

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha

Mr. Justice Amjad Ali Bohio

Special Criminal A.T.A. No.56 of 2022

Appellant: Raeesuddin @ Mama S/o. Ameenuddin
through Mr. Mamoon A.K. Sherwani,
Advocate.

Respondent/The State: Through Mr. Muhammad Iqbal Awan,
Additional Prosecutor General, Sindh and
Mr. Ch. Mehmood Anwar, Special Public
Prosecutor Rangers.

Date of hearing: 04.10.2023.

Date of Judgment: 10.10.2023.

J U D G M E N T

MOHAMMAD KARIM KHAN AGHA, J:- The Appellant Raeesuddin @ Mama S/o. Ameenuddin has filed this appeal against the judgment passed by the Anti-Terrorism Court No.XVI, Karachi dated 26.02.2022 in Special Case No.A-99-A of 2013 (New Special Case No.67 of 2018) arising out of F.I.R. No.143/2012 u/s. 302/324/427/34 of the Pakistan Penal Code, with section 7 of the Anti-Terrorism Act, 1997 registered at P.S. Korangi, Karachi whereby the appellant was convicted and sentenced as under:-

- i) The accused Raeesuddin @ Mama S/o. Ameenuddin is hereby convicted for the offence u/s. 7(1) of ATA 1997 and he is hereby sentenced to rigorous imprisonment for life and with fine of Rs.1,00,000/- and in case of failure to pay the fine, he shall serve SI for six months more. The convict is also ordered to pay compensation of Rs.2,00,000/- (two hundred thousands) each to the respective legal heirs of deceased u/s. 544-A Cr.P.C. and in default of such payment, he shall undergo S.I. for six months.
- ii) The accused Raeesuddin @ Mama S/o. Ameenuddin is hereby convicted for the offence u/s. 7(c) of ATA 1997 and he is hereby sentenced to rigorous imprisonment for ten (10) years and with fine of Rs.1,00,000/- and in case of failure to pay the fine, he shall serve SI for six months more. The convict is also

ordered to pay compensation of Rs.1,00,000/- (one hundred thousands) to the injured PW Riaz Ahmed u/s. 544-A Cr.P.C. and in default of such payment, he shall undergo S.I. for six months.

- iii) The accused Raeesuddin @ Mama S/o. Ameenuddin is hereby convicted for the offence u/s. 302(b) and he is sentenced to rigorous imprisonment for life. The convict is also ordered to pay compensation of Rs.2,00,000/- (two hundred thousand) each to the respective legal heirs of deceased u/s. 544-A Cr.P.C. and in default of such payment, he shall undergo S.I. for six months.
- iv) The accused Raeesuddin @ Mama S/o. Ameenuddin is hereby convicted for the offence u/s. 324 and he is sentenced to rigorous imprisonment for ten (10) years with fine of Rs.1,00,000/- and in case of failure to pay the fine, he shall serve SI for six months more. The convict is also ordered to pay compensation of Rs.1,00,000/- (one hundred thousands) to the injured PW Riaz Ahmed u/s 544-A Cr.P.C. and in default of such payment, he shall undergo S.I. for six months.
- v) Accused is hereby also sentenced to R.I. for ten (10) years and to pay fine of Rs.50,000/- (fifty thousand).
- vi) The property of accused Raeesuddin @ Mama S/o. Ameenuddin as defined in section 02 (p)(a) of ATA, 1997 are also liable to be forfeited as provided under section 7 (2) of ATA, 1997.

Benefit of section 382-B Cr.P.C. was also extended to the appellant.

2. The brief facts of prosecution case arising out of FIR No.143 of 2012 of PS Korangi, Karachi lodged by complainant Riaz Ahmed are that he was performing his duty with SP Shah Muhammad as driver. On 28.05.2012 SP Shah Muhammad when visited Dr. Dilshad Ali at his clinic, Dilshad Medical Centre, thereafter Dr. Dilshad Ali came out with SP Shah Muhammad near his Toyota land-cruiser to see off him and the complainant/driver was on driving seat when at about 04:30 pm four unknown accused Urdu speaking wheatish complexion (Saanwlay) wearing pant shirts, out of them one was taller, all accused aged about 17/18 and 22/25 years came there, one of them fired at the complainant and three others started firing upon Dr. Dilshad and SP Shah Muhammad. In result of firing the complainant received one firearm injury on his neck and two injuries on his shoulder and became unconscious. Later on he learnt that SP Shah Muhammad and Dr. Dilshad were martyred on the

spot due to above firing. Accordingly such FIR was lodged against unknown accused persons.

