IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

*Crl. Jail Appeal No.S-**46** of 2024*
(Aftab v. The State)

Appellant:	**Aftab son of Abdul Hakeem Bagrani** through Mr. Ghulam Muhammad Laghari, Advocate.
Respondent:	**The State** through Khalid Hussain Lakho, Deputy Prosecutor General.
Complainant:	**Abdul Aziz Memon** through Mr. Khadim Hussain Talpur, Advocate.
Date of hearing:	**05.05.2025**
Date of Decision:	**11.07.2025**

J U D G M E N T

RIAZAT ALI SAHAR, J: The appellant, Aftab son of Abdul Hakeem Bagrani, has preferred this jail appeal against the judgment dated 30.03.2024 passed by the learned Additional Sessions Judge, Matli (District Badin) in Sessions Case No.03 of 2023. By the impugned judgment, the learned trial Court convicted the appellant under Sections 324, 457, 337-F(iii) and 337-F(vi) of the Pakistan Penal Code 1860 ("PPC") and sentenced him as follows: for the offence under Section 324 PPC (attempted qatl-i-amd) to rigorous imprisonment for ten years and a fine of Rs. 100,000 (in default, six months' simple imprisonment); for the offence under Section 457 PPC (lurking house-trespass by night) to five years' rigorous imprisonment and a fine of Rs. 50,000 (in default, three months' simple imprisonment); for causing ghayr-jaifah mutalahimah (falling under Section 337-F(iii) PPC) to three years' rigorous imprisonment as Tazir plus payment of Daman Rs. 100,000 to the victim; and for causing two ghayr-jaifah munaqillah injuries (each falling under Section 337-F(vi) PPC) to seven years' rigorous imprisonment (each count) as Tazir plus Daman of Rs. 100,000 per injury to the victim. All sentences were

ordered to run concurrently, and the benefit of Section 382-B of the Code of Criminal Procedure ("Cr.P.C.") was extended to the appellant. The appellant, being aggrieved by his conviction and sentences, has impugned the same before this Court, praying for acquittal.

2. The prosecution case, as unfolded in the FIR (Ex.03/B) and at trial, is that the appellant is the former husband of the injured victim Mst. Rukiya. The record reflects that Mst. Rukiya contracted marriage with the appellant Aftab in 2018, but that marriage ended in divorce in 2019. In July 2020, Mst. Rukiya entered into a second marriage with complainant Abdul Aziz (PW-1). The appellant, allegedly displeased by this development, had since been issuing threats to his ex-wife Mst. Rukiya, warning of dire consequences and even alluding to killing her. Approximately two years after the divorce, on 17.10.2022 at about 9:30 PM, the appellant carried out the attack which is the subject of this case. That night, the complainant Abdul Aziz was temporarily away from his house (attending to his daughter at a nearby home), while inside the house were Mst. Rukiya (his wife), PW-2 Raja Rameez (the complainant's son and eyewitness), and one Mohsin Shah (the complainant's son-in-law). Taking advantage of the complainant's brief absence, the appellant allegedly armed himself with a hatchet and trespassed into the complainant's house under cover of darkness. Without any provocation, the appellant launched a sudden and brutal assault on Mst. Rukiya, swinging the hatchet at her head. In a desperate attempt to defend herself, Mst. Rukiya raised her arms; the assailant's hatchet struck her both arms, causing deep incised wounds. The first blow landed on her left arm just below the shoulder, nearly severing it (the arm was left "hanging" due to the severity of the cut), and the second struck her right arm, slicing through muscles and blood vessels. The appellant delivered a third hatchet blow to Mst. Rukiya's left thigh (buttock region), inflicting another serious wound. Mst. Rukiya collapsed due to these injuries and raised hue and cry for help. Hearing her

screams, PW-2 Rameez and the other family members rushed to the scene and found the appellant in the act of aggression. The appellant brandished his blood-stained hatchet and threatened to harm anyone who approached. As the family members were unarmed and fearful for their lives, they did not attempt to physically tackle the appellant at that moment. Upon seeing the witnesses gather, the appellant swiftly fled the scene, escaping into the night with the hatchet in hand. In his haste, the appellant left behind one of his chappals (footwear) at the crime spot as he ran off.

3. The aftermath was one of urgency and panic. The complainant, who arrived immediately upon the appellant's flight, found his wife grievously injured and bleeding profusely from both arms and her thigh. Without loss of time, the family transported Mst. Rukiya to the police station (PS Matli) at about 10:00 PM that night, in order to obtain a medico-legal letter before seeking emergency treatment. ASI Muhammad Ali Ansari (the investigation officer, PW-6) promptly recorded Entry No.31 at 2200 hours in the station diary and issued a letter for medical examination/treatment of the victim. Given the life-threatening nature of the injuries, the priority was to secure medical aid. The injured was rushed to the Taluka Hospital Matli, where PW-4 Dr. Sobia Batool (WMO) provided first aid and noted the extensive injuries: (i) a large incised wound on the left upper arm with compound fracture of the humerus, (ii) an incised wound on the right arm involving deep muscle but no exposed bone, and (iii) an incised wound on the left thigh with muscle damage. The patient was in hypovolemic shock (pale, cold body) due to blood loss. After stabilizing her, Dr. Sobia referred the victim to Liaquat University Hospital (Civil Hospital) Hyderabad for specialized orthopedic evaluation. Mst. Rukiya was referred to Hyderabad that very night, but due to the severity of her condition, she was further referred to JPMC Karachi, where she was admitted to the ICU and remained under treatment for over a month. It was only once Mst. Rukiya's condition was somewhat stabilized that the complainant returned

