

IN THE HIGH COURT OF SINDH AT KARACHI

Present

Mr. Justice Syed Fiaz ul Hassan Shah

Criminal Appeal No.86 of 2025

Appellant : Meghraj Anand S/O Ogha
through Mr. Muhammad Munir Ahmed,
Advocate

State : through Mr. Siraj Ali Khan, Addl. P.G. Sindh.

Date of Hearing : 07.10.2025

Date of Order : 10.10.2025

J U D G M E N T

- Dr. Syed Fiaz ul Hasan Shah, J – The Appellant has filed the instant Criminal Appeal under section 410 Criminal Procedure Code, 1898 (Cr.P.C.) against the Judgment dated 04.01.2025 (**impugned Judgment**) passed by learned IV-Additional Sessions Judge MCTC-EXT, Karachi South (**Trial Court**) in Sessions Case No.2617/2021 under FIR No.349/2021 under section 302 Pakistan Penal Code, 1860 (**PPC**) registered at PS Baghdadi; whereby he was convicted under Section 302(b) PPC and sentenced to life imprisonment. He was also directed to pay compensation of Rs.500,000/- to the legal heirs of the deceased Kaanta Kumari. In case of failure, he shall undergo imprisonment for six months more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.
2. Brief facts of the prosecution case are that on 08.06.2021 at about 2250 hours the complainant Rajesh son of Kaanji had lodged an FIR at PS Baghdadi narrating therein that on 04.02.2020 marriage of his sister namely Kaanta Kumari was solemnized with Meghraj Anand son of Ogha who

belongs to Mashori Tribe and prior to this marriage there was no relation between the families of Complainant and Appellant. The Complainant further narrated in the FIR that due to such wedlock their one baby girl was born who is aged about 6/7 months; however, after some months of their marriage, the Appellant Meghraj Anand has changed his behavior and started misbehaving and abused Kaanta Kumari (now deceased victim) as the said Appellant was interested in another woman. These facts had been disclosed by Kaanta Kumari herself to elder sister of complainant and instructed her not to disclose the said facts to brothers. It was further narrated therein that prior to this Meghraj had already attempted to kill Kaanta by putting pillow on her face so also used to maltreat Kaanta on different pretexts and not allow her to talk to her family even on Phone. The complainant narrated in the FIR that on 05.06.2021 he was available at his job where at about 1630 hours he received a phone call from Maghraj who informed him that Kaanta had committed suicide by hanging herself by neck whereupon complainant reached at Civil Hospital where family members of Meghraj brought Kaanta at hospital and shifted her to Emergency Ward, where doctors declared her dead. Complainant further narrated in the FIR that when he was available at Hospital where his wife told him that when she reached at their house, Kaanta was alive and breathing where on inquiry Meghraj informed complainant that Kaanta had gone to take shower and locked the door from inside and when she did not return for long, they got open the door and found her hanged. Appellant Maghraj told them that this is not a good hospital and Kaanta may be shifted to some good hospital but he took the ambulance to home and thereafter, she was buried to Moach Goth Graveyard. However, no one from Meghraj family reported the matter to police, as such, the instant FIR was lodged by the brother of deceased.

3. To prove case, the prosecution has examined as many as 13 prosecution witnesses so also 02 defence witnesses and exhibited various documents and items. Thereafter, the prosecution closed its side vide Ex.18. Thereafter, statement of accused was recorded under section 342 Cr. P.C at Ex.19 whereby he denied the allegations of the prosecution levelled against him and requested for mercy; however, he showed his voluntariness to be examined on oath so also named two witnesses in his defence.
4. I have heard the learned counsel for the appellant as well as the learned Addl. P.G. and with their assistance meticulously perused the record.
5. I have noted that the prosecution has set up a case of the strained marriage relationship of the Appellant with her wife Kaanta (now deceased) and produced medical report to prove that the deceased was died due to homicide and it was not the case of suicide as defence has taken plea.
6. I have considered the contention of the Appellant that the Appellant and the deceased Kaanta have solemnized love marriage and they were living happy marriage life for the last 12 years. However, this contention is rebutted by the evidence of prosecution witnesses. The fact of strained marriage relationship between the Appellant and deceased wife Kaanta has established through the oral evidence of PW-1 (complainant) who deposed *“My sister after four month of the death of her father-in-law when she was pregnant 06 months she came to visit us. My sister complained with the family that her husband bothers her a lot and threatened her for solemnize second marriage. Accused used to threaten my sister with my reference that I had taken separation from my first wife and had conducted second marriage so does he. Accused used to mentally torture my sister that her maiden family is not good and not respected..... After 03 months my sister gave birth to a daughter. The things seem to be going alright when one day when my niece was about 04 months I*