3. After registration of the case, the first investigation report was submitted under "A" Class. On 16.06.2013 accused Syed Ejaz Qadri who was already arrested in another case, during interrogation made disclosure for the above crime and led the police party to the place of incident so also disclosed names of his accomplices, accordingly he was booked in the above case. Later on accused Asif @ Lamba and Raeesuddin @ Mama were also arrested in this case, who were thoroughly investigated.

4. After completion of investigation charge was framed against the appellant to which he denied the allegations and claimed trial.

5. The prosecution in order to prove its case examined 19 witnesses and exhibited various documents and other items. The statement of the appellant was recorded under Section 342 Cr.P.C. However, the appellant did not give evidence on oath or call any D.W. in support of his defence case.

6. After hearing the parties and appreciating the evidence on record, the learned trial court convicted and sentenced the appellant as set out earlier and hence, the appellant has filed this appeal against his conviction and sentence. It is to be noted that his two other co-accused were acquitted of the charge and no appeal against their acquittal has been filed by the State.

7. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 26.02.2022 passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

8. Learned counsel for the appellant has contended that the appellant is completely innocent and has been falsely implicated in this case by the police and the rangers on account of political victimization; that the sole eye witness against the appellant cannot be safely relied upon; that the

alleged confession by the appellant before the judicial magistrate was retracted and even other wise it was not given voluntarily and cannot be safely relied upon; that there is no other evidence against the appellant and thus for all or any of the above reasons the appellant should be acquitted of the charge by being extended the benefit of the doubt. In support of his contentions he placed reliance on the cases of *Tariq Pervez v. The State* (1995 SCMR 1345), *Imtlaz alias Taj v. The State and others* (2018 SCMR 344), *Rehmat alias Rehma Masih v. The State* (1995 SCMR 733), *Majeed alias Majeedi and others v. The State* (2019 SCMR 301), *Shabbir Ahmed v. The State* (2011 SCMR 1142), *Kanwar Anwaar Ali, Special Judicial Magistrate: In the matter of Criminal Miscellaneous Application No.183 of 2019 In Criminal Appeal No.259 of 2018* (PLD 2019 Supreme Court 488) and *Mian Sohail Ahmed and others v. The State and others* (2019 SCMR 956).

9. On the other hand Mr. Muhammad Iqbal Awan, Additional Prosecutor General and Ch. Mehmood Anwar, Special Public Prosecutor Rangers appearing on behalf of the State have fully supported the impugned judgment and in particular contended that the eye witness has correctly identified the appellant as murdering the deceased by fire arm which is corroborated by the medical evidence and his retracted judicial confession which could be relied upon as it was made voluntarily with the object of telling the truth and as such the appeal be dismissed. They have placed reliance on the cases of *Solat Ali Khan v. The State* (2002 SCMR 820), *Muhammad Ehsan v. The State* (2006 SCMR 1857), *Khan Muhammad and others v. The State* (1999 SCMR 1818), *Muhammad Amin v. The State* (PLD 2006 SC 219), *Muhammad Mansha v. The State* (2001 SCMR 199) and *Niaz-ud-Din and another v. The State and another* (2011 SCMR 725).

10. We have heard the arguments of the learned counsel for the appellant as well as learned Additional Prosecutor General Sindh and learned Special Prosecutor Rangers, gone through the entire evidence which has been read out by the learned counsel for the appellant, and the impugned judgment with their able assistance and have considered the relevant law including the case law cited at the bar.

11. At the outset based on the prosecution evidence and in particular the medical evidence, empties and blood recovered at the crime scene

along with the official car which had bullet holes we find that the prosecution has proved beyond a reasonable doubt that on 28.05.2012 at about 5.15pm outside Dilshad medical centre, sector 34/3 Korangi No.3 Karachi a number of persons with firearms made straight fire at SP Shah Muhammed, Dr.Dilshad Ali and Riaz Ahmed which lead to the death of SP Shah Muhammed, Dr.Dilshad Ali and caused serious injuries to Riaz Ahmed the driver of SP Shah.

12. The only question left before us therefore is who murdered the deceased by firearm and caused serious injury to Riaz Ahmed by firearm at the said time, date and location?

