

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Criminal Acquittal Appeal No.S-40 of 2025
[Muhammad Saleem v. Ashraf Khan @Muhammad Ashraf & 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 10.02.2025 passed by learned Sessions Judge/Gas Utility Court, Hyderabad in Special Case No.07 of 2022, arising out of Crime No.165 of 2022 registered under sections 15, 17 of Gas (Theft Control & Recovery) Act, 2016 at PS Naseem Nagar/Qasimabad, 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's case is that on 13.06.2022, at about 11:00 a.m., the complainant, Muhammad Saleem, Manager, Sui Southern Gas Company, Hyderabad accompanied his team, reached at London Dera Restaurant where found private respondent/accused, namely Ashraf Khan was allegedly committing theft of Sui-Gas for commercial purposes by affixing a clip and rubber pipe with the main distribution line of SSGC. The complainant party took photographs, removed the illegal connection and repaired the distribution line. They also a clip and rubber pipe from the spot and taken into possession as case property. Hence, the FIR was registered against the respondents/accused.

3. After framing the charge against accused, 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 10.02.2025, 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 pipe used for committing gas theft was also recovered from the place of incident, which is sufficient to connect the private respondent/accused with the commission of the alleged offence. He further submits that the learned trial Court ignored the fact that the witnesses supported the version of the complainant.

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 prosecution case reveals that after registration of the FIR, the case property was handed over by the complainant to the Investigating Officer; however, the same when produced before the trial Court it was shown to have been not sealed. Thus, its safe custody remained un-established. Another important aspect is that according to the evidence of complainant Muhammad Saleem as well as witness Qamaruddin, the accused was not present at the time of occurrence, this fact alone is sufficient to create doubt in the prosecution case. Moreover, witness Qamaruddin stated that no person had claimed ownership of the restaurant. Thus, the prosecution has failed to establish through reliable evidence the presence of the accused at the place of occurrence or his ownership/possession of the premises from where the alleged illegal connection was detected.

8. The record further reveals that the SSGCL team allegedly detected the gas theft on 13.06.2022; however, the FIR was lodged after a delay of about eight days. The explanation furnished by the complainant that the matter was first brought to the notice of his seniors and that the FIR was lodged after receipt of a letter does not satisfactorily explain the delay, particularly when, according to the complainant Muhammad Saleem himself, the said letter was issued

on the same date, i.e. 13.06.2022. Such unexplained delay assumes significance in the circumstances of the present case.

9. It is also an admitted position that the place of occurrence was situated in a populated area. Nevertheless, the Investigating Officer admitted in his evidence: *"It is correct that I did not associate any private person as mashir of vardat and recovery."* Thus, despite the availability of independent persons at the place of occurrence, no private person was associated either with the inspection of the place of occurrence or the alleged recovery. Though the mere non-association of private witnesses may not, by itself, be sufficient to discard the prosecution case, in the present circumstances it assumes significance when considered alongside the other deficiencies appearing in the prosecution evidence.

10. It is further the case of the prosecution that photographs relating to the alleged commission of the offence were taken at the place of occurrence. However, the complainant himself conceded that *"accused does not appear in any photographs."* Consequently, the photographs do not establish the presence or participation of the accused in the alleged occurrence. The prosecution has, therefore, failed to derive any meaningful corroboration from the photographic material in connecting the accused with the alleged offence. The presence of the accused at the relevant time, therefore, remains doubtful. The mere detection of an alleged illegal connection at a particular premises cannot without reliable evidence connecting the accused with such connection, by itself establish his criminal liability.

11. As regards the alleged recovery of the pipe and clip is concerned, the same, in the circumstances of the present case, does not establish the connection of the private respondent/accused with the alleged offence as their safe custody has not been established.

12. When the aforesaid circumstances are considered cumulatively, namely, the unexplained delay in registration of the FIR, failure to establish safe custody and production of the alleged case property in un-sealed condition, non-association of any independent person despite the populated locality, absence of the accused from the photographs, evidence regarding his non-presence at the time of occurrence, and failure to satisfactorily establish his ownership or possession of the premises or his nexus with the alleged illegal connection, the prosecution case becomes doubtful.

13. It is settled that where the view taken by the trial Court is a reasonable and possible view, the same is not to be disturbed merely

because another view may also be possible. The appellant has failed to demonstrate any perversity, gross illegality or misreading/non-reading of material evidence warranting 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** in *limine* along with pending application[s], if any.

J U D G E

Muhammad Danish