

Stereo. HC JD A 38.
Judgment Sheet
IN THE LAHORE HIGH COURT,
MULTAN BENCH, MULTAN.
JUDICIAL DEPARTMENT

Criminal Appeal No. 327 of 2023
(Aman Ullah Vs. The State and another)

JUDGMENT

Date of hearing:	25.06.2025.
Appellant by:	Mr. Badar Raza Gillani, Advocate.
State by:	Mr. Khalid Ibn-e-Aziz, Special Prosecutor for A.N.F.

SADIQ MAHMUD KHURRAM, J: - Aman Ullah son of Jangihaan (convict), was tried by the learned Additional Sessions Judge, Multan in case F.I.R. No. 08 of 2021 dated 20.02.2021 registered at Police Station A.N.F, Multan, in respect of an offence under section 9(c) of the Control of Narcotic Substances Act, 1997. The learned trial court vide judgment dated 22.03.2023, convicted Aman Ullah son of Jangihaan (convict) and sentenced him as infra:-

Aman Ullah son of Jangihaan:-

Imprisonment for Life under section 9(c) of Control of Narcotic Substances Act, 1997 and directed to pay fine of Rs.500,000/- and in default of payment thereof to further undergo Simple Imprisonment for six months.

The convict was however, extended the benefit available under Section 382-B of Code of Criminal Procedure, 1898 by the learned trial court.

2. Feeling aggrieved, Aman Ullah son of Jangihaan (convict) lodged the instant Criminal Appeal No.327 of 2023, assailing the judgment dated 22.03.2023, passed by the learned Additional Sessions Judge, Multan

whereby the appellant was convicted and sentenced for an offence punishable under Section 9(c) of the Control of Narcotic Substances Act, 1997 as mentioned above.

3. Precisely, the necessary facts of the case, as divulged through the statement of Arslan Arif, SI (PW-4), the complainant of the case, are as under:

“ Stated that on 19.02.2021 I was posted as SI at P.S ANF Multan. On the same day, the high-ups received the spy information that the one Amanullah r/o Derabughti who is involved in narcotics business and at about 06:00 PM would come to supply from Rajapur and will exist through Shahruk-ne-Alam/Makhdoom Rasheed tolPazla by using motorway on double cabin dala registration No. ES-8919/Sindh with concealment of narcotics. Upon this information the raiding team constituted, comprising me, Subedar Riaz Ahmad, Muhammad Jamshed Riaz ASI, Muhammad Zubair, Ali Hamza constable, Muhammad shehzad sepoy, Muhammad Ramzan sepoy, Iqbal Saleem HC/driver, Muhammad Shakeel C/driver, alongwith informer reached at about 05:30 PM in area of Shah Rukan-Alam Makhdoom Rasheed Motor way Tool Plaza District Multan on official vehicles. As the raiding party reached there we placed a naka and started the surveillance of the vehicles coming from the motor way side. At about 06.15 pm a dala double Cabin Hilux motor bearing registration No.CS 8919/Sindh was coming seen from the side of motor way. The informer told that the said vehicle was the double cabin dala which was stopped on the pointing of the informer and with the assistance of the members of the raiding party, by me. A person who was boarding on the said vehicle was apprehended who disclosed his name as Amanullah accused present in the court on the asking by me. On the asking me the accused admitted presence of narcotics in his possession in the presence of witnesses concealed under the driver seat. The accused himself took out ten packets of charas wrapped with yellow plastic tape