13. After our reassessment of the evidence we find that the prosecution has NOT proved beyond a reasonable doubt the charge against the appellant for which he was convicted for the following reasons;

(a) The FIR was lodged by the complainant Riaz Ahmed with promptitude which was five hours after the incident. What we find some what surprising however is that as per the evidence of the complainant being PW 13 during the incident he sustained firearm injuries on his neck, two on his right arm at shoulder, one at left arm near shoulder, one at the back and one on the left leg and then he fell unconscious and yet he was fully conscious 5 hours later to record a very detailed FIR. There was also no certificate on record from any doctor that he was even fit to record his statement at the relevant time which puts us to some caution vis a vis his FIR.

(b) We find that the prosecution's case against the appellant primarily rests on the evidence of the eye witnesses to the incident and their ability to correctly identify the appellant who along with others opened fire on the deceased and the injured eye witness Riaz Ahmed and then fled from the crime scene whose evidence we shall consider in detail below;

(i) Eye witness PW 13 Riaz Ahmed. He is the complainant and was the driver of the police vehicle of deceased SP Shah. According to his evidence on 28.05.2012 at 2pm he took the deceased SP Shah to the clinic of the other deceased Dr.Dilshad as he had nasal and chest issues. That at 4.15pm he was waiting in the official vehicle when he saw the deceased coming together towards his vehicle. Deceased Dilshad was coming to see off deceased SP Shah. Just before deceased SP Shah got into the vehicle he saw 4 boys coming by foot; one of them was 17-18 years of age and the rest of them were about 22 to 25 years old; all the boys were of normal height except one who was tall; they had wheatish complexion and were armed. He was hit at first with firearm injury to his neck and two on his right arm at shoulder, one at left arm near shoulder, one at the back and one on the left

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leg and then he fell unconscious. He came to his senses in hospital when he came to know that the deceased had been killed in the firing incident. On 10.04.2018 he picked out the appellant at an identification parade with the general role of firing on the deceased and himself.

This eye witness was a natural witness as he was the driver of the deceased SP Shah and we believe his account of the incident as it was day light and he was in a good position to observe the incident and in respect of the incident has made no material improvements in his FIR and subsequent S.161 Cr.PC statements.

He did not know the appellant before the incident. During the brief chaotic shoot out this eye witness would only have got a fleeting glimpse of the appellant under stressful circumstances and as per his own evidence he became unconscious immediately after he was shot and even in his evidence in chief does not say that he saw the deceased being shot but rather he came to know of this when he came to his senses in hospital.

In his FIR however he gave no hulia/description of the appellant. This eye witness was a police men and knew the importance of giving a hulia/description of the assailants yet he failed to do so. Like wise in his later Section 161 Cr.PC statements he gave no adequate hulia/description of the assailants.

Most significantly when on 22.06.12, about four weeks after the incident, when he was brought before the CPLC to draw sketches of the assailants he wrote that he was unable to recognize any of them which he signed and hence no sketches of the assailants were drawn.

It is also significant that when the appellant was allegedly arrested at Jinnah International airport on 26.03.2018 his face was flashed all over the local media as a wanted terrorist before the identification parade was held on 10.04.2018 two weeks after his arrest and as such this eye witness would have had a chance to see the appellant before the identification parade or be pointed out to him by the IO or even shown to him at the PS as claimed by the appellant.

Despite giving no hulia/description of the appellant and admitting that he could not recognize the appellant 4 weeks after the incident and therefore was unable to draw a sketch of them quite incredibly he was able to pick out the appellant from the identification parade 7 years after the incident with only a general role.

There also seems to be some procedural defects in the identification parade especially in terms of the dummies not having their names recorded and CNIC's copied which also put us on caution as to the legality of the identification parade. In this respect reliance is placed on Kanwar Ali's case (PLD 2019 Supreme Court 488).

It is true that we can convict based on the evidence of even a sole eye witness however based on the particular facts and circumstances of this case as discussed above we find that even if the eye witness was present at the time of the incident based on the reasons mentioned above he would not have been able to correctly, safely and reliably identify the appellant and as such we veer on the side of caution in this case especially as there appears to be hardly any other reliable corroborative or supportive evidence and find that the eye witness was not able to correctly identify the appellant especially as he gave no hulia/description at any time and stated under his own signature that he could not recognize any of the assailants 4 weeks after the incident.

