

Judgment Sheet
PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)

Cr. A No. 874-P of 2025

Ajmal Sadiq

Vs

The State

JUDGMENT

Date of hearing: **27.10.2025.**

Appellant by: - Mr. Ali Azim Afridi,
Advocate.

The State by: Arbab Fakhar-e-Alam,
AAG.

SAHIBZADA ASADULLAH, J.- Through this single judgment, we shall decide the instant as well as the connected **Cr.A No. 878-P/2025** titled ***“Asad Ullah vs The State”***, **Cr.A No. 888-P/2025** titled ***“Baseer & another vs The State”*** and **Cr.A No. 884-P/2025** titled ***“Syed Ismail Hussain vs The State”*** as all the matters are arising out of one and the same judgment dated 28.08.2025 passed by the learned Additional Sessions Judge-IV, Kohat delivered in case FIR No. 141

dated 02.05.2023 under sections 4/5 Explosive Substances Act, read with section 7 ATA /15-16 AA/ 148/149 PPC at police station Usterzai, District Kohat, whereby appellants Ajmal Sadiq, Nadeem, Baseer, Asad Ullah and Syed Ismail Hussain were convicted and sentenced as under:

i. Under section 5 KP Explosive Substance Act to imprisonment for ten years each.

ii. Under sections 16 KP Arms Act read with sections 148/149 PPC to imprisonment for ten years each.

Benefit of section 382-B Cr.P.C. was extended in favor of the appellants. Both the sentences shall run concurrently.

2. The theme set by the prosecution in the murasila is that on 02.05.2023, SHO Police Station Usterzai, Kohat, received credible information regarding the transportation of huge

quantity of arms and ammunition in a white color vehicle from Orakzai to Dara Adam Khel, allegedly for terrorist activities; that on earful, the police party laid a barricade at Marai Check Post; that on arrival of a white pickup bearing registration No. TSD-13, it was stopped; that the driver disclosed his name as Nadeem Khan, while the front passenger Baseer Khan was found wearing a police uniform with the rank of Inspector; that two armed persons seated in the vehicle's body, also in police uniforms, were apprehended, who disclosed their names as Asad Ullah and Ajmal Sadiq, whereas another occupant in civilian clothes identified himself as Syed Ismail Shah; that search of the vehicle, led to the recovery of 13 hand grenades, one rocket launcher (RPG), 18 RPG-7 shells, 30 boxes containing 2,550 rounds of 12.7 bore, 260 loose rounds of 12.7 bore, 20 RPG-7 boosters, one 12.7 bore stand, one open 12.7 gun, and one ballot box of

12.7 bore; that from Asad Ullah, a Russian SMG (No. H35055/1969) was recovered, while from Ajmal Sadiq, a Chinese SMG (No. 48003948) alongwith four magazines and 19 live rounds were seized hence, the present FIR.

3. After completion of investigation, complete challan was put in court before the Anti-Terrorism Court, Kohat Division however, after deletion of 7 ATA, the case was transmitted to the court of ordinary jurisdiction. Provisions of 265-C Cr.P.C. were complied with and the appellants alongwith acquitted co-accused Syed Wajid Hussain, Syed Jawad Hussain and Syed Tajamul Hussain were charge sheeted to which they pleaded not guilty and claimed trial. In order to prove its case, the prosecution produced and examined as many as 18 witnesses. After closure of prosecution evidence, statements of the appellants alongwith acquitted co-accused were recorded under section 342 Cr.P.C,

wherein they professed innocence, however, neither they wished to be examined on Oath as required under section 340 (2) Cr.PC, nor wanted to produce evidence in defence. The learned trial Court, after full-fledged trial, acquitted the accused Syed Wajid Hussain, Syed Jawad Hussain and Syed Tajamul Hussain while convicted and sentenced the appellants vide the impugned judgment hence, these appeals.

