed to determine the "live" status, the equipment used, or the readings obtained. Similarly to PW-3, his testimony lacks the specificity and documentation required for a credible expert opinion.

20. Fourth, the timing of the defusing operation is inconsistent with previous records. PW-4 stated: "*We defused the hand-grenades at about 1100 hours. We consumed about 10 minute to defuse each hand-grenades*." However, earlier he stated that he left his office at 1015 hours and covered 2.5 kilometers in 10 minutes, arriving at approximately 1025 hours. If the defusing commenced at 1100 hours, that is a gap of 35 minutes between arrival and commencement, which is not accounted for. Furthermore, if ten minutes were consumed to defuse each of the three grenades, the total time would be 30 minutes, suggesting commencement at 1100 hours and completion at 1130 hours. However, PW-4 later stated: "*We defused the hand-grenades at about 1100 hours to 1230 hours."* This is a gap of one and a half hours, not 30 minutes, suggesting that the actual defusing process took much longer than the ten minutes per grenade statement. These inconsistencies raise questions about the veracity of the operation. In light of these considerations, the testimony of PW-4 is fraught with inconsistencies, procedural violations, and admissions that undermine the credibility of the bomb disposal operation.

21. The seventh and final prosecution witness is the investigating officer, Inspector Ashraf Ali Mangi. His evidence is crucial as he was responsible for the chain of custody of the explosive material, the investigation, and the preparation of the case for trial. In his examination-in-chief, he provided a comprehensive account of his investigative steps, including the receipt of the case property at Malkhana, the visits of the BDU team, the forwarding of samples to the Forensic Science Laboratory, and the

obtaining of permission from the Home Department for prosecution. However, upon examination of his cross-examination, critical gaps and admissions emerge. First, regarding the chain of custody, the investigating officer admitted: "*It is correct that there is busy running road from PS up to place of incident. It is correct that we did not ask any private person to act as mashir of place of incident."* This reiteration of the procedural defect, the absence of private witnesses further confirms that no effort was made to comply with Section 103 Cr.P.C. Second, the investigating officer made a damaging admission regarding the home department permission. He stated: "*It is correct that I did not obtain permission from Home Department for investigation prosecution after registration of FIR of this case. Voluntarily says permission to submit challan against the accused was obtained."* This is a critical distinction: while he obtained permission to submit the challan (the charge sheet) to the trial court, he did not obtain permission from the Home Department for the prosecution itself, which may be required under the Anti-Terrorism Act, 1997. The "voluntary" statement suggesting that he obtained permission at a later stage does not cure the initial procedural defect. Third, the investigating officer made an important admission regarding the vehicle owner. He stated: "*I did not record statement of Niaz Hussain who was found owner of the vehicle as per report of Excise Office. Voluntarily says that I tried to contact Niaz Hussain through his mobile phone but his mobile phone was off. It is correct that I have not made Niaz Hussain as accused in this case*." This is a significant omission. The vehicle, which was used to transport the alleged explosive material, was owned by a third party, Niaz Hussain. The investigating officer made no effort to interrogate or record the statement of the vehicle owner, who could have provided crucial information about who was using the vehicle, under what circumstances, and whether the owner had any knowledge of the alleged