In this respect reliance is placed on the case of Javed Khan V State (2017 SCMR 524) concerning the necessity for an early hulia/description of an accused by an eye witness in his S.161 Cr.PC statement before an identification parade and the need to strictly follow the rules governing identification parades where it was held as under at P.528 to 530:

"7. We have heard the learned counsel and gone through the record. The prosecution case rests on the positive identification proceedings and the Forensic Science Laboratory report which states that the bullet casing sent to it (which was stated to have been picked up from the crime scene) was fired from the same pistol (which was recovered from Raees Khan in another case). We therefore proceed to consider both these aspects of the case. As regards the identification proceedings and their context there is a long line of precedents stating that identification proceedings must be carefully conducted. In Ramzan v Emperor (AIR 1929 SC 149) Perceval, J.C., writing for the Judicial Commissioner's Court (the precursor of the High Court of Sindh) held that, "The recognition of a dacoit or other offender by a person who has not previously seen him is, I think, a form of evidence, which has always to be taken with a considerable amount of caution, because mistakes are always possible in such cases" (page 149, column 2). In Alim v. State (PLD 1967 SC 307) Cornelius C.J., who had delivered the judgment of this Court, with regard to the matter of identification parades held, that, "Their [witnesses] opportunities for observation of the culprit were extremely limited. They had never seen him,

before. They had picked out the assailant at the identification parades, but there is a clear possibility arising out of their statements that they were assisted to do so by being shown the accused person earlier" (page 313E). In Lal Pasand v. State (PLD 1981 SC 142) Dorab Patel J, who had delivered the judgment of this Court, held that, if a witness had not given a description of the assailant in his statement to the Police and identification took place four or five months after the murder it would, "react against the entire prosecution case" (page 145C). In a more recent judgment of this Court, Imran Ashraf v. State (2001 SCMR 424), which was authored by Iftikhar Muhammad Chaudhry J, this Court held that, it must be ensured that the identifying witnesses must "not see the accused after the commission of the crime till the identification parade is held immediately after the arrest of the accused persons as early as possible" (page 485P).

8. The Complainant (PW-5) had not mentioned any features of the assailants either in the FIR or in his statement recorded under section 161, Cr.P.C. therefore there was no benchmark against which to test whether the appellants, who he had identified after over a year of the crime, and who he had fleetingly seen, were in fact the actual culprits. Neither of the two Magistrates had certified that in the identification proceedings the other persons, amongst whom the appellants were placed, were of similar age, height, built and colouring. The main object of identification proceedings is to enable a witness to properly identify a person involved in a crime and to exclude the possibility of a witness simply confirming a faint recollection or impression, that is, of an old, young, tall, short, fat, thin, dark or fair suspect....

9. As regards the identification of the appellants before the trial court by Nasir Mehboob (PW-5), Subedar Mahmood Ahmed Khan (PW-6) and Idress Muhammad (PW-7) that too will not assist the Prosecution because these witnesses had a number of opportunities to see them before their statements were recorded. In State v. Farman (PLD 1985 SC 1), the majority judgment of which was authored by Ajmal Mian J, the learned judge had held that an identification parade was necessary when the witness only had a fleeting glimpse of an accused who was a stranger as compared to an accused who the witness had previously met a number of times (page 25V). The same principle was followed in the unanimous judgment of this Court, delivered by Nasir Aslam Zaidi J, in the case of Muneer Ahmad v State (1998 SCMR 752), in which case the abductee had remained with the abductors for some time and on several occasions had seen their faces. In the present type of case the culprits were required to be identified through proper identification proceedings, however, the manner in which the

identification proceedings were conducted raise serious doubts (as noted above) on the credibility of the process. The identification of the appellants in court by eye-witnesses who had seen the culprits fleeingly once would be inconsequential." (bold added)

The Supreme Court case of *Mian Sohail Ahmed V State* (2019 SCMR 956) has also emphasized the care and caution which must be taken by the courts in ensuring that an unknown accused is correctly identified. In fact such extra care and caution in relying on identification parades is an accepted global phenomena in most criminal jurisdictions as the possibility of deliberately or mistakenly picking out a wrong person from an identification parade and sending an innocent man to jail or in this country potentially to the gallows is very much recognized and thus most jurisdictions (including Pakistan) have put in place mandatory guidelines to greatly limit the chances of such incorrect identification.

(ii) Eye witness PW 11 Lal Khan. He is an independent witness who was selling vegetables outside the hospital when the incident occurred. His evidence corroborates that of the complainant with regard to the incident. However he appears to be a chance witness who disappeared from Karachi for 4 months without giving any statement to the police. His eye witness S.161 Cr.PC statement was therefore recorded at least 4 months after the incident and as such is of little legal value. In any event he does not give any hulia/description of any of the assailants but like the complainant was able to pick out one of the accused Syed Ejaz at an identification parade held on 26.09.2013 one year after the incident.