4. Arguments heard and available record scanned through.

5. After receiving spy information, the complainant along with police officials laid a barricade. It was 8 p.m. when the vehicle arrived, the same was signaled to stop. The persons sitting in the vehicle were brought down. The driver disclosed his name as Nadeem Khan, the front-seater, as Baseer Khan, who was dressed in police uniform with a badge on his pocket indicating him as an

inspector. Likewise, the other two devotees from the body of the victim disclosed their names as Asadullah, and Amjad Sadiq. Both were dressed in police uniform, having their official rifles in their possession. They were unarmed, and a private person present with them disclosed his name as Saeed Ismail. From the vehicle, huge arms and ammunition were taken into possession. The accused were arrested, *Murasila* was drafted. The same was sent to the police station for registration of the case. As such, on one hand, the investigating officer attracted to the spot along with a copy of the FIR, and on the other, on request of the SHO, the bomb disposable unit was sent with a bomb disposable kit. The site plan was prepared on the pointation of the complainant, whereafter the statements of the witnesses were recorded, the vehicle was taken into possession, and so, the recovered arms and ammunition was examined by the

bomb disposable unit. Thereafter, the same was packed and sealed in parcel, and was subsequently transmitted to the concerned police station.

6. It was Sub-Inspector Jabir Khan who first received the information and, in the presence of the marginal witnesses, effected the recoveries, so he was thoroughly questioned on all material aspects in an attempt by the defence to extract something favorable to their line, however, he satisfactorily explained the circumstances under which the vehicle was intercepted, the accused apprehended, and the recoveries made therefrom. He further clarified that it was on his pointing out that the site plan was prepared, and he detailed the manner in which the Bomb Disposal Unit arrived, inspected the vehicle and its ammunitions, and thereafter assisted in shifting the vehicle to the concerned police station. The marginal witness, examined as PW-08, fully supported the

version of the complainant. He too explained the mode of arrival of the intercepted vehicle, the recoveries effected, the steps taken by the complainant, the spot visited by the Investigating Officer, and the arrival and functioning of the Bomb Disposal Unit. This witness was specifically examined regarding the manner and supervision under which the barricade had been laid and how the recoveries were effected from the vehicle. The defence failed to introduce any contradiction capable of creating doubt in the prosecution account. True, the vehicle was intercepted at about 8:00 p.m., and some degree of darkness may naturally have existed, yet, equally true is that the defence could not establish that visibility was impaired to such an extent that the accused could not be recognized or that recoveries could not be made. Though the complainant, in the initial report, did not specify the exact lighting conditions,

the Investigating Officer clarified that he inspected the spot with the aid of torches and the headlights of official vehicles. Hence, no legitimate possibility arises that the accused were either unidentifiable or that the recoveries were incapable of being effected in the manner stated. The Investigating Officer, PW-10, confirmed that upon receiving the *Murasila* and the file, he visited the spot. When questioned regarding the departure of the complainant and other police officials from the police station, he stated that the relevant entries had been duly recorded. He further confirmed photographing the vehicle, the ammunitions, and the accused, and produced those photographs before the Court at the time of his examination. He stated that he recorded the statements of all necessary witnesses, including that of Khaista Akbar, to whom the vehicle belonged. He also explained the manner in which the statements of some

witnesses were recorded under Section 164 Cr.P.C., particularly concerning the identity of the accused and confirmation of their postings during the days of occurrence. PW-10 further stated that Khaista Akbar was, at the time, serving as Naib Tehsildar in Tribal Sub-Division Dara Adam Khel, with his office at Gulshanabad Chowk. The statement of Khaista Akbar, under Section 161 Cr.P.C., subsequently reiterated before the Court under Section 164 Cr.P.C., disclosed that the vehicle bearing registration No. TSD-13 was his official vehicle, usually driven by his driver Nadeem. Khaista Akbar, further stated that Naib Subedar Basir Khan repeatedly contacted him for use of the vehicle, as Basir Khan could not drive himself. Ultimately, Khaista Akbar, handed over the vehicle and the driver, however, upon the late return of the vehicle, he repeatedly contacted both the driver and Subedar Major Basir Khan, who assured