explosives. The excuse that the mobile phone was "off" is facile and suggests a lack of diligence in the investigation. Fourth, the investigating officer's statement regarding the production of documentary evidence regarding membership in a terrorist organization is illuminating. He stated: "*It is correct that I have not produced any documentary proof to show that the accused are members of any banned organization.*" This admission is critical; it means that the prosecution had no independent evidence or intelligence to suggest that the appellants were members of a proscribed organization or that they possessed the explosives for terrorist purposes. The entire case rests on the assumption that possession of detonators and hand-grenades, without more, constitutes an offence under the Anti-Terrorism Act. However, the absence of any nexus to terrorism or any evidence of terrorist intent is a fatal defect in a prosecution under the Anti-Terrorism Act, 1997. Fifth, the investigating officer's response to the defence plea of prior detention is evasive. He stated: *"It is incorrect that law enforcement agency took the accused from their houses on 17.07.2023 and handed over them to SIP Sajid Ali Gadani at PS CTD Sukkur on 13.08.2023*." However, he did not provide any documentary evidence or explanation for the 27-day gap between 17th July (the date alleged by the defence) and 13th August (the date when the police claim to have received the accused from law enforcement agencies). His bare denial does not address the compelling defence evidence of the prior detention. Sixth, the investigating officer admitted a profound procedural defect regarding the sealing of parcels. He stated: "*The property was sealed except cash. No date was mentioned in the sealed parce*l." The absence of dates on the sealed parcels is a critical omission. Dated seals are essential to establish the timeline of custody and to prevent allegations of tampering or substitution. The absence of dates makes it impossible to verify the integrity of the evidence. Seventh, the investigating officer's admission

regarding the detonators is damaging. He stated: "*It is correct that I did not send detonators to the Laboratory.*" This is a grave procedural defect. The detonators were not sent to the Forensic Science Laboratory for independent verification of their nature, composition, or live/serviceable status. This leaves the court entirely dependent on the testimony of the Bomb Disposal Unit experts, whose competence and reliability have been questioned. In light of these manifold admissions and omissions, the testimony of the investigating officer, while appearing comprehensive on the surface, is riddled with procedural defects, omissions in investigation, and admissions that undermine the integrity of the case.

22. The defence has presented three witnesses: DW Pehlwan (brother of Akram Ali), DW Asad Ali (brother-in-law of Rashid Hussain), and DW Muhammad Younis (brother of Muhammad Yousuf). Their evidence concerns the alleged prior detention of the appellants by law enforcement agencies on 17th July, 2023, and the illegal demand for money for their release. While the trial court dismissed their evidence on the basis that the accused did not examine themselves on oath and that the defence witnesses admitted the absence of written complaints or independent corroboration, this reasoning is not entirely convincing. The defence witnesses testified to a consistent narrative: on 17th July, 2023, unknown persons (allegedly from law enforcement agencies) came to the houses of the appellants, covered their faces, and took them away. Subsequently, on 13th August, 2023, they came to know that the appellants were in the custody of PS CTD Sukkur. The witnesses further testified that unknown persons demanded money from their relatives for the release of the appellants, which their families could not pay. Thereafter, false FIRs were registered against them. While it is true that the defence witnesses could not provide documentary evidence or written complaints, this does not necessarily

invalidate their testimony. In the context of alleged illegal detention by law enforcement agencies, it is not uncommon for victims to refrain from filing complaints due to fear of reprisal or intimidation. The absence of written complaints does not necessarily mean that the alleged detention did not occur. Moreover, the consistent narrative provided by the three defence witnesses, all of whom testified from personal knowledge and were subjected to cross-examination, carries some weight. More significantly, the gap of 27 days between 17th July and 13th August is conspicuous and unexplained by the prosecution. The investigating officer made no effort to account for this gap or to clarify where the appellants were during this period. The sudden appearance of the appellants in the CTD custody on the exact date when the police claim to have apprehended them based on alleged "spy information" is suspicious and suggests the possibility of prior detention. Furthermore, the testimony of the defence witnesses gains credibility when viewed against the backdrop of the procedural defects and contradictions in the prosecution case. If the appellants had indeed been apprehended in a fair and transparent manner at Hira Residency on 14th August, 2023, with explosives recovered from their possession, then the defence plea of prior detention would be implausible. However, given the multiple procedural defects, the absence of private witnesses despite the location being populated, the contradictions in the prosecution witnesses' testimony, and the suspicious nature of the entire operation, the defence plea of prior detention becomes plausible and worthy of consideration.