Although the accused who he picked out at the identification parade Syed Ejaz was acquitted of the charge what is significant in this appeal is that the appellant after his arrest on 26.03.2018 was not put before an identification parade to see if PW 11 Lal Khan could pick him out. We find this to be highly significant as the IO had put the appellant before an identification parade to be picked out by PW 13 Riaz Ahmed yet he did not bother to put the appellant before an identification parade for PW 11 Lal Khan to pick out despite PW 11 Lal Khan already having successfully identified one of the acquitted co-accused a year after the incident. PW 11 Lal Khan was available for an identification parade as he gave evidence at trial which begs the question why this was not done in respect of the appellant? Such omission we find leads to the adverse inference under Article 129 (g) Qanoon-e-Shahadat Ordinance 1984 that the appellant was not put before an identification parade for PW 11 Lal Khan to pick

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out because the prosecution knew that PW 11 Lal Khan would fail to identify the appellant as being present at the time of the incident.

Since we have found the eye witness evidence against the appellant to be unreliable in terms of his correct identification what other evidence is there against the appellant which could lead to his conviction.

(c) The other main piece of evidence against the appellant is his retracted judicial confession. It is well settled by now that the court can rely on a retracted judicial confession provided that (a) it has been made voluntarily (b) with the object of telling the truth (c) there are only minor procedural irregularities and (d) is corroborated/supported by some other unimpeachable independent evidence.

(d) The Judicial confession of the appellant is 10 pages and 35 paragraphs long whereby the appellant confesses in extreme detail to numerous heinous crimes which he and other MQM accomplices carried out over a number of years. We find it impossible that the appellant could have made such a detailed confession during one sitting before a magistrate without any notes. He would have needed to have a brain either like a computer or a photographic memory which he does not possess. As the appellant has himself claimed the confession was most likely prepared by the police and/or rangers and he was simply made to sign it. As such we find that the retracted judicial confession was not made voluntarily with the object to tell the truth and place no reliance on it.

To illustrate our point the judicial confession of the appellant under S.164 Cr.PC is reproduced below for ease of reference.

STATEMENT UNDER SECTION 164.

I Raeesuddin @ Raees Manna S/o. Aminuddin by caste Urdu speaking aged 45 years R/o. House No.Y-163, Korangi 1st, Karachi, holding identity card No.42201-0299873-9.

1) I belong to MQM Altaf Group since 1986. I have passed out BA from Karachi University in the year 2010. And in the year 20.10.2011 MQM appointed me as Assistant Director BPS-17 in KMC Gulshan-e-Iqbal, Karachi. In the year 2008 Leader of MQM Altaf Hussain, KTC Incharge Farooq Saleem, Hamid Siddiqui, Nadeem Nusrat and members of Rabita Committee, had appointed me as Incharge of Korangi Sector and per their orders, I was appointed as Incharge of Korangi Sector targeted killing in the year 2010 and 10 members were comprised on 10 target killers. I had made one room of sector office as torture cell, where I and my accomplices used to bring opponent members and torture them. Having tortured, killed and tied into gunny sacks.

