IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Crl. Acquittal Appeal No. D-41 of 2019

Appellant/Complainant	:	Ghulam Rasool Ogahi t*hrough* Mr. Faiz Muhammad Larik, Advocate.
Respondents	:	Nawab @ Naboo Ogahi and others *through* Mr. Ashfaque Hussain Abro, Advocate and Mr. Aitbar Ali Bullo, Deputy Prosecutor General.

Criminal Appeal No.S-107 of 2019

Appellant	:	Amanullah Ogahi t*hrough* Mr. Athar Abbas Solangi, Advocate.
Respondent	:	The State *through* Mr. Aitbar Ali Bullo, Deputy Prosecutor General
Date of Hearing	:	09.09.2025.
Date of Decision	:	16.09.2025.

JUDGMENT

Ali Haider 'Ada'.J:- By this single judgment, we intend to dispose of the captioned appeals, as all arise out of a common judgment passed by the learned Additional Sessions Judge-I, Kandhkot (the trial Court) in Sessions Case No. 159 of 2019 (Old No. 163 of 2016). The accused persons namely Nawab alias Naboo, Moula Bux, Badal, Rehamatullah, Manzoor Ahmed, Ali Gohar, and Amanullah were tried for offences punishable under Sections 302, 337-A(i), 337-A(ii), 337-F(i), 337-F(v), 504, 148, and 149 of the Pakistan Penal Code, arising out of Crime No. 47 of 2014 registered at Police Station Ghouspur. Except for accused Amanullah, all other aforementioned co-accused were acquitted by the learned trial Court. However, accused Amanullah was convicted and sentenced to rigorous imprisonment for life, along with a fine of Rs. 200,000/-. In case of default in payment of the fine, he was further directed to undergo simple imprisonment for a period of six months. The benefit under Section 382-B of the Code of Criminal Procedure, was, however, extended to him.

2. The complainant challenged the acquittal of the accused by filing Criminal Acquittal Appeal No. 41 of 2019, wherein the acquitted accused

were cited as respondents. Simultaneously, the convicted accused Amanullah assailed the judgment of conviction by filing Criminal Appeal No. 107 of 2019. (Both appeals are captioned above.) Through these respective appeals, both the complainant and the convicted accused Amanullah have called into question the judgment dated 28.10.2019, passed by the learned trial Court.

3. The brief facts of the case, as narrated in the FIR, are that the complainant Ghulam Rasool lodged the FIR on 07.07.2014 at about07:00 pm., regarding an incident that occurred earlier the same day at about 11:30 am. According to the complainant, the accused party had previously leveled an allegation of Karo against his nephew Shah Nawaz. Due to the complainant party's failure to submit to a faisla, the accused allegedly became aggrieved. On the day of the incident, at the aforementioned time, the accused persons, along with others, allegedly armed with lathis, confronted the complainant party. At that time, the complainant along with his nephew Khadim Hussain, and his cousin Adam and Liaquat, were on route to Ghouspur city for work. The accused allegedly encircled them and assaulted all of them with lathis, causing injuries to their heads, arms, legs, and other parts of their bodies. After committing the alleged assault, the accused party fled the scene. The complainant party thereafter approached the concerned police station, where the police prepared a memo of injuries and issued referral letters for medical treatment. The injured were then taken to the hospital, where all except Khadim Hussain received medical treatment. Khadim Hussain, due to the severity of his injuries, was referred to Larkana for further treatment. Subsequently, after receiving medical treatment, the complainant returned to the police station and lodged the FIR initially under Sections 337-A(i), 337-F(i), 504, 148, and 149 PPC. However, upon receiving information that the injured Khadim Hussain had succumbed to his injuries and passed away, Section 302 PPC was added to the case. Thereafter, the investigation was conducted by the Investigating Officer, and the matter was sent up for trial.

