JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Crl. Revision No. 187 of 2025

Syed Muhammad Ullah
Vs.
The State and another

Petitioner by	:	M/s Shahid Shabbir and Yasir Aziz Malik, Advocates,
Respondents by	:	M/s M. Bilal Yousaf, Umer Saleem and Sohail Khurshid, Advocates. Ms. Rabia Imtiaz, ADPP. Mr. Naveed Ahmad, ASI, P.S Margalla, Islamabad.
Date of Hearing	:	**07-10-2026.**

SHAHRUKH ARJUMAND, J.-

1. Through the instant criminal revision petition under Sections 435 and 439 of the Code of Criminal Procedure, 1898, the petitioner, Syed Muhammad Ullah, has assailed the consolidated judgment dated 27.11.2025 passed by the learned Additional District and Sessions Judge-X, Islamabad (West), whereby his criminal appeal against conviction was dismissed, whereas Criminal Revision No.14/2024, preferred by the complainant for enhancement of sentence, was allowed.

2. The petitioner was convicted by the learned Judicial Magistrate, Section-30, Islamabad (West), vide judgment dated 18.03.2024, in FIR No.410/2021, Police Station Margalla, Islamabad, under Sections 324, 334 and 336, PPC, and Section 14 of the Foreigners Act. The learned trial Court awarded seven years' rigorous imprisonment under each of the relevant

provisions of the PPC, besides the monetary liabilities specified in its judgment, and three years' rigorous imprisonment under Section 14 of the Foreigners Act. The learned appellate Court maintained the conviction and enhanced the substantive sentences under the PPC to ten years' rigorous imprisonment each, besides modifying the liability concerning Arsh.

3. Briefly, the prosecution case is that on 09.12.2021, at approximately 11:00 p.m., the complainant, Sohail Hassan Qureshi, was subjected to a violent assault in F-9 Park, Islamabad, resulting in devastating injuries to his face and both eyes. The petitioner was subsequently implicated on the strength of identification evidence, alleged recoveries, CCTV material and forensic examination of biological samples.

4. Learned counsel for the petitioner has questioned the reliability of identification, the circumstances of the alleged recoveries and the evidentiary value of the CCTV material. The State and the complainant support the concurrent findings of conviction and rely particularly upon the injured complainant's testimony, the recovery of the hoodie and the positive forensic result.

5. I have considered the rival contentions and examined the material available on the record. The occurrence and the gravity of the injuries are not the central controversy. The decisive question is whether the prosecution has established beyond reasonable doubt that the petitioner was the person responsible for the assault.

Scope of revisional jurisdiction

6. Before examining the evidence, it is necessary to distinguish the two components of the consolidated judgment. The petitioner's criminal appeal was decided in exercise of appellate jurisdiction, whereas the complainant's revision seeking enhancement of sentence was decided under the revisional jurisdiction of the Sessions Court.

7. Section 439(4)(b), Cr.P.C., restricts further revision against an order made by the Sessions Judge under Section 439-A, Cr.P.C. Consolidation of the proceedings does not erase their separate statutory character. The challenge to the appellate determination must therefore be considered distinctly from the challenge to the enhancement order.

8. Revisional jurisdiction is not a substitute for a second appeal. Nevertheless, where a conviction is founded upon material misreading or non-reading of evidence, or where the appreciation of evidence results in a miscarriage of justice, the supervisory jurisdiction of this Court may be invoked in accordance with law.

Identification of a not familiar assailant

9. The prosecution case rests principally upon the testimony of PW-1, the injured complainant. His injuries establish his presence at the occurrence and lend significance to his account of the assault. They do not, however, dispense with the requirement of reliable identification.

10. During cross-examination, the complainant admitted:

یہ درست ہے کہ میں نے وقوعہ سے قبل میں نے ملزم کو نہ دیکھا تھا اور نہ ہی سنا تھا۔

This admission establishes that the petitioner was previously unknown to him. Consequently, identification depended upon the complainant's opportunity to observe the assailant during the occurrence.

11. The occurrence allegedly took place at approximately 11:00 p.m. The complainant further volunteered:

از خود کہا کہ پورے پارک میں کوئی لائٹ کا انتظام نہ ہے ۔

The availability of sufficient illumination was therefore not an incidental matter. It went directly to the reliability of identification.

