

673/25

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Athar Minallah

Mr. Justice Salahuddin Panhwar

Criminal Petition No.65-K of 2024

(Against judgment dated 19.04.2024 passed by
the High Court of Sindh, Karachi in Cr. Appeal
No.409 of 2023)

Meer Zaman

...Petitioner(s)

VERSUS

The State

...Respondent(s)

For the Petitioner(s):

Syed Ahmed Ali Shah, ASC

For the State:

Mr. Khadim Hussain Khuharo, Addl. PG
Mr. Balaj Khan, ASI

Date of Hearing:

01.09.2025

JUDGMENT

Salahuddin Panhwar, J.- Meer Zaman ("the petitioner") was charged with possession of narcotic drugs, a breach of Section 6 of the Control of Narcotic Substances Act, 1997 ("CNSA 1997"), as amended in 2022. After regular trial, the petitioner was convicted under Section 9(c) of CNS Act 1997 and sentenced to suffer 10 years rigorous imprisonment and to pay fine of Rs.100,000/- and in default whereof to suffer six months S.I. vide judgment dated 10.08.2023. Against such conviction and sentence, the petitioner preferred a Criminal Appeal No.409 of 2023 before Sindh High Court. However, vide judgment dated 19.04.2024, the sentence of the petitioner was reduced from 10 years R.I to 09 years R.I, leaving the fine and sentence in default of such fine unaltered.

2. Briefly the prosecution case is that on 29th December, 2022, ASI Balaj Khan of P.S SIU, Karachi along with his subordinate staff during patrolling apprehended the petitioner and recovered 1500 grams of chars from the front pocket of his trousers (shalwar), for that he was booked and reported upon.

3. After indictment, trial commenced and ultimately the petitioner was convicted and sentenced by the trial court as detailed above.




4. Syed Ahmed Ali Shah, counsel for the petitioner argued that due to enmity petitioner was falsely implicated in this heinous offence; that there are material contradictions in the statements of the PWs, which were not considered by the trial court; that there is delay of one day in sending the case property to the chemical examiner, for which no plausible explanation has been furnished, which makes the whole prosecution case doubtful. In support of his contentions, he has relied upon the cases of "*Qaiser Khan v. The State*" (2021.SCMR 363), "*Zafar Khan v. The State* (2022SCMR 864), "*Muhammad Shoaib and another v. the State*" (2022 SCMR 1006).*Javed Iqbal v. The State*" (2023 SCMR 139) and "*Muhammad Hazir v. The State*"(2023 SCMR 986).

5. On the other hand Mr. Khadim Hussain khuharo, Additional Prosecutor General, Sindh contended that the evidence of the police officials is as good as of private persons; that there are no material contradictions in the evidence of the prosecution witnesses; that delay in sending sample of the charas to the chemical examiner would not be fatal to the prosecution case, as chemical examiner found no tempering with the seal. Lastly, he contended that learned High Court has already taken a lenient view in the appeal hence prayed for dismissal of instant appeal.

6. We have heard and perused the record minutely.

7. It is the case of prosecution that petitioner on suspicion was arrested by the police and from his personal search 1500 grams of Charas was recovered, it was taken into possession, mashirnama of arrest and recovery was prepared, case property was sealed and petitioner was brought to police station. I.O has deposed that he received three parcels from the Head Moharir, however, Head Moharrer deposed that he received a single parcel, which he kept in the malkhana and then he handed over that single parcel to the investigating officer. This creates reasonable doubt in our minds. Evidence of I.O. reveals that he did not disclose as to whether he personally handed over the parcel to the office of chemical examiner or not and when did he submitted that parcel to the chemical lab. It is germane to mention that no relevant entries were produced at trial. In cases under the Control of Narcotic Substances Act, 1997, where conviction primarily rests upon the recovery of contraband and its subsequent chemical analysis, it is a settled principle that the prosecution must establish an unbroken and unimpeachable chain of custody to ensure the credibility and evidentiary value of the recovered substance. This Court has consistently held that failure to prove the safe custody and secure transmission of the contraband



from the place of recovery to the forensic laboratory renders the chemical examiner's report unreliable and incapable of sustaining conviction. In *Zahir Shah v. The State* (2019 SCMR 2004) this Court held: -

"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. This chain of custody is fundamental as the report of the Government Analyst is the main evidence for the purpose of conviction. The prosecution must establish that chain of custody was unbroken, unsuspicious, safe and secure. Any break in the chain of custody i.e., safe custody or safe transmission impairs and vitiates the conclusiveness and reliability of the Report of the Government Analysis, thus, rendering it incapable of sustaining conviction."

8. The prosecution is thus required to demonstrate that the custody of the recovered substance remained uninterrupted, free from suspicion, and protected from the possibility of tampering, failing which the accused is entitled to the benefit of doubt.

9. Accumulative effect of examination of evidence shows that evidence is replete with improvements and contradictions, which are sufficient to bring the credibility and veracity of witnesses in doubt, hence no conviction could safely be recorded upon such evidence. Thus, it was never safe in convicting the petitioner/convict at cost of old and deep rooted principle of Criminal Administration of Justice; that a single benefit of doubt is sufficient for acquittal.

10. Consequently, this petition is converted into an appeal, and is hereby allowed, the conviction and sentence imposed on the appellant by the High Court vide impugned judgment are set aside, and the appellant, Meer Zaman, is acquitted of all the charges. He shall be released from custody immediately, unless required to be detained in connection with any other case.

Judge

Judge

Judge

Karachi

01.09.2025

Muhammad Subhan Malik(JLC), Abdul Wasay, Sajid

04/9/25