

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Khalid Hussain Shahani

Cr. Revision Application No.71 of 2026
(Amjad Ali vs. The State)

Date of hearing
& Order **22.04.2026**

Mr. Mallag Assa Dashti, advocate for applicant
Mr. Nisar Ahmed Mallah, advocate
Mr. Habib Ahmed, Special Prosecutor, ANF

ORDER

Muhammad Iqbal Kalhoro, J:- Applicant is one of the accused standing trial in Sessions Case No.101 of 2023 before Special Court No.I (C.N.S.) Karachi, arising out of Crime No.34/2023, under sections, among others, 6/9(1)3(e) 14, 15 of CNS Act, 1997, registered at Police Station ANF Gulshan-e-Iqbal, Karachi, in which it is alleged that from applicant and co-accused collectively 26.400 kilograms of charas was recovered on the day of incident viz. 13.10.2023, when they were present at Gulshan-e-Maymar Avenue, near Maymar Chowrangi and arrested.

2. In the trial, the prosecution led evidence by examining all the relevant witnesses to prove the charge, after which statements of accused u/s 342 Cr.PC were recorded. When the case was likely to be posted for judgment, applicant moved an application u/s 539-B Cr.PC seeking inspection of the site / place of incident by the learned Presiding Officer on the ground that the same had become disputed as in respect of which different discriptions were given by the witnesses. Further, the place of incident was entirely made up by the prosecution, otherwise it does not exist, hence, inspection by the learned Presiding Officer was necessary. However, this application has been dismissed by the impugned order dated 20.02.2026.

3. Learned defence counsel, in his arguments, has referred to the judgment in the case of *Asfandyar & another*¹ to bring home his point and to stress that in this case inspection of place of incident is necessary to resolve the issue.

4. His arguments have been opposed by learned Special Prosecutor, ANF stating that there is no ambiguity insofar as the understanding of the trial Court regarding the place of incident is concerned. Both the witnesses

¹ 2016 SCMR 2084

have, in detail, described specifications of the site and most importantly this provision enables the trial Court to inspect the place only when it is necessary for the purpose of appreciating the evidence on the point.

5. We have considered submissions of the parties and perused material available on record. The terms of this provision do not appear to be mandatory, as is held in a number of case laws including the one reported as **2016 SCMR 2084**. It is only when, in the opinion of the Court overlooking the enquiry or trial, it is necessary to carry out local inspection of the place for the purpose of properly appreciating the evidence, and to clarify any ambiguity in this regard, it may visit and inspect it and record a memorandum of any relevant facts observed during such inspection. The language employed in this provision clearly indicates that only when the Court has come across any difficulty in properly understanding or appreciating the evidence in regard to place of incident, it may resort to inspection and visiting the site to offset such impediment and decide the case by taking guidance from the notes prepared during such inspection.

6. The collective wisdom of the superior Courts, explicit in different judgments², is that the local inspection is discretionary power of the Court. It is done to properly appreciate the evidence on the point already available, and its purpose is not to collect additional evidence.

7. The place of incident disputed by the accused in the cross examination or the claim that he was not arrested from it does not give rise to a necessity for carrying out such inspection. Whenever in the cross examination, suggestions of denial viz-e-viz place of incident are made to the witnesses, it does not become automatically questionable thereby requiring a clarity through local inspection by the Court. Nonetheless, where, despite evidence given by the witnesses in regard to place of incident, and any explanation forwarded by the Investigating Officer in evidence, some questions are left in the opinion of the Court that need clarity, the Court may decide to inspect the site to remove confusion or vagueness in this regard.

8. However, it may be said that it is not an automatic process, which regardless of opinion of the Court, is set at motion, or get going whenever an application in this regard is filed by either side i.e. prosecution or the accused. The underlying purpose of this provision is to enhance understanding of the Court by physical inspection of the site when it forms

² (AIR 1927 All 350), (MANU/UP/0451/1972 & (MANU/MH/0178/1973)

such opinion for the purpose of properly appreciating evidence. As the purpose of this provision is limited to only properly appreciating the evidence available on record on the point of place where the offence has been alleged to have been committed, etc., this provision cannot be tapped to collect further or additional evidence through local inspection in order to rebut the prosecution case and use it as evidence.

9. The case where the accused entirely disputes the place of incident, or claims that it does not exist, or that he was not arrested from it, like in the present case, indeed a different situation arises, which by resorting to section 249-A or 265-K Cr.PC, can be dealt with by the Court, and if necessary by inspecting the site, or by any other means available to the Court under the law and give its findings.

10. However, on such ground the accused cannot be allowed to ask the Court u/s 539-B Cr.PC to locally inspect the site and confirm such fact, and on the basis of such confirmation or otherwise decide the case. Because such proposal, if done as requested, would take the Court to go beyond the mandate of this provision. Any such observation, as is sought by the appellant, made by the Court invoking this provision would then be a fact by itself and not a supporting exercise in order to properly appreciate the evidence already on record *qua* the site.

11. The impugned order shows that the Court did not think it necessary to visit the place of incident despite the request made by applicant, because in its opinion the local inspection was not necessary for identifying or understanding the place of incident and there was no ambiguity insofar as proper appreciation of the evidence *qua* the place of incident was concerned. We, therefore, find no merit in this criminal revision application, and resultantly, dismiss it.

The criminal revision application is disposed of.

JUDGE

JUDGE