Evidence of Security Guard concerning the source of light

12. PW-6 Muhammad Irfan, a security guard associated with F-9 Park, provided material evidence concerning the lighting arrangements. His examination-in-chief was recorded on 03.11.2023 and cross-examination on 04.11.2023.

13. During cross-examination, he stated:

مین ٹریک پر لائٹس لگی ہوئی ہیں لیکن09:50 بجے کے بعد تمام لائٹس آف کر دی جاتی ہیں

14. According to this evidence, the lights installed on the main track were ordinarily switched off after 9:50 p.m., whereas the occurrence allegedly took place at approximately 11:00 p.m. The two times are separated by approximately seventy minutes.

15. The testimony of PW-6 does not establish that every part of the park was necessarily in complete darkness. Nevertheless, it directly undermines any unexamined assumption that the complainant had adequate illumination for detailed visual identification.

16. In *Chetan v. The State* **(2025 SCMR 944),** the Hon'ble Supreme Court considered the effect of an unproved source of light upon identification during a nighttime occurrence. The Court relied upon *Usman alias Kaloo v. The State* **(2017 SCMR 622)**, wherein the absence of electric light at the place of occurrence rendered the question of identification particularly significant.

17. More recently, in *Khizar Hayat v. The State* **(2025 SCMR 1339),** the Hon'ble Supreme Court considered a nighttime occurrence in which the prosecution claimed that the witnesses possessed a torch, but the alleged source of light had not been secured during investigation. The Court found the detailed identification evidence unsafe and extended the benefit of doubt.

18. Conversely, in *Shamsher Ahmad v. The State* **(2022 SCMR 1931)**, nighttime identification was accepted where the accused was previously

known to the witnesses and the existence of a functioning tube-light was supported by the evidence and site plans.

19. The present case is materially distinguishable from *Shamsher Ahmad*. Here, the petitioner was a stranger to the complainant, the latter himself questioned the availability of lighting, and PW-6 gave specific evidence that the main-track lights were switched off before the alleged occurrence. The prosecution was therefore required to establish some dependable alternative basis for detailed visual identification.

20. The identification evidence becomes doubtful not merely because the occurrence took place at night, but because the conditions necessary for reliable identification of a stranger have not been satisfactorily demonstrated in the material examined.

Material improvements in the complainant's testimony

21. The complainant's earliest version, as identified from the police record, described the assailant by reference to his approximate age and the wearing of *shalwar kameez*. It did not contain the subsequently attributed distinctive particulars concerning brown-coloured sandals, a hoodie or a V-shaped marking.

22. These particulars later assumed considerable importance because the prosecution alleged recovery of a black hoodie bearing a red V-shaped design from the petitioner on 13.12.2021.

23. In the case of an unfamiliar assailant, a distinctive description furnished before recovery may provide independent corroboration. However, where the identifying features are introduced only after recovery, the Court must carefully examine whether the description originated from the witness's own observation.

24. The significance of the additions is increased by the disputed lighting conditions. The complainant's ability to observe the colour of footwear and

the particular design of a garment during a sudden nighttime assault cannot simply be presumed.

25. In *Muhammad Mansha v. The State* **(2018 SCMR 772)**, the Hon'ble Supreme Court considered the effect of material improvements made by prosecution witnesses. However, every subsequent detail does not necessarily amount to a dishonest improvement. The relevant distinction is between an incidental elaboration and a material addition affecting the substance of the prosecution case.

26. In the present matter, the alleged additions concern the very features subsequently relied upon to identify the petitioner and connect him with the recovered garment. They are therefore material to the disputed issue of identity.

27. The Court must nevertheless observe the requirements of Section 162, Cr.P.C., and Article 140 of the Qanun-e-Shahadat Order, 1984. Only omissions and contradictions duly established through the legally prescribed process may be treated as proved improvements. The police report under Section 173, Cr.P.C., is not itself a substitute for proving a contradiction from the relevant earlier statement.

