Order Sheet

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Jail Appeal No.S-526 of 2022

(Mehboob Ali Mallah Vs. The State)

Appellant	**:**	**Mehboob Ali son of Muhammad Ayoub by caste Malah, *through*; Ms. Gul Hafsa, Advocate**
Complainant	**:**	**Muhammad Ismail Jamali, *through*; Mr. Nasrullah Malik, Advocate**
The State	**:**	**through; Syed Mumtaz Hussain Shah, Assistant Prosecutor General, Sindh.**
Date of hearings	**:**	**24.02.2025, 23.06.2025, 04.08.2025 & 18.08.2025.**
Date of Decision	**:**	**22.09.2025.**

JUDGMENT

Ali Haider 'Ada'.J:- Through this Criminal Jail Appeal, the appellant has assailed the judgment dated 11.08.2022, passed by the learned Additional Sessions Judge-I / Model Criminal Trial Court, Thatta (hereinafter referred to as the trial Court), whereby the appellant was convicted and sentenced to rigorous imprisonment for life in connection with Sessions Case No. 306 of 2019, arising out of FIR No. 75 of 2019, registered at Police Station Sujawal. By the same judgment, the appellant was further directed to pay a sum of Rs. 200,000/- (Rupees Two Hundred Thousand only) as compensation to the legal heirs of the deceased, in accordance with the provisions of Section 544-A of the Code of Criminal Procedure, 1898. In case of default in payment of the said compensation, the appellant was ordered to undergo an additional term of six (06) months' rigorous imprisonment. The trial court also ordered that the compensation amount be recovered as arrears of land revenue. However, the benefit of Section 382-B, CrPC was extended to the appellant, and the period

already undergone in custody was directed to be considered towards the fulfillment of the substantive sentence.

2. The brief facts, as disclosed in the prosecution's case, are that the First Information Report was lodged on 31.03.2019 at about 10:00 hours, while the alleged incident took place on 30.03.2019 at about 12:30 p.m. According to the FIR, the complainant, being the father of the deceased Mst. Husna, stated that he, along with his son namely Hussain, proceeded towards the house of his daughter, who was married to the accused, Mehboob Ali. Upon reaching New Saeedpur, they found the accused Mehboob Ali present at the house. The accused confronted them and questioned why they had come to his house. Thereafter, the accused retrieved a gun and fired a gunshot at his wife, Mst. Husna, who sustained the injury, fell to the ground, and succumbed to her injuries on the spot. After committing the offence, the accused fled from the scene. The incident was then reported to the police. The police visited the place of occurrence, prepared the site inspection report, and conducted necessary proceedings, including the post-mortem examination of the deceased and other formalities. Subsequently, the FIR was registered on the complaint of the deceased’s father.

3. After the registration of the FIR, the usual investigation was carried out by the police. During the course of investigation, on 31.03.2019, the accused was arrested, and the crime weapon was allegedly recovered from his possession. Upon completion of the initial investigation and other codal formalities, the final challan was submitted before the competent Court of jurisdiction. Thereafter, the matter was taken up by the learned trial Court. In compliance with legal procedure, the requisite documents were supplied to the accused/appellant under Section 265-C of the Code of Criminal Procedure, 1898. Subsequently, on 18.01.2020, the learned trial Court framed a charge against the appellant. Upon being confronted with the charge, the appellant pleaded not guilty and claimed trial. Consequently, the learned trial Court permitted the prosecution to lead its evidence, and the trial formally commenced.

4. In support of its case, the prosecution examined a total of eight (08) witnesses, PW-1, complainant appeared as Prosecution Witness No. 1 (PW-1) and reiterated the contents of the FIR. He also produced a certified copy of the FIR as documentary evidence. The prosecution next examined PW-2, Hussain, the son of the complainant and an alleged eye-witness to the occurrence. He