to Matli and formally lodged the FIR on 19.10.2022 at 1500 hours (Crime No. 158/2022, PS Matli). In the FIR, the complainant narrated the above facts, including the appellant's prior threats and the details of the assault. The two-day delay in registration of FIR was thus explained by the imperative of obtaining urgent medical care for the critically injured victim; notably, the initial report to police had in fact been made on the night of the incident when the injured was taken to the station for the medico-legal letter, and the police themselves facilitated her immediate hospitalization.

4. The investigation was spearheaded by ASI Muhammad Ali Ansari (PW-6). According to his testimony, after issuance of the medico-legal letter on 17.10.2022, he awaited the complainant's return for lodging of the FIR. Once FIR No.158/2022 was registered on 19.10.2022, the formal investigation commenced. The I.O inspected the place of occurrence on the same day at 1600 hours, pointed out by the complainant, and prepared a memo of site inspection (Ex.05/B) in presence of two mashirs (witnesses) – namely Muhammad Ilyas and Abdul Razzaque. The site inspection memo noted, *inter alia*, bloodstains at the scene which were collected and sealed by the I.O. During this visit, the complainant also produced a chappal (sandal) belonging to the accused, which had been left behind by the assailant during his escape; the I.O took it into custody and prepared a memo of recovery of chappal (Ex.05/C) at 1645 hours. Later that same day (19.10.2022) at 1800 hours, acting on information about the fugitive's whereabouts, the I.O conducted a raid at Bawali Shakh (canal area) and successfully apprehended the appellant in the presence of the mashirs Muhammad Ilyas and Abdul Razzaque. A memo of arrest (Ex.05/D) was drawn on the spot. Upon interrogation, the appellant volunteered a disclosure that he had hidden the weapon (hatchet) used in the offence in a nearby graveyard, and he offered to recover it. Treating this as a lead, the I.O proceeded to the pointed location at 1845 hours and, on the appellant's indication, recovered a blood-stained hatchet hidden in the graveyard. The hatchet was seized

under a memo of recovery (Ex.05/E) witnessed by the same mashirs, and the I.O later deposited it in the police malkhana (store) vide entry No.119 of Register 19. During investigation, the I.O also recorded statements of material witnesses under Section 161 Cr.P.C. – including the eye-witnesses and the mashirs – and on 25.10.2022 he traveled to Karachi to record the statement of the injured Mst. Rukiya (PW-5) when she had regained consciousness in the hospital. Meanwhile, the medical evidence was collected: Dr. Sobia (PW-4) at Matli had issued a provisional medico-legal certificate on 19.10.2022, and after receiving the radiology reports confirming fractures (from Hyderabad) she issued the final medico-legal certificate on 23.11.2022, classifying the injuries as aforesaid (two munaqillah and one mutalahimah). On completion of the investigation, the police submitted the challan/report under Section 173 Cr.P.C. before the competent Court.

5. The trial commenced on 04.01.2023. The learned trial Court framed a formal charge against the appellant under Sections 324, 457, 337-F(iii) and 337-F(vi) PPC, to which he pleaded 'not guilty' and claimed trial. In order to prove its case, the prosecution examined six witnesses. PW-1 Abdul Aziz (complainant) and PW-2 Rameez Raja (eye-witness) both gave direct ocular accounts of the incident, identifying the appellant as the assailant and detailing the manner in which he attacked Mst. Rukiya. PW-3 Abdul Razzaque (mashir) corroborated the investigative recoveries – he witnessed the preparation of the injury memo at the police station, the site inspection, as well as the recoveries of the accused's chappal, the arrest of the accused, and the subsequent recovery of the hatchet on the appellant's pointation. PW-4 Dr. Sobiya Batool (WMO), Taluka Hospital Matli) testified the nature of the injuries sustained by Mst. Rukiya and her treatment; she produced the medico-legal documents (Ex.06/A through 06/Q) and confirmed that two of the injuries were ghayr-jaifah munaqillah (involving bone fractures) and one was ghayr-jaifah mutalahimah, all caused by a sharp-cutting weapon (such as a hatchet). PW-5 Mst. Rukiya