beneath from the driver seat and hand and handed over me by himself. Further on my asking about the narcotics, the accused admitted the presence of charas in a secret cavity made under the floor of the rear part of the double cabin dala, in his possession. The accused himself removed the black colour plastic sheet of the floor of the rear part of the above said dala and opened the secret cavity made in the floor with the help of a tool and took out 140 packets of charas wrapped with yellow tape from there and handed over to me by himself. Myself put the serial No.1 to 10 to the recovered packets of charas from the possession of accused underneath the driver seat and weighed them separately at the spot which were containing 1200 grams each which became 12 kilograms charas in total. myself separated 10 grams of charas from each recovered packet of charas for their chemical analysis and prepared 10 sealed sample parcels of charas in white colour cloth and one parcel of remaining bulk of charas in a white colour plastic tora by putting the Sr. No. 11. In this way, I prepared total 11 parcels and sealed them all with the stamp of AA at the spot. I secured the remaining bulk of charas P.1 through a separate recovery memo Ex.P.B which was attested by Muhammad Zubair and Ali Hamza constable at the spot. Thereafter I put the serial No.12 to 151 to the recovered packets of charas from the possession of accused which were recovered from the secret cavity made in the floor of above said dala and weighed them separately which were also containing 1200 grams charas each which became 168 K.G charas in total. Myself separated 10 grams of charas from each recovered packet for their chemical analysis and made 140 sealed sample parcels of charas in white colour cloth by putting the serial No.12 to 151. Myself prepared 07 parcel of remaining bulk of charas in white colour plastic toras by putting the 20 packets in each tora and marked them with serial No.152 to 158.1 sealed all the 147 parcels with the stamp of AA. I secured the remaining bulk of charas P.2 to P.2/6 alongwith black colour double Cabin Hilux dala bearing registration No. CS 8919/Sindh with its key P.8 through a separate recovery memo Ex.P.C

which was attested by Muhammad Zubair and Ali Hamza constable. From the personal search of accused currency PK Rs.3000/- P.9, a cell phone VGO tell alongwith P.10, CNIC of the accused P.11 and service card of the accused P.12 were recovered and secured by me through a separate recovery memo Ex.P.D which was also attested by Muhammad Zubair and Ali Hamza constables at the spot. I recorded statement of witnesses u/s 161 Cr.P.C in this regard at the spot. The accused committed offence u/s 9-C CNSA by keeping 180 KG charas in his possession and tried to transport and smuggle. I drafted Exh.PA and sent through Iqbal Saleem HC/driver to PS ANF Multan. A wireless call received by HC/driver Iqbal Saleem about the registration of FIR 08/21 dated 20.02.2021 u/s 9-C CNSA 1997 against accused Amanullah, the caption and other proceedings completed on the spot) We came back to PS from the place of occurrence alongwith recovery and other articles mentioned above and the same recovery and other articles handed over to Muhrar on the same day. I recorded the statement of Muhrar Muhammad Ameen ASI u/s 161 Cr.P.C on 20.02.2022. The accused sent to judicial lockup after investigation, during the investigation the accused disclosed about his companion namely jalal u Din s/o Jamal-ud-Din r/o Qilla Abdullah. On this information the arrest warrants obtained from the concerned court and sent through RD ANF Lahore to RD ANF Balochistan for the compliance, further the section 15 CNSA 1997 added in FIR to obtain the call data record a letter sent to concern authority and reply is till awaited to obtain the details of FRC of CNIC Jalal-ud-Din a letter sent to concern authority and received the reply. To obtain the details of service card a letter sent to concern authority and received reply, further on verification of said service card found bogus which is also attached. Letter to send to concern police station to find previous record but reply still awaited. The obtained 150 parcels of charas, sealed with the stamp of AA sent through constable Muhammad Asif PS ANF Multan for chemical analysis in PFSA collection center Multan on 22.02.2021 and in this regard the statement of

Muhammad Asif and Muhammad Amin ASI/Moharar recorded u/s 161 Cr.P.C on the same day. The report of chemical examiner spot found positive and submitted the same in Hon'ble court through supplementary challan. A letter sent to MRA for tracing the original owner of Double cabin Dala CS 2979/Sindh and reply received from the concern authority. The said double cabin dala found on the name of Ghulam Mustafa and he called for investigation after sending notice u/s 31 CNSA 1997 norcotis. During the course of investigation he told that he has sold this vehicle to Attaullah r/o Zoab Baluchistan and handed over to me concern documents as well as which are also attached with case file. the Atta Ullah was summoned by sending notice u/s 31 CNSA 1997 but he did not join the investigation till date. Hence, the vehicle has been using in the transportation of the narcotics and disparately secret cavity made for the narcotics concealment, therefore, it is request to confiscated the said vehicle in the favour of state u/s 32 CNSA 1997: Under these circumstances, the incomplete challan prepared u/s 173 Cr.P.C and same sent to concerned court for trial."