produced the receipt of receiving the dead body after post-mortem examination. Dr. Saba was examined as PW-3. She conducted the post-mortem examination of the deceased and produced the documents: Letter requesting the medical examination of the dead body, Dead Body Examination Form, Post-Mortem Report, Receipt of receiving the dead body. The prosecution also examined the Tapedar as PW-4, who was summoned on an application filed under Section 540 Cr.P.C., which was allowed by the trial court. The said witness prepared and exhibited the sketch of the place of incident. PW-5, Qamaruddin, who was the Duty Officer at the relevant police station on the day of the incident, testified that: The incident was first entered in Roznamcha Entry No. 7, He prepared and exhibited the documents: Memo of the scene of crime, Memo of securing blood-stained earth and crime empty, Photographs of the deceased, Inquest Report (Danistnama), Memo of injuries on the deceased, Memo of recovery of clothes of the deceased. The prosecution examined PW-6, Muhammad Uris, a dispatch rider, who testified that he delivered the sealed parcels containing blood-stained earth and clothes of the deceased to the Chemical Examiner for forensic analysis. PW-7, Hamzo, was examined as a Mashir (witness to the recovery), who produced and exhibited the memo of arrest of the accused and the memo of recovery of the crime weapon from the possession of the accused. The Investigating Officer, Shah Nawaz, appeared as PW-8. He produced and exhibited several documents including: Relevant Roznamcha entries relating to his movements during the investigation, Copy of separate FIR registered under Section 23(i) of the Sindh Arms Act, Letter addressed to the Mukhtiarkar for demarcation/sketch purposes, Letter dated 02.04.2019 from SSP to the Forensic Science Laboratory for ballistic examination of the weapon and crime empty, Letter dated 09.04.2019 from SSP seeking permission for sending the weapon to the Chemical Examiner, Forensic Science Laboratory Report, Chemical Examiner's Report, Additional Roznamcha entries regarding the dispatching of sealed parcels to the relevant forensic departments. After recording the depositions of all witnesses and exhibiting the relevant documents, the learned State Counsel closed the prosecution side of evidence.

5. After the closure of the prosecution evidence, the learned trial Court proceeded to record the statement of the accused/appellant under Section 342 of the Code of Criminal Procedure, 1898. In his statement, the accused denied all allegations, professed his innocence, and claimed that he had been falsely implicated in the case. He did not opt to record his statement on oath under

Section 340(2) Cr.P.C, nor did he produce any evidence in his defence. He, however, prayed for acquittal. Thereafter, upon hearing the arguments advanced by the learned counsel for the parties, the learned trial Court passed the impugned judgment, whereby the appellant was convicted and sentenced as detailed earlier. It is this judgment that is now under challenge through the instant Criminal Jail Appeal.

6. Learned counsel for the appellant contended that the prosecution case suffers from major contradictions and material inconsistencies, particularly between the ocular account and other evidence on record. It was argued that the motive, as alleged by the prosecution, remained unsubstantiated, and no strong or convincing motive was established against the appellant. She further submitted that there exists a clear contradiction between the ocular version and the medical evidence, rendering the prosecution's story highly doubtful. It was also argued that the recovery of the alleged crime weapon is not sufficient to sustain a conviction, especially when the manner and mode of recovery is highly doubtful. Moreover, the prosecution failed to establish the safe custody and secure transmission of the case property, and there was an unexplained delay in sending the recovered items to the forensic experts, which cast serious doubts over the integrity of the evidence. She maintained that the case is riddled with serious and material doubts, and therefore, the appellant is entitled to the benefit of doubt. In conclusion, the learned counsel prayed for the acquittal of the appellant.

7. On the other hand, learned counsel for the complainant vehemently opposed the appeal and argued that a specific and active role has been attributed to the appellant, that he shot and killed his wife on account of his annoyance over the complainant party’s visit to his house. He submitted that the chain of circumstantial evidence has been duly established, including the recovery of the crime weapon and the positive reports of forensic experts. He further contended that there was no ill will or ulterior motive on the part of the complainant to falsely implicate the appellant, and therefore, the learned trial Court had rightly convicted the appellant on the basis of reliable and trustworthy evidence.

8. Conversely, the learned Assistant Prosecutor General also supported the findings of the learned trial Court and prayed for dismissal of the appeal. He argued that the appellant was arrested the very next day of the incident, and the recovery of the weapon was duly effected in accordance with law. The

FIR was lodged promptly, and in the case of cold-blooded murder of a young woman, such promptness negates the possibility of fabrication. He further submitted that the prosecution has successfully established the chain of events linking the appellant to the commission of the offence, and the role of the appellant is specific and well-defined in the evidence led by the prosecution. Thus, the conviction recorded by the trial Court was based on sound appreciation of evidence, and no interference is warranted by this Hon'ble Court.

9. Heard the arguments advanced by the learned counsel and perused the material available on record with due judicial scrutiny.

