

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

Criminal Acquittal Appeal No.S-51 of 2025
[SSGC through Waseem Qazi v. Aziz Khan & anther]

21.09.2026

Mr. Abdul Rasheed Abro, Advocate for appellant.

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ZULFIQAR ALI SANGI J:- The captioned acquittal appeal is directed against the judgment dated 15.03.2025 passed by learned Sessions Judge/Gas Utility Court, Hyderabad in Special Case No.14 of 2021, arising out of Crime No.128 of 2021 registered under sections 15, 17 of Gas (Theft Control & Recovery) Act, 2016 at PS Cantonment Hyderabad, whereby the learned trial Court after hearing the learned counsel for parties, acquitted private respondent/accused u/s 265-H(I) Cr.P.C of the charge by extending him benefit of doubt.

2. Briefly stated, the prosecution case is that on 15.12.2021, at about 12:00 noon, the complainant, Ghulam Sarwar, Senior Engineer, Sui Southern Gas Company, Hyderabad, along with his team, acting upon spy information, reached Defence Plaza, where they allegedly found a 20mm plastic gas pipeline running alongside Mirchi 360 Restaurant and a 4.5-feet plastic pipe affixed thereto, through which Sui-Gas was allegedly being stolen for commercial purposes. The complainant party photographed the proceedings, disconnected the alleged illegal connection, repaired the mainline and secured the plastic pipes from the spot as case property. Hence, the FIR was registered.

3. After framing the charge and during trial co-accused Mukhtiar Dawach was acquitted upon filing an application under section 265-K Cr.P.C vide dated 01.8.2024. The trial Court recorded evidence of as many as three (03) witnesses and thereafter prosecution closed the side and statement of accused as required u/s 342 Cr.P.C. was recorded, wherein he denied the prosecution's allegation and pleaded his innocence. However, neither he examined himself on Oath nor produced any witness in his defence.

4. Thereafter, as stated above, after hearing the learned counsel for the parties, the learned trial Court acquitted the respondent/accused

through impugned judgment dated 15.03.2025, hence this Criminal Acquittal Appeal.

5. Learned counsel representing the appellant/complainant, at the very outset, submits that the impugned judgment is not sustainable in law, as sufficient evidence was available on record against the accused, but the learned trial Court brushed aside the same, more particularly, the accused was acquitted of the charge without assigning any valid reason. He further contends that the witnesses are officials having no enmity with the private respondent / accused to falsely implicate him. He argues that the pipes used for committing gas theft were also recovered from the place of incident, which is sufficient to connect the private respondent/accused who was posted Manager at Mirchi 360 restaurant. He further submits that the learned trial Court ignored the fact that the witnesses supported the prosecution's case at trial.

6. I have heard the learned counsel for the appellant and have perused the impugned judgment and the material available on record. During the course of arguments, learned counsel for the appellant could not point out any specific illegality, perversity or material misreading/non-reading of evidence on the part of the learned trial Court warranting interference with the judgment of acquittal. On the contrary, the record reflects that the learned trial Court has assigned cogent and plausible reasons for extending the benefit of doubt to the private respondent/accused.

7. The complainant, Ghulam Sarwar, despite issuance of coercive process, could not appear before the learned trial Court to record his evidence. Thus, the prosecution failed to bring on record the evidence of its principal witness, who was allegedly the person who conducted the proceedings along-with his team at the spot. Such non-production of the best available evidence assumes significance and materially affects the prosecution case.

8. It is further alleged that upon inquiry at the spot, the raiding party came to know that the private respondent/accused, Aziz Khan, was working as Manager of Mirchi 360 Restaurant. However, none of the persons from whom such information was allegedly obtained was named or examined by the prosecution. Therefore, the alleged information regarding the respondent's connection with the restaurant remained an unsubstantiated assertion.

9. The prosecution further relies upon the alleged spy information pursuant to which the raiding party reached the place of occurrence. Admittedly, the place was situated in a populated area; nevertheless,

no independent person from the locality was associated as a mashir of the alleged recovery proceedings. Though non-association of private witnesses, by itself, may not always be fatal, in the present case this omission assumes significance when considered along with the other deficiencies in the prosecution evidence.

10. The Investigating Officer also failed to collect any tangible material connecting the respondent/accused with the alleged illegal connection of Gas or the premises in question. More importantly, he admitted that at the time of inspection, neither Aziz Khan nor Mukhtiar Dawach was present at Mirchi 360 Restaurant. He further admitted that the seizure memo was prepared at the police station. These circumstances materially weaken the prosecution version regarding the manner and place of the alleged recovery.

11. The prosecution further relied upon photographs allegedly taken during the proceedings at the place of occurrence. However, witness Masood Ahmed categorically conceded that *“accused Aziz Khan is not appearing in any photographs.”* Thus, the photographic material does not establish either the presence or participation of the respondent/accused in the alleged occurrence. In the absence of any other reliable evidence connecting him with the illegal connection, the mere detection of such connection at the premises cannot, by itself, establish his criminal liability.

12. The aforesaid circumstances, when considered cumulatively, namely, non-examination of the main witness complainant, failure to examine the persons who allegedly identified the respondent as Manager, non-association of any independent person despite the place of occurrence being situated in a populated area, failure of the Investigating Officer to collect tangible material connecting the respondent with the alleged offence, his admitted absence from the spot, preparation of the seizure memo at the police station, and absence of the respondent from the photographs, create reasonable doubt regarding the respondent's involvement in the alleged gas theft.

13. The prosecution was required to establish through reliable and confidence-inspiring evidence, not merely the existence of an alleged illegal connection but also the nexus of the respondent/accused with such connection and the commission of the offence. That essential link has remained unproved. The learned trial Court, therefore, has taken a possible and plausible view of the evidence while extending the benefit of doubt to the respondent/accused. No perversity, illegality or material misreading/non-reading of evidence has been pointed out which would justify interference with the acquittal.

14. Consequently, the impugned judgment being well-reasoned and based upon proper appreciation of the evidence does not call for any interference. Accordingly, the instant acquittal appeal is **dismissed** along with pending application[s], if any.

J U D G E

Muhammad Danish