4. On the above stated facts, FIR No. 08 of 2021 (Exh.PA/1) dated 20.02.2021 was registered at Police Station A.N.F, Multan in respect of an offence under section 9(c) of the Control of Narcotic Substances Act, 1997.

5. After the formal investigation of the case, report under section 173 of the Code of Criminal Procedure, 1898 was submitted before the learned trial court wherein the appellant namely Aman Ullah son of Jangishaan was sent to face trial. The learned trial court framed the charge against the accused on 04.06.2021 under section 9(c) of the Control of Narcotic Substances Act, 1997. The accused pleaded not guilty and claimed trial and the learned trial Court proceeded to examine the prosecution witnesses.

6. In order to prove the facts, the prosecution got examined as many as five witnesses. The prosecution got Arslan Arif, SI (PW-4) and Muhammad

Zubair (PW-3) examined as witnesses of the recovery of the narcotic substance. Muhammad Amin, ASI (PW-1) stated that on 20.02.2021 he got recorded the formal F.I.R. (Exh.PA/1) and on the same day, Arslan Arif, SI (PW-4), the complainant of the case and the Investigating Officer of the case, handed over to him 150 sealed parcels said to contain samples drawn and separated from the recovered “*Charas*” and another 08 sealed parcels said to contain the remaining “*Charas*” and on 22.02.2021 he handed over the 150 sealed parcels said to contain samples drawn and separated from the recovered “*Charas*” to Muhammad Asif Constable (PW-2) for their onward transmission to the office of the Collection Centre, Punjab Forensic Science Agency, Multan. Arslan Arif, SI (PW-4) also investigated the case from 20.02.2021 till the preparation of the report under section 173 of the Code of Criminal Procedure, 1898 and detailed the facts of his investigation in his statement before the learned trial court.

7. On 10.03.2023, the learned Special Prosecutor for A.N.F gave up the prosecution witness namely Ali Hamza as being unnecessary and closed the prosecution evidence .

8. After closing of prosecution evidence, the statement of the appellant was recorded under section 342 of Code of Criminal Procedure, 1898 and the appellant pleaded his innocence and in reply to as to why the PWs had deposed against him, he stated that the witnesses were police officials who deposed falsely against him just to strengthen the prosecution being subordinate of the complainant of the case. The appellant opted not to appear in terms of section 340(2) of the Code of Criminal Procedure, 1898, and did not adduce any evidence in his defence.

9. After completion of evidence and hearing both the parties the learned trial court held the appellant guilty of offence and sentenced the appellant as referred to above.

10. The learned counsel for the appellant submitted that the prosecution had failed miserably to prove the case against the appellant. The learned counsel for the appellant further argued that there were glaring contradictions in the statements of the witnesses, hitting at the very root of the prosecution's case. The learned counsel for the appellant argued that the prosecution's evidence was discrepant and incoherent and that there was at least one contradiction in the testimony of the prosecution witnesses that had spoiled it altogether and had made it untrustworthy. The learned counsel for the appellant also stated that nothing was recovered from the appellant and pleaded for acquittal of the appellant.

11. On the other hand, the learned Special Prosecutor for A.N.F. appearing on behalf of the State submitted that the prosecution had proved the charge by producing admissible and relevant evidence. He further submitted that the appellant himself got the contraband recovered. He contended that the appellant had failed to prove the motive for the false implication that he had pleaded in his defence. The learned Special Prosecutor for A.N.F. further submitted that all the witnesses had corroborated each other. He requested that the appeal be dismissed.

12. We have heard the learned counsel for the appellant as well as the learned Special Prosecutor for A.N.F. and perused the record.

