

IN THE FEDERAL SHARIAT COURT
(APPELLATE/REVISIONAL JURISDICTION)

PRESENT
MR. JUSTICE IQBAL HAMEEDUR RAHMAN, CHIEF JUSTICE
MR. JUSTICE AMEER MUHAMMAD KHAN

CRIMINAL APPEAL NO. 02-K OF 2024

- 1. Saddam Hussain S/o Ghulam Rasool, by caste Muhammad Hasni, R/o Liyari Karachi, currently living in Allahabad Hub (presently confined in Central Jail, Gaddani).
- 2. Abdul Waheed S/o Haji Muhammad Khan, by caste Bandeja, R/o Brohi Mohallah Jam Colony, Hub (presently confined in Central Jail, Gaddani).
- 3. Naveed S/o Mitha Khan, by caste Murree, R/o Brohi Mohallah Jam Colony, Hub (presently confined in Central Jail, Gaddani).

APPELLANTS

VERSUS

The State

RESPONDENT

COUNSEL FOR THE APPELLANTS	...	MR. ILLAHI BAKHSH MENGAL AND CH. AFZAL AHMED, ADVOCATES.
COUNSEL FOR THE STATE	...	MR. MUSHTAQ AHMED QAZI, ADDITIONAL PROSECUTOR GENERAL, BALOCHISTAN.
FIR NO. DATE AND POLICE STATION	...	226 OF 2020, 24.07.2020 HUB CITY, DISTRICT LASBELA
DATE OF JUDGMENT OF TRIAL COURT	...	21.03.2024
DATES OF INSTITUTION	...	17.04.2024
DATE OF HEARING	...	16.04.2025
DATE OF JUDGMENT	...	29-5-2025

JUDGMENT

AMEER MUHAMMAD KHAN, J: This appeal has been filed against the conviction and sentence vide judgment dated 21.03.2024, passed in the Court of learned Additional Sessions Judge-II, Hub, whereby the appellants have been convicted for robbery and sentenced seven years rigorous imprisonment with fine of Rs. 50,000/- (Fifty thousand) each, under Section 392 read with Section 34 Pakistan Penal Code, 1860 (Act XLV of 1860) and in default thereof the payment of fine to further undergo one year simple imprisonment each and convicted for Qatl-e-Amd and sentenced to rigorous imprisonment for life, under Section 302(b) read with Section 34 of Pakistan Penal Code, 1860 (Act XLV of 1860), further burdened with compensation of Rs. 5,00,000/- (Five hundred thousand) each payable to the legal heirs of deceased Muhammad Danish S/o Muhammad Iqbal, under Section 544-A of the Code of Criminal Procedure, 1898 (Act V of 1898) and in default the payment of compensation thereof further undergo six months simple imprisonment. All the appellants were benefitted with 382-B Criminal Procedure Code, 1898.

2. The brief facts as enunciated in FIR Exh./10-A, lodged by Muhammad Sajid PW-1 are that on 24.07.2020, he and the deceased Muhammad Danish were running a petrol pump within the area of Jam Yousaf Colony near Saleem Hotel street

with the title of Japan Mini Petrol Pump, on the last night he and the owner of the petrol pump namely Muhammad Danish were present on the pump when at about 01:20 A.M, they after filling diesel in a vehicle were closing the gate of the pump, three persons mounted on two motorcycles emerged, who made endeavours on gun points for entering into the pump, Muhammad Danish resisted, upon which one person fired with a pistol upon Muhammad Danish hitting on his abdomen, who fell on the ground on receiving the injury, all the three entered into the petrol pump. One person amongst them kept him under the pistol point, whereas the remaining entered into the room where iron box of white colour was lying in which cash amount of Rs.2,00,000/-, receipt books, cards, the papers of motorcycle bearing No. KKE-4924, besides one pair of clothes of his father were kept, they carried the same with them and while riding on the motorcycle fled away. He telephonically informed his father and in the same position shifted Muhammad Danish through a vehicle straight to Trauma Centre Civil Hospital, Karachi where Muhammad Danish succumbed to the injuries.