Alleged removal and recovery of keys

28. Another circumstance concerns the allegation that the assailant took away the complainant's car keys and house keys.

29. According to the initial version identified by the defence, the complainant did not disclose the alleged taking of either set of keys. The allegation subsequently became relevant when the prosecution relied upon the purported recovery of keys as an incriminating circumstance against the petitioner.

30. The alleged taking of keys constitutes a distinct factual act. Its omission from the earliest account, if duly proved, cannot automatically be

dismissed as an insignificant detail, particularly where the later recovery is relied upon to strengthen identification.

31. The prosecution was required to establish when the complainant first disclosed that the keys had been taken, whether the omission was reasonably explained by his condition following the assault, and whether the recovery was independently proved through reliable evidence.

32. A subsequent recovery cannot be treated as conclusive corroboration merely because it corresponds with a detail introduced after the investigation had progressed. Its evidentiary value depends upon the reliability of both the foundational allegation and the recovery itself.

Identification through voice

33. The complainant's identification of the petitioner through voice also requires scrutiny. During cross-examination, he admitted:

یہ درست ہے کہ دوران وقوعہ میری اواز ارہی تھی جبکہ ملزم کی اواز نہ ارہی تھی ۔

34. He further admitted that:

یہ درست ہے کہ میں نے اپنے بیان پولیس میں یہ کہا تھا کہ ملزم پشتو بول رہا تھا۔

35. These statements must be considered together with the complainant's admission that he had never heard the petitioner before the occurrence.

36. Recognition of familiar voice and identification of a not familiar voice following a brief and traumatic encounter are materially different evidentiary situations. The latter requires a reliable opportunity of hearing and a dependable subsequent identification process.

37. The reference to the assailant speaking *Pashto* does not, by itself, establish the identity of the petitioner. Nor can familiarity with a language be equated with recognition of a particular individual's voice.

38. The apparent inconsistency concerning whether the assailant's voice was audible during the occurrence required reconciliation from the actual sequence of events. In the absence of a reliable foundation for voice recognition, this circumstance cannot independently establish identity.

Medical evidence and the identity of the assailant

39. The medical evidence establishes serious injuries to the complainant's face and both eyes. The testimony of Dr. Muhammad Farrukh Kamal corroborates the occurrence of a violent assault.

40. However, medical evidence ordinarily establishes the nature, location and probable mechanism of injuries; it does not independently identify the person responsible for inflicting them.

41. The seriousness of the injuries may be relevant to the statutory ingredients of Sections 324, 334 and 336, PPC, but it cannot cure a material deficiency concerning the identity of the perpetrator.

42. The occurrence itself was undoubtedly serious. The medical evidence establishes that the complainant sustained grave injuries, including extensive damage to both eyes. Nevertheless, proof that a serious offence occurred and proof that the petitioner was its perpetrator are legally distinct propositions. The seriousness of the injuries cannot dispense with proof of identity beyond reasonable doubt.

CCTV footage and electronic evidence i.e. USB

43. The prosecution relied upon CCTV footage allegedly obtained from Safe City cameras and produced through a USB device.

44. In *Ishtiaq Ahmed Mirza and others v. Federation of Pakistan and others* **(PLD 2019 SC 675)**, the Hon'ble Supreme Court discussed the evidentiary requirements concerning audio and video recordings, including authenticity, identification of the persons depicted, the source of the recording and its preservation.

45. The prosecution was required to establish the source of the footage, the location of the relevant camera, the manner of extraction, the continuity of custody and the connection between the images and the petitioner.

46. PW-5 Mudassar Mirza's evidence must be evaluated according to his actual role. Merely viewing footage at a police station does not necessarily establish personal knowledge of its original recording or extraction.

47. A further distinction must be maintained between footage showing the actual assault and footage showing a person entering or leaving the park. Presence in the vicinity, without reliable identification and a proved connection with the offence, does not establish participation in the assault.