(injured/victim) herself appeared before the Court once she had recovered sufficiently; she fully corroborated the ocular account of her husband and son, recounting how the appellant – whom she recognized as her ex-husband – intruded into her house at night and assaulted her with a hatchet, causing severe wounds to her arms and leg with intent to kill her. She identified the appellant in the courtroom and also identified the recovered hatchet as the weapon used against her. Lastly, PW-6 SIP Muhammad Ali Ansari (the I.O) narrated the steps of his investigation as summarized above and produced various contemporaneous records – including the station diary entries (Ex.08/A to 08/D), the FIR (Ex.03/B), and the series of memos (Ex.05/A through 05/E) bearing his signatures. All the witnesses were subjected to searching cross-examination by the defence, which mainly focused on alleged minor inconsistencies and the purported motives to falsely implicate the appellant, as detailed shortly. After the prosecution evidence, the statement of the accused was recorded under Section 342 Cr.P.C. (Ex.11). In his statement, the appellant denied the allegations in toto and professed innocence. He termed the prosecution witnesses as biased on account of "family enmity" but did not specifically explain the incriminating circumstances appearing in evidence. When questioned about the presence of his shoe at the scene and the recovery of the hatchet on his information, he had no plausible answer. He admitted that Mst. Rukiya had married the complainant after his divorce, but baldly alleged that she was "still in his nikah" – a stance apparently aimed at tarnishing the legality of her second marriage. The appellant, however, neither entered the witness box on oath (as allowed under Section 340(2) Cr.P.C.) nor produced any defence witness or other evidence to substantiate his claims. The trial culminated in the conviction and sentences noted above (paragraph 1), by judgment announced on 30.03.2024.

6. Learned counsel for the appellant has been heard at length. He assails the judgment of the trial Court primarily on the ground that the prosecution evidence was unreliable and suffered from

material infirmities, which were allegedly ignored by the trial Court. He submits that all the eye-witnesses (PW-1, PW-2, and PW-5) are close relatives – in fact members of the same household – and thus "interested" witnesses. It is contended that no independent person from the locality was produced to corroborate the occurrence, despite the incident taking place in a residential area at 9:30 PM. Learned counsel highlights that, according to the witnesses, some neighbors had gathered after the incident, yet none was examined, which casts doubt on the veracity of the prosecution story. He further points out to the delay of nearly two days in lodging the FIR (from 17th night to 19th afternoon of October, 2022), arguing that this delay provides sufficient time for deliberation and concoction; in counsel's view, the possibility that the occurrence was reported after due consultation and fabrication cannot be ruled out, especially given the admitted prior disputes between the parties. It is next argued that the prosecution failed to prove the alleged prior threats through any independent evidence – e.g. no complaint or application about these threats was ever produced by the complainant or victim during investigation. On the contrary, the defence produced a copy of an application reportedly moved by the appellant's mother on 19.06.2020 to the SSP (Tando Muhammad Khan) seeking protection from the family of Mst. Rukiya. This, the learned counsel demonstrates that it was in fact the appellant's side that was under threat from the complainant party, and it suggests ulterior motives on part of the complainant and his wife to implicate the appellant falsely. Emphasis is also laid on certain investigative omissions: counsel notes that the investigating officer did not send the blood-stained earth or the recovered hatchet for forensic serology or fingerprint analysis; neither were the victim's blood-soaked clothes taken into possession. These lapses, it is argued, render the recovery evidence doubtful. It is contended that the entire case rests on the statements of interested witnesses and the uncorroborated recovery of the hatchet allegedly on the appellant's pointation while he was in police custody – a recovery that, according to learned counsel, should be viewed with suspicion

as it could have been planted. The learned counsel points out that at the time of arrest, no weapon was found in the appellant's personal search, and the hatchet's discovery in a graveyard hours later is inherently suspect. Finally, the learned defence counsel submits that the appellant is a first-time offender with no previous criminal record. He prays that, given the doubtful circumstances and prosecution failings highlighted, the appellant be given the benefit of doubt and acquitted of all charges. In support of his contentions, he has cited case-law including ***Muhammad Yaseen v. State*** **(2018 YLR 2577)** ***and Muhammad Saleem v. State*** **(2019 MLD 162)** (among others), to reinforce the principles that a single loophole in prosecution or a delay in FIR can be fatal to the case, and that interested testimony without independent corroboration may be unsafe for maintaining a conviction. This Court has given careful consideration to these precedents.

