

**IN HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Criminal Jail Appeal No.S-165 of 2016

Appellant : Moharram and Jumo through  
Ms.Fareeda Naz Abbasi, advocate.

Respondent : The State through Nazar Muhammad  
Memon, Additional Prosecutor General.

Date of Hearing : 22.8.2025.  
Date of Judgment : 21.11.2025.

**J U D G M E N T**

**TASNEEM SULTANA, J:** Through captioned Criminal Jail Appeal, the appellants namely Moharram and Jumo have assailed the judgment dated 26.05.2016 passed by learned 1<sup>st</sup> Additional Sessions Judge, Shaheed Benazirabad (**Trial Court**), in Sessions Case No.446 of 2011, arising out of Crime No.53 of 2011 registered at PS Daur for offence under Sections 302, 148, 149, 114 PPC, whereby they have been convicted and sentenced as under:

“Accused Muharram and Jumo are convicted under section 265-H(2) Cr.PC for the offence punishable under section 302(b) PPC and sentenced to imprisonment for life and to pay compensation of Rs.200,000/- (Rupees Two Lacs Only) each which on recovery shall be payable to the legal heirs of deceased Loung Khan under Section 544-A Cr.P.C and in default whereof to further undergo S.I for six months. The benefit of Section 382-(b) Cr.P.C has extended to the appellants.”

2. Brief facts of the prosecution case are that complainant Ghulam Sarwar Waswano lodged FIR at Police Station Daur on 27.06.2011 at about 09:30 hours stating therein that about two years earlier, his daughter Mst.Bashiran had been abducted by accused Umar Waswano with the help of other accused, and she was returned back on the directions of the learned Civil Judge, Nawabshah on which accused Umar was annoyed and he was extending threats to Loung Khan over the phone, demanding the return of Mst.Bashiran, otherwise they would

face dire consequences. On 26.06.2011, the complainant alongwith his son Loung Khan, and maternal cousins Ahsan and Akbar left Daur Town together for the rickshaw stop to go to their village. At about 02:00 p.m., accused Umar, his brother Muharram, Jumo, and Ali Gul (all armed with pistols), along with Nazeer and Bhooro (both empty-handed), arrived on two motorcycles. Nazeer and Bhooro instigated the armed accused not to spare the complainant's party and cause their murder. Upon their instigation, the armed accused including present appellants pointed their weapons straight upon the complainant party when complainant, Ahsan Ali and Akbar fell to the ground, while his son Loung ran into the shop of Rasool Bux Brohi to take shelter. The four armed accused followed Loung and collectively fired upon him inside the shop, which hit him and he fell on the ground raising screams. Thereafter all accused fled away on motorcycles. It was seen that Loung having sustained firearm injuries on his head, shoulders, left arm, and right leg; was bleeding profusely and lying unconscious. He was first taken to the police station, whereafter, upon obtaining a referral letter, he was shifted to Nawabshah Hospital, where he succumbed to his injuries. After the post-mortem, the complainant after getting free from funeral rituals approached Police Station and lodged the FIR to the above effect.

3. After usual investigation, police submitted charge sheet against accused Nazeer Waswano while showing him in custody and rest of accused absconders, under Section 512 Cr.P.C.

4. Having been supplied requisite documents to the accused Nazeer Waswano under Section 265-C Cr.P.C at Ex:5, learned Trial Court framed a formal charge against him at Ex: 7 to which he pleaded not guilty and claimed trial. Later on appellants Jumo and Muharram were arrested and sent up through supplementary challan to face trial. Having been supplied requisite documents as provided under Section 265-C Cr.P.C at Ex:9 & 10, the amended charge was framed against them at Ex:11 to which they pleaded not guilty and claimed to be tried vide their pleas at Ex:12 to 14.