13. We have very carefully perused the statements of the witnesses produced by the prosecution. We find that there is more than one circumstance which points towards the false involvement of the appellant in

this case. At the very outset, we have noticed that Muhammad Amin, ASI (PW-1) stated that on 20.02.2021 , Arslan Arif, SI (PW-4) ,the complainant of the case and the Investigating Officer of the case, handed over to him 150 sealed parcels said to contain samples drawn and separated from the recovered “*Charas*” and another 08 sealed parcels said to contain the remaining “*Charas*” and on **22.02.2021** he handed over the 150 sealed parcels said to contain samples drawn and separated from the recovered “*Charas*” to Muhammad Asif Constable (PW-2) for their onward transmission to the office of the Collection Centre, Punjab Forensic Science Agency, Multan. In his statement recorded by the learned trial court, Muhammad Amin, ASI (PW-1) stated as under:-

“On **22.02.2021**, I handed over 150 sealed sample parcels Charas weighing 10 gm each, bearing serial No.1 to 10 and 12 to 151, all prepared in white colour cloth and sealed with the stamp of AA after taking out from the safe custody of Mall Khana to **Muhammad Asif constable alongwith road certificate, docket in English, Form 1, copy of FIR and the specimen of stamp for their onward transmission to the chemical examiner of PFSA Multan.** So long the parcel remained under my custody they were intact. The investigating officer recorded my statement U/S 161 Cr.P.Con 20.02.2021 and 22.02.2021 respectively.” (emphasis supplied)

Similarly,Muhammad Asif Constable (PW-2) in his statement recorded by the learned trial court, also stated as under:-

“Stated that on **22.02.2021**, I was posted as constable at P.S ANF, Multan. On the same day, Muhammad Ameen ASI/Moharrar handed over to me 150 sealed sample parcels of Charas bearing serial No.1 to 10 and 12 to 151 weighing 10 gms each sealed with the stamp of AA alongwith road certificate, docket in English, Form 1, copy of FIR and the specimen of stamp for their onward transmission to the office of chemical examiner PFSA collection center Multan

which I deposited in the said office on the same day, intact. Investigating officer recorded my statement U/S 161 Cr.P.C in this regard on **22.02.2021**" (emphasis supplied)

However, according to the contents of the report of Punjab Forensic Science Agency, Lahore (Exh.PF), the 150 sealed parcels said to contain samples drawn and separated from the recovered "*Charas*" were received in the Punjab Forensic Science Agency, Lahore on **22.08.2021**. The relevant portion of the report of Punjab Forensic Science Agency, Lahore (Exh.PF) reads as under:-

 Punjab Forensic Science Agency Home Department, Government of the Punjab		S.No. 0000855256	
Narcotics Analysis Report			
Agency Case no.	PFSA2021-386787-NAR-103452	Attention to	Assistant Director/ Incharge ANF, Multan
Submitting Agency	P.S. ANF Multan, Distl. Multan	FIR no.	08/21 (20-02-2021)
Submitted by	Muhammad Asif (Constable)	Date sample(s) received	22-08-2021
Memorandum no.	FIR-08/2021/ANF/MTN/2021-205 (22-02-2021)	Accused Name	Aman Ullah
Certified that: Sample No. Description of Evidence (As Claimed by submitting Agency) 01-10 Ten sealed samples, each said to contain 10 grams of Charas marked as parcel no. 01 to 10 by submitting agency. 11-150 One hundred and forty sealed samples, each said to contain 10 grams of Charas marked as parcel no. 12 to 151 by submitting agency.			

It is trite that man can tell a lie but documents do not. The report of Punjab Forensic Science Agency, Lahore (Exh.PF) is in direct contradiction to the statements of Muhammad Amin, ASI (PW-1) and Muhammad Asif Constable (PW-2) ,who both stated that the 150 sealed parcels said to contain samples drawn and separated from the recovered "*Charas*" were deposited in the Punjab Forensic Science Agency, Lahore on **22.02.2021**. It has not been explained that in whose custody the 150 sealed parcels said to contain samples drawn and separated from the recovered "*Charas*" remained from **22.02.2021 to 22.08.2021**. It has also not been explained that which prosecution witness deposited the 150 sealed parcels said to contain samples drawn and separated from the recovered "*Charas*" in the Punjab