7. Conversely, the learned Deputy Prosecutor General ("DPG") for the State, assisted by the learned counsel for the complainant, supports the conviction and sentences. They submit that the impugned judgment is well-reasoned and is based on proper appreciation of evidence. The so-called "interested" witnesses are in fact natural witnesses, being the victim and her family members who were present at their home at the time of occurrence – their mere relationship *inter se* is not a valid ground to discard their testimony, especially when it has remained consistent and unshaken on material particulars. The DPG points out that the ocular account is strongly corroborated by the medical evidence: the nature of the wounds (incised injuries with fractures) clearly indicates an attack with a sharp-edged weapon like a hatchet, aligning perfectly with the prosecution version. The presence of the appellant's chappal at the crime scene and the recovery of the blood-stained hatchet upon his disclosure are further incriminating pieces of evidence that lend credence to the eyewitnesses' statements. Any minor inconsistencies or omissions in the testimony, learned DPG argues, do not go to the root of the case and have been duly

addressed by the trial Court. He submits that the delay in FIR has been satisfactorily explained by the unavoidable circumstances (the critical injuries to the victim and her immediate removal to hospitals in two different cities), and thus the delay is of no consequence in casting doubt on the prosecution's truthfulness. The learned DPG also rebuts the defence's theory of false implication, contending that there is no plausible reason for the complainant party to falsely accuse the appellant of such a heinous crime, especially when it involved the near-fatal maiming of the complainant's own wife – an ordeal no family would inflict on themselves merely to settle scores. He emphasizes that the appellant was indeed the ex-husband of the victim and had obvious ill-will, providing a strong motive for the crime, rather than a motive for the complainant to frame him. It is further argued that any investigative lapses (such as not sending certain items to the forensic lab) were not deliberate but at most an oversight, which does not by itself exonerate the appellant in the face of compelling direct evidence. The learned DPG concludes that the prosecution successfully proved its case beyond reasonable doubt; he prays for dismissal of the appeal, maintaining that the conviction and sentences are just and proper under the law.

8. I have given anxious consideration to the submissions of both sides and have minutely reappraised the entire evidence on record. This being a first appellate forum in a criminal case, it is the duty of this Court to reassess the evidence independently and arrive at its own conclusions on facts and law. Having done so, I find that the prosecution case has been proved through coherent and confidence-inspiring evidence. The impugned judgment of the learned trial Court has satisfactorily addressed most of the salient points raised, and I entirely concur with its outcome. My own reasons, upon reappraisal of each material aspect, are given below.

9. The case largely hinges on the eyewitness accounts of PW-1 (husband of the victim), PW-2 (son of the complainant) and PW-5 (the victim herself). All three witnesses were present at the scene

and have given a consistent narrative of the appellant's unlawful entry and violent assault on Mst. Rukiya with a hatchet. The defence has criticized them as "interested" witnesses due to their relationship with each other. It is true that these witnesses are related to the victim, but mere existence of a family relation does not automatically disqualify their testimony nor label them as untrustworthy. Our superior Courts have repeatedly held that related witnesses can be the most natural witnesses in circumstances where the crime is committed within the family home or in the presence of close relations. In the present case, the incident took place inside the complainant's residence at night; it is but natural that the victim's immediate family (husband, etc.) would be the ones present or first to reach the scene. They fall in the category of "natural witnesses" rather than chance witnesses. The Supreme Court of Pakistan has explicated that not every related witness is to be tagged as an "interested" witness – a witness would be deemed interested (in the pejorative sense) only if it is shown that he or she bears some animus, motive or malice to falsely implicate the accused. In ***Muhammad Ijaz v. The State*** **(2023 SCMR 1375)**, it was underscored that relatives of a victim, who witness the occurrence, are ordinarily considered truthful unless proven otherwise; they cannot be brushed aside merely due to relationship, especially when no substantive evidence of ulterior motive is brought against them. In the case at hand, the defence has not demonstrated any credible motive for PW-1 or PW-2 to fabricate a case of this nature against the appellant. The only suggestion hinted at was that there were marital disputes and some acrimony due to the victim's remarriage – but that is a double-edged sword. If anything, it provides a motive for the appellant (the jilted ex-husband) to commit violence, rather than a motive for the victim's family to maim their own wife/mother and falsely blame the appellant. It is unfathomable that the complainant's side would stage an attack of such savagery upon their own family member merely to implicate the appellant. In absence of any tangible evidence of concoction, the relationship of the witnesses with the

victim actually goes to support their presence and firsthand knowledge, instead of detracting from their credibility.

10. Having scrutinized their testimonies, I find PW-1, PW-2 and PW-5 to be straightforward and credible witnesses. PW-1 Abdul Aziz (complainant) gave a detailed account of the entire episode – from the background of threats to the moment he heard his wife's cries and saw the appellant inflicting hatchet blows. He remained unshaken in cross-examination. The defence put lengthy and often repetitive questions to him, but failed to elicit anything beneficial to the appellant. The trial Court keenly noted, and I concur, that the complainant answered every question calmly and consistently, which in fact reinforced the prosecution version. No material contradiction or discrepancy surfaced. At one point, the defence suggested to PW-1 that only his wife was injured and no one else in the family – to which he replied in the affirmative, ***"It is correct that during this incident only my wife sustained injuries and no one else"***. The learned trial judge rightly observed that this line of questioning by the defence essentially buttressed the prosecution case – it highlighted that the appellant's rage was directed solely at his ex-wife, which is consistent with the motive and intention alleged (to kill her), and that the family did not intervene immediately because the assailant was armed and posed a threat to all. Similarly, PW-2 Raja Rameez (who is the complainant's son and an eye-witness present inside the house) fully corroborated the complainant's version. He testified that he saw the appellant attacking his step-mother (Mst. Rukiya) with a hatchet and that the appellant threatened the family, declaring he would not spare anyone. His cross-examination did not dent his account; he remained consistent. Indeed, the defence again confirmed through PW-2's cross-examination that no other family member was harmed and that the family was too overawed by the armed appellant to apprehend him at the spot, which explains why the appellant managed to escape momentarily. Such admissions

align with ordinary human conduct and lend further credence to these witnesses rather than the opposite.