48. The evidentiary value of the CCTV material must therefore rest upon its proved contents and authenticity, rather than upon the mere production of a USB device. The testimony of PW-12, SI Fakhar Abbas, further requires scrutiny regarding the identification of the petitioner through CCTV footage. He stated that scrutiny of the Safe City recording revealed a suspicious person and that the petitioner was subsequently apprehended upon information concerning a person answering the description communicated by him. However, the complainant’s earliest description, as discussed above, supplied no distinctive facial features beyond an approximate age and a general description of clothing. PW-12’s assertion that the person depicted resembled that description therefore required a demonstrable basis for identifying him as the petitioner. The witness further stated that footage from a camera near the petitioner’s residence showed the person leaving at approximately 8:00 p.m. and returning at approximately 2:00 a.m.; since the camera’s backup was about to expire, he recorded the footage on his mobile phone and subsequently transferred it to a USB. This method of preservation required satisfactory proof that the copy accurately and completely reproduced the original footage. His account does not, by itself, establish either the clarity of the facial features depicted or the integrity of the intervening copying process. Nor does

departure from and return to a residence, without a reliable connection to the assault, establish participation in the offence. Verification of nationality or immigration status is a separate matter and cannot supply the missing evidentiary link between the person depicted and the perpetrator of the assault.

Recovery of the hoodie and the positive DNA finding

49. The alleged recovery of a hoodie and the subsequent positive DNA finding constitute the strongest apparent incriminating circumstances against the petitioner.

50. According to the recovery memorandum dated 13.12.2021, the petitioner was arrested while wearing a black hoodie bearing a red V-shaped design on its front and stains on its sleeves. The garment was allegedly removed from his person and sealed as parcel AS.

51. The occurrence took place on 09.12.2021, whereas the recovery was allegedly effected four days later. Although continued possession or wearing of an incriminating garment after such an occurrence may appear unusual, that circumstance alone is insufficient to disbelieve the recovery.

52. The decisive issue is whether the prosecution reliably proved that the garment was actually recovered from the petitioner in the manner alleged and that the same article was subsequently examined by the forensic laboratory.

53. The PFSA report dated 29.04.2022, bearing reference PFSA2021-468150-DNA-069911, records that DNA profiles obtained from stains marked as Items 6.1 and 6.2 on the hoodie/jacket matched the complainant's DNA profile.

54. This is a positive forensic finding. It establishes the presence of biological material attributable to the complainant on the garment examined by PFSA and cannot be treated as exculpatory.

55. The report further records that the relevant nail-swab samples obtained from the complainant matched his own DNA profile. The petitioner's DNA profile was not identified in those samples. This does not exclude physical contact, but the nail-swab evidence does not independently identify the petitioner as the assailant.

56. A forensic match establishes the biological connection between the complainant and the examined garment. It does not, by itself, establish the manner of recovery or independently prove that the garment was taken from the petitioner's person.

57. The prosecution was therefore required to prove the recovery, identity, sealing, custody and transmission of the garment through dependable evidence. Material deficiencies in these foundational links would directly affect the evidentiary value of the forensic result.

58. Conversely, if the recovery from the petitioner's person and the continuity of custody were satisfactorily established, the positive DNA finding would constitute substantial incriminating corroboration. It could not be rejected merely because the visual identification was otherwise doubtful.

59. Accordingly, the forensic evidence must be weighed with the recovery testimony and not isolated from it. A laboratory result cannot prove an unestablished recovery, but a reliably proved recovery supported by a positive DNA match cannot be disregarded through conjecture.

Absence of motive

60. The material examined does not establish any previous enmity, financial dispute, personal grievance or other identifiable motive connecting the petitioner with the complainant.

61. Motive is not an indispensable ingredient of every criminal offence. Where direct evidence is trustworthy, the absence of motive does not necessarily undermine the prosecution case.

62. Nevertheless, where identification is materially disputed and the prosecution depends upon circumstantial corroboration, the absence of an established motive may be considered as an additional circumstance in the cumulative assessment.

The rule of a single reasonable doubt

63. The governing principle of criminal jurisprudence is that the prosecution must establish guilt beyond reasonable doubt. The burden does not shift merely because the offence is grave or the accused has failed to provide a convincing alternative explanation.

64. In *Tariq Pervez v. The State* **(1995 SCMR 1345),** the Hon'ble Supreme Court held that the benefit of doubt is not dependent upon the existence of numerous doubtful circumstances. A single circumstance creating reasonable doubt in a prudent mind is sufficient to entitle the accused to its benefit as a matter of right.