3. Thereafter on receipt of the report under Section 173 Criminal Procedure Code, 1898, all the three appellants were charge sheeted after completing the formalities, who denied the

charge and claimed trial, the prosecution evidence was summoned and recorded. The gist of which is as under:-

PW-1 Muhammad Sajid, reiterated the facts mentioned supra beside confirming the thumb impression Exh./1-A and also stated that he participated in the identification test parade inside Gaddani jail before the Magistrate and identified the culprits. He also identified the box.

PW-2 Abid Khan, is father of Muhammad Sajid PW-1, he confirmed the receipt of telephone call from his son Muhammad Sajid about the occurrence.

PW-3 Muhammad Ahmed Khan, this PW confirmed the receipt of call from PW-2 Muhammad Abid Khan on 24.07.2020 regarding the information of hitting of fire shot to Muhammad Danish deceased.

PW-4, ASI Sameer Nafees deposed that on 24.07.2020, he along with S.I/S.H.O. Atta Ullah Nomani and other police officials while riding on an official vehicle were in search of the culprits in this case, when he received the spy information that the culprits were present armed in a hut located on the rear side of Sharjah Hotel, upon which at about 08:10, in the night, they reached at the said place where three persons were present and a white colour iron box was lying. They apprehended the accused,

made their personal search resulting into recovery of TT Pistols and their names disclosed as Naveed, Saddam and Waheed. The police party searched the box and found cash book of Japan Mini Pump, eighteen of yellow colour, nineteen of white colour and twenty nine cash memos of blue colour, 190 visiting cards, cash amount of twenty notes each of denomination of Rs.5000/-, hundred notes of the denomination of Rs.1,000/- and original paper book of motorcycle along with one suit of grey colour. The TT Pistols were checked out, one recovered from Saddam was 30-bore, with 04 live bullets, six live bullets from the TT Pistol recovered from Naveed, 05 live bullets from the TT Pistol of 30-bore recovered from Waheed and no license was produced for which separate FIRs were got registered. The recovered stolen property was taken into possession vide a separate memo and the two motorcycles parked outside the hut used in the occurrence comprised of CG-125 and second of super power were also taken into possession vide memos attested by him and Abdul Razzaq, Head constable and produced the pistols in Court as Exh./4-A and the memo of recovery of stolen box, cash amount, receipts, motorcycles and one pair of clothes is Exh./4-B, a memo of the motorcycles Exh./4-C and parcel No. 2 as article P-1, recovered sealed sample from parcel as P-2 and those of the empties P-3, P-4 and P-5 respectively and the pistols along with the live cartridges P-6, P-7 and P-8 and the empty

P-9, cash amount P-10, parcel of cash amount of Rs. 2,00,000/-
P-11, iron box P-12, eighteen leaves of Japan Mini Petrol Pump
book of yellow colour and nineteen leaves of blue P-13 and other
white nineteen leaves P-14, one Shalwar Qameez P-15, original
file along with book recovered from the box as P-16 and
motorcycle Super Power and United P-17 and P-18, visiting
cards as P-19.

PW-5 Muhammad Akram, SI, police station Hub city
deposed that on 26.07.2020, he joined the investigation with
Abdul Hakeem, Inspector at the place of occurrence viz: Japani
Petrol Pump, who inspected the place of occurrence and
prepared the rough site plan, recovered a crime empty from the
place of occurrence near to the gate, same was taken into
possession vide memo Exh./5-A, the crime empty as P-20 and
recovered cartridge as P-22, attested by this PW.

PW-6, Muhammad Yousaf Chandio, S.I, this PW stated the
extra-judicial confession made by the accused persons.