5. To prove its case, prosecution examined PW.1 complainant Gulam Sarwar Waswano at Ex. 16, he produced FIR at Ex. 16-A, receipt of receiving dead body of his son at Ex. 16-B, his further statement at Ex. 16-C. Thereafter, accused Nazeer Waswano was died, in this respect statement of HC Gulam Nabi Chandio was recorded at Ex.17, he

produced Death Certificate of accused Nazeer Waswano at Ex. 17-A, therefore proceedings against him were abated vide order dated 02.02.2015. Then prosecution examined the PW-2 Ahsan Ali Waswano at Ex.18. PW-3 Akbar Waswano Ex.19. PW-4 Zulfiqar Waswano (Mashir) at Ex.20, he produced Inquest Report at Ex.20-A, memo of inspection of injuries of deceased at Ex.20-B, memo of inspection of place of incident and recovery at Ex.20-C, memo of producing last worn cloths of deceased at Ex.20-D, memo of arrest and personal search of accused Mumtaz Ali at Ex.20-E, memo of arrest and personal search of accused Nazeer Waswano at Ex.20-F. PW-5 SIP Ali Hassan Shar (Investigation Officer) examined at Ex.21, he produced Lash Chakas Form at Ex.21-A, Chemical Examiner Report at Ex.21-B. PW-6 Muhammad Hanif Dahri (Tapedar) examined at Ex.22, he produced three copies of sketch of wardat at Ex.22-A to 22-C. PW-7 Dr. Zain-ud-Din Qureshi (Medical Officer) examined at Ex.23, he produced Police Letter at Ex.23-A, post mortem report of deceased at Ex.23-B. Thereafter, learned Incharge DDPP filed statement and closed the side of prosecution at Ex.24.

6. The Statements U/s 342 Cr.P.C, of appellants were recorded at Ex.25 & 26 in which they denied allegations and claimed their innocence and false implication in the case. However, neither they examined themselves on oath under section 340 (2) Cr.P.C, nor examined any witness in their defence.

7. The Trial Court after hearing the learned counsel for the parties as well as DDPP for the State convicted and sentenced the appellants vide impugned judgment dated 26.5.2016 which is assailed herein.

8. Learned counsel for the appellants contended that the appellants are innocent and have been falsely implicated in this case in the background of enmity which is also admitted in the FIR; allegedly present appellants alongwith two other co-accused duly armed with pistols collectively fired upon deceased which hit him on different parts of body thus there is no specific injury alleged against any of the four accused; that deceased allegedly received in all six injuries out of whom only one received on his head was declared by MLO as fatal, the constructive liability against each accused including appellants can not be fixed; no crime weapon was recovered from the possession of appellants, all the eye witnesses of the occurrence are closely related to the complainant hence they are interested whose testimony requires strong corroboration by independent evidence which is lacking in this

case; though the alleged incident occurred at day time in a shop which is a public place which creates doubt about the truthfulness of the prosecution story; that the FIR was lodged with due deliberation and afterthought, as is evident from the delay in its registration for about 20 hours without plausible explanation, which indicates that the complainant party had sufficient time to consult and fabricate a false story in order to implicate the appellants with ulterior motives; that there existed admitted previous enmity between the parties on account of alleged abduction of complainant's daughter Mst.Bashiran by co-accused Umar, therefore false implication of the appellants cannot be ruled out; that there are material contradictions and discrepancies in the prosecution evidence making prosecution case highly doubtful and that on all these submissions impugned judgment is liable to be set aside and appellants may be acquitted of the charge on benefit of doubt.

9. Conversely, the learned Additional Prosecutor General supported the impugned judgment while arguing that the appellants are nominated in the FIR with role of causing direct firing upon deceased and the ocular account furnished by the prosecution witnesses is consistent on all material aspects of the case as such the impugned judgment does not call for any interference by this Court.

10. Heard. Record perused.

11. According to the prosecution case, the incident was prompted by prior enmity arising from the alleged abduction of the complainant's daughter, Mst. Bashiran. It is alleged that on 26.06.2011 at about 2:00 p.m., the complainant, his son Loung Khan, and his maternal cousins Ahsan Ali (PW-2) and Akbar (PW-3) were standing at the Rickshaw Stop to proceed to their village when accused Umar, appellants Muharram and Jumo, accused Ali Gul, all armed with pistols, Nazeer and Bhooro arrived there on two motorcycles. Nazeer and Bhooro instigated the armed accused to kill the complainant party, on which they pointed their weapons straight upon them causing the complainant, PW-2 Ahsan Ali and PW-3 to fall to the ground, while Loung Khan ran towards the shop of Rasool Bux Brohi. The armed accused including appellants allegedly chased him into the shop and fired at him, inflicting firearm injuries to his head, shoulders, left arm and right leg, to which he later succumbed at the hospital on the same day.