4. As the trial commenced, the learned trial Court proceeded by supplying the requisite documents to the accused in compliance with Section 265-C of the CrPC. Initially, a charge was framed; however, due to the arrest of various accused at different stages and on separate occasions, the charge was subsequently amended on 30.09.2019 against the aforementioned

accused persons. All the accused pleaded not guilty to the amended charge and claimed trial. Their pleas were duly recorded by the learned trial Court. Thereafter, the prosecution was granted permission to lead its evidence.

5. During the course of the trial, the complainant Ghulam Rasool appeared as Prosecution Witness No. 1 (PW-1) and deposed in support of the case. He produced a copy of the FIR as well as the receipt acknowledging the delivery of the deceased's body. The prosecution then examined PW-2 Liaquat Ali**,** who was injured in the incident, and PW-3 Muhammad Ishaque**,** who acted as mashir for various memos, including the memo of injuries, inquest report, memo of the dead body, site inspection memo, and the memo regarding the clothes of the deceased. PW-3 also produced these documents during his examination. Thereafter, PW-4 Dr. Sundro was examined, who exhibited the medical certificates of the injured persons and the post-mortem report of the deceased. PW-5 Abdul Karim**,** who was the duty in-charge at the relevant time, was examined and stated that he had prepared the memo of injuries and issued referral letters for medical treatment. PW-6 Ali Nawaz**,** the mashir of arrest and recovery, was then examined. He exhibited the memo regarding the arrest and recovery of the accused Nawab alias Naboo and Moula Bux. During the arrest, lathis were allegedly recovered from both accused, and one pistol was also recovered from Nawab alias Naboo. The Investigating Officer Mir Hassan was also examined; however, due to serious health issues, his cross-examination could not be completed. In his place, other police officials, namely Nangar Ali and Abdul Hayee**,** were examined. Furthermore, the prosecution examined the local revenue official **(**Tapedar**)** Khaleeq-ul-Zaman**,** who produced the sketch/map of the place of incident. During the course of evidence, the complainant submitted an application to give up the injured witness Adam**,** and the learned State Counsel also filed a statement accordingly, requesting the Court to dispense with his examination. After recording the evidence of the prosecution witnesses, the learned Law Officer filed a statement closing the prosecution side.

6. Thereafter, the learned trial Court recorded the statements of all accused persons under Section 342, CrPC. In their respective statements, they professed their innocence and denied the allegations, praying for their acquittal. Upon conclusion of the trial and after providing an opportunity of hearing to both sides, the learned trial Court delivered the impugned

judgment dated 28.10.2019, whereby all the accused persons except Amanullah were acquitted of the charges. Accused Amanullah was convicted and sentenced as mentioned earlier. Being dissatisfied and aggrieved by the said judgment, the complainant filed Criminal Acquittal Appeal No. 41 of 2019, while the convicted accused Amanullah filed Criminal Appeal No. 107 of 2019, thereby assailing the impugned judgment.

7. Learned counsel for the complainant/appellant in Criminal Acquittal Appeal No. 41 of 2019, as well as the learned Deputy Prosecutor General, Sindh, submitted that sufficient evidence was available on record against the acquitted respondents/accused. However, the learned trial Court erred in extending the benefit of doubt to them. It was contended that the prosecution had established the active involvement of all accused in causing injuries not only to the deceased but also to the complainant party, wherein three persons sustained injuries and one person succumbed. They further argued that the acquittal of the accused was based merely on minor discrepancies and inconsistencies, which do not go to the root of the prosecution case, and such grounds do not justify acquittal in a case involving serious offences including murder and multiple injuries. It was further argued that the learned trial Court misread the evidence and failed to appreciate the cumulative impact of the prosecution's evidence. As far as the conviction of accused Amanullah is concerned, both the learned counsel for the complainant and the learned Law Officer supported the impugned judgment to the extent of his conviction. They submitted that the learned trial Court had rightly convicted Amanullah on the basis of the available evidence. However, they prayed that the acquittal appeal be allowed to the extent of convicting the remaining accused and that the appeal filed by accused Amanullah against his conviction be dismissed.

