

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Manzoor Ahmad Malik  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Petition No.370 of 2019**  
(Against judgment dated 11.03.2019 of the  
Lahore High Court Multan Bench passed in  
Crl. Appeal No.21/2018)

***Mushtaq Ahmad***

...*Petitioner(s)*

**Versus**

***The State & another***

...*Respondent(s)*

For the Petitioner(s): Mr. Zulfiqar Khalid Maluka, ASC

For the State Mr. Muhammad Jaffar,  
Additional Prosecutor General,  
Punjab.

Date of hearing: 09.1.2020.

**JUDGMENT**

**Qazi Muhammad Amin Ahmed, J.** Mushtaq Ahmed, petitioner herein, surprised on a tip off by a police contingent, within the remit of Police Station Mitroo District Vehari was found in possession of 1460 grams of *Charas* along with weighing apparatus with some amount; indicted before a learned Additional Sessions Judge at Mailsi, he was returned a guilty verdict; convicted under Section 9(c) of the Control of Narcotic Substances Act, 1997, he was sentenced to four years R.I. with fine, under-trial period inclusive, vide judgment dated 22.12.2017, upheld by a learned Division Bench of Lahore High Court at Multan vide impugned judgment dated 11.03.2018, *vires* whereof are being assailed on a variety of grounds, allegedly a flawed forensic report, being most prominent. The learned Law Officer has, contrarily, defended the impugned judgment.

2. Heard. Record perused.

3. Prosecution case is hinged upon the statements of Aamir Masood, TSI (PW-2) and Abid Hussain, 336-C (PW-3); being officials of the Republic, they do not seem to have an axe to grind against the petitioner, intercepted at a public place during routine search. Contraband, considerable in quantity, cannot be possibly foisted to fabricate a fake charge, that too, without any apparent reason; while furnishing evidence, both the witnesses remained throughout consistent and confidence inspiring and as such can be relied upon without a demur. Argument that forensic report sans 'protocol' as mandatorily required in the case of State Vs. Imam Bukhsh (2018 SCMR 2039) is beside the point and so is reference to Rule 6 of the Control of Narcotic Substance (Govt. Analysis) Rules, 2001, for the convenience of reference reproduced below:-

*"Report of result of test or analysis.—After test or analysis the result thereof together with full protocols of the test applied, shall be signed in quadruplicate and supplied forthwith to the sender as specified in Form-II."*

The above requires reference to the test applied for analysis, specifically mentioned in Form-II thereof. We have perused the forensic report, relied upon by the prosecution, which substantially meets the legal requirements, in the following terms:-

*"Test Performed on Received Item(s) of Evidence*

- 1. Analytical Balance was used for weighing.*
- 2. Chemical Spot Tests were used for Presumptive Testing.*
- 3. Gas Chromatography-Mass Spectrometry was used for confirmation.*

*Results and Conclusions*

*Item # 01 72.87 gram(s) of blackish brown resinous material in sealed parcel contains Charas."*

Details mentioned in the forensic report regarding procedure/ tests applied do not fall short of 'protocol' as insisted by this

Court in the supra case. According to the Oxford English Dictionary, 6<sup>th</sup> Edition, the expression '*protocol*' in relation to a forensic test means:-

*"A formal or official statement of a transaction or proceeding; spec. a record of (esp. scientific) experimental observations".*

Forensic report (Ex.PE) realistically qualifies to meet the required standards. Even otherwise, the Rule *ibid*, being directory in nature, does not preclude an accused to summon the Expert so as to solicit specific details, if any, required by him to vindicate his position. Onus cast upon the prosecution to drive home a criminal charge has to be weighed in the scales of rationality; it cannot be required to satisfy adversarial positions farfetched and artificial in nature, rooted into bald denials, clamoured loudly. Findings concurrently arrived by the Courts below, being well within the remit of law, do not call for interference. Petition fails. Leave declined.

**Judge**

**Judge**

Islamabad  
9<sup>th</sup> January, 2020  
Not approved for reporting  
Azmat/-