11. Most importantly, I have the testimony of PW-5 Mst. Rukiya, the victim. She survived the murderous assault and later deposed in Court, providing a direct account of her own ordeal. In her examination-in-chief, she unequivocally identified the appellant as her ex-husband and the perpetrator, recounting how he barged in at night and struck her multiple times with the hatchet on her arms and thigh, causing her to fall unconscious. The fact that she lost consciousness due to the severity of injuries is corroborated by the medical evidence and her being in ICU thereafter. When Mst. Rukiya was cross-examined, the defence attempted to challenge peripheral matters – such as the exact date of divorce and whether documentation of divorce was produced, or suggestions that she hadn't formally proven her talaq – but significantly, nowhere did she waver on the core accusation against the appellant. Her evidence on the attack remained intact. She candidly admitted that her second husband (PW-1) was not present at the start of the incident (which is true, he arrived moments later). She explained that the first swing of the hatchet was aimed at her head, but she blocked it with her arms, as a result of which her arms were brutally injured – her left arm nearly severed and her right arm's veins cut. This explanation is entirely plausible and matches the medical description of a defensive injury on arms when warding off a blow to head. She further confirmed that when her stepson (PW-2) and others came, the appellant escaped, and that she remained in a state of shock until waking up in the Karachi hospital days later. Minor points, such as her inability to recall exact dates (of marriage, divorce, birth of children, etc.), are inconsequential given the trauma she endured and the time elapsed; such lapses do not erode her credibility on the principal fact in issue – that the appellant attacked her. The defence put a few scandalous suggestions to her – for instance alleging that she contracted the second marriage without a valid divorce or that her elder daughter

was actually the appellant's child – all of which she vehemently denied as incorrect. Not only are those suggestions collateral, they also have no bearing on the appellant's guilt or innocence in the violent assault. On the contrary, the very insinuation by the defence that "she was still in his nikah (wedlock)" betrays an obvious motive on part of the appellant: he apparently did not accept the validity of her divorce and remarriage, which could fuel his vengeful intent. Thus, the attempt to impeach PW-5's moral character or marital status backfires – it tends to corroborate the prosecution's theory of the appellant's resentment and motive.

12. It is noteworthy that Mst. Rukiya's testimony was recorded via video-link from jail, as the appellant was incarcerated and produced remotely for cross-examination. Despite this mode, the defence was afforded full opportunity to question her, which they did at length, but they could not shake her account on any material point. The trial Court observed her demeanor and the presence of visible injuries. In fact, PW-5 showed the Court the lasting damage to her arms – her left arm had been rendered permanently disfigured and impaired by the attack. The Court was also shown photographs of her injuries taken during recovery, which graphically depicted the gravity of the harm she suffered. This lends an aura of reality to her testimony that no amount of contrivance could simulate. In the totality of circumstances, I find the evidence of PW-5 (injured/victim), supported in material particulars by PW-1 and PW-2, to be trustworthy and convincing. There is a ring of truth to their narrative, which aligns on all major facets (timing, weapon, injuries, identity of assailant, sequence of events). The minor discrepancies pointed out are either non-existent or trivial. It bears mention that despite vigorous cross-examination, the defence did not surface any internal contradictions among the eye-witnesses on material aspects. The presence of the appellant at the crime scene stands established and unchallenged – notably, no defence of *alibi* was pleaded, and in cross-examining the witnesses, the defence never suggested that someone else committed the

attack. The core occurrence – that Aftab (the appellant) attacked Rukiya with a hatchet at that date, time and place – has been proved through direct evidence which I find to be reliable.

13. The ocular account is strongly corroborated by the medical evidence. Dr. Sobia Batool (PW-4) had no prior connection to the parties; she was the on-duty Woman Medical Officer who examined the victim on the night of 17.10.2022 in the emergency room. Her testimony and the medico-legal certificates (Ex.06/B and Ex.06/P) provide independent support to the prosecution case on several counts. Firstly, the nature of injuries observed by her corresponds exactly with the manner of assault described by the witnesses: she found three incised wounds, two on the arms and one on the thigh. An incised wound is caused by a sharp-edged weapon and typically is a cut with clean edges. Dr. Sobia noted that injury No.1 (left arm) had an exposed fracture of the radius/ulna (forearm bones) and was later certified as ghayr-jaifah munaqillah (i.e. grievous injury causing fracture). Injury No.3 (thigh) also involved a fracture of the femur, hence was likewise opined as munaqillah. Injury No.2 (right arm) did not have a broken bone but was a deep muscle cut, categorized as ghayr-jaifah mutalahimah. All these wounds were incised – which dovetails with the use of a hatchet (sharp side) as the weapon. Dr. Sobia explicitly stated that the injuries were caused by a sharp-cutting substance (not by a blunt weapon). This conforms to the witnesses' account that the appellant used the blade of the hatchet to hack at the victim. The doctor further observed that the patient was "severely injured, pale looking with cold body" on arrival, indicating heavy blood loss and shock. This again is consistent with the kind of wounds inflicted (deep cuts severing vessels). The alignment is so precise that the medical evidence unquestionably supports the ocular version and negates any possibility of exaggeration or falsity – no injury inconsistent with the stated weapon or scenario was found. It is also notable that the defence did not challenge the authenticity of the medical evidence. They suggested in cross-examination that initially the