12. A thorough examination of record indicates that the case of

prosecution rests exclusively upon the ocular testimony presented by the complainant Ghulam Sarwar (PW-1) and the eyewitnesses Ahsan Ali (PW-2) and Akber (PW-3). The complainant Ghulam Sarwar, while narrating the occurrence, conveyed his direct presence at the scene, unfolded the events and stated that on 26.06.2011, at about 02:00 p.m., he, his son Loung Khan and their cousins PW Ahsan Ali and PW Akbar were standing at the Rickshaw Stop preparing to return to their village when accused Umar, appellants Muharram and Jumo, and accused Ali Gul @ Dahlo, all armed with pistols came there, moments later accused Nazeer and accused Bhooro also arrived on motorcycles. He stated that accused Nazeer instigated the armed accused to attack upon them on which the armed accused, acting instantly on such instigation, made straight fires towards them which hit to his son Loung Khan who receiving firearm injuries fell inside shop of Rasool Bux Brohi, while they (complainant and his witnesses) fell on the ground. Accused then fled away after making fire in the air. Later on they saw his son receiving firearm injuries on the head, shoulders, left arm and right leg, was bleeding. He asserted that after receiving letter from Polie Station He was later taken to the P.M.C Hospital Nawab Shah where he succumbed to his injuries the same day.

13. PW-1's testimony, when read with his cross-examination, reveals several material contradictions on core aspects of the prosecution case. In cross-examination, he departed from his earlier stance by stating that as soon as the armed accused pointed their weapons, he, PW-2 and PW-3 fell down to save themselves while only his son Loung received firearm injuries; this directly contradicts his own version in the FIR and examination-in-chief that the deceased first ran towards the shop before any firing occurred and was then chased and shot inside. He further contradicted himself regarding the arrival and presence of accused persons: while ,he in the FIR and examination-in-chief stated that all accused came together to the rickshaw stand, he later admitted that four accused were already present there and only thereafter accused Nazeer and accused Bhooro arrived. His version regarding instigation is equally inconsistent initially alleging in the FIR that Nazeer and Bhooro instigated, then restricting instigation to Nazeer alone in examination-in-chief, and later reverting in cross-examination to both Nazeer and Bhooro as instigators. PW-1 also introduced accused Mumtaz for the first time in his supplementary statement recorded after ten days, despite conceding during cross-examination that Mumtaz was neither

armed nor issued any hakal, reflecting a clear afterthought and embellishment. His assertion that the deceased sustained six firearm injuries is belied by medical evidence showing seven entry wounds, and he admitted that the alleged threats by the accused were never disclosed to any villager and that their timing was not recorded in the FIR. These contradictions relating to the sequence of firing, the positioning and participation of the accused, the nature of instigation, the introduction of new names, and the number of injuries go to the root of the prosecution case and render PW-1's account unreliable on material particulars.

14. Both eyewitnesses, Ahsan Ali (PW-2) and Akbar (PW-3), in their examination-in-chief also narrated the incident broadly on the same lines as stated by the complainant; however, their depositions diverged materially on crucial aspects when examined closely. PW-2 Ahsan Ali asserted that only accused Umar and appellant Jumo fired towards them and followed the deceased inside the shop and made six fires upon him, contradicting version of complainant PW-1 narrated in the FIR as well as evidence that all four-armed accused fired at deceased. PW-2 further did not support the allegation of instigation by Nazeer and Bhooro, contradicting the complainant's claim on that point. In contrast to PW-1, PW-2 restricted the assault to only two accused Umar and appellant Jumo, who, according to him, arrived on motorcycles, issued threats and fired upon the complainant party. He did not depose about the presence or participation of appellant Muharram and accused Ali Gul @ Dahla in firing. His deposition is vague as to distance and position of the parties, and he admitted omitting essential details from his statement under section 161, Cr.P.C. He also conceded that the complainant introduced the name of Mumtaz later out of anger. These omissions and contradictions on fundamental aspects identity of accused, number of assailants, sequence of firing, and the nature of instigation render testimony of PW-2 unreliable.

15. PW-3 Akbar, instead of lending clarity, produced yet another conflicting version. He stated that all four accused fired jointly from the outset; that Nazeer and Bhooro arrived later and instigated, and that firing continued for 10-15 minutes, including aerial firing for harassment. He also asserted that all four accused made six close range shots inside the shop, which directly contradicts the version of PW-2 that only accused Umar and appellant Jumo entered the shop and fired upon deceased. PW-3 admitted that he could not specify distances or

shop measurements and was uncertain whether accused Mumtaz was present. All these contradictions cannot be reconciled either with PW-1's shifting stance or PW-2's restricted version, thereby destroying the integrity of the ocular account.