8. In rebuttal, learned counsel appearing on behalf of the respondents/acquitted accused submitted that the learned trial Court had rightly acquitted the accused on the basis of major contradictions and material inconsistencies in the prosecution evidence. He contended that the case against the acquitted accused was not free from doubt, and no legally admissible evidence was available to warrant their conviction. He emphasized that the scope of an acquittal appeal is narrow and restricted, as once an accused is acquitted, strong and compelling reasons must exist to

interfere with such acquittal. He therefore prayed for dismissal of the acquittal appeal.

9. Learned counsel for the appellant Amanullah submitted that the impugned judgment suffers from serious legal and factual errors. He argued that the judgment is summary in nature and lacks analytical discussion, particularly regarding the differential treatment of similarly placed co-accused. He contended that the learned trial Court convicted the appellant Amanullah while acquitting the co-accused on the very same set of evidence, which is against the settled principles of criminal jurisprudence and fair trial. He further submitted that the complainant party made dishonest improvements during their testimony, especially regarding the role attributed to Amanullah, which was concocted and not corroborated by any independent or reliable evidence. He questioned the credibility of the motive alleged by the prosecution, describing it as wholly unbelievable and unsubstantiated. The learned counsel also pointed out material contradictions between the ocular account and the medical evidence, arguing that such discrepancies further erode the prosecution's case. He asserted that no recovery was affected from the appellant, and no circumstantial evidence was brought on record to connect him with the commission of the offence. He emphasized that deliberate and intentional falsification by the prosecution witnesses had come on record. Therefore, he submitted that the appellant Amanullah is equally entitled to the benefit of doubt, just as it was extended to the co-accused by the learned Trial Court, and prayed for his acquittal by allowing the criminal appeal.

10. We have heard the arguments advanced by the learned counsel for the respective parties and the learned Law Officer. We have also carefully perused the material available on record in the light of judicial scrutiny.

11. First and foremost, the prosecution case is that the alleged incident occurred on 07.07.2014 at about 11:30 am, wherein the complainant party was allegedly assaulted and sustained injuries. The record reflects that the complainant party approached the concerned police station, where the duty officer examined them, prepared the memo of injuries, and issued letter No. 813 for medical treatment. The said duty officer, while deposing during the trial, stated that a non-cognizable report (NC) was lodged by the complainant party. However, neither was such NC report produced on

record nor was any plausible explanation offered for its non-production. More significantly, during his deposition, the duty officer did not mention even a single word indicating that the complainant party had, at that time, disclosed the names of the persons who had allegedly assaulted them and caused the injuries. This omission casts serious doubt on the veracity of the prosecution's case. It is a principle grounded in facts, general practice, and common perception that when injured persons approach law enforcement agencies, the foremost inquiry is naturally: "Who caused the injuries?" The failure of the complainant party to identify or attribute the injuries to any specific accused at the earliest stage is not only unusual but also highly suspicious, especially in a case involving serious injuries and a subsequent death. Furthermore, the FIR was lodged on the same day at about 07:00 pm, with an unexplained delay of approximately 7 hours and 30 minutes from the time of the incident. According to the complainant, he was discharged from the hospital at 03:00 pm. the next day, which contradicts the claim of filing the FIR on the same day. This discrepancy further undermines the credibility of the prosecution's version. In cross-examination, the complainant stated that he reached the police station at around 01:00 pm and then arrived at the hospital at about 01:30 pm. However, the medical documents contradict this assertion, showing the time of arrival at the hospital as 01:00 pm and the time of the incident as 12:30 pm, instead of the initially claimed 11:30 am. These inconsistencies in timing create serious doubt and raise the possibility of subsequent fabrication or manipulation of facts. The fact that the memo of injuries was prepared before the registration of the FIR, coupled with the issuance of the treatment letter and the failure to produce the NC report, suggests that the complainant party had multiple opportunities to attribute specific roles or identities to the alleged assailants, yet failed to do so. This omission cannot be brushed aside lightly, particularly when such attribution only emerged later in the formal FIR. In such circumstances, the possibility of false implication cannot be ruled out. In this regard, guidance may be drawn from the authoritative 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

The facts of the present case attract the application of this principle. The unexplained delay in lodging the FIR, coupled with contradictions in the timing of events and the failure to name the accused at the earliest opportunity, severely diminish the reliability of the prosecution's version.