10. The prosecution case initiates with the evidence of the complainant, who stated that they proceeded to the house of the deceased, Mst. Husna, the wife of the appellant, with whom she had two children. The prosecution's theory is founded primarily on the alleged motive that the appellant, being annoyed by the presence of the complainant (the father of the deceased) and his son (the brother of the deceased), committed the murder of his wife. However, this purported motive appears inherently flawed and questionable. It is confusing why, if the appellant was aggrieved by the presence of the complainant and his son, he did not cause them any harm but instead targeted his wife. The prosecution fails to explain this crucial inconsistency. According to the prosecution's own narrative, the appellant was annoyed by the complainant and his son, yet it is the deceased who suffered fatal consequences, while the complainant and his son were left unharmed. This aspect strains the probability of the prosecution's version and raises serious doubts about the authenticity of the alleged motive. In this context, reliance is made on the case of ***Mehrullah vs The State 2025 YLR 761.*** Furthermore, the complainant himself testified before the trial Court that the deceased, Mst. Husna, had never expressed any grievance or lodged any complaint against the appellant. There was no evidence of any prior dispute between the husband and wife. This absence of any known animosity or motive weakens the prosecution's case considerably. Even assuming, for the sake of argument, that the statements of the prosecution's ocular witnesses are accepted as truthful, the question remains: why did the appellant spare the complainant and his son, who were unarmed and vulnerable, despite being allegedly annoyed with them? The fact that these witnesses survived without harm and have given statements against the appellant undermines the credibility of the

prosecution's narrative and invites serious scrutiny. The mode and manner of the occurrence, as presented by the prosecution, do not appeal to logic or reason. They are fraught with improbabilities and inconsistencies, which render the entire prosecution story suspect. This position finds support in the judgment of ***Abdul Ghaffar and others v. The State (2023 PCR.LJ 769)***. Further, reliance is placed on the judgment of the Hon'ble Supreme Court of Pakistan in the case of ***Iftikhar Hussain alias Kharoo v. The State*** **(2024 SCMR 1449),** wherein it was held that:

> ***8. As far as motive is concerned, same stands disproved. Since, no evidence was produced by the prosecution to substantiate the motive of the accused to commit the murder of the deceased, specifically in light of the fact that, petitioner/ accused has no previous enmity with the complainant party, therefore motive set up by the prosecution in the FIR was disbelieved by the High Court.***

Additional, reliance is also placed on the judgment of the Hon'ble Supreme Court of Pakistan in the case of ***Muhammad Ijaz alias Billa and another v. The State and others*** **(2024 SCMR 1507),** wherein the Apex Court held as follows:

> ***9. As far as the motive is concerned, the prosecution alleged that the appellants murdered the deceased because he forbade appellant Muhammad Ijaz from coming to his house due to an illicit relationship with his wife, Mst. Naseem Akhtar. Primarily, the prosecution has failed to establish the fact of the alleged illicit relationship between the appellants. Therefore, the alleged motive lacks the force necessary to connect the appellants with the commission of the offence. Without concrete evidence proving the illicit relationship, the motive claimed by the prosecution remains unsubstantiated and cannot be relied upon to support the conviction. This fundamental gap in the case of the prosecution casts significant doubt on its narrative and the alleged motive behind the crime.***

11. Another significant and troubling aspect emerging from the deposition of the ocular set that the complainant testified that the deceased received multiple pellet injuries specifically eight pellets on the left abdominal region, which, as per his testimony, occurred while she was sitting with her baby on her lap. This fact raises a serious question of probability and credibility. If the baby was indeed seated on the deceased's lap at the time of the incident, it is highly improbable that the deceased could have sustained multiple pellet injuries in the immediate abdominal area without the baby sustaining any injury. The lap area, being directly beneath the baby's position, would naturally expose the infant to similar harm in such an event. However, the

prosecution has not produced any evidence indicating that the baby suffered even a single injury. This glaring discrepancy casts grave doubt on the prosecution's version of events and undermines the reliability of the complainant's testimony.