23. Having examined the evidence of the prosecution and defence witnesses, we now proceed to synthesize our findings and identify the critical flaws that render the conviction unsafe. The recovery of explosive material was allegedly made at a location described as "Hira Residency" and along the "Jaffarabad Link Road," both of which are acknowledged to be populated

areas with residential societies, shops, and commercial activity. The prosecution witnesses admitted that there were multiple houses at the place of incident and that it was a busy, running road. Yet, not a single private witness was associated with the mashirnama of arrest and recovery. While the explanation given is that "no private person was available," this is inherently improbable given the densely populated nature of the location. Moreover, the investigating officer admitted that he did not make any effort to bring a private person from the police station to act as a mashir. This wholesale disregard for the statutory mandate of Section 103 Cr.P.C is a serious procedural defect that strikes at the root of the integrity of the recovery. The complainant and PW-2 contradicted each other on critical particulars, including the number of vehicles observed (3 versus 25), the person who extracted the accused from the vehicle (PC Abdul Qadir versus PC Ashfaq), the dimensions of the digital weighing scale (8x8 inches versus 18x18 inches), and the instrument used to seal the parcels (lighter versus matchbox). While the trial court was inclined to overlook these as minor discrepancies due to the passage of time, a cumulative assessment of these contradictions suggests either a fabricated narrative or a fundamental lack of precision and credibility in the police account. The sealed parcels were not dated, the currency notes and mobile phones were not sealed, and the serial numbers of the mobile phones were not recorded. These omissions make it impossible to verify the integrity of the evidence and render it vulnerable to allegations of tampering or substitution. Furthermore, the detonators were not sent to the Forensic Science Laboratory for independent verification, leaving the court entirely dependent on the testimony of the Bomb Disposal Unit experts. The technical report of the Bomb Disposal Unit was prepared by a computer operator based on the dictation of the expert, and the rough notes have not been produced. The methodology employed to determine the

"live" status of the detonators and grenades is not documented. The defusing of the hand-grenades took place in an open area in front of the police station, which is a violation of standard bomb disposal protocols. The hand-grenades were in a rusted condition, raising questions about their serviceability. These defects in the expert evidence render it unreliable. The 27-day gap between the alleged abduction on 17th July and the alleged apprehension on 13th August is suspicious and unexplained by the prosecution. The consistent narrative of the defence witnesses, though lacking documentary corroboration, carries weight when viewed against the backdrop of the procedural defects in the prosecution case. The investigating officer admitted that no documentary evidence was produced to show that the appellants were members of a banned organization or that they possessed the explosives for terrorist purposes. The mere possession of detonators and hand-grenades, without more, may constitute an offence under the Explosive Substances Act, but it does not necessarily constitute a terrorist act under the Anti-Terrorism Act, 1997. The absence of any nexus to terrorism or any evidence of terrorist intent is a fatal defect in a prosecution under the Anti-Terrorism Act. The vehicle was owned by Niaz Hussain, a third party. The investigating officer made no effort to interrogate or record the statement of the vehicle owner, who could have provided crucial information about the use of the vehicle and the presence of the explosives. This omission suggests a lack of diligence in the investigation. In light of these findings, the conviction stands on an infirm footing, marred by procedural defects, material contradictions, inadequate expert evidence, and suspicious circumstances that create reasonable doubt in the case of the prosecution.

24. We now turn to the applicable legal principles that govern the appraisal of evidence in criminal cases, particularly in the context of charges involving terrorism and the possession of explosives. The cardinal principle