him of their immediate return. It was thereafter that the incident came to light and the police contacted him. The Investigating Officer also explained that he recorded the statements of all concerned, including that of the Moharrir of the police station, who had received the arms and ammunition and maintained their safe custody before transmitting them to the relevant quarters. PW-6, Sadiq-ur-Rehman of Police Station Ustarzai, stated that he had received the *Murasila* and relevant documents from Mehboob Khan, S.I., on the instructions of the complainant Jabir Khan, S.H.O., and incorporated the *Murasila* into the FIR. He confirmed that S.H.O. Jabir Khan brought sealed parcels Nos. 1 to 16, and relevant entries were made in Register No. 19, the extract of which is available on record as Ex-PW-6/1. He further stated that the intercepted vehicle was parked at the station, and later the S.H.O. arrived and formally handed over the

accused to him. When the statements of the above-mentioned witnesses are read conjointly, no ambiguity remains regarding the fact that the incident occurred at the stated time, the recoveries were effected in the manner asserted, and the Bomb Disposal Unit inspected the spot. The statements of the relevant officials of the Unit were recorded, and they confirmed that they were directed to inspect the site, after which the arms and ammunition were examined, diffused, and duly shifted by the complainant to the police station. The witnesses remained consistent on all essential aspects. Not only did the complainant and the marginal witnesses support the prosecution, but the most crucial witness, Khaista Akbar, who had handed over the vehicle and driver to accused Baseer Khan, also corroborated the prosecution narrative. He was extensively cross-examined, yet the defence failed to establish any *mala fide*

on his part or any motive for false implication. Thus, the manner of recovery, the arrest of the accused, the inspection of arms and ammunition, their subsequent shifting to the police station, and their safe custody with duly recorded entries in Register No. 19 all stand firmly proved. The prosecution has established that the incident transpired in the manner and at the place stated, and that the recoveries and arrests were lawfully effected.

7. Subsequently, the case was transmitted to Peshawar for investigation by the Counter-Terrorism Department. The DIG, CTD Peshawar, thereafter forwarded the matter back to SP CTD, Kohat, Region-I, for further investigation. The case was then entrusted to Inspector Malik Taj, who at that time was posted in the CTD District Kohat, and he proceeded with further investigation. This officer was examined as PW-13, who explained that on 01.06.2023, the DIG

CTD, Khyber Pakhtunkhwa, Peshawar transferred the case to SP CTD, Kohat, Region-I, through a covering letter exhibited as Ex.PW-13/01. He further stated that SP CTD, Kohat, assigned the instant case to him, whereupon he annexed the Bomb Disposal Unit report as Ex. PW-13/02. He also annexed the application of the SHO, for examination of arms and ammunition, marked as Ex.PW-13/03, and placed on file the report of the Armorer, which was duly exhibited as Ex. PW-13/04. This witness further stated that on 05.06.2023 he dispatched the case property comprising parcel Nos. 15 and 16, along with the relevant application Ex. PW-13/05 and his forwarding certificate Ex.PW-13/06, through Constable Naseem Ullah, to the Forensic Science Laboratory. The relevant reports were received and placed on record. Constable Naseem Ullah appeared before the Court and was examined as PW-09. PW-13 further

deposed that he moved an application through proper channel to SP CTD, Kohat, seeking that whether the accused Baseer Khan, Asadullah, Nadeem Khan and Ajmal Sadiq were on duty on 02.05.2023. In response, SP CTD, Kohat, issued a letter to the DPO, Kohat. Likewise, he also verified the allotment and official possession of the vehicle from Khaista Akbar, Naib Subedar, who was then performing duties with the Deputy Commissioner, Kohat. The report in this regard was placed on record as Ex.PW-13/11. The investigation was conducted so extensively that PW-13 also sought information from Adil Khan, Head Constable, who was the in-charge of *Koth*, AC Office Dara Adam Khel, regarding the official weapons sealed in parcel Nos. 15 and 16. A verified report was received, endorsed by Tehsildar Hafiz. PW-13, further confirmed that he collected the call data records and conducted ground verification of accused