12. An additional critical aspect that casts serious doubt on the prosecution's case pertains to the inconsistent versions regarding the reporting of the incident to the police. The complainant, during his deposition, initially stated that he himself informed the police about the occurrence. However, he subsequently improved his version, asserting that the police were actually called by the accused's uncle, namely Dadoo Mallah, who brought the police to the scene. In contrast, the duty officer on record testified that he received information about the incident through a phone call from one Allah Bux. The duty officer maintained that the Roznamcha Entry No. 7 was made on the basis of this call, which specifically mentioned that the accused, Mehboob Ali, had committed the murder of his wife. The information was reportedly received at about 1:00 PM on the day of the incident. The testimony of the duty officer, examined as PW-5, further casts doubt on the prosecution's case. In his examination-in-chief, he stated that the complainant himself appeared at the police station on 30-03-2019 and that the first entry was recorded accordingly. However, a close scrutiny of the official entry reveals that it was actually made on the basis of information received from Allah Bux**.** This contradiction between the oral testimony of the duty officer and the documentary record raises serious questions regarding the reliability of his testimony. The inconsistency undermines the prosecution's version of the sequence of events and further weakens the chain of evidence. Given the crucial role of the first information in criminal investigations, such discrepancies are significant and detract from the credibility of the prosecution's case. This glaring contradiction between the versions given by the complainant and the official police record creates a serious question mark over the accuracy of the prosecution's narrative. An important aspect that emerges from the record is that the first information regarding the incident was reportedly provided by one Allah Bux Mallah. Notably, there is no evidence on record indicating that any member of the complainant's party formally did not inform the police of the incident, nor does any documentation reflect such communication from their side. The initial identification of the dead body before the medical officer and subsequent post-mortem report exclusively reference the presence of Allah Bux Mallah.

Conversely, the presence of the complainant and the alleged eyewitness, Hussain, is not reflected in any official record or medical documentation. This raises serious doubts about the actual presence of the complainant and Hussain at the crime scene, particularly since they claimed to have come from their native place and positioned themselves as eyewitnesses to the occurrence. Furthermore, the prosecution has failed to clarify or produce evidence regarding who informed Allah Bux Mallah about the incident, creating a significant gap in the chain of information and investigation. The omission of this crucial link severely undermines the prosecution's case. Most importantly, the prosecution did not examine Allah Bux Mallah as a witness, despite his evidently pivotal role as the first informer and a participant in the medical identification process. The failure to produce such a vital witness, who could have substantiated key aspects of the case, amounts to withholding material evidence. This omission invites an adverse inference against the prosecution under Article 129(g) of the Qanun-e-Shahadat Order, 1984, which empowers the court to draw unfavorable conclusions where a party suppresses or withholds evidence within its control. Moreover, while the prosecution moved an application to summon the Tapedar, it conspicuously failed to seek permission to produce Allah Bux Mallah, the most significant marginal witness in this case. This selective approach further highlights the weakness in the prosecution's evidence and raises doubts about the completeness of the case presented against the appellant. In this Context support is drawn from the cases titled ***Muhammad Nasir Butt and 2 others vs The State and others 2025 SCMR 662 and Raisat Ali and another vs The State and another 2024 SCMR 1224.***

13. The record reveals that the incident occurred on 30-03-2019**,** and the first entry regarding the incident was made on the same day based on information provided by one Allah Bux. Subsequently, the police approached the place of incident and initiated certain preliminary formalities prior to the registration of the FIR. However, despite these actions, the FIR was not lodged promptly**;** rather, there was an unexplained delay of approximately more than 21 hours before its registration. Such an inordinate delay in lodging the FIR**,** without any plausible or satisfactory explanation, seriously weakens the prosecution's case. It raises a strong presumption that the delay was deliberate and plan**,** potentially to manipulate or influence the narrative of the incident. This creates a strong inference that the legal heirs were perhaps induced or persuaded to lodge the FIR after some consideration or external influence**.**

Consequently, the presence and involvement of the complainant and the alleged eyewitness at the time of the incident become highly doubtful**.** It is probable that they were informed of the incident after the fact and subsequently posed as eyewitnesses, lodging the FIR with an afterthought narrative. The Honourable Supreme Court's decision in ***Zafar v. The State (2018 SCMR 326)*** is instructive in this regard, wherein it was held that an unexplained and unjustified delay in the registration of the FIR casts serious doubt on the prosecution's story and the reliability of the ocular account. In view of the above, the delay in lodging the FIR seriously dents the prosecution's case and significantly impacts the credibility of the prosecution witnesses. In this regard, guidance may be drawn from the judgment of the Hon'ble Supreme Court of Pakistan in the case of ***Muhammad Ashraf v. The State*** **(2025 SCMR 1082),** wherein the Court observed:

