

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Special Criminal Jail Appeal No. D-81 of 2024

Before:

Mr. Justice Mehmood A. Khan, J.

Mr. Justice Khalid Hussain Shahani, J.

Appellant : Irfan Ali alias Marko s/o Haji Khan Lashari
Through: Mr. Saeed Jamal Lund, Advocate

Respondent : The State,
Through: Mr. Zulfiqar Ali Jatoi, Additional
Prosecutor General

Date of Hearing : 25.02.2026

Date of Short Order : 25.02.2026

Date of Reasons : 26.02.2026

J U D G M E N T

KHALID HUSSAIN SHAHANI, J. --- Appellant Irfan Ali alias Marko, assails the judgment dated 27.06.2024 passed by the learned Special Judge for Control of Narcotic Substances / Additional Sessions Judge-I (MCTC) Khairpur, whereby he was convicted under Section 9(c) of the Control of Narcotic Substances Act, 1997 (hereinafter "the Act") and sentenced to suffer RI for 10 years and fine of Rs.100,000, upon the trial Court's determination that the prosecution had established, beyond reasonable doubt, the recovery of narcotic substance from the appellant's conscious possession. The present appeal is predicated upon the assertions that the prosecution evidence was discrepant, that no independent witnesses were associated with the recovery proceedings, and that the chain of safe custody of the recovered contraband was not demonstrated in accordance with law.

2. The prosecution case, arising from Crime No. 140 of 2022 registered at Police Station Kumb, is that on 14.10.2022, a police party headed by ASI Rafique Ahmed Pathan, while conducting routine patrol duty, intercepted the appellant who was allegedly moving in a suspicious manner on a public road. Upon search conducted in the presence of mashir witnesses PC Din Muhammad Shambani and PC Amjad Ali, the appellant was found to be in possession of 1840 grams of charas. The recovered substance was weighed, sealed in parcels, and taken into possession through a mashirnama prepared at the spot. The appellant was arrested, the case property deposited in the malkhana, and an FIR registered under Section 9(c) of the Act. A sample parcel was thereafter dispatched through official channel to the Chemical Examiner for forensic analysis.

3. Upon completion of investigation, a report under Section 173 Cr.P.C. was submitted before the competent Court, which framed charge against the appellant. He pleaded not guilty and claimed trial. The prosecution examined ASI Rafique Ahmed Pathan as complainant, the two mashir witnesses, Investigating Officer SIP Ghulam Mustafa Jalbani, and WHC Imam Bux who proved the malkhana register entry. The documentary evidence comprised the FIR, mashirnama of arrest and recovery, roznamcha entries, malkhana register, and the Chemical Examiner's report confirming the recovered substance to be charas. In his statement under Section 342 Cr.P.C., the appellant denied the allegations and claimed false implication. He neither examined himself on oath under Section 340(2) Cr.P.C. nor produced any defence evidence. The trial Court convicted and sentenced the appellant accordingly.

4. Learned counsel for the appellant contended that the prosecution case rested exclusively upon interested police testimony without association of any independent witness, that the evidence contained material discrepancies, and that the chain of safe custody was not established, all of which, in his submission, rendered the impugned judgment unsustainable. The learned Additional Prosecutor General, conversely, supported the conviction on the ground that the prosecution witnesses deposed consistently and their testimony stood corroborated by documentary evidence and the Chemical Examiner's report.

5. This Court has given anxious consideration to the submissions of learned counsel and has independently reappraised the entire record.

6. The complainant ASI Rafique Ahmed Pathan has deposed in unequivocal terms that he recovered 1840 grams of charas from the appellant's possession during routine patrol. His account is categorically corroborated by both mashir witnesses, PC Din Muhammad Shambani and PC Amjad Ali, who attested that recovery was effected in their presence and the charas was weighed and sealed at the locus of recovery through a contemporaneously prepared mashirnama. Their statements, when read in conjunction, present a consistent and mutually reinforcing narrative free of any material contradiction capable of shaking the substratum of the prosecution case.

7. The objection regarding non-association of independent witnesses is repelled. It is the settled law, as authoritatively pronounced by the Hon'ble Supreme Court of Pakistan in *Zain Ali v. The State* (2023 SCMR 1669), that testimonies of police personnel are required to be treated in the same manner as the testimony of any other witness and there exists no principle of law that without corroboration by independent witnesses, their testimonies cannot be relied upon, provided such

testimony is consistent, cogent, and reliable. The Hon'ble Supreme Court has further held in *Nazir Ahmed v. The State* (2023 SCMR 1299) that non-production of a recovery witness has no bearing on the merits of a case where the remaining prosecution evidence remains consistent and unshaken. In the present case, no previous enmity or motive to falsely implicate the appellant has been brought on record and the testimony of the recovery witnesses remained unimpeached in cross-examination.

8. Regarding safe custody, the Investigating Officer SIP Ghulam Mustafa Jalbani deposed with requisite specificity that the recovered charas was deposited in the malkhana, and WHC Imam Bux proved the relevant malkhana register entry, thereby establishing continuous and unimpeached custody of the case property. The sample parcel was thereafter dispatched through official channel to the Chemical Examiner, whose report conclusively confirmed the narcotic character of the recovered substance. The Hon'ble Supreme Court in *Mst. Sakina Ramzan v. The State* (2021 SCMR 451) held that the chain of custody must be unbroken and safe, secure and indisputable in order for reliance to be placed upon the Report of the Chemical Examiner, as any break or gap in such chain renders the said report unsafe for purposes of conviction. In contradistinction, the present case discloses a complete and unbroken chain of custody: from seizure, to malkhana deposit, to official dispatch for chemical analysis, each link established through oral testimony and corresponding documentary evidence. The prosecution therefore satisfies the exacting standard prescribed in *The State v. Zahir Shah* (2019 SCMR 2004), wherein the Hon'ble Supreme Court held that safe custody and safe transmission of the drug from the spot of recovery till its receipt by the Narcotics Testing Laboratory must be satisfactorily established, as such chain of custody is fundamental since the report of the Government Analyst is the main evidence for the purpose of conviction.

9. As regards the defence, the appellant's statement under Section 342 Cr.P.C. amounted to nothing more than a bald and unelaborated denial, unaccompanied by any defence evidence or plausible explanation of the incriminating circumstances established against him. A mere denial unsupported by any material is insufficient to create reasonable doubt where the prosecution has discharged its burden through credible, consistent, and corroborated evidence.

10. The learned trial Court has meticulously discussed the evidence of each prosecution witness and recorded cogent reasons for sustaining the conviction. Upon independent reappraisal, this Court finds no misreading, non-reading, or perverse appreciation of material evidence which could warrant interference in appellate jurisdiction. The prosecution has succeeded in establishing through

reliable ocular and documentary evidence that 1840 grams of charas was recovered from the conscious possession of the appellant, that the safe custody and transmission of the case property stands proved, and that the Chemical Examiner's report independently corroborates the prosecution's case.

11. For the foregoing reasons, the present Special Criminal Jail Appeal is found devoid of merit and dismissed. The conviction and sentence awarded to the appellant by the learned Special Judge for Control of Narcotic Substances / Additional Sessions Judge-I (MCTC) Khairpur vide judgment dated 27.06.2024 are maintained and upheld in their entirety.

12. These are the detailed reasons for the short order announced by this Court on 25.02.2026 whereby the instant appeal was dismissed.

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