- 2) On 12th May, 2007 at Baloch Colony Bridge, Shalrah-e-Faisal and per plan I, Mumtaz KK, Nazar Mukaram, Junaid Buldag, Ayyaz Lambho, Zaheer, Kashif and other 25/30 target killers armed with KK and other arms blocked the road and killed opponent persons by causing fires.
- 3) On 12th May 2007 I, Junaid Buldog and his accomplices had killed one narcotics peddler Shahid Ali and injured one pedestrian.
- 4) In the year 2008 I and my accomplices namely Ayyaz Papu, Fareed Pahari, Babu Balli from 9mm pistols had killed Bangali Action Committees' president namely Abul Hassan at W-22 Mazda Bus Stop, Korangi 2½.
- 5) In the year 2010 I alongwith my other accomplices namely Badshahi Lal, (word illegible), Fareed, Aijaz Gorchani, Wasim, Naeem, Shakeel, Faisal, Pakori and 10/15 others workers made firings from their respective arms upon Jeay Sindhi activists (word illegible) killed, while Kamal and Imam Bux became injured.
- 6) In the year 2010, at the saying of Hamad Siddiqui, Nadeem Nusrat and committee members, I alongwith my accomplices Syed Aftab, Akbar Tolo, Irfan Lala and 10/15 accomplices armed with KK and 9mm pistols made firings at office of ANP in Zia Colony, in which two activists of ANP were killed and 4 injured.
- 7) In the year 2010 one day in night at 11:00 pm, I alongwith my accomplice named Junaid Buldag, had killed one narcotics' peddler Malik Noor Jahan in R-Area, Sector 32-B, Korangi 2½.
- 8) In the year 2010, dispute was going over plot with 4 activists of Jeay Sindhi, I and Junaid Buldag called them at Nasir Jump in PNT Colony and murdered them by firing with the help of our accomplices.
- 9) In the year 2010, Jeay Sindhi activists had occupied over China Cutting of Motalhida in Mehran Town, Korangi, I and 20/25 killers of Korangi Sector made firings upon them, from which many activists of Jeay Sindhi became injured.
- 10) In the 2011, after exchanging harsh words of Junaid Buldag with Darveshi Masjid's prayer leader/Imam namely Mehmood Shah, then Junaid Buldag and Noor Muhammad @ Nooro murdered him by causing fires.
- 11) In the year 2011, I alongwith my accomplices Junaid Buldag, Hassan Dilawar, Asif Kala, Babu Balli and other 8/10 target killers armed with weapons went at 89 Lundhi, where opened firings upon narcotics peddler named Pathan Nidaawali, from said firings his one agent was killed.
- 12) In the 2011 at 9:30 pm I was informed about tearing poster of Allaf Bhui in Korangi Sector, at which I, Ayyaz, Imran Mami, Afghani, Tanveer, Iftikhar, Asif, Iqbal, Alif @ Asif Mansoor, Nadeem Akhtar, Iqbal, Farhan, Sagheer Mehmood, Zakir, Tanveer, Imran Lamba, Arif, Umair, Junaid Buldag, Aslam, Shahid Chatta, Asif Lamba, Kamran, Amir, Salman Lungra, Iqbal, Aqeel,

Shabbir, Abdul Hakeem, Shahid Burgar and 15/20 other activists armed with KKs & pistols arrived at Korangi Sector. During which we saw policemen in Marwat Couch, at which we opened firings upon them from their respective weapons from which 4 police personnel and one pedestrian were killed, while 26 policemen & one pedestrian were injured, and I also made firings.

- 13) In the year 2011, at saying of Farhan Mullah and Hamad Siddiqui, I alongwith Farhan Mullah, Junaid Buldag, Ayyaz Papu, Noor Muhammad @ Noora, Babu Bali, Jamal Abdul Nasir @ Commando, Abdi Ali and 8/19 activists of Motalida armed with weapons went at Shaheed Millat Korangi and opened firings from their respective weapons upon vehicle in which visitors were going to Central Jail Karachi for meeting with Aftab Ahmed. From said firings, Haqiqi leader Akhtar Hussain, Muhammad Shoaib, Anwar and Abdul Karim were killed and one pedestrian was also killed.
- 14) In the year 2012 I alongwith Jibran and (words illegible) armed with weapons went at Coastguard Chowrangi where killed one unknown Punjabi.
- 15) In the year 2012, Motalida Incharge Farhan Mullah and Hammad Siddiqui gave me a task for targeting to SP Shah Muhammad. On 28th May 2012 at 3:00pm I, Ayyaz Papu, Asif, Sajjid Nastro, Junaid Buldag, Aijaz Gorchani, Junaid Buldag's brother Arif, Zulfiqar Bhutta and Babu Balli etc. armed with weapons reached at Dilshad Clinic. At 4:00pm when SP Shah Muhammad and Dr. Dilshad came out from clinic reached near their vehicle, then I and my accomplices opened firings from their respective weapons and committed murders of SP Shah Muhammad & Dr. Dilshad.
- 16) In the year 2012 I alongwith my accomplices Jibran Feroze had killed one narcotics peddler named (illegible) by causing fires from their respective weapons in Noorani Basti Sector 40-C.

CERTIFICATE

It is to certify that the statement of accused was recorded by me per verbatim which was read over to him, him, he accepted. Accused put his LTI & signature.

Before me
16/4/18

- 17) In the year 2012, I alongwith Noor Mukaram, Wahid Lamba and 2/3 killers went at Korangi No.5, and kidnapped one Yasir Hajano upon teasing to girls and brought him at sector office. Later, having torture, killed and threw him in Korangi.
- 18) In the year 2013, I alongwith my accomplices namely Jibran Feroze alias (word illegible) and Safdar Dan had killed one narcotics peddler Fazalur Rehman @ Mushik by making fires from their respective weapons near Graveyard road, Sector 48.
- 19) In the year 2013 at 8:30pm, I alongwith my other accomplices Junaid Buldag, Kashif and Shoaib Hassan came at Bismillah,

Bakery F-Area, Korangi and had killed one narcotics peddler named Ali Hassan by firings.