PW-7, Bashir Ahmed Kakar, Judicial Magistrate, Osta
Muhammad, this PW as Judicial Magistrate, Gaddani supervised
the identification test parade on 30.07.2020 inside the central Jail
Gaddani. Muhammad Sajid PW identified the culprits and the
iron box and proved the identification test parade Exh./7-A and

Exh./7-C and sketch of identification form and iron box as Exh./7-D.

PW-8, Dr. Raheel, Medical Officer, Surgical Unit-4, Civil Hospital Karachi, stated that on 24.07.2020, he and doctor Dileep Kumar conducted the operation over Muhammad Danish, deceased herein who was brought in ambulance in the hospital, having bullet shot in the abdominal part. The veins of the abdominal part were found ruptured; he succumbed to the injuries due to loss of blood. He and Dr. Dileep Kumar issued death certificate of deceased Exh./8-A.

PW-9 Dr. Dileep Kumar Surgical Unit-4, Civil Hospital Karachi, stated that on 24.07.2020, Danish deceased was brought in the hospital having a bullet shot on the abdomen, he and Dr. Raheel PW-8, conducted the operation but due to loss of blood the deceased succumbed to the injuries.

PW-10, Abdul Hakeem, Inspector Police, the investigation officer conducted the investigation of this case.

4. On 22.12.2021 the prosecutor closed the prosecution case. Thereafter the statements of the accused under Section 342 Criminal Procedure Code were recorded. The accused denied the evidence; claimed innocence and none of them opted for adducing defence evidence or stating on oath in their defence as

their own witness, required under Section 340(2) Criminal Procedure Code, 1898.

Then on 21.03.2024, the learned Additional Sessions Judge-II, Hub decided this case afresh after remand of the case vide judgment dated 16.11.2023, passed by the Federal Shariat Court , hence this appeal on the following grounds:-

5. The learned counsel Mr. Illahi Bakhsh Mengal and Ch. Afzal Ahmed, advocates appearing on behalf of appellants contended that the features of the culprits have not been mentioned in the FIR, the identification test parade is defective and the witnesses have not assigned any role to the accused. The identification test parade is not a substantive piece of evidence and in absence of any ascribed role, the same cannot be used as corroborative piece of evidence, further contended that the accused were on physical remand with the police, therefore, the identification test parade loses its worth, further asserted that there is connecting evidence, the crime empty and the pistols are of no evidentiary value as there is no evidence of keeping the case property whatsoever in safe custody of the police nor there is any evidence for transmission of the same to the forensic science laboratory and that the same is violative of the 510 Criminal Procedure Code, 1898 and absence of any such evidence makes out the report of the Forensic Science Laboratory

as inadmissible, further contended that the prosecution failed to prove the charge.

6. On the other hand, Mr. Mushtaq Ahmed Qazi, Additional Prosecutor General, Balochistan vehemently opposed the contentions raised by the learned counsel for the appellants and contended that the prosecution succeeded to prove the case against the appellants through cogent evidence, the culprits/appellants were identified during the identification test parade as culprits, there is no previous enmity, hence, there is no reason of false implication of the accused/appellants and the delay in lodging of FIR is natural; finally argued that the prosecution has proved the charge.

7. Arguments heard. Record perused.

8. PW-1 Muhammad Sajid is the only eye witness of the commission of occurrence which took place on 24.07.2020 at about 01:20 A.M, within the area of Jam Colony at Japan Mini Petrol Pump situated within the jurisdiction of police station Hub City. The story reveals that there were only two persons at the said petrol pump, one Muhammad Danish, the deceased herein and the second was PW-1 Muhammad Sajid. Therefore, PW-1 Muhammad Sajid is the star witness of the prosecution who advanced ocular account and participated in the identification test parade on 30.07.2020 and claimed

identification of the accused persons, the appellants. He also identified the accused/culprits before the Court at the time of his recording of evidence as PW-1.