16. Additionally, PW-1, in his supplementary statement recorded on 06.07.2011, introduced another accused, Mumtaz, who was neither named in the FIR nor mentioned by any witness earlier, which clearly reflects dishonest improvement. The combined effect of these contradictions regarding the identity and number of accused alleged to have fired, whether instigation was given, who followed the deceased into the shop, and how many shots were fired demonstrates that the ocular account is neither consistent nor reliable, particularly when the improvements surfaced only during cross-examination.

17. A significant deficiency in the prosecution case arises from the non-examination of Rasool Bux Brohi, the owner of the shop into which the deceased is consistently stated to have run at the time of the firing. According to all three eyewitnesses, the decisive part of the occurrence took place inside or immediately at the entrance of this shop, and the deceased is alleged to have received multiple firearm injuries at that very spot. Rasool Bux Brohi, therefore, was the most natural, material and independent witness who, if examined, could have either supported or contradicted the varying accounts of the related eyewitnesses. This omission by the prosecution resulted in withholding of essential evidence from the crucial independent witness, who was present at the time of the incident. The prosecution failed to provide an explanation for this omission. Consequently, under Illustration (g) of Article 129 of the Qanun-e-Shahdat Order, 1984, it is reasonable to infer that an adverse assumption can be drawn that had that witness been produced before Court, he would not have corroborated the prosecution's version. Reliance is placed on cases of **Riaz Ahmed v. The State (2010 SCMR 846)**, **Khalid @ Khalidi and two others v. The State (2012 SCMR 327)** and **Muhammad Asif v. The State" (2017 SCMR 486)**.

18. PW-5 SIP Ali Hassan further weakened the prosecution case by admitting that although he visited the place of occurrence on 27.06.2011 and collected blood-stained earth, it was sent to the Chemical Examiner only on 06.07.2011, showing an unexplained delay of ten days. He also conceded in cross-examination that the blood-stained clothes of the deceased and the six empties allegedly recovered

were never sent for chemical or ballistic examination, on the ground that the alleged weapon had not been recovered. These omissions deprive the prosecution of essential forensic linkage. The cumulative effect of the investigative lapses, contradictions brought out in cross-examination, and unexplained improvements materially erodes the credibility of the prosecution evidence.

19. The medical evidence, when examined with care, reveals that the deceased sustained seven firearm entry wounds on different parts of the body. This stands in stark and irreconcilable contradiction to the prosecution's ocular account, wherein the complainant and eyewitnesses consistently asserted that only six firearm shots were inflicted and I.O also recovered only six empties from the place of occurrence. This inconsistency is not a trivial discrepancy; rather, it goes to the heart of the prosecution narrative and materially weakens the credibility of the eyewitness testimony. Equally significant is the admitted fact that no weapon of offence was recovered from the possession of the appellants, nor from any other co-accused, and the empties allegedly secured from the place of occurrence were never sent to the Chemical Examiner for ballistic comparison. The absence of recovery of the weapon, coupled with the omission to conduct ballistic matching, deprives the prosecution of the most essential corroborative evidence that could scientifically connect the alleged firing with the appellants. When the medical evidence contradicts the ocular account, no weapon is recovered, and no forensic examination of empties is undertaken, the prosecution case is left without any corroboration from medical or circumstantial evidence.

20. In view of the above minute scanning of the prosecution evidence, it appears that infirmities, material contradictions, discrepancies and improvements on crucial aspects of the prosecution case, referred to hereinabove, reflect the statements of all three eye witnesses as well as medical evidence are in glaring conflict with each other and the same have shaken the very foundation of the prosecution case. The manner and sequence of events as narrated by eyewitnesses, being contradictory to each other do not inspire confidence and cast serious doubt on the truthfulness of the prosecution story. These major contradictions and dishonest improvements are not in minor or insignificant details but go to the root of the prosecution case and create a reasonable doubt about the guilt of the appellants. Reliance is placed



in the case of Honourable Supreme Court of Pakistan in case of **Muhammad Mansha v. The State (2018 SCMR-772)**, has been held as under: -