Muhammad Abu Bakr Siddiq, Ajmal Sadiq, Asadullah, Baseer Khan, Nadeem Khan, Muhammad Ismail, Tajammal Hussain, Syed Wajid Hussain, Jawad Hussain and Syed Nasir Hussain, which are exhibited as Ex.PW-13/27 to Ex.PW-13/36. He also took into possession currency amounting to Rs. 2,30,000/- from the *Moharrir* of the police station. This amount had been recovered from accused Asadullah earlier vide memo Ex.PW-5/41, and PW-13 sealed it in parcel No. 17, exhibited as Ex.PM. It is pertinent to mention that PW-13 could also trace FIR No. 15, registered under Sections 5 ESA, 7-ATA, 120-B PPC, 15-AA PS-CTD Mardan, against accused Abu Bakr, Nadeem, Baseer, Asadullah, Ismail Hussain and Ajmal Sadiq, exhibited as Ex.PW-13/63, relating to their involvement in offences of similar nature. The investigation carried out by PW-13 was exhaustive. He not only recorded the statements of all relevant

witnesses but also secured all pertinent documents, call records, official verifications, and the Forensic Science Laboratory report, having himself dispatched the arms and ammunition for examination. He further collected material regarding the prior history and involvement of the accused in similar activities. PW-13 was subjected to detailed cross-examination on all essential aspects, yet the defence failed to establish any *mala fide*, prejudice, or inclination on his part to falsely implicate the appellants. On the contrary, the record reflects that he conducted the investigation thoroughly, took all measures to avoid inconsistencies, and afforded the accused full opportunity to defend themselves. The material collected regarding their previous involvement in offences of like nature forms an additional circumstance corroborating their conduct, inclination, and involvement in the present case.

8. It was argued on behalf of the appellants that the legal requirements were not fulfilled, that the recoveries were not effected in the manner asserted by the prosecution, and that the Investigating Officer failed to establish how such dangerous weapons could be transported to the laboratory when the Bomb Disposal Unit had initially declared them sensitive and hazardous. The learned counsel, however, fell into error on this aspect. The record clearly demonstrates that the Bomb Disposal Unit was the first to reach the spot, it secured the area, neutralized the risk, and took every precaution necessary to protect and preserve the arms and ammunition, thereby enabling the police to shift the same first to the police station and thereafter to the firearms expert. The witnesses were examined on this point. They explained the precautions adopted at every stage, while the Investigating Officer appeared before the Court and

clarified when, how, and in what condition the arms and ammunition were dispatched to the laboratory for examination of their workability. An attempt was also made to challenge the manner in which the accused were arrested and the recoveries were made, it was contended that the prosecution case was tainted with *mala fide* and that no independent witness was associated. We are not persuaded by these submissions. The identity of the accused was never in doubt, nor do the circumstances support the suggestion that the time or darkness of the evening prevented identification or the making of recoveries. The prosecution witnesses consistently stated that they did identify the accused and that the recoveries were effected exactly in the manner deposed. The alleged discrepancies pointed out are minor and do not go to the root of the matter. The defence cannot invoke such trivialities to secure an advantage. On the contrary,

the status of the accused, being employees of one of the most respectable departments, renders their conduct far more serious. The record further establishes their interconnectivity, showing not only involvement in the present occurrence but their involvement in similar activities in the past. It is merely their misfortune that they were apprehended on this occasion, otherwise, it appears they may have engaged in such activities previously but remained undetected. FIR No. 15, registered at CTD Mardan, is an additional circumstance substantiating the claim of the prosecution and demonstrating that the accused were habitual offenders who facilitated different groups and factions by providing arms and ammunition.