> ***4. We have noted that as per contents of the FIR, the occurrence took place on 28.12.2012 at 7.00 a.m. but the FIR was lodged on the said day at 12.00 (noon) and as such there is delay of about five (05) hours in lodging the FIR. The distance between the police station and the place of occurrence was only two furlongs. The complainant has categorically stated in the contents of the FIR that Moula Bakhsh succumbed to the injuries at the spot, hence it cannot be held that the abovementioned delay in lodging the FIR was consumed for the medical treatment of Moula Bakhsh (deceased), in order to save his life. The complainant has further conceded during his cross-examination that after the occurrence, he informed his relatives namely Irshad, Ali Dost and Muhammad Rafique through telephone about the incident, who reached at the spot at 8.15 a.m. He further stated that the police was also informed after arrival of his relatives at the place of occurrence and the police reached at the spot at about 9.15 or 9.30 a.m. but even then the FIR was not lodged till 12.00 (noon). All the above mentioned facts show that FIR was lodged after consultation/deliberation and there was no plausible explanation for the gross delay in lodged the FIR. The abovementioned gross delay in lodging the FIR has created doubt regarding the truthfulness of the prosecution story as observed in the cases reported as "Shaukat Hussain v. The State through PG Punjab and another" (2024 SCMR 929) and "Khial Muhammad v. The State" (2024 SCMR 1490). underline emphasis***

Further, in this context reliance is placed upon the case of ***Kashmir alias Soba Khan vs The State 2025 YLR 1401,*** as held that:

> ***"...Even otherwise, the alleged report was lodged delay without any explanation. The police officials reached the place of occurrence on 29.05.2021 at 8:30 pm before the lodgment of the FIR, which was confirmed by Abdul Hakeem IP (PW-10), who conducted the investigation of the case. He also prepared the inquest report of the deceased under section 174 Cr.P.C and thereafter sent the dead bodies to civil hospital Hub, which were then examined by PW-12 Dr. Yseen Zehri and PW-13 Dr. Reena Kohli on 29.05.2021 at 9:43***

> ***am. It was the duty of the police who should have lodged the FIR when they reached the place of occurrence for the first time at 8:30 am, but the concerned SHO did not do so and waited for the complainant. Under such circumstances, the element of deliberation and consultation cannot simply be ruled out of consideration.***

14. According to the testimony of the Lady Medical Officer, rigor mortis and postmortem lividity were both present on the body at the time of examination. However, during cross-examination, the doctor deposed that she was unable to determine the time between the occurrence of injuries and death. Rather, she confined herself to merely noting the time of examination of the dead body, without making any concrete effort to assess the probable time of death or the timing of the injuries. It is noteworthy that the postmortem examination, as per the report, commenced on 30-03-2019 at 2:00 PM and was completed at 3:30 PM**.** If rigor mortis had already developed by that time, it casts serious doubt on the prosecution's claim that death occurred at 12:30 PM on the same day. In support of this contention, reference is made to the judgment in ***Muhammad Hanif v. The State, reported in 2024 YLR 222***, wherein it was held that:

> ***Another troubling aspect of the case is that the WMO in her examination has admitted that rigor mortis was visibly present in the body and it is established position having supported by the Book of Medical Jurisprudence and Toxicology with A Concise Medical Dictionary, that usual duration of rigor mortis is 24 to 48 hours in winter and 18 to 36 hours in summer. As the incident took place in winter and dead body already showed signs of rigor mortis, it suggests that the death must have taken place any time in the past 24 to 48 hours, which contradicts prosecution's story. Another important aspect of the case is that WMO did not mention time of the death as well as she did not indicate that what was the gap between the incident and death, as she only mentioned the date and time of starting of post mortem and finishing the same, meaning thereby she neither bother to find out what was the exact time of the death, nor chose to mention it in the post mortem, this unholy alliance with prosecution is confidence bulldozing, least to say. In all such cases, benefit will naturally go to the accused***

Given this guidance, and assuming the prevailing season was summer, the presence of rigor mortis at the time of postmortem (2:00 PM to 3:30 PM) suggests that death may have occurred significantly earlier than 12:30 PM, as claimed. Thus, the presence of rigor mortis at the time of examination, if accepted, than the same undermines the prosecution's asserted timeline and creates a serious doubt regarding the exact time of death. This inconsistency is material and goes to the root of the prosecution's case, thereby entitling the accused to the benefit of doubt. In **Sajid Mehmood v. The State** ***(2022 SCMR***