There is no dispute regarding the date, time and the place of occurrence, the defence has not challenged the same and even the presence of PW-1 Muhammad Sajid at the scene of occurrence is not disputed.

The death of deceased Muhammad Danish has been caused by a bullet hitting on his abdomen, PW-1 Muhammad Sajid claimed that he shifted Muhammad Danish in injured condition to the Civil Hospital, Trauma Center, Karachi where he succumbed to the injuries, he undergone a surgical operation in the said hospital.

PW-8 Dr. Raheel and PW-9 Dr. Dileep Kumar are the witnesses who carried out surgical operation upon him on the night of 24.07.2020 and categorically stated that due to loss of blood, Muhammad Danish succumbed to the injuries and died. All these facts remained un-disputed.

9. PW-1 has stated that after the occurrence he informed to his father telephonically and in the exigency he shifted Muhammad Danish in injured condition to the hospital. He lodged the FIR on 24.07.2020 at 05:30 P.M, the FIR is

Exh./10-A. The FIR was lodged against unknown persons through application Exh./1-A. The statement of PW-1 Muhammad Sajid disclosed that he explained the scenario regarding delay in lodging the FIR in the terms that he alone shifted the deceased to the hospital where the deceased was operated by the doctors; therefore, there exists no question of delay particularly when the FIR has been lodged against the unknown culprits.

10. PW-1 Muhammad Sajid has ascribed three armed persons who reached at the place of occurrence while mounted on two motorcycles, they tried to enter the petrol pump on gun points, Muhammad Danish the deceased herein resisted, resultantly one of the culprits fired, hitting on Muhammad Danish on his abdominal part, he fell in injured condition on the ground. Simultaneously one person pointed his pistol upon Muhammad Sajid PW-1 and the remaining went inside the room and took out Rs.2,00,000/- from the white coloured iron box, one check book, original paper book of motorcycle No. KKE-4924 and clothes belonging to the father of Muhammad Sajid PW-1 and went away.

PW-10, Abdul Hakeem, Inspector police is the investigation officer of this case. He initiated to sort out the unknown culprits of this occurrence, stated that on 24.07.2020

the investigation of this case was assigned to him, after registration of FIR, he proceeded to the place of occurrence, prepared visual site plan, inspected the place of occurrence and collected one crime empty of 30-bore pistol, sealed the same and took into possession. Thereafter he received a spy information and consequence thereto at about 08:10 P.M, raided upon a hut (جھونپڑی) located on the rear side of Sharjah hotel and cordoned off the hut through police contingent and saw that there were three persons inside and a iron box of white colour was lying there, all the three were arrested, personally searched out, resulting into recovery of pistols with magazines from all the three and their names disclosed as Saddam Hussain S/o Ghulam Rasool, Abdul Waheed S/o Haji Muhammad Khan and Naveed S/o of Mitha Khan, all resident of Hub, the appellants herein.

The box was searched out resulting into recovery of the receipts of pump, visiting cards, original file of motorcycle KKE-4924 and the net cash of amount Rs.2,00,000/- beside one Shalwar Qameez. The pistols were unloaded, resulting into recovery of four live bullets from the pistol recovered from accused Saddam Hussain, six live bullets from the pistol recovered from accused Abdul Waheed and five live bullets were recovered from the pistol recovered from accused Naveed. All the said case property was taken into possession vide

memos. He also seized the motorcycles parked outside the said hut and were taken into possession.

The accused were arrested on 24.07.2020, as per evidence of PW-10 Abdul Hakeem, Inspector police, the investigating officer Saddam Hussain accused on 25.07.2020 while in police custody made disclosure to the said investigating officer about his co-accused namely Abdul Waheed and Naveed as his companions.

He was taken to the place of occurrence by this investigating officer for pointing out (نشان دہی) the same. The investigating officer PW-10, Abdul Hakeem, Inspector even opted to prepare the memos of said identification attested by Ahmed Khan S/o Khalid Khan and Abid Khan S/o Hameed Khan.

