

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

**PRESENT:**

Mr. Justice Mazhar Alam Khan Miankhel  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Petition No.18 of 2019**

*(Against the impugned judgment dated 11.12.2018  
passed by the Peshawar High Court Peshawar in  
Crl. Appeal No.687-P/2018)*

***Matti Ullah***

*...Petitioner(s)*

**Versus**

***The State***

*...Respondent(s)*

For the Petitioner(s): Malik Nasrum Minallah, ASC  
Syed Rifaqat Hussain Shah, AOR

For the State: Shah Faisal

Date of hearing: 01.07.2020.

**ORDER**

**Qazi Muhammad Amin Ahmed, J.-** Indicted by a Special Court (CNS) at Peshawar for possessing cannabis, weighed as 7200 grams, the petitioner was returned a guilty verdict; convicted under section 9(c) of the Control of Narcotic Substances Act, 1997, vide judgment dated 21.7.2018, he was sentenced to 6-years rigorous imprisonment with a direction to pay fine in the sum of Rs.100,000/- or to undergo 6-months SI in default thereof, pre-trial period inclusive, upheld by the High Court vide impugned judgment dated 11.12.2018, *vires* whereof, are being assailed through the captioned petition.

2. It is argued that the petitioner, a Frontier Constabulary personnel, had been substituted as a scapegoat to let off the real offender and this according to the learned counsel can be safely gathered from discrepant statements of the recovery witnesses, spelling out a story incompatible with the case set up in the crime report.

Forensic report has been assailed for being based upon a deficient '*protocol*' lagging to conclusively confirm the narcotic character of the contraband. Absence of a witness from the public, in a busy neighbourhood, has been cited as a last straw for prosecution's failure to drive home the charge beyond doubt.

3. Heard.

4. Prosecution case is primarily structured upon the statements of Muhammad Ayub, SI (PW-2) and Abdul Hannan (PW-3); they are attached with Anti Narcotic Force in the metropolis and had statedly acted on a tip off to confront the petitioner at the designated point; they subdued the petitioner with contraband and a motorbike, both secured vide inventory of even date; cache weighing 7200 grams cannot be viewed as an insignificant quantity. The witnesses comfortably responded the cross-examination and the learned counsel has not been able to point out any flaw or discrepancy in their narratives either on salient features of the case or matters collateral therewith; they are in a unison that inspires confidence and, thus, absence of support from the public does not diminish value of their testimony, fortified by a ring to truth. Reluctance by the public to stand in aid of law is symptomatic of abysmal civic apathy which cannot be allowed to be used as an escape route from justice. Being functionaries of the Republic, both of them are second to none in status; their official acts and declarations are statutorily presumed as *intra vires* and unless proved contrarily and in the absence of any flaw or discrepancy in their depositions, their testimony cannot be conditioned by additional riders.

Forensic report sufficiently details tests applied for determination of narcotic character of the contraband, carried out on the samples transmitted from safe custody and as such is not violative of '*protocol*' directed by the rules.

Story of substitution may not find a buyer as well inasmuch as, admittedly, a Frontier Constabulary official, the petitioner could not be conceivably saddled with a fake imposition without a backlash. Even otherwise, there appears no earthly reason for the officials to hound the petitioner with no axe to grind in a crowded metropolis with a cache substantial enough in volume as well as cost.

Conclusions unanimously drawn by the Courts below are squarely founded on proper appraisal of prosecution evidence and on our own independent analysis, we have not been able to find space to

entertain any hypothesis other than petitioner's guilt. Petition fails.  
Leave declined.

**Judge**

**Judge**

Islamabad, the  
1<sup>st</sup> July, 2020  
Not approved for reporting  
*Azmat/-*