in criminal jurisprudence is that the burden of proof lies with the prosecution to prove its case beyond a reasonable doubt. This principle is not merely procedural; it is fundamental to the concept of justice and the rule of law. As held in the seminal case reported as *Muhammad Musawar Rafiq v. The State* (2025 SCMR 1008), the Supreme Court of Pakistan has reiterated that in cases involving grave charges such as terrorism, the standard of proof must be exacting, and the evidence must be such as to exclude any reasonable doubt. The principle is succinctly stated in the authority: where the investigation is defective, the motive is absent, and the ocular account is unreliable, the appellate court must extend the benefit of doubt in favour of the accused. In case of *Abdul Samad v. The State* (2025 SCMR 639), the Supreme Court has held that for the purpose of extending the benefit of doubt, it is not necessary that there be many circumstances creating doubt; a single material circumstance creating reasonable doubt is sufficient to earn an acquittal. In the present case, we have identified not one but multiple circumstances creating reasonable doubt: the violation of Section 103 Cr.P.C, the material contradictions in the prosecution witnesses' testimony, the procedural irregularities in the preservation of evidence, the inadequacies in the expert evidence, and the suspicious timeline suggestive of prior detention. In case of *Intekhab Ahmed Abbasi v. The State* (2018 SCMR 495), the Supreme Court has held that the credibility of police witnesses must be scrutinized with particular rigor, especially when the recovery is made in a populated area and independent private witnesses are available but not associated with the recovery. The principle established in this authority is directly applicable to the present case, where the place of incident was densely populated and private witnesses were demonstrably available but not invited to participate. In case of *Muhammad Ibrahim & another v. The State* (2025 P.Cr.L.J 1326), the Baloachistan High Court has held that a defective

investigation, marked by procedural irregularities and omissions, can be grounds for acquittal even if the case property is recovered. The principle is that the integrity of the evidence chain is paramount, and if the chain is broken or compromised, the entire edifice of the prosecution case collapses. In the present case, the chain of custody is broken at multiple points: the absence of dates on the sealed parcels, the failure to seal the currency notes and mobile phones, the failure to send the detonators to the laboratory, and the procedural irregularities in the expert examination. Moreover, in cases involving the Anti-Terrorism Act, 1997, it is well-established that the mere possession of explosives, without more, does not constitute a terrorist act. There must be evidence of nexus to terrorism, intent to cause terrorism, or membership in a proscribed organization. The investigating officer admitted that no such evidence was produced in the present case. This is a fatal defect in a prosecution under the Anti-Terrorism Act. Furthermore, the principle that the exclusion of reasonable doubt operates in favour of the accused is a corollary of the rule of law and the principle of proportionality. As stated in various authorities on criminal jurisprudence, it is better to acquit ten guilty persons than to convict one innocent person. This principle is particularly applicable in the context of charges involving terrorism, where the potential for abuse and false implication is high.

25. Upon a meticulous examination of the evidence and the application of legal principles governing criminal prosecution, we are constrained to conclude that the prosecution has failed to establish its case against the appellants beyond a reasonable doubt. The conviction, as recorded by the learned trial court, is unsafe and unsustainable on multiple grounds. The procedural defects, the contradictions in the evidence, the inadequacies in the expert opinion, and the suspicious circumstances suggestive of prior detention collectively create such a degree of reasonable

doubt that no conscientious judge could rest a conviction on the evidence presented. The appellants have been subjected to a process that does not meet the standards of fairness and due process inherent in the rule of law. The violation of Section 103 Cr.P.C, the contradictory statements of the prosecution witnesses, the procedural irregularities in the preservation of evidence, and the absence of any nexus to terrorism are fatal defects that strike at the root of the conviction.

26. For the foregoing reasons, we are of the view that both the appeals are meritorious and are liable to be allowed. We, therefore, allow Special Anti-Terrorism Appeal No. D-77 of 2024 and Special Anti-Terrorism Appeal No. D-80 of 2024 in their entirety and hereby set aside the impugned judgment dated 10th July, 2024, passed by the learned Judge, Anti-Terrorism Court-I, Sukkur.

27. Consequently, we hereby acquit the appellants Muhammad Yousuf son of Lal Bux Kalwar, Akram Ali son of Jatoi Pitafi, and Rashid Hussain son of Ali Nawaz Shaikh of all charges under Section 5 of the Explosive Substances Act, 1908 read with Section 7(1)(ff) of the Anti-Terrorism Act, 1997, and Section 34 PPC. We extend to them the benefit of the doubt as required by law, and we order their immediate release from custody. The appellants shall be released forthwith if not required in custody in any other case. The order for forfeiture of property as recorded in the impugned judgment is hereby set aside, and the case property shall be released to the appellants or their legal representatives, as the case may be, subject to the completion of such formalities as may be prescribed by law.

JUDGE

JUDGE