- 20) On 10th May 2013, a clash was going of activists of MQM Landhi Sector with Haqiqi activists in Landhi No.6. I alongwith accomplices Atif, Junaid Buldag, Rashid 11, Ubaid, Kashif, Azam Ganja, Shahid Japani, Shahid Roofi, Gulfam, Jawed Aram and other 20/25 activists armed with weapons went at Landhi No.6 where Haqiqi sector member named Shakeel Ahmed and 3/4 others became injured from firings of me and my accomplices.
- 21) In the year 2013, I Noor Muhammad @ Noora, Khurram Raza @ Babu Balli had killed one narcotics peddler Ali Hassan by causing fires, in 34-C, Korangi.
- 22) In the year 2013, I and my accomplice Jibran @ Timmy had killed one narcotics peddler named Raza, at Nasir Jump, Korangi 1½.
- 23) In the year 2013, I alongwith Jibran @ Timmy and Safdar Dan had killed one narcotics peddler Zulfiqar @ Papu Kashmiri in sector 48-B, Korangi 2½.
- 24) In the year 2013, at the saying of Altaf Hussain, Hammad Siddiqui and Nadeem Nusrrat, I alongwith accomplices (word illegible) @ Kashif, Azam Ganja, (word illegible) @ Irfan and Shahid Japani had killed Assistant Director of KDA at main road Korangi 2 by causing fire and also injured his companion.
- 25) In the year 2010, at killing of Motahida MPA Raza Haider, at the directives of Altaf Hussain, Hammad Siddiqui and Nadeem Nusrrat; I alongwith Shan Sabir @ Shahmawaz, Raheel Lodhi, Shehzad, Saghir, Fareed, Aijaz Gorchani, Junaid Buldag, Babu Balli, Fareed Pahari, Shahid Passportwala, Farhan Ahmed Shaikh, Muhammad Safdar, Rashid Haqiqiwala, Imran Sudeer and 8/10 activists of Korangi Sector, sat Shahi Syed's petrol pump and 30/35 vehicles on fire.
- 26) In the year 2014, I alongwith my accomplices Jibran Feroze @ Timmy had killed one narcotics peddler named Ayyaz @ Shanda in Korangi 1½.
- 27) In the year 2011, I alongwith my accomplices Imran, Imran Mann, Afghan, Tanveer, Istikhar, Asif, Iqbal, Atif @ Asif, Muna, Nadeem Akhtar, Iqbal, Farhan, Sagheer, Mehmood, Zakir, (word illegible) Imran Lamba, Arif, Umair, Junaid Buldgo, Aslam, Shahid Chatta, Asif Lamba, Kamran, Aamir, Salman Langra, Iqbal, Aqeel, Sher, Abdul Hakeem, Shahid Burger, Shamsiud Chatta, Sabir Dodhiwala and 25/30 activists armed with weapons, made firings at Qayyumabad Plot, from which one person was killed and 3 were injured.
- 28) In the year 2010 at 8:00pm, at directives of Hammad Siddiqui and Nadeem Nusrrat, I alongwith Junaid uldog, Noor Muhammad @ Noora, Jibran Feroze @ Timmy, Khurram Raza @ Balli, Manzoor Lamba, Ahsan Iqbal and 5/6 activists had killed 4 Haqiqi activists in Taxi at Attock Petrol Pump by hitting fires.