1882), the Hon'ble Supreme Court of Pakistan elaborated on the medico-legal concept of rigor mortis in the context of determining the approximate time of death**,** as held in the cited case that:

> ***The phrase rigor mortis is latin with rigor meaning stiffness and mortis meaning death. Rigor mortis is a temporary condition. Depending on body temperature and other conditions, rigor mortis lasts approximately for 72 hours. The phenomenon is caused by the skeletal muscles partially contracting. The muscles are unable to relax, so the joints become fixed in place. Factors that affect rigor mortis include (i) temperature/weather, (ii) physical exertion, (iii) age, (iv) body fat, (v) any illness the person had at the time of death, (vi) sun exposure, (vii) gender, (viii) body structure, (ix) genetics, (x) tribe and (xi) inhabitation.***

15. The prosecution has also notably failed to produce any conclusive evidence regarding the last worn clothes of the deceased**,** which were allegedly pierced by gunshot pellets. The chemical examiner, despite examining the said clothes, remained completely silent on the critical aspect of the presence of holes or pellets on the garments. Likewise, the medical officer did not address this point during her testimony. Furthermore, the memo prepared for the seizure of the clothes does not mention any holes or pellet marks. In cases involving capital punishment, it is the paramount duty of the prosecution to establish every link in the chain of circumstances with utmost clarity and precision**.** The absence of such forensic evidence creates a serious lacuna and breaks the continuity of the prosecution's case. This failure to establish the presence of pellets in the deceased's clothes casts doubt on the authenticity and completeness of the prosecution's narrative**.** It weakens the evidentiary value of the chain of circumstances relied upon for conviction. Reliance in this regard is placed on the case of ***Zahoor Ahmed and others v. The State and others (2022 YLR 189)***, wherein it was held that:

> ***19. On 31.03.2013 at 10:00 p.m. Dr. Furqan Hussain held the autopsy and observed three injuries including two entry wounds and the other was exit of injury No.2. During the cross-examination, the Medical Officer admitted that he observed no corresponding holes on the clothes of the deceased and had he seen any hole, he would have definitely mentioned the same in postmortem examination report. His statement further reflected that it was possible that fire shots strike the body of the deceased in naked condition.***

16. In the present case, as per the Chemical Examiner's report, human blood was detected on the clothes and the blood-stained earth recovered. However, a significant lacuna in the prosecution's case arises from the investigative agency's failure to determine and establish the blood groups of

the deceased persons. There is no evidence on record regarding their blood grouping, nor has any attempt been made to match the blood stains found on the exhibits with the blood group of the deceased. The prosecution has also failed to obtain or produce any evidence concerning the blood grouping of the deceased in order to rule out the possibility that the blood found on the recovered clothes may belong to the deceased themselves. In such circumstances, the forensic report merely stating the presence of human blood on the exhibits, without any corroborative evidence linking it to the deceased through blood group comparison, substantially weakens the probative value of such forensic evidence. Reliance is placed on the case of ***Muhammad Asif vs The State 2017 SCMR 486,*** wherein it was held that:

> ***19. We have noticed that the Punjab Police invariably indulge in such a practice which is highly improper because unless the blood stained earth or cotton and blood stained clothes of the victim are not sent with the same for opinion of serologist to the effect that it was human blood on the crime weapons and was of the same group which was available on the clothes of the victim and the blood stained earth/cotton, such inconclusive opinion cannot be used as a piece of corroboratory evidence.***

Further, in this context, reliance is placed on the judgment in ***Syed Jehanzaib and another v. The State (2025 YLR 1321),*** wherein it was held that

> ***16. An important gap in the prosecution story has been caused by the failure of the investigative agency to obtain the blood groups of the deceased persons. There is no evidence at all with regard to their blood grouping or whether it matched the blood stains on the exhibits which were sent for forensic examination. The prosecution has also not cared to obtain the blood grouping of the deceased so as to rule out the possibility of blood on the clothes which were allegedly recovered being their own. In this background, the report of laboratory that human blood was found on the exhibits without any material evidence on other important aspects loses significance.***

17. It is a surprising and significant fact that the Tapedar's sketch produced in evidence does not indicate the positions of either the accused or the complainant party. Instead, it merely shows the location where the dead body of the deceased was found. The sketch fails to depict the sequence of events or the chain of occurrence. Support for this contention is drawn from the case of ***Muhammad Shaukat and others vs. The State (2020 PCr.LJ Note 170).*** The sketch fails to depict the spatial arrangement or sequence of events relevant to the occurrence, thus undermining its evidentiary value.