doctor's provisional report mentioned a "blunt weapon" (perhaps due to the victim's swollen state on first presentation), but Dr. Sobia clarified that she later issued a corrigendum/final certificate after radiology, confirming it was sharp weapon upon closer observation. This shows the medical officer took due care to correct the record, which if anything adds to her credibility. There was no dispute raised about the time of examination either – the doctor saw the victim within an hour of the incident (which aligns with immediate reporting).

14. As regards forensic evidence: the prosecution did recover the weapon and other physical clues, but admittedly some forensic analysis was not done. The I.O seized bloodstained soil from the spot and noted blood on the recovered hatchet; however, he did not send these for serological examination to confirm the blood group or origin. Similarly, the bloodied clothes of the victim were not collected as case property (likely because the victim had been taken to distant hospitals with those clothes on and they were lost to treatment). These omissions, highlighted by defence, do reflect less-than-ideal investigation. Nevertheless, it is settled law that lapses or negligence by the investigating officer do not automatically entitle an accused to acquittal, especially where the overall evidence is otherwise sufficient to sustain conviction. The Courts have repeatedly decried the practice of letting an offender walk free due to shoddy investigation when the substantive evidence (eyewitness and medical evidence) clearly points to his guilt. In ***Gulfam v. The State*** **(2017 SCMR 1189),** the Supreme Court observed that even if certain forensic steps (like sending crime empties or weapons to the lab) are omitted, the ocular testimony, if found reliable, cannot be discarded on that ground alone; an accused cannot claim benefit of doubt from a flaw in investigation that does not otherwise undermine the cogent evidence produced. Similarly, in ***Muhammad Ashraf v. State*** **(2012 SCMR 419)** it was held that mere procedural lapses or inefficiency of I.O should not overshadow credible direct evidence. In the present case, while

the I.O ought to have sent the blood-stained hatchet and earth for analysis, this misstep does not create a reasonable doubt about the appellant's involvement. There is no claim or evidence from the appellant that the hatchet was not the one used or that it belonged to someone else. In fact, the defence did not cross-examine the mashir PW-3 at all on the recovery memos to challenge their veracity. The recovery of the hatchet was witnessed by a private mashir and was on the appellant's own disclosure – a circumstance admissible under Article 40 of the Qanun-e-Shahadat Order, 1984 (analogous to Section 27 of the Evidence Act). It is a strong corroborative piece of evidence that the appellant led police to the very weapon used in the offence. The hatchet having blood on its blade was noted by the I.O and mashir; even if not scientifically tested, it aligns with the fact that it was used to cause bleeding wounds. The appellant did not even feign that the hatchet was planted or that it was not his – tellingly, the defence never confronted PW-3 or PW-6 with any theory that the hatchet was fraudulently "planted" or that the recovery memo was fabricated. In absence of any such allegation, the mere non-conduct of a lab test does not cast a reasonable doubt. Similarly, the failure to send the soil or to collect the victim's clothes, while unfortunate, does not negate the overwhelming evidence on record. The victim's injuries and bleeding were proved by other means; a chemical examiner's report would have been cumulative at best. Therefore, the investigative omissions identified by the defence, though noted, do not shake the prosecution case which rests on much weightier direct evidence.

15. The background of this case involves matrimonial discord – the appellant's grievance over his ex-wife's remarriage. The defence paradoxically attempted to use this background both as a sword and a shield. On one hand, they argued that prior enmity (ill-will between families) means the complainant side could falsely implicate the appellant. On the other hand, the prosecution asserted that the same background furnished a motive for the