Forensic Science Agency, Lahore on **22.08.2021**. This portion of the prosecution evidence proves that there are missing links in the chain relating to the taking into possession the case property from the place of occurrence and its submission to the Punjab Forensic Science Agency, collection Centre Multan. We have queried the learned Special Prosecutor for A.N.F. to clarify that what was the evidence available on the record to confirm that the sealed parcels of the samples separated and drawn of the recovered narcotic substance had indeed been transmitted and kept in safe custody at the police station and then deposited in the Punjab Forensic Science Agency, Lahore but, after going through the record of this case from cover to cover, he has remained unable to refute that there is no consistent evidence whatsoever available on the record in this respect that how the recovered narcotic substance was transmitted from the police station to the Punjab Forensic Science Agency, Lahore. The learned Special Prosecutor for A.N.F. is unable to deny that the prosecution evidence was contradictory and mutually destructive in this regard. In such a state of contradictory evidence available on the record, safe custody of the recovered substance or its samples is not discernable from the record of this case and, thus, we have found it to be extremely unsafe to uphold and maintain the appellant's conviction and sentence recorded by the learned trial Court. In the absence of such evidence, the prosecution, which must establish that the chain of custody was **unbroken, unsuspicious, indubitable, safe and secure**, has failed to do so. The break in the chain of custody and lapse in the control of possession of the recovered narcotic substance casts doubts on the safe custody and safe transmission of the article and impairs and vitiates the conclusiveness and reliability of the report of the Punjab Forensic Science Agency, Lahore, thus, rendering it incapable of sustaining conviction. To

prove the safe custody of the recovered narcotic substance was pivotal for the prosecution, as the entire construct of the Control of Narcotic Substances Act, 1997 and the Control of Narcotic Substances (Government Analysts) Rules, 2001 rested on the report of the Punjab Forensic Science Agency, Lahore which in turn rested on the process of sampling and its safe and secure custody. It is impossible for us to determine safe and secure custody of the recovered narcotic substance. In the absence of this certainty, we cannot believe the case of the prosecution as it is. After perusal of the evidence on record, we find that the prosecution, in this case, has failed to establish the safe custody of the recovered narcotic substance. Irreconcilable obscurities have crept into the case of the prosecution which can be given the benefit of to the appellant only. Reliance in this respect is placed on the case of "Mst. SAKINA RAMZAN versus State"(2021 SCMR 451) wherein the august Supreme Court of Pakistan has held as under:-

"The chain of custody or safe custody and safe transmission of narcotic drug begins with seizure of the narcotic drug by the law enforcement officer, followed by separation of the representative samples of the seized narcotic drug, storage of the representative samples and the narcotic drug with the law enforcement agency and then dispatch of the representative samples of the narcotic drugs to the office of the chemical examiner for examination and testing. This chain of custody must be safe and secure. This is because, the Report of the Chemical Examiner enjoys critical importance under CNSA and the chain of custody ensures that correct representative samples reach the office of the Chemical Examiner. Any break or gap in the chain of custody i.e., in the safe custody or safe transmission of the narcotic drug or its representative samples makes the Report of the Chemical Examiner unsafe and unreliable for justifying conviction of the accused. The prosecution, therefore, has to establish that the chain of custody has been unbroken and is safe, secure and indisputable in order to be able to place reliance on the Report of the Chemical Examiner."

14. Furthermore, according to the statements of the prosecution witnesses, the recovery was made from the appellant on 19.02.2021, however, according to the report of the Punjab Forensic Science Agency, Lahore (Exh.PF) ,the 150 sealed parcels said to contain samples drawn and

separated from the recovered “*Charas*” were received in the Punjab Forensic Science Agency, Lahore on **22.08.2021** i.e. after more than **six months** of the recovery. No explanation has been offered by the prosecution witnesses for this delay in the transmission of the sealed parcels said to contain the samples drawn and separated from the recovered “*Charas*” to the office of Collection Centre, Punjab Forensic Science Agency, Multan, from the police station. This fact also creates a doubt with regard to the safe custody of the recovered “*Charas*” and opens up the possibility of manipulation of the sealed parcels said to contain the recovered “*Charas*” and the samples drawn and separated from the recovered “*Charas*”. Reliance in this regard is placed on the case of “Mst. Sabran Bibi Vs. The State” (Crl. P.L.A. No. 379/2025) wherein the august Supreme Court of Pakistan has held as under:-

“7. We have also observed that contraband narcotics allegedly recovered from the petitioner were seized on 19.11.2022; however, the samples were dispatched for chemical analysis to the PFSA on 23.11.2022, after a delay of 4 days for which no explanation, much less plausible, has been furnished by the prosecution. In cases involving recovery of narcotic contraband, the chemical analysis report constitutes the cornerstone of the prosecution’s evidence. Such an inordinate delay in forwarding the seized items to PFSA inevitably casts a shadow of doubt on the integrity and authenticity of the samples. In such view of the matter the possibility of tampering, substitution, or contamination of the seized narcotics cannot be excluded.”