18. While, according to the prosecution's version, the blood-stained earth and clothes were secured on the day of the incident, it is evident from the record that the same were sent to the Chemical Examiner after an unexplained and abnormal delay of 10 days. No justification or explanation for this delay has been provided by the prosecution. In this regard, reliance is placed on the judgment titled ***Abdul Majeed alias Jawa vs. The State*** reported as ***2022 YLR 1938***, wherein the Hon'ble Court categorically held that:

> ***13. The blood stained clothes and blood stained earth received to FSL on 28th October, 2019 with the delay of more than 60 days without any plausible explanation that where the material was kept and in whose custody. The positive report in such circumstances cannot benefit the prosecution. No evidence is available whether the blood group of blood-stained clothes of deceased/injured were the same or not. Reliance is placed on the case of Muhammad Asif v. The State 2017 SCMR 486, wherein it was held:--***
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> ***"18. Before parting with this judgment, we deem it essential to point out that, mere sending the crime weapons, blood stains to the chemical examiner and serologist would not serve the purpose of the prosecution nor it will provide any evidence to inter link different articles.***

Thus, in the present case, the prosecution cannot derive any benefit from the positive report of the Chemical Examiner due to the inordinate and unexplained delay, which casts serious doubt on the sanctity and chain of custody of the evidence.

19. As major discrepancies have come to the surface in the prosecution case, it is evident from the testimony of the mashir, who was attracted to the place of incident after its occurrence and acted as mashir of the case. He deposed before the trial Court that he had knowledge of the incident at about 12:00 noon and reached there at about 12:30 p.m., by which time the incident had already taken place. Conversely, the complainant party asserted 12:30 p.m. as the time of the incident. Furthermore, the medical officer, in her post-mortem report, recorded the presence of rigor mortis. All these aspects clearly indicate that the prosecution has no definite knowledge or awareness regarding the exact time of death of the deceased.

20. Further, according to the prosecution evidence, one Muhammad Uris has been shown as the dispatch rider who allegedly deposited the case property with the Chemical Examiner as well as the Forensic Science Laboratory, for examination of clothes, blood-stained earth, and the weapon with empties. However, the documentary record presents an entirely different

picture. The letter of the concerned SSP, as well as the forwarding letter of the Investigating Officer, reflect that the dispatch rider was in fact HC Sher Muhammad, and not Muhammad Uris. Moreover, the Chemical Examiner's report itself indicates that one HC Muhammad Yousif had handed over the sealed parcels to the Chemical Examiner, instead of Muhammad Uris or Sher Muhammad. Such material contradictions in the chain of custody of the case property cast serious doubt upon the safe transmission and sanctity of the same.

21. Now, coming to the point of recovery of the alleged weapon, it is on record that the appellant was arrested on 31-03-2019 along with the crime weapon. However, it is a well-settled principle of natural conduct that ordinarily, after commission of the offence, an accused person does not openly carry the weapon of offence while moving about in the city. In most cases, such weapon is either concealed or disposed of, for example by throwing it into a river or otherwise destroying the evidence. In the present case, the prosecution's stance that the appellant was apprehended while roaming in the city coupled with the crime weapon is against normal human conduct and the general course of events, thereby creating serious doubt regarding the veracity of the alleged recovery.

22. Another surprising aspect is that the concerned Station House Officer issued a letter dated 09-04-2019 to the SSP seeking permission to send the crime weapon along with empties for FSL examination. This correspondence indicates that the weapon was transmitted only after obtaining such permission. However, the record further reflects that the SSP had already issued a letter dated 02-04-2019 forwarding the property to the FSL for examination. This contradiction clearly creates serious doubt as to whether the property was already dispatched on 02-04-2019 under the letter of the SSP, or whether it remained in police custody until 09-04-2019 when permission was sought. Such inconsistency raises grave doubt regarding the availability and handling of the crime weapon, thereby shattering the prosecution's claim of safe custody and safe transmission of the case property to the FSL.