appellant to commit the crime. It is a well-established principle that previous enmity is a double-edged sword: it can indeed provide a motive to implicate falsely, but equally, it is one of the strongest motives to commit an offence. The Courts approach such cases with caution by closely scrutinizing evidence. In the present matter, I find that the existence of prior bad blood (the appellant's displeasure at the divorce and the victim's second marriage) is convincingly shown through the testimony of PW-1 and PW-5 and was even tacitly admitted by the appellant (in as much as he claims she wasn't properly out of his wedlock). This circumstance, rather than casting doubt on the occurrence, tends to explain why the appellant would perpetrate such an act. The defence's reliance on an application by the appellant's mother to police (seeking protection) is of little help – even if such an application was made in June 2020, it resulted in no FIR or proceedings. It does not provide an *alibi* or an alternate narrative for the incident of 17.10.2022. At best, it shows that relations were strained – which is common ground. There is no material on record to suggest that the complainant or his wife had any motive to deliberately contrive a false case of this enormity against the appellant. Indeed, the nature of the crime – a violent assault resulting in permanent injuries – is such that false implication is extremely unlikely without an equally grave actual incident occurring. This is not a scenario where one could easily stage-manage self-inflicted wounds or obtain injuries through some other means just to frame the appellant. Thus, the argument of malice-driven fabrication fails when tested against the detailed, consistent accounts of eye-witnesses and the corroborative evidence.

16. Coming to the delay of about 41 hours in lodging the FIR, I find that it has been satisfactorily explained and does not dent the prosecution case. The incident occurred around 9:30 PM on 17.10.2022; the complainant and others immediately prioritized medical treatment for the critically injured victim, which is the most natural and sensible course of action in such circumstances.

The record shows that they did approach the police on the night of 17.10.2022 (within half an hour of the incident) for the issuance of a letter for treatment. This fact is evidenced by the police station's daily diary (entry No.31 at 2200 hours) and the testimony of PW-6 I.O Ansari, and it remained unchallenged by the defence. Thus, the matter was promptly brought to the notice of police, negating any element of suppression. The formal FIR could not be recorded immediately because the complainant accompanied his wife through multiple medical referrals that night and the next day (Matli to Hyderabad to Karachi), understandably focusing on saving her life rather than legal formalities. As soon as the victim was out of immediate danger, the complainant returned to his hometown and lodged the FIR on 19.10.2022 afternoon. In these circumstances, the delay was both unavoidable and justified. The law is cognizant that in grave offences, especially where the victim is fighting for survival, some delay in registration of FIR may occur and by itself is not fatal, provided the delay is satisfactorily explained. The Hon'ble Supreme Court has held that where the sequence of events and surrounding circumstances explain the delay, and the evidence collected is otherwise trustworthy, a delayed FIR will not invalidate the prosecution case ***(Mehmood Ahmed v. State*** **(1995 SCMR 127)*; Abdul Sattar v. State*** **(2002 SCMR 338)**. Here, the explanation is convincing and finds support from contemporaneous records (hospital referrals, etc.). Moreover, the contents of the FIR (Ex.03/B) are in line with the eventual trial evidence, indicating that no material after-thought or concoction seeped in during the interregnum. Therefore, the argument of FIR delay having compromised the prosecution's veracity holds no water in this case.

17. Another aspect worth mentioning is that the prosecution evidence fits together seamlessly and is further corroborated by circumstantial pieces: The presence of the appellant's chappal at the scene (recovered by PW-6 and confirmed by PW-1) is an identifying clue placing him at the crime spot. Notably, the

appellant did not dispute its ownership; during trial it was exhibited and recognized. Likewise, the recovery of the hatchet on appellant's information, as discussed, is a telling circumstance. There is no suggestion that anyone else had a grudge against the victim or that she could have been attacked by someone unknown – the case has throughout been that of a personal vendetta, and all evidence consistently points to the appellant. The scene of crime (complainant's house) and the timing (night) also align with the appellant's ability to enter relatively undetected. When considered in totality – the motive, the direct evidence, the medical and circumstantial corroboration – the prosecution's story forms a coherent whole that is far more believable than any alternative hypothesis. The defence, apart from bare denials, has not presented an alternate narrative for how the victim sustained such horrific injuries. It is telling that, despite claiming innocence, the appellant offered no explanation under Section 342 Cr.P.C. as to how Mst. Rukiya might have been injured if not by his hands. He simply chose to remain silent or evasive on key questions. The law expects an accused, in such situations, to at least furnish some plausible explanation when incriminating evidence is glaring. The appellant's silence in face of damning circumstances (like recovery of weapon, etc.) further tilts the balance against him.

18. I have also considered the minor inconsistencies pointed out by defence (such as exact distances, exact sequence of who arrived first among witnesses, etc.). In my view, these are minor discrepancies that invariably occur in truthful testimonies due to normal errors of observation, memory, or differences in perspective. They do not shake the fundamental integrity of the prosecution case. In fact, such minor variances often show that the witnesses are not tutored. Crucially, there is no conflict between the medical evidence and the ocular account; rather, they reinforce each other. The injuries were on the arms and thigh as stated by witnesses, and the severity noted by doctors matches the witnesses' description of the force used. There is no divergence in substantive facts among

PW-1, PW-2 and PW-5; they all consistently say the appellant attacked with a hatchet and then fled. A few omissions in the FIR (for instance, the FIR might not explicitly mention the names of persons who heard the cries) were highlighted by defence, but those are trivial – an FIR is not an encyclopedia of all details, it is only meant to set forth the prima facie information. No contradiction was shown between the FIR and evidence on any major point. Our Courts have time and again ruled that minor discrepancies or omissions which do not go to the root of the prosecution's story are to be ignored. I find no material contradiction here that could create reasonable doubt about the appellant's guilt.