This PW-10, Abdul Hakeem, Inspector further stated that on 28.07.2020, he got the stolen property and all the three arrested accused identified from the first informer PW-1 Muhammad Sajid. “

"مقدمہ ہذا میں مورخہ 28-07-2020 کو ہر سہ ملزمان اور برآمد شدہ مال

مسروقہ کی مدعی مقدمہ سے شناخت پریڈ کرائی۔"

11. As per Article 40 of the Qanun-e-Shahadat Order, 1984, "When any fact is deposed to as discovered in consequence

of information received from a person accused of any offence, in the custody of a Police-Officer, so much of such information, whether it amounts to confession or not, as relates distinctly to the fact thereby discovered, may be proved." Therefore, mere *Nishandahi* by an accused while in custody with no discovery whatsoever from the place of occurrence is of no avail to the prosecution and is not covered under the *Article 40 ibid* and such part of the statement of PW-10 Abdul Hakeem shall be inadmissible in evidence.

12. The identification test parade is a corroborative piece of evidence and corroborates the testimony of a witness recorded before the Court regarding the identification of the culprits and is test of his memory and acumen, as he had a chance to have the glimpses of the culprits at the awkward stage of the commission of occurrence. The identification test parade has to be conducted with the safeguards and precautions under the supervision of the Magistrates. The Hon'ble Supreme Court of Pakistan determined the safeguards and precautions for conducting identification test parade in the case titled *Kanwar Anwaar Ali, Special Judicial Magistrate, cited at "PLD 2019 Supreme Court 488"*, and distributed the judgment to all concerned.

In this case, PW-7 Bashir Ahmed Kakar, Judicial Magistrate conducted the identification test parade on 30.07.2020

inside the Central Jail, Gaddani. He stated that PW-1 Muhammad Sajid identified all the three accused present in Court during the identification test parade and also identified the iron box recovered from the accused but this PW has not named any of the particular accused nor assigned any role to any of them during the statement before the Court. This PW did not ask any objection from the accused persons nor recorded statement of the witness regarding the identification. He prepared identification form of each of the accused and certificates Exh./7-A to Exh./7-C and also the iron box Exh./7-D. This PW identified his signatures and the certificate.

13. The evidentiary value of the said identification test parade has to be determined on the settled principles of law and the instructions containing the precautions and safeguards for conducting the identification test parade as mentioned in “PLD 2019 SC 488” supra. The statement of the Magistrate before the Court whether he deposed in express manner and proved on record the identification test parade conducted by him and the identification test parade report prepared by him is subject to evaluation through appreciation of evidence. The claim of PW-1 Muhammad Sajid regarding the identification of the accused at the time of identification test parade and before the Court is also the subject for evaluation through appreciation of evidence and

finally whether the statements of the Magistrate and that of PW-1 Muhammad Sajid regarding the identification of the accused has become a legal evidence or not is also subject to evaluation in terms of the question number (09), put to the accused while recording his statement under Section 342 Criminal Procedure Code, 1898.

In this case, first of all referring to the statement of the PW-10 Abdul Hakeem, Inspector police, the investigating officer he stated that *“on 28.07.2020 every accused and the recovered stolen property were got identified from the complainant, in the words mentioned herein, as the evidence was recorded in Urdu language by the learned trial Court, same is reproduced as under .”*

"مقدمہ ہذا میں مورخہ 28-07-2020 کو ہر سہ ملزمان اور برآمد شدہ مال مسروقہ کی مدعی مقدمہ سے شناخت پریڈ کرائی۔"

Whereas the identification test parade was conducted on 30.07.2020, therefore, it has come on record that the accused had been exposed to the first informer, PW-1 Muhammad Sajid prior to the holding of identification test parade. Therefore, the very purpose for holding an identification test parade dies.