12. The prosecution case asserts that the motive behind the incident was an allegation leveled by the accused party against the complainant's nephew, namely Shah Nawaz, who was declared as Karo. It is contended that due to the non-compliance with the faisla, the accused party became aggrieved and thereby directed their enmity towards the complainant party. This, according to the prosecution, forms the basic motive for the occurrence. However, the material on record reveals that Shah Nawaz did not come forward during the investigation or trial to substantiate this version. His statement was neither recorded by the Investigating Officer nor was he produced as a witness before the learned trial Court. The conspicuous absence of such a crucial witness, who is central to establishing the motive, casts a serious doubt on the veracity of the prosecution's claim in this regard. Moreover, it is confusing that the person alleged to have been declared Karo, Shah Nawaz was not the target of any alleged attack by the accused. Instead, the accused allegedly directed violence towards other persons who bear no apparent nexus to the dispute concerning the Karo status. The prosecution remains wholly silent on this significant inconsistency. From the very outset, therefore, the alleged motive appears to be unproven and unreliable. In such circumstances, where evidence relating to the purported motive was in the exclusive knowledge and control of the prosecution but was not brought on

record or examined, the prosecution's case stands seriously weakened. The failure to produce or record evidence on such a material aspect diminishes the credibility of the prosecution's entire case. 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.***

Further, 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.***

13. Since the present case involves the question of capital punishment, the prosecution is under a strict obligation to prove every material aspect of the case beyond any shadow of doubt. The slightest discrepancy or doubt must be resolved in favor of the accused, as the law requires utmost caution in cases involving the death penalty. In this context, the medical evidence presents glaring inconsistencies. The medical officer produced documentation indicating that the time of the incident was at about 12:30 pm, contrary to the complainant party's assertion of 11:30 am. Furthermore, the medical officer opined that the duration of death and injuries was approximately 18 hours prior to the time of examination. According to the complainant party, the deceased died at about 2:30 am. (night), which implies that the injuries were inflicted around 8:30 am. This creates a significant discrepancy as the complainant's version places the incident at

11:30 am, whereas the medical evidence suggests that the injuries were sustained earlier, at approximately 8:30 am. Such a material contradiction between the ocular evidence and medical opinion undermines the reliability of the prosecution case. In the case of ***Muhammad Ashraf v. The State*** **(supra),** the Hon'ble Supreme Court of Pakistan observed that:

> ***7.We have further noted that there is conflict between the ocular account and the medical evidence of the prosecution. According to the evidence of the prosecution eye-witnesses, the occurrence took place on 28.12.2012 at 7.00 a.m. Dr. Shafique Hussain (PW-4), on 28.12.2012, at 10.00 a.m, conducted postmortem examination on the dead-body of the deceased. According to his opinion, the probable time that elapsed between the injury and the death was instantaneous, whereas the time that elapsed between the death and the postmortem examination was 9 to 10 hours, which means that the occurrence took place on 28.12.2012 at 12.00 (night) to 1.00 a.m. and as such the medical evidence has contradicted the ocular account of the prosecution.***

Further reliance is placed on the judgment of the Hon'ble Supreme Court of Pakistan in the case of ***Ghulam Abbas and another v. The State and another*** **(2021 SCMR 23),** wherein the Apex Court held as follows:

> ***"...Incident took place at 01.40 a.m. Dr. Nazar Hussain MO (PW.6) who conducted autopsy on the dead body opined that probable time between injury and death was about 15 minutes. During his cross-examination he stated that in the post mortem report (Exh.PE) he had recorded the time of death of the deceased Iqbal at 06.30 a.m. If fifteen minutes are counted back from 06.30 a.m. then Iqbal might have died at 06.15 a.m. i.e. one hour and fifteen minutes after the arrival of Hameed Ullah Khan SI (PW.15) at the spot. Therefore, the medical evidence doesnot fully advance the case of prosecution rather creates dents in its veracity."***