“Once the Court comes to the conclusion that the eyewitnesses had made dishonest improvements in their statements then it is not safe to place reliance on their statements. It is also settled by this Court that whenever a witness made dishonest improvement in his version in order to bring his case in line with the medical evidence or in order to strengthen the prosecution case then his testimony is not worthy of credence. The witnesses in this case have also made dishonest improvement in order to bring the case in line with the medical evidence (as observed by the learned High Court), in that eventuality conviction was not sustainable on the testimony of the said witnesses. Reliance, in this behalf can be made upon the cases of Sardar Bibi and another v. Munir Ahmad and others (2017 SCMR 344), Amir Zaman v. Mahboob and others (1985 SCMR 685), Akhtar Ali and others v. The State (2008 SCMR 6), Khalid Javed and another v. The State (2003 SCMR 1419), Mohammad Shafique Ahmad v. The State (PLD 1981 SC 472), Syed Saeed Mohammad Shah and another v. The State (1993 SCMR 550) and Mohammad Saleem v. Mohammad Azam (2011 SCMR 474).”

In the present case the dishonest intention of complainant and both eye-witnesses behind their mendacious improvements on several material aspects of the case can easily be gathered from the record, therefore, they have lost their credibility. It is settled law that improvements once found deliberate and dishonest cast doubt on the veracity of such witness. Reliance is placed in the case of **Akhtar Ali and others Vs. The State (2008 SCMR 6)**. Similarly in another case titled **Muhammad Arif Vs. The State (2019 SCMR 631)**, the Hon'ble Court laid down that when a witness improved his statement dishonestly to strengthen the prosecution case, such portion of his statement was to be discarded and testimony of such witness could not be safely relied upon to maintain conviction and sentence of an accused on a capital charge.

21. Perusal of record transpires that the alleged incident occurred on 26.06.2011 at about 02:00 p.m. in broad daylight at a rickshaw stand in Daur Town, yet the FIR was lodged on 27.06.2011 at 09:30 hours, after delay of approximately 19 to 20 hours. While the prosecution has sought to explain this delay on the ground that the deceased was first taken to the police station, then shifted to hospital where he succumbed to injuries, followed by post-mortem, transportation of the body to the village, and funeral proceedings. The said explanation does not inspire confidence. The complainant admittedly went to the police station

immediately after the incident to obtain a referral letter for the hospital. It was the duty of the police to record the version of the incident at that very moment, particularly when a cognizable offence of attempt to murder had already been committed. The failure to do so, coupled with the subsequent lodging of the FIR after considerable time gap gives rise to an inference that the FIR was lodged with due deliberation and consultation. The august Supreme Court of Pakistan in the case of **G.M. Niaz v. The State (2018 SCMR 506)** was pleased to hold as under:

“An FIR in respect of the alleged occurrence had been lodged after about seven hours and forty minutes which by itself was a circumstance doubting the claimed availability of the above-mentioned eyewitnesses with the deceased at the time of occurrence.”

Guidance is also sought from the principle enunciated in the case of **Zafar v. The State and others (2018 SCMR 326)**, where the august Supreme Court of Pakistan was pleased to hold as under:

“It has been observed by us that the occurrence in this case as per prosecution took place on 03.09.1999 at 3.00 a.m. (later half of night) and the matter was reported to the police on the same day at 8:30 am. i.e. after five hours and thirty minutes of the occurrence. The distance between the place of occurrence and the police station is 09 miles. The post-mortem on the dead body of deceased was conducted on the same day at 2.00 p.m. i.e. After 11 hours of the occurrence. No explanation whatsoever has been given by the complainant Shahadat Ali (PW-5) and Umer Daraz (PW6) in the FIR or while appearing before the learned trial Court qua the delay in lodging the FIR or for that matter the belated post-mortem of the deceased.”

Similarly in case of **Mehmood Ahmed & others vs. the State & another (1995 SCMR-127)**, it was observed as under:

“Delay of two hours in lodging the FIR in the particular circumstances of the case had assumed great significance as the same could be attributed to consultation, taking instructions and calculatedly preparing the report keeping the names of the accused open for roping in such persons whom ultimately the prosecution might wish to implicate”.