65. The same principle was reiterated in *Muhammad Akram v. The State* **(2009 SCMR 230).** The benefit of doubt is not a matter of judicial grace or concession.

66. In *Abdul Qadeer v. The State* **(2024 SCMR 1146),** the Hon'ble Supreme Court again emphasized that even a single circumstance creating reasonable doubt in a prudent mind concerning the guilt of an accused is sufficient to entitle him to acquittal.

67. More recently, in *Chetan v. The State* **(2025 SCMR 944),** the Hon'ble Supreme Court applied the same principle after examining deficiencies concerning nighttime identification, the source of light and other material aspects of the prosecution evidence.

68. The principle does not mean that any fanciful or speculative doubt is sufficient. The doubt must be reasonable, arise from the evidence and affect a material element of the prosecution case.

69. The Court is therefore not required to accumulate a particular number of contradictions before extending the benefit of doubt. If a single proved circumstance creates a reasonable doubt about the accused's guilt, conviction cannot lawfully be sustained.

Cumulative assessment and findings

70. Having considered the prosecution evidence cumulatively, the following circumstances are material to the determination of the petitioner's guilt.

71. First, the complainant admittedly had no previous acquaintance with the petitioner. The occurrence took place at approximately 11:00 p.m., and PW-6 stated that the lights installed on the main track were switched off after 9:50 p.m. The complainant himself questioned the availability of lighting in the park.

72. Secondly, the distinctive particulars concerning the hoodie, blue-coloured sandals and V-shaped marking were allegedly absent from the earliest account and subsequently became material to the identification of the petitioner and the recovered garment.

73. Thirdly, the alleged removal of the complainant's car and house keys was also absent from the earliest version identified by the defence. Its subsequent introduction required explanation, particularly because recovery of the keys was relied upon as an incriminating circumstance.

74. Fourthly, the complainant had never heard the petitioner's voice before the occurrence, and his admissions concerning whether the assailant's voice was audible raise a material question regarding the reliability of voice identification.

75. Fifthly, the medical evidence establishes the serious occurrence but does not independently identify the petitioner. PW-6 similarly provides material evidence concerning the surrounding conditions without claiming to have witnessed the assault.

76. Sixthly, the CCTV material can corroborate identity only to the extent that its authenticity, contents and connection with the petitioner have been established through legally admissible and reliable evidence.

77. Seventhly, the positive DNA result concerning the hoodie is a substantial incriminating circumstance, but its ultimate evidentiary value depends upon reliable proof that the examined garment was recovered from the petitioner and remained identifiable throughout its custody and transmission.

78. These circumstances must not be considered as isolated defects. Their combined significance lies in the disputed identification of an unfamiliar assailant and the need for dependable independent evidence connecting the petitioner with the occurrence.

79. The principle stated in *Khizar Hayat* **(2025 SCMR 1339)** and *Chetan* **(2025 SCMR 944)** is directly relevant to the reliability of detailed identification during a nighttime occurrence where the source of illumination is not satisfactorily established.

80. The learned courts below were required to evaluate the complainant's opportunity of observation in the light of PW-6's testimony, the earliest description, the subsequent additions, the alleged recoveries and the forensic findings. An assessment which accepts identification without addressing these material circumstances would amount to non-reading or misreading of evidence.

81. The prosecution is required to prove its case through evidence that is not only admissible but also sufficiently reliable to exclude reasonable doubt. Suspicion, however strong, cannot replace proof.

82. The gravity of the injuries does not lower the standard of proof. Nor can deficiencies in the prosecution evidence be supplied by an assumption that the petitioner must have been responsible because an incriminating garment was allegedly recovered from him.

Conclusion

83. The evidence concerning nighttime identification, the complainant's previous unfamiliarity with the petitioner, the lighting arrangements described by PW-6 and the alleged material improvements raises substantial questions concerning the reliability of the prosecution's account of identity.

84. The positive forensic result concerning the hoodie must be accorded its proper weight. Its capacity to remove the doubt concerning identity depends upon the independent reliability of the alleged recovery and the continuity of custody. The Court cannot reject that result merely because other aspects of the prosecution case are doubtful.