- 29) In the year 2013, at the saying of Hammad Siddiqui, alongwith Junaid Buldog, Noor Muhammad @ Noora, Jibran Feroze @ Jimmy, Khurram Raza @ Balli, Mehmood Roshan, Gul Muhammad @ Shehzad and other 5/6 activists Kidnapped by bringing to the dissident activists Raheel & Talur and killed them after torturing and then threw away their dead bodies in Ibrahim Hyderi.
- 30) In the year 2014, upon order of Hammad Siddiqui, I alongwith my accomplices Jibran Feroze @ Jimmy, Khurram and Adeel had killed Aamir Zia the Assistant Director Anti Encroachment and also opened firings upon DC vehicle at Nasir Jang, from which DC driver and gunman became injured.
- 31) On 27 March 2018, when I was coming back to Pakistan from Malaysia, just coming out from Airport then Police of PS Korangi arrested me. Upon my pointation, police recovered 3 hand grenades, one KK, one 9mm alongwith bullets, from Eidhgah Ground which were buried by me due to fear of Operation. On 3rd April, upon my pointation, Inspector Dilawar Khatlak recovered one KK with bullets, one 9 mm pistol with bullets and two hand grenades within limits of PS Nabi Bux.
- 32) I had to deposit rupees one crore in main office of Mutahida by receiving extortion from Golobal network, Shahidi-Halls & Market Association in Korangi.
- 33) We got Rupees one and half crore through Hammad Siddiqui at different occasions by occupying lands and through China Cuttings. And also made china cuttings of about 20 plots on official plots, parks and in Mehran Town in Korangi ect.
- 34) Farooq Sattar through his front men Habib Gota, Mehbob, Kashif, Farooq Chatta & Nosha made China cuttings of 345 plots at (word illegible) School, Mehrun Nisa Hospital place situated alongside Zaman Town PS, Imam Bargah place situated in Korangi 6, Ghous Park No.6 in Korangi 2½, Bakri Petrol pump, F-Area and Rangers Grounds. The former Governor Isharatul Ibad got made 50/55 plots off china cutting through his front man Shahid Abbas, Korangi No.6, in front of area of Mansha Gacha wali in Tazeewala. Sarfraz Merchant & Ahsan @ Janu Mamoo got made 40/45 china cutting plots.
- 35) In the year 2013, per situations created after Karachi operation, ordered me to go Iran, intelligence thereof shall provide you information. On 15th June 2015 I reached at Taftan border vide Quetta. On 17th June 2015 Haji sent a vehicle who is special man of Iran Intelligence and took me away at Iran Intelligence headquarters eja Zahidan. At night time, I met some officers who exchanged views regarding situation of Karachi. They asked from me about Korangi Creek Base, ways of In & Out of PAF including security pickets, and also asked from me on sketch about fresh constructions are being done on right & left of roads including security towers. On next morning after breakfast these officers again came, showed me hand drawn sketch, papers and got

confirmed that whether any change in headquarter 5 core and headquarter 151 situated alongside Regent Plaza happened, in which position of guard numbers etc. were included and to which I confirmed. After staying some days in Iran, the intelligence officers told me that my arrangement has been made at Dubai. I was talked with Hammad Bhai through Whatsapp who advised me not to talk about Iqbal Gangwar specially Uzair Jan Baloch. On departure day to Dubai, one officer asked me to call fresh pictures of Naval Base Transmission Tower situated in Landhi. At which I agreed and asked MQM Social Media companion Khalid Mehmood Qamkhami @ Doctor Agaz through whatsapp to send fresh Naval Transmission Tower situated in Landhi. He sent pictures after my reaching in Dubai then I sent said pictures through whatsapp at the given number of Irani Intelligence. After sending I immediately deleted the same. After long time, whenever any way or Official place detail required them, they contacted with me and I used to provide them after getting permission from leadership. (words illegible), some Karachi police officers used to support me directly or indirectly. Out of them, SI Nasir Tanoli, ASI Ashfaq and other police personnel who used to provide me information and protect my boys.

Now I fear by God and I am giving true statement so that Almighty Allah may pardon me. I may be provided every possible concession. I told whatever I remembered that perhaps something might have been left.

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16.4.18

(e) In addition, it does not also appeal to logic, commonsense and reason that the appellant would confess to his involvement in so many capital offences when in most of the cases he confesses to there is no evidence against him.

(f) With no eye witness evidence as to the identity of who carried out the attack the medical evidence becomes inconsequential as it can only reveal what kind of weapon/device was used and the seat of the injuries of who was injured or killed. It cannot identify the person who inflicted the injuries or caused the death.

(g) No weapon was recovered from the appellant which makes the recovery of empties irrelevant as their recovery alone cannot link the appellant to the crime.

(h) The defence case was put before each witness in cross examination and in the appellants S.342 Cr.PC statement and as such cannot be simply discarded and must be placed in juxta position with the prosecution case to see if the prosecution has proved its case beyond a reasonable doubt.

14. That the prosecution must prove its case against the accused beyond a reasonable doubt and that the benefit of doubt must go to the,

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accused by way of right as opposed to concession. In this respect reliance is placed on the case of Tariq Pervez V/s. The State (1995 SCMR 1345).

15. For the reasons discussed above by extending the benefit of the doubt to the appellant he is acquitted of the charge, the impugned judgment is set aside, the appeal is allowed and the appellant shall be released unless wanted in any other custody case.

16. The appeal stands disposed of in the above terms.