23. It is also on record that the crime weapon was sent to the Forensic Science Laboratory after an unexplained delay of three (03) days. No plausible explanation has been offered for such delay, nor is there any malkhana entry produced to show that the property remained in safe custody during this period. The prosecution also failed to examine the in-charge of the malkhana,

who could have explained the manner in which the property was kept in safe custody and then transmitted to the FSL. ***Law is well-settled by now that prosecution is under legal obligation to prove the safe custody of the recovered weapon and its safe transmission to the Forensic Science Laboratory as held by the honourable Supreme Court in the case of Kamal Din alias Kamala v. The State (2018 SCMR 577).*** Further Reliance is placed upon the case of ***Zafar Ali abbasi and another vs Zafar Ali abbasi and others (2024 SCMR 1773),*** as it was held that:

> ***9. Furthermore, in order to establish the guilt of the accused, it is the legal obligation of the prosecution to prove each and every link of the chain of evidence beyond reasonable doubt. In the instant case, the alleged recovery was effected on 12.01.2017, while the same was received at the Forensic Science Laboratory on 16.01.2017, indicating an unexplained delay of four days. The prosecution has failed to offer any plausible explanation for this delay. More importantly, the prosecution has not produced any evidence to establish the safe custody and safe transmission of the recovered weapon. Neither the concerned malkhana official nor the dispatch rider was examined to prove the chain of custody. The relevant entry in Register No. 19, which is provision under the Police Rules, 1934, was also withheld. Not a single prosecution witness deposed that after the recovery, the case property was kept in safe custody or entered into the Roznamcha. It is a settled principle of law that mere production of a positive forensic report is not sufficient to sustain a conviction unless the prosecution establishes the integrity of the case property through unbroken and reliable chain of custody. In the present case, the recovery proceedings are jammed with serious doubts and procedural lapses, which cast a shadow over the credibility of the evidence. In such circumstances, where material inconsistencies exist and the recovery itself is rendered doubtful, a conviction cannot be sustained. Reliance is placed upon the case of Haji Nawaz vs The State (2020 SCMR 687).***
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> ***10. Furthermore, the appellant's case is fortified by the following case law, wherein the Superior Courts have consistently held that where the prosecution's case is marred by major inconsistencies, procedural flaws, and doubtful recovery, the accused is entitled to the benefit of doubt. The settled principle of law is that if a single circumstance creates reasonable doubt in the mind of a prudent person, the benefit of such doubt must be extended to the accused, as a matter of right and not of concession.***

24. It is well-established in law that where the ocular account becomes doubtful or unreliable, any alleged recovery made pursuant to such account cannot, by itself, be sufficient to uphold the conviction and sentence of an accused. In the present case, the recovery is not only incapable of corroborating the prosecution’s version due to the doubtful nature of the ocular evidence, but the recovery proceedings themselves are riddled with serious procedural and evidentiary lacunae. The Honourable Supreme Court

of Pakistan, in the case of *Muhammad Ashraf v. The State* (2025 SCMR 1082), has categorically held that:

> ***9. Insofar as the recovery of blood stained hatchet and positive report of Chemical Examiner (Ex.No.18/B), are concerned, without discussing the merits and demerits of these pieces of the prosecution evidence, it is noteworthy that as we have already disbelieved the direct prosecution evidence, therefore, the conviction and sentence of the appellant cannot be maintained merely on the basis of alleged recovery of hatchet and positive FSL report. Reference in this context may be made to the judgments reported as "Dr. Israr-ul-Haq v. Muhammad Fayyaz (2007 SCMR 1427), 'Muhammad Afzal alias Abdullah and others v. The State and others' (2009 SCMR 436), 'Abdul Mateen v. Sahib Khan and others' (PLD 2006 Supreme Court 538) and 'Nek Muhammad and another v. The State' (PLD 1995 Supreme Court 516).***

25. It is a well-settled principle of criminal jurisprudence that if a single loophole or reasonable doubt emerges on the surface of the prosecution's case, the benefit of such doubt must invariably be extended to the accused. Reliance in this regard is placed on the judgment of ***Qurban Ali v. The State*** **(2025 SCMR 1344).**

26. In view of the foregoing reasons and discussion, and upon thorough examination of the record, it has become crystal clear that the prosecution has failed to establish the charge against the appellant beyond the shadow of reasonable doubt. Accordingly, the appellant **Mehboob Ali S/o Muhammad Ayub, by caste Mallah** is hereby acquitted of the charge under Section 302, PPC, arising out of FIR No. 75 of 2019, registered at Police Station Sujawal. Consequently, the conviction and sentence awarded to him through judgment dated 11-08-2022 passed by the learned trial Court in Sessions Case No. 306 of 2019 are hereby set aside. The appellant shall be released forthwith, if not required in any other custody case.

JUDGE