Even then the principles for appreciation of evidence would suggest that the circumstances appearing in evidence were right of the accused to be put to him under Section 342

Criminal Procure Code, 1898 for explanation by him. It is pertinent to mention here that the statement of Muhammad Sajid PW-1 that "he participated in the identification test parade and he identified the accused persons as culprits and the identification of the same stolen iron box, has not been specifically put to any of the accused in their statements under Section 342 Criminal Procure Code, 1898".

Therefore, the statement of PW-1 Muhammad Sajid to that extent cannot be used against the accused persons. In this regard judgment titled *Mst. Anwar Begum Versus Akhtar Hussain alias Kaka, cited at 2017 SCMR, 1710* and at page 1713, (D), it is mentioned that "*it is well settled by now that a piece of evidence not put to an accused while examining him under Section 342, Code of Criminal Procedure cannot be used against him for maintaining his conviction*". Similarly the Judgment titled "*Imtiaz alias Taj Versus the State and others*", "*2018 SCMR 344*" is referred, referring to page 348 (E), "*the law is settled that a piece of evidence or a circumstance not put to an accused person at the time of recording his statement under Section 342 Cr.P.C. cannot be considered against him..*"

The statement of PW-7 Bashir Ahmed Kakar, Judicial Magistrate is also of vital importance. He was bound to state before the Court that Muhammad Sajid PW-1 did identify a

particular accused and he could depose this fact from his own knowledge as such.

In this case he has not named any of the accused and in general term stated that all the three accused were identified by PW Muhammad Sajid. He has also not mentioned through which particular reference, any of the particular accused was identified. He was also bound to state particularly in order to prove the identification test report contained from Exh./7-A to Exh./7-C, has simply stated that *"I tender identification parade form of the accused persons with the certificates Exh./7-A to Exh./7-C beside that of the iron box"*. PW-7 Bashir Ahmed Kakar prepared the identification parade and certificate wherein he mentioned in the report Exh./7-A that Muhammad Danish was fired by Saddam Hussain accused with his pistol and he had pointed out his pistol upon PW Muhammad Sajid. Similarly, in report Exh./7-B he has stated that this accused had entered inside the petrol pump on gun point and on the report Exh./7-C, he has given role to accused Abdul Waheed for taking away the cash and the iron box.

Whether this part of the identification test parade report can be read in evidence against any of the accused in the manner that question number 9, contained in statement of every of the

accused recorded under Section 342 Code of Criminal Procedure reproduced as under:-

Question No. 9. Is it correct that PW-7, Bashir Ahmed Kakar, Judicial Magistrate deposed and produced identification parade forms and certificates of you accused persons as Exh./7-A to Exh./7-C and form map of box as Exh./7-D against you?.

Answer:- It is false.

In this question the circumstance appearing in evidence of PW-1 Muhammad Sajid about identification of the accused persons by him is not covered and does not contain anything for the explanation from the accused persons regarding identification of said PW-1 Muhammad Sajid. Therefore, this question put under Section 342 Cr.P.C to the accused by the Court does not make the evidence of said Muhammad Sajid PW as admissible to the extent of his claim of identification of the accused persons.

Regarding the statement of PW-7, Bashir Ahmed Kakar before the Court, reference is to a case titled "*Rama Gope and another Versus the State*" reported at A.I.R (37) 1950 Patna 514" at page 515, the same is reproduced as under:-

"I can understand the evidence of identification before the committing Magistrate being utilized as substantive evidence,

but not the evidence at the test identification parade; but, of course, where it corroborates the evidence in Court, it must be regarded as of great value specially when the test identification parade was held without any unreasonable delay. I can also understand a statement made by the Magistrate himself, who held the test identification parade, being utilized as substantive evidence, provided the Magistrate stated that a particular witness did identify a particular accused and he could depose to this fact from his own knowledge as such. In this case however, I do not find that the Magistrate, who held the test identification parade, did make any such statement. All that I find is that he observed only as follows: " I prepared a chart of T. I. parade. This is the chart prepared by me Ex.. He does not say which witness identified which accused. Therefore, merely proving the chart cannot be sufficient."