received a call when I was in office around 12 in noon from accused Meghraj Anand inquiring that where I was and asked to me to home immediately. I rushed towards in 15/20 minutes. The in-laws of my sister informed that my sister was going to commit suicide but the family rescue her. My sister declined to accept it that no such thing happened. Their family requested not to disclose my family as they might be worried.My elder sister Dhan Bai told me when we sitting after the midnight that its all done by Anand. She further told me that Kaanta had disclosed some 03 weeks before her death that Anand tried to put pillow over her face and after some time removed it and Kaanta further told my sister that if again Anand did any such kind of act she would tell the family and take action.” This fact has confirmed by the PW-4 Dhan Bai, who deposed *“Seeing me my Bhabhi Saveeta told me that Kaanta is no more. I started crying and ran inside the Emergency, where my brother Rajesh was also available. I hugged him and crying told Rajesh that Anand had killed our Kaanta. Listening that Anand interrupted and said this is cheap hospital let’s move to some other good hospital. Kaanta was taken from Civil Hospital and carried in Ambulance. I also hoped in the Ambulance with elder brother of Anand, Laahan Bai, Bhaabi of Anand and Anand himself. While my brother and Saveeta were followed us at motorcycle.”* Although PW-4, Dhan Bai, did not confirm whether a pillow was placed on the face of the deceased Kaanta at the time of death, she unequivocally stated that it was the Appellant, Anand, who caused her death. The prosecution has established the motive behind the estranged relationship between the Appellant and the deceased wife, which stemmed from the Appellant’s alleged extra-marital affairs with other women.

7. To substantiate this motive, the prosecution produced PW-09, Ms. Rameela Murjee, who testified that a recent altercation had taken place between the

Appellant and the deceased. This quarrel was triggered by the deceased reading text messages exchanged between the Appellant and PW-09, thereby revealing the nature of their relationship. The PW-09 deposed *“I called Anand Maharaj and narrated what happened and also told him if he can find any other job . After we were not in contact for long but after a long I was asked by Anand Maharaj to send me CV he may adjust me at bico company. I sent after a long when I had not received any response I had asked Anand Maharaj what happened of my job On next day I received a text message from the wife of Anand Maharaj , Kaanta and was inquiring for what purpose I am texting and calling her husband I told Kaanta that she should not take it wrong and I had only contacted Anand Maharaj for job purpose. I had also excused Kanta if her feelings are hurt. I have apologized and told her that I won’t be calling her husband. I had also tried to assure her that her husband is my brother. I also told her that she can ask anything if she had any question.”* Such evidence is relevant under Article 19 of the Qanun-e-Shahadat Order, 1984, which permits the admissibility of facts showing motive, preparation, or conduct of the accused. The testimony of PW-09, coupled with the medical evidence and the strained marital relationship, forms a coherent chain of circumstances pointing towards the guilt of the Appellant. The prosecution has thus succeeded in establishing both the motive and the *actus reus* necessary to sustain the charge.

8. The testimony of PW-10, Dr. Zaki-uddin Ahmed, an independent medical expert and healthcare professional, is found to be reliable, trustworthy, and confidence-inspiring. He was a member of the exhumation board and rendered the following opinion:

Opinion:

"On the basis of postmortem examination of the deceased, the

exhumation board is of unanimous opinion that death occurred due to asphyxia as a result of constriction of the neck. The manner of death is homicidal. However, decomposed visceral samples from the chest and abdominal cavity were preserved for chemical analysis to rule out any intoxication."

9. During cross-examination, Dr. Zaki-uddin clarified that the nasal bone chip was missing at the time of postmortem due to decomposition, noting that the nasal bone is delicate and prone to disintegration. He further stated that the nasal bone was not fractured, but the chip was indeed missing. He denied the suggestion that the preserved viscera, duly sealed, were not handed over to the Investigating Officer in the presence of a Magistrate. PW-11, Dr. Samia Sahar, also a member of the exhumation board, corroborated the findings of PW-10. She deposed that:

Cause of Death:

"On the basis of postmortem examination of the deceased, the exhumation board was of unanimous opinion that death occurred due to asphyxia as a result of constriction of the neck. The manner of death is homicidal. However, decomposed visceral mass from the chest and abdominal cavity was preserved for chemical analysis to rule out any intoxication."

10. Similarly, PW-13, Dr. Gulzar Ali, reaffirmed the same conclusion. He stated:

Cause of Death:

"On the basis of postmortem examination of the deceased, the exhumation board was of unanimous opinion that death occurred due to asphyxia as a result of constriction of the neck. The manner of death is homicidal. However, decomposed visceral mass from the chest and abdominal cavity was preserved for chemical analysis to rule out any intoxication."