Additionally, the reliance is also placed in the case of **MUHAMMAD HASSAN and another v. the State and others (2024 SCMR 1427)** wherein it was observed by Hon’ble Supreme Court that the formal FIR was registered at 8:10 a.m., approximately **more than sixteen hours** after the incident, despite the police station being only 16 km away from the scene of the occurrence-Nowhere in the entire evidence, the prosecution had explained the reason for the delay in reporting the matter to the Police with such a delayed FIR showed

dishonesty on the part of the complainant and that it was lodged with deliberation and consultation. Prosecution case against the petitioner was doubtful. Jail petition was converted into an appeal and allowed and accused was acquitted of the charge.

22. Perusal of record further reveals that statements of prosecution witnesses, namely PWS Ahsan Ali and Akbar under Section 161, Cr.P.C., were recorded after an unexplained delay of twenty-two (22) days, i.e., on 18.7.2011. Such belated recording of statements of material witnesses cast serious doubt on the credibility of the witnesses and the reliability of the prosecution case. No justification or plausible explanation for such delay has been brought on record by the prosecution. This unexplained lapse renders the prosecution case highly doubtful. It is well-settled law that even a delay of one or two days in recording the statements of witnesses, if not satisfactorily explained, is considered fatal to the prosecution case and adversely affects its credibility. Reliance in this regard is placed on the judgment of the Hon'ble Supreme Court of Pakistan in the case of **Muhammad Asif v. The State (2017 SCMR 486)**, wherein it was held as under:

“There is a long line of authorities/precedents of this Court and the High Courts that even one- or two-days unexplained delay in recording the Statement of eyewitnesses would be fatal and testimony of such witnesses Cannot be safely relied upon.”

In this regard, reliance can also be placed on Muhammad Sadiq v. The State (PLD 1960 SC 223), Tariq Gul v. Ziarat Gul (1976 SCMR 236), Muhammad Iqbal v. The State (1984 SCMR 930) and Haroon alias Harooni v. The State and another (1995 SCMR 1627). Similarly, it has been settled by the august Supreme Court of Pakistan in Muhammad Khan vs. Maula Bakhshah (**1998 SCMR 570**) that:

“It is settled law that credibility of a witness is looked with serious suspicion if his statement under Section 161, Cr.P.C. is recorded with delay without offering any plausible explanation.”

23. Record reflects that there existed admitted previous enmity between the parties arising out of a matrimonial dispute involving the sister/daughter Mst.Bashiran, as discussed hereinabove. The previous enmity, while providing a motive to the accused for committing the crime, equally provides a strong motive to the complainant party for falsely implicating the accused. In such circumstances, where both parties have motive against each other, the prosecution is duty-bound to produce clinching and unimpeachable evidence to establish guilt

beyond reasonable doubt which is lacking in this case.

24. In criminal jurisprudence, the burden lies squarely upon the prosecution to prove its case beyond reasonable doubt. Even a single circumstance creating reasonable doubt entitles the accused to acquittal as of right, not as a concession. Reliance is placed in the case of **MUHAMMAD MANSHA v. THE STATE** reported in 2018 SCMR 772, the Hon'ble Supreme Court of Pakistan has held that: -

“4. Needless to mention that while giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of such doubt, not as a matter of grace and concession, but as a matter of right. It is based on the maxim, “it is better that ten guilty persons be acquitted rather than one innocent person be convicted”. Reliance in this behalf can be made upon the cases of **Tarique Parvez v. The State (1995 SCMR 1345)**, **Ghulam Qadir and 2 others v. The State (2008 SCMR 1221)**, **Muhammad Akram v. The State (2009 SCMR 230)** and **Muhammad Zaman v. The State (2014 SCMR 749)**.

25. In view of above discussion and following the dictum laid down by Honorable Supreme Court in the cases referred to hereinabove, I am of the considered view that the prosecution has failed to prove its case against the appellants beyond reasonable doubt. Consequently, this Criminal Jail Appeal is allowed. The impugned judgment dated 26.05.2016 passed by the learned 1st Additional Sessions Judge, Shaheed Benazirabad, is set aside. The appellants, namely Moharram Waswano and Jumo Waswano are acquitted of the charge under Sections 302, 148, 149, 114 P.P.C., r/w Section 149 P.P.C., by extending them the benefit of doubt. They shall be released forthwith if not required to be detained in any other case. Their bail bonds, if any, stand discharged.

**JUDGE**

Shabir/P.S