9. *It is deeply disquieting that all the accused were, at the relevant time, serving officials of the police department. Regrettably, they were apprehended in possession of a substantial quantity of*

arms and ammunition, for which they offered no plausible explanation. They could neither establish that the weapons were being transported in any official capacity nor produce any confirmation from the department authorizing such transportation. When circumstances of this nature surface, they invariably cause serious concern, for the accused are members of a force entrusted with the duty to defend, to protect, and to restore order in troubled areas. Their involvement in such activity is not only alarming but also corrosive to the very foundation of public trust. The participation of law-enforcement personnel in offences of this character shocks the conscience of all concerned and creates a profound sense of insecurity among the citizens. The people of this country, particularly those of the affected region, live with the assurance that the police and other law-enforcement agencies are the institutions responsible for their safety, their peace,

and their protection within their homes and communities. However, the present case has cast a deep stigma upon the department. It has shaken public confidence, eroded the perception of reliability, and called into question the trust that the citizenry had long reposed in the institution. It is indeed the deepest sorrow of a society when those entrusted to guard its peace become the very agents of its betrayal. Nothing wounds the public conscience more than discovering that the protectors have themselves assumed the role of predators. When officers of a law-enforcement agency, regarded as the shield of the citizenry, are found clandestinely smuggling dangerous arms and ammunition, the pain is not confined to the breach of law alone, it strikes at the very heart of public trust. Those who were meant to lead the caravan to safety instead turned into its plunderers, leaving behind a chilling sense of insecurity and a

lingering question as to whom the people may now rely upon for protection. Such conduct does not merely stain the uniform, it unsettles the collective confidence of the community, for nothing is more tragic than a guide who becomes a robber, and a guardian who becomes the gravest threat to the very ones he was sworn to defend. Yet, amidst this darkness, one consolation still emerges, it was the very same department that undertook their accountability and, with an uncommon resolve, made them a lesson for all who dare betray the trust reposed in them. Even so, it remains imperative that every possible effort be made to identify and remove such black sheep from within the ranks, for the nation today stands in a state of war, its survival and stability dependent upon the integrity of its protectors. In such critical times, the presence of even a single traitor within the fold of law-enforcement can imperil the safety of thousands,

hence, uncompromising vigilance and unyielding internal cleansing are not merely institutional duties but national necessities. When public servants, tasked with enforcing the law, themselves become instrumental in destabilizing the area by supplying arms and ammunition, no leniency can be extended. Their cases cannot be allowed to pivot on minor discrepancies. No *mala fide* was attributed to any prosecution witness, nor was anything elicited in cross-examination to suggest that the incident had not occurred. One of the most credible witnesses, whose official vehicle was misused in the crime, appeared before the Court and narrated how, upon the request of appellant Baseer Khan, and believing him to be a colleague in the same department, he had allowed the use of the vehicle along with the driver. Unfortunately, even the driver was found complicit. When such witnesses support the prosecution and when independent

officials, such as Khaista Akbar, appear and confirm the material aspects of the case, no ambiguity remains that the prosecution succeeded in proving its case against the appellants.

10. The cumulative effect of what has been stated above leads this court to an irresistible conclusion that the prosecution fully succeeded in bringing home guilt against the appellants and the impugned judgment is suffering from no irregularity or inherent defects which would call for interference. The impugned judgment is well reasoned and the learned trial court has fully appreciated the evidence on file, which calls for no interference. Accordingly, the instant criminal appeal as well as the connected **Cr.A No. 878-P/2025** titled ***“Asad Ullah vs The State”***, **Cr.A No. 888-P/2025** titled ***“Baseer & another vs The State”***, being bereft of any merit, are hereby dismissed.

11. Now diverting to **Cr.A No. 884-P/2025** titled “***Syed Ismail Hussain vs The State***” As regards the accused Muhammad Ismail, though he was seated in the cabin of the vehicle, he was neither a member of the department nor did the Investigating Officer discover any association between him and the remaining accused. The evidence does not suggest that he was in league with them, nor does the record show any past involvement in similar activities. While it cannot be said with certainty that he was wholly unaware of the presence of arms and ammunition in the vehicle, this Court is confident that he lacked knowledge regarding the legality or illegality of their transportation. In such circumstances, the prosecution has failed to connect him with the commission of the offence. The instant criminal appeal is therefore allowed to this extent, he is acquitted of the charge, and shall be released

forthwith if not required in any other criminal case.

Above are the detail reasons of short order of even date.

Announced

27.10.2025

Naqqash Haider

J U D G E

Single Bench.

Hon'ble Mr. Justice Sahibzada Asadullah, J.