11. The unanimous medical opinion of all three experts—PW-10, PW-11, and PW-13—clearly establishes that the cause of death was *asphyxia* due to

neck constriction and that the death was homicidal in nature. This expert evidence, given by qualified professionals and supported by postmortem findings, carries significant probative value under Article 59 of the Qanun-e-Shahadat Order, 1984, which recognizes expert opinion as relevant and admissible in determining matters requiring specialized knowledge. The consistency and unanimity among the medical witnesses further reinforce the prosecution's case and rule out the possibility of suicide or accidental death.

12. Under Article 14 of the Qanun-e-Shahadat Order, 1984, a fact is relevant if it is necessary to explain or introduce a fact in issue or relevant fact. In the present case, the conduct of the Appellant at the time of the death of his wife, Kaanta, is a material circumstance that sheds light on the nature of the incident and the surrounding events. His demeanor, described as rapacious and impassive, is indicative of strained marital relations and supports the prosecution's narrative. The evidence of PW-1 (brother of the deceased), PW-3 Saveeta (wife of the complainant), and PW-4 Dhan Bai is consistent and corroborative. They testified that upon hue and cry raised by PW-4, the Appellant informed them that the deceased's body was being taken to Aga Khan Hospital. However, contrary to this assertion, the body was instead transported to the residence of PW-1. This sequence of events and the evasive conduct of the Appellant and his family members immediately following the death of Kaanta are relevant facts under Article 14, as they help establish the circumstances surrounding the incident and the possible concealment of material evidence. Such behavior raises serious doubts about the purported suicide and supports the prosecution's case.

13. It is noted that, according to the prosecution's case, the deceased Kaanta was murdered by strangulation. In contrast, the defence has consistently maintained that the deceased committed suicide by hanging herself with a

dupatta inside the washroom, and that the brother of the Appellant, Shaam, broke open the door upon her failure to respond to family members' calls. However, the defence has failed to bring any substantive evidence on record to establish that the door was indeed locked from inside by the deceased, or that it was forcibly broken to retrieve her body. No broken door, damaged lock, or photographic evidence of the alleged forced entry has been produced before the trial Court.

14. This omission attracts an adverse inference under Article 129(g) of the Qanun-e-Shahadat Order, 1984, which provides that the Court may presume that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it. Had the door been genuinely broken to access the deceased, the defence ought to have produced the broken lock or door as corroborative evidence. The absence of such material evidence casts serious doubt on the defence version and lends support to the prosecution's claim of homicide. Furthermore, it is also observed that neither the Appellant nor any of the defence witnesses, including his brother, sister, or mother, made any effort to report the alleged suicide to the police. Under Section 174 of the Code of Criminal Procedure, 1898, it is mandatory to inform the police of any unnatural death, including suicide, to enable lawful investigation. The failure to report such a serious incident further undermines the credibility of the defence and suggests an attempt to suppress material facts.

15. In view of the above, the defence plea of suicide appears to be an afterthought and lacks evidentiary support, thereby strengthening the prosecution's case of homicidal death by strangulation.

16. In the present case, while the conviction of the Appellant under Section 302(b) of the Pakistan Penal Code, 1860 is maintained, certain mitigating circumstances warrant a reconsideration of the sentence awarded. These

include the partial retraction by PW-1 (Complainant) concerning the earlier allegation made by PW-4 regarding an attempted murder by the Appellant involving suffocation with a pillow. Additionally, the delay in reporting the incident resulted in the loss of crucial forensic evidence, thereby weakening the evidentiary foundation of the prosecution's case. It is also noted that PW-3, during her cross-examination, admitted to having improved various portions of her testimony, which further dilutes the aggravating aspects of the prosecution's narrative.

17. It is a settled principle of criminal jurisprudence that the object of punishment is not only retribution and deterrence but also reformation of the offender. In light of the above mitigating factors, coupled with the Appellant's advanced age, his status as a first-time offender, and the social embarrassment he has already endured within his family and community, the case merits favorable consideration for reduction in sentence. Reliance is placed on the dictum laid down by the Hon'ble Supreme Court in *Faiz Ahmad and another v. Shafiq ur Rehman* (2013 SCMR 583), wherein it was held that sentencing must be proportionate to the gravity of the offence and the attendant circumstances. The courts are empowered to exercise judicial discretion in tailoring punishment where mitigating factors exist, ensuring that justice is tempered with equity and compassion.

18. In view of the above, and while maintaining the conviction, I am inclined to take a lenient view with respect to sentencing. Accordingly, the instant Criminal Appeal is dismissed. However, the sentence of life imprisonment awarded to the Appellant under section 302(b) PPC is converted into Sentence under section 302(c) PPC and is reduced to the period of 15 (Fifteen) years with fine Rs.1,00,000/-. Failing to repay fine amount, Appellant would further undergo two-month simple imprisonment. Office to communicate to all concerned accordingly.

JUDGE

Kamran/PS