Reliance is also placed on the case of ASIF ALI and another Versus The STATE through Prosecutor General Punjab (2024 S C M R 1408) wherein the august Supreme Court of Pakistan also drew an inference against the prosecution when the sealed parcels said to contain the recovered “*Charas*” and the sample drawn and separated from the recovered

“Charas”, allegedly recovered on 27.05.2021 were handed over to Ahsan Shehzad S.I. for transmission to office of the lab on 31.05.2021 in the that case. Irreconcilable incongruities have cropped up in the prosecution case.

15. We have also noted with concern that according to the prosecution case, the prosecution witness namely Iqbal Saleem HC/driver (PW-5) had also witnessed the recovery from the appellant, however, when Iqbal Saleem HC/driver (PW-5) got his statement recorded before the learned trial court, he did not mention anything regarding the recovery of any *narcotic substance* from the appellant nor even named the appellant. Iqbal Saleem HC/driver (PW-5) made the following statement before the learned trial court:-

“"Stated that on 19.02.2021 I was posted as driver at P.S NF Multan. On the same day I alongwith Arsalan Arif SI and other officials of ANF Multan alongwith informer departure from PS ANF on official vehicle, and reached near Makhdoom Rasheed Tol plaza Vehari Road Multan at 05:30 PM, and started surveillance of vehicle. At about 06:15 PM a Double Cabin Dala black color Registration No.CS-8919/Sindh was seen, the informer pointed out that Dala. **On the pointation of informer Arsalan Arif SI/I.O with the help of other officials of ANF stopped the Dala and apprehended one person.** Arsalan Arif SI/I.O commanded me for security duty. Thereafter, at 01:45 AM (Night) on 20.02.2021 Arsalan Arif SI/LO handed over me complaint for registration of FIR and sent me to PS ANF and directed me to stop at gate of police station. On reaching at PS ANF Multan I handed over the compliant to Muhamarr Muhammad Ameen for registration of FIR. After registration of FIR No.08/21 U/S 9-C 15 CNSA PS ANF Multan, Muhamarr handed over me original complaint alongwith copy of FIR. On returning to PS of Arsalan Arif SI/I.O alongwith other officials, I handed over original complaint and copy of FIR to Arsalan Arif SI/I.O.”

The Prosecutor concerned also did not move any application for the re-examination of Iqbal Saleem HC/driver (PW-5) in this regard. In this manner, when Iqbal Saleem HC/driver (PW-5) himself never stated that he had witnessed any recovery of any narcotic substance from the appellant , then we cannot presume this fact on our own. This failure of the prosecution witness namely Iqbal Saleem HC/driver (PW-5) to make any statement before the learned trial court regarding the details of the recovery of “Charas” from the appellant is in itself sufficient to create a doubt in the whole of the prosecution case.

16. To further put in doubt the prosecution case, the very vehicle from which the alleged recovery had been made and in which the appellant was present at the time of his arrest was not produced before the learned trial court during the trial. Though it is correct that while examining the appellant under section 342 of Code of Criminal Procedure, 1898 , the learned trial court did question the appellant with regard to the vehicle bearing registration No. CS 8919/Sindh, however the said vehicle was never exhibited as an article during the course of the trial of the case. The perusal of the recovery memo (Exh.PC) reveals that only on the said recovery memo (Exh.PC),the vehicle bearing registration No. CS 8919/Sindh has been marked as **P-7** , with its keys marked as **P-8**, however neither during the statements of any of the prosecution witnesses nor during the examination of the appellant under section 342 of Code of Criminal Procedure, 1898, the vehicle bearing registration No. CS 8919/Sindh was marked or exhibited as an article and only its keys (P-8) were, clearly proving that the vehicle bearing registration No. CS 8919/Sindh was never produced before the learned trial court. It was mandatory for the prosecution to have produced the said vehicle in order to allow the appellant to confront the prosecution