85. Where the foundational recovery evidence is found materially unreliable and the CCTV material does not independently establish participation, the doubts arising from identification remain unresolved. In such circumstances, the prosecution fails to establish guilt beyond reasonable doubt.

86. The principle enunciated in *Tariq Pervez* **(1995 SCMR 1345),** *Muhammad Akram* **(2009 SCMR 230)** and *Abdul Qadeer* **(2024 SCMR 1146)** would then operate in favour of the petitioner. A single reasonable doubt arising in a prudent judicial mind is sufficient; the law does not require a multitude of doubtful circumstances.

Operative order subject to the findings identified above

87. For the foregoing reasons, and upon the finding that the prosecution has failed to establish through reliable recovery and corroborative evidence that the petitioner was the assailant, the conviction under Sections 324, 334 and 336, PPC, cannot safely be maintained. The petitioner is accordingly entitled to the benefit of doubt.

88. Consequently, to the extent concerning the convictions under Sections 324, 334 and 336, PPC, the instant criminal revision petition is

partially **allowed**. The appellate judgment dated 27.11.2025 and the trial Court's judgment dated 18.03.2024 are **set aside**, and the petitioner is acquitted of the aforesaid charges by extending to him the benefit of doubt.

89. The conviction under Section 14 of the Foreigners Act, 1946, and the sentence of three years' rigorous imprisonment awarded by the learned trial Court and maintained by the learned appellate Court concern a distinct statutory offence. The benefit of doubt extended in respect of the offences under the PPC does not, by itself, warrant interference with that conviction or sentence, which shall remain undisturbed by this order.

90. Deportation shall be addressed through the statutory procedure. Section 14-B(ii) of the Foreigners Act, 1946, permits a foreigner falling within its scope to depart from Pakistan under an order of the Federal Government while undergoing a sentence passed under the Act, provided his presence is not required in connection with any other case. The matter shall, therefore, be placed before the competent authority for a decision under that provision, read with Section 3 of the Act.

91. The Superintendent of the prison concerned shall, within seven days of receipt of this judgment, transmit to the Secretary, Ministry of Interior, Government of Pakistan, and the Director General, Federal Investigation Agency, a copy of this judgment, the petitioner's available identification and nationality documents, and a certified custody and sentence calculation. The calculation shall specify the period already undergone, the benefit of Section 382-B, Cr.P.C., where applicable, admissible remissions, any outstanding fine or default sentence, and the date of expiry of the sentence under Section 14. Particulars of any other case or subsisting custody order shall also be supplied.

92. The competent authority in the Federal Government shall examine the petitioner's case for deportation in accordance with Sections 3 and 14-B(ii) of the Act and communicate its decision to the prison authorities within thirty days of receipt of the requisite record. The FIA and other

authorities concerned shall assist in verification of nationality, procurement of travel documents and completion of the necessary arrangements. Before removal, any subsisting claim to lawful stay or legal impediment to deportation shall be determined by the competent authority in accordance with law. If deportation is authorized, it shall be carried out through the prescribed channel, subject to verification that the petitioner's presence is not required in any other case.

93. Pending such decision, custody shall be governed by the unexpired sentence or another subsisting lawful authority. If the sentence has already expired, or expires before deportation is effected, any custody under Section 14-C of the Act shall remain strictly within its statutory scope and maximum period of three months, calculated from the expiry of the sentence. This judgment shall neither restart that period nor authorise detention beyond it. Any further detention must rest upon an independent lawful basis.

94. The acquittal recorded in paragraph 88 relates to the PPC charges alone. No release warrant issued in consequence thereof shall be construed as extinguishing the distinct sentence under the Foreigners Act or dispensing with the statutory requirements governing deportation. The office shall transmit copies of this judgment forthwith to the learned trial Court, the Superintendent of the prison concerned, the Secretary, Ministry of Interior, and the Director General, FIA. A report of the action taken under paragraphs 91 and 92 shall be submitted to the Registrar of this Court within forty-five days.

(SHAHRUKH ARJUMAND)
JUDGE

Announced in open Court on _____

JUDGE

Approved for reporting.

Asif Mughal/*