19. In light of the foregoing analysis, the prosecution has established, beyond any reasonable doubt, that it was indeed the appellant Aftab who committed lurking house-trespass at the complainant's house on the night of 17.10.2022 and attempted to commit the qatl-i-amd (murder) of Mst. Rukiya by repeatedly striking her with a hatchet, thereby causing the multiple grievous injuries certified by the medical officer. The eye-witnesses have stood firm, the injured victim's testimony carries immense weight, and there is solid corroboration from medical and circumstantial evidence. The defence has failed to rebut the prosecution evidence or to create any doubt that is reasonable and arising from the record. It is well-settled that to acquit, the doubt must be of a quality and magnitude that would press upon a fair-minded person's conscience. Here, I find no such doubt. The minor imperfections cited by the defence are not the sort of material contradictions or deficiencies that would render the prosecution story implausible or untrustworthy. The learned trial judge has rightly discredited the case-law cited by the defence as inapplicable to the facts at hand. Indeed, in a scenario where the evidence is overwhelming and the chain of events clear, precedents where benefit of doubt was extended (due to materially different fact-situations) cannot be blindly imported. Each criminal case is decided on its own evidence. In the present matter, there is no

loophole or missing link in the chain of evidence that could be resolved in the appellant's favour. The rule of benefit of doubt, no doubt, is a golden principle of criminal justice – it is given as of right to the accused, not as grace. However, that principle only comes into play if a legitimate doubt is there in the first place. It cannot be invoked to imagine or manufacture doubts where the record yields none. As the Supreme Court observed in ***Zulfiqar Ali v. State*** (**2019 SCMR 1315**), the Courts must not hesitate to affirm convictions where the evidence so warrants, for undue leniency or unwarranted acquittals can erode public confidence in justice. Here, letting the appellant off despite such incriminating evidence would amount to a grave miscarriage of justice. He has caused permanent disability and immense suffering to the victim and terrorized an entire family within the sanctity of their home. To overlook his crime on the basis of conjectural or technical pleas would be travesty. Therefore, finding the evidence against the appellant firm and unimpeachable, I have no hesitation in upholding the conviction.

20. Regarding the sentences, the learned trial Court has exercised due propriety and lenience where called for. The appellant attempted to take a life, and very nearly did so – the victim survived due to medical intervention, but not without lasting damage. Attempted murder under Section 324 PPC is punishable with up to ten years' imprisonment (besides any arsh or fine if applicable). The Court awarded ten years (with fine Rs.100,000), which is commensurate with the brutality demonstrated. For house-trespass by night (Section 457 PPC), a five-year term with fine Rs.50,000 was given, which again is proportionate and well within the statutory maximum. As for the injuries under Sections 337-F(iii) & 337F(vi) PPC, the trial Court separately punished the appellant for each of the three wounds: two of them being munaqillah (bone-breaking injuries) earned seven years each, and one mutalahimah injury earned three years – all as Tazir, along with substantial Daman amounts (Rs.100,000 for each count)

payable to the victim. These punishments are in line with the penal scheme for bodily hurt under Chapter XVI of PPC, and reflect the gravity of harm inflicted. I note that the sentences were ordered to run concurrently (which is appropriate considering all these offences arose from one transaction), and the benefit of Section 382-B Cr.P.C. (period of detention already undergone to count towards sentence) has been extended. The net effect is that the appellant faces a maximum of ten years' imprisonment (along with liabilities of fine and Daman as imposed). Given the savagery of the attack and its life-long consequences for the victim, the sentences are not excessive at all; on the contrary, they are just and proper. The defence's plea for leniency on account of no previous conviction cannot outweigh the sheer heinousness of this offence. The appellant bestowed no mercy upon an unarmed mother of two, and thus deserves none in return. I find no mitigating factor to interfere with the sentences. Precedents also hold that where an offence is proved beyond doubt, it is the duty of the Court to ensure the punishment meets the crime's severity, to serve ends of justice as well as deterrence.

21. In view of the detailed discussion above, this Crl. Jail Appeal is devoid of merit. The prosecution evidence has rightly been believed by the trial Court, and the conviction of the appellant on all counts is well-founded. The impugned judgment does not suffer from any legal or factual infirmity. Consequently, this Crl. Jail Appeal is **dismissed.** The conviction of appellant Aftab son of Abdul Hakeem Bagrani for offences under Sections 324, 457, 337-F(iii) and 337-F(vi) PPC is maintained, and the sentences awarded to him on each count (as detailed in para 1 supra) are affirmed. All sentences shall run concurrently as already ordered, and the benefit of Section 382-B Cr.P.C shall continue to apply. The appellant shall serve out the remainder of his sentences.

J U D G E

Ahmad/P.S