



RESEARCH CENTER, HIGH COURT OF BALUCHISTAN

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COURT: HON'BLE MR. JUSTICE NAJAM-UD-DIN MENGAL
SUBJECT: CRIMINAL LAW
DATE: 20TH MARCH 2025
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QUERY: *"Does the prosecution's failure to produce key material evidence (e.g., an alleged letterhead of a proscribed organization) affect the validity of charges, and does it warrant acquittal based on the principle of benefit of doubt?"*

Respected sir!

In response to the query, it is submitted that based on the following precedents, it is established that ***failure to produce key material evidence—such as an alleged letterhead linking an accused to a proscribed organization—renders the prosecution's case unproven beyond a reasonable doubt.*** Superior Courts have consistently held that the prosecution bears the burden of proof, and ***in the absence of tangible evidence***, the accused must be given the benefit of doubt. The precedents discussed below reaffirm this legal position and illustrate how courts have consistently ruled in favor of acquittal where the prosecution has failed to present crucial evidence.

In **Muhammad Rahmat Ullah v. The State** (2024 P Cr. L J 1), the Lahore High Court set aside the conviction of an accused charged under the Anti-Terrorism Act, 1997, for alleged affiliation with a proscribed organization. The court held that the ***prosecution failed to establish any concrete link between the accused and the banned outfit, as no membership card, independent witness testimony, or verified digital evidence was presented.*** Additionally, *the alleged hate material was missing from the record*, and mobile data was unlawfully extracted without judicial authorization, violating constitutional protections. Citing these deficiencies, the court acquitted the accused by extending the benefit of the doubt. The relevant paragraph states:

8. The first and foremost consideration requisite for charging standard of prosecution was the recovery of one banned book and three magazines mentioned in the complaint Exh.PC and were shown exhibited before the court as "P1 and P2/1-3" but the book and magazines are not available in the record before this court which is to be responded by the prosecution yet we have found that except this nominal information, neither the title-images of such book or magazines are part of record nor observation of the court that after seeing the original, the book and magazines were returned to the prosecution because of being banned or containing hate material. So much so no witness deposed before the court about the contents of such book or magazines referring any chapter or pages showing a cause of banning. Therefore, we simply rule out this nominal evidence from consideration which could not connect the appellant with commission of offence.

In **Muhammad Ijaz alias Billa v. The State** (2024 SCMR 1507), the Supreme Court of Pakistan emphasized the **withholding of best evidence rule** and held that withholding the best available evidence undermines the prosecution's credibility, contributing to the acquittal of the accused. The Court observed that:

8..... We believe that the prosecution withheld the best evidence, which undermines the credibility of its account. It is well established that whenever a party withholds the best evidence available, it is presumed under Article 129(g) of the Qanun-e-Shahadat Order, 1984, that if such evidence had been produced, it would not have supported the stance of that party. Furthermore, the alleged occurrence took place in daylight in a populated area; however, no one from the locality came forward to support the story of the prosecution.

The prosecution’s failure to produce the alleged letterhead—the primary piece of evidence—invokes this legal presumption. The court may assume that had the letterhead been presented, it would have been unfavorable to the prosecution’s case. This strengthens the argument that the case against the accused is weak and lacks evidentiary support.

In *Mohib Ali vs. the State* (2024 YLR 2642), the Lahore High Court (Multan Bench) reinforced the principle that *criminal cases must be decided on reliable evidence, not on assumptions or conjectures*. The judgment stated:

"The duty of the prosecution is to prove its case beyond reasonable doubt. The evidence produced must be credible and reliable, having the ring of truth. A case cannot be decided on the basis of surmises and conjectures. Weak and infirm evidence must lose its worth, particularly when it is a case of capital charge."

This precedent supports the view that *without the production of the alleged letterhead, the prosecution’s case lacks credibility* and cannot be decided merely on assumptions about the accused’s affiliation with a banned organization.

Conclusion

The judicial precedents discussed establish a clear legal principle: the prosecution must prove its case beyond a reasonable doubt by producing concrete evidence. Failure to present key material evidence—such as the letterhead in this case—renders the case legally unsustainable. Courts have consistently ruled that mere allegations, without supporting material, do not justify conviction. Accordingly, the accused is entitled to acquittal due to the prosecution’s failure to discharge its burden of proof.

The End