witnesses and defend themselves. The failure of the prosecution to produce the said vehicle before the learned trial court has resulted in causing prejudice to the appellant in his defence. The production of the vehicle from where the narcotic substance had been allegedly recovered was essential so as to determine and verify the place where the narcotic substance had been put did exist as suggested by the prosecution witnesses in the said vehicle. Furthermore, the production of the vehicle was essential also to establish the fact that the vehicle was in working condition and the appellant was indeed arrested while driving the same. In the absence of the production of the vehicle, which was in the custody of the police and stationed in the Police Station, the above mentioned facts could not be determined and the failure of the determination of the said essential facts of the prosecution case raises doubts regarding the veracity of the same, the benefit of which can only be extended to the appellant. It has also been noted by us that the Investigating Officer of the case, did not join the owner of the vehicle in the investigation of the case and did not conduct any investigation so as to establish the connection of the appellant with the owner of the said vehicle.

17. In this manner, disparaging and destructive flaws have appeared in the prosecution case proving that the case against the appellant has no foundation. Keeping all these possibilities in mind and raising necessary inferences from the facts available on the record we have arrived at a conclusion that a possibility cannot safely be ruled out of consideration regarding the appellant having been falsely implicated in the present criminal case and, thus, we have decided to extend the benefit of doubt to him. We have noticed that there are serious discrepancies in the evidence of material witnesses which cannot be ignored. Though there is a slight difference by virtue of section 29 of the Control of Narcotic Substances Act,

1997 in the manner and standard of proof in cases registered under the said Act but the prosecution is always bound to discharge the initial onus of proof. This is now a settled principle of law that in every case, the burden to prove the guilt of the accused always lies on the prosecution. Even the slightest doubt results in the failure of the case of the prosecution. Benefit of doubt is not to be granted as a concession but as of right to the accused. The prosecution by mishandling the case has badly failed to bring on record unimpeachable and cogent evidence to prove the culpability of the appellant. In the light of the above noted infirmities, we are inclined to observe that the prosecution has miserably failed to bring home the guilt of the accused. The prosecution case suffers from inherent defects which are irreconcilable as it is. The guidance is sought from the binding decisions of the august Supreme Court of Pakistan in cases titled "*Ikramullah and others Vs. The State*" (**2015 SCMR 1002**), "*Akhtar Iqbal Vs. The State*" (**2015 SCMR 291**) and "*Muhammad Hussain Vs. The State*" (**2008 SCMR 345**). The august Supreme Court of Pakistan in the case of "*Muhammad Mansha Vs. The State*" (**2018 SCMR 772**) has enunciated the following principle:

"Needless to mention that while giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of such doubt, not as a matter of grace and concession, but as a matter of right. It is based on the maxim, "it is better that ten guilty persons be acquitted rather than one innocent person be convicted". Reliance in this behalf can be made upon the cases of Tariq Pervez v. The State (1995 SCMR 1345), Ghulam Qadir and 2 others v. The State (2008 SCMR 1221), Muhammad Akram v. The State (2009 SCMR 230) and Muhammad Zaman v. The State (2014 SCMR 749)."

18. For what has been discussed above, we are persuaded to hold that the conviction and sentence recorded by the learned Additional Sessions Judge,

Multan vide judgment dated 22.03.2023, in the circumstances, are not sustainable. We, thus while **allowing** the instant Criminal Appeal No. 327 of 2023 lodged by the appellant namely Aman Ullah son of Jangihaan set-aside the judgment dated 22.03.2023 passed by the learned Additional Sessions Judge, Multan and acquit the appellant namely Aman Ullah son of Jangihaan of the charge leveled against him by extending him the benefit of doubt. The appellant namely Aman Ullah son of Jangihaan, is ordered to be acquitted. The appellant namely Aman Ullah son of Jangihaan is in custody and is directed to be released forthwith if not required in any other case.

19. The case property shall be dealt with as directed by the learned trial court. The record of the learned trial court be sent down immediately.

*(TANVEER AHMAD SHEIKH) JUDGE (SADIQ MAHMUD KHURRAM)
JUDGE*

Raheel

Approved for Reporting

Judge