14. In this case the position is almost the same, regarding the evidence of PW-7, Bashir Ahmed, Magistrate who conducted the identification test parade. The said PW-7 has not given any details of conducting the identification test parade, thus the prosecution even failed to prove the proceedings in this regard. Further the question regarding the conducting of identification test parade by this PW has not been put specifically to any of the accused under Section 342 Code of Criminal Procedure, in a

clear manner, mere putting the reports of identification test parade is not sufficient.

In this scenario, then what is left with the prosecution, if the statement of PW-1 Muhammad Sajid to the extent of his participation in the identification parade and the identification of accused persons has become inadmissible in evidence. Therefore, there is no legal evidence available on record regarding identification of the accused persons (appellants herein).

15. It is admitted position that features of the culprits has not been stated by PW-1 Muhammad Sajid in the FIR Exh./10-A or before the Court and no role of any of the accused whatsoever has been ascribed by him before the Court.

Therefore, In case titled "Sabir Ali alias Fauji Versus the State" cited at 2011 SCMR 563 (570), the principle laid down is *identification test is of no value, if description of the accused is not given in the FIR* and in judgment titled "Azhar Mehmood and others Versus the State " cited at 2017 SCMR 135 and at page 138, the principle is mentioned as, accused persons were identified during the parade but without reference to any role played by them in the incident such a test identification parade was of no evidentiary value.

In case titled *“Ghulam Rasool Versus the State”, cited at 1988 SCMR 557* at page 560, it has been held that *“role of the accused at time of commission of offence not described by witness is a inherent defect and evidence of witness identifying accused in such identification parade lost its efficacy and not relied upon.”*

16. At the cost of repetition, Bashir Ahmed Kakar, PW-7, while conducting identification test parade did not adhere to the principles laid down in the judgments mention supra regarding the precautions and safeguards nor opted to record the statement of witnesses about the connection in which the witness had identified the accused/culprit, therefore, the evidence of identification test parade is of least worth in this case. Beside this fact the statement of the accused recorded under Section 342 Criminal Procedure Code, the question must contained the circumstances appearing in evidence against him, to be explain by the accused. In this case a cyclostyle pattern has been adopted for recording the statement of the accused, through a computer printing and all the accused have been put questions in the same ditto manner qua word to word, line to line and question to question which is against the law and is detrimental to the purpose of trial.

17. The piece of evidence in the form of recoveries of pistol and the crime empty recovered from the place of occurrence, the report of forensic science Laboratory Exh./10-B disclosed that all the weapon and the crime empty were received in the office on 29.07.2020, from the office of Additional Superintendent Police Dosteen Dashti, Lasbela together, by itself loses its evidentiary value and cannot be used safely for the purpose of corroboration.

The recovery of the currency note, the receipts or the white iron box from the accused persons in the circumstances that they committed robbery but failed to spent a penny out of the two lac rupees is not appealable to the ordinary prudence.

18. Therefore, in view of the discussions, the prosecution fails to prove the charge against the appellants beyond a shadow of doubt. This appeal is allowed. The conviction and sentence awarded to the appellants vide the impugned judgment dated 21.03.2024, is hereby set-aside. The appellants are acquitted from the charge on extension of benefit of doubt. They are in custody, be released forthwith if not required in any other case. Case property comprised of pistols, bullets and the empty be confiscated in favour of the State. Rest of the case property be handed over to its claimant in accordance with law. File

be consigned to the record room and that of the trial Court be sent back.

**JUSTICE AMEER MUHAMMAD KHAN
JUDGE**

**JUSTICE IQBAL HAMEEDUR RAHMAN
CHIEF JUSTICE**

Dated, Islamabad the

Salman