14. The evidence of the medical expert primarily serves to provide a expert opinion concerning the seat, nature, and extent of injuries, the cause of death, the kind of weapon used, and the approximate duration since the injuries were sustained or death occurred. As held in judgment titled ***Naveed Asghar and 2 others v. The State*** **(PLD 2021 SC 600).** In the instant case, the prosecution's reliance on medical evidence relating to the seat of injury is marred by material contradictions with the ocular account. According to the complainant, he sustained injuries to the head, left knee, right arm, right thigh, and left shoulder. Contrarily, the medical officer testified that injuries were observed on the left forearm and left thigh during examination. Notably, the medical officer did not confirm any injuries on the shoulder or the right thigh, which directly conflicts with the complainant's version. Such

inconsistencies are substantial and go to the root of the prosecution's case. The Apex Court, in dealing with similar inconsistencies, has consistently held that where there are contradictions between ocular and medical evidence concerning the seat of injuries, the benefit of doubt must be extended to the accused. This principle was reiterated in ***Bashir Muhammad Khan v. The State*** **(2022 SCMR 986),** where the Court held:

> ***The medical evidence is inconsistent with the ocular account as regards injury No. 3 on the right hip of the deceased is concerned, which in-fact was an exit wound but according to the prosecution witnesses of ocular account the same was an entry wound in these circumstances, a dent in the prosecution's case has been created, benefit of which must be given to the appellant.***

15. Upon a deeper scrutiny of the prosecution's evidence, it is apparent that the role attributed to the accused is largely generalized and lacks specificity. One of the witnesses, Liaquat, deposed regarding the individual roles of the accused; however, his version stands isolated and is not corroborated by any other piece of evidence on record. This lack of corroboration amounts to a dishonest improvement by the witness, which undermines the credibility of the prosecution's case. In this context, reliance is placed in ***Muhammad Nasir Butt and 2 others v. The State and others*** **(2025 SCMR 662),** wherein the Court held as follows:

> ***6. In their statements recorded at the trial, the complainant Zahid Amjad (PW-3),Muhammad Hamid Amjad (PW-4) and injured Muhammad Majid Amjad (PW-10) have made dishonest improvements for assigning specific role to each accused, which creates serious doubt about the veracity of their testimony and it is not safe to place reliance on their statements. Reliance in this regard is placed on the case of "Muhammad Jahangir v. The State"[1].***

16. It is a settled principle that the prosecution is under a duty to produce all material witnesses, especially those whose testimony is essential for corroborating the prosecution's case. In the instant matter, one of the injured witnesses, namely Adam, who not only sustained injuries but also purportedly witnessed the incident, was strangely not produced by the prosecution. Instead, the prosecution moved a statement to dispense with his evidence. This omission is highly significant, as the testimony of such an eyewitness would have been crucial in substantiating the injuries and corroborating the ocular account. The non-production of such a vital witness, particularly when his evidence is necessary to confirm the prosecution's version, invites adverse inference against the prosecution under Article

129(g) of the Qanun-e-Shahadat Order, 1984. In this context, reliance is placed on the judgment of ***Muhammad Nasir Butt and 2 others v. The State and others*** **(2025 SCMR 662),** wherein it was held that:

> ***"The deliberate withholding of material and marginal witnesses from the prosecution's side, especially those whose testimony is crucial for establishing key facts, compels the Court to draw adverse inference against the prosecution."***

Similarly, in ***Imran alias Mani v. The State*** **(2024 SCMR 1811) and** ***Muhammad Jahangir and another v. The State and others*** **(2024 SCMR 1741),** the Apex Court has emphasized the precedent. The prosecution's failure to produce Adam, an injured eyewitness whose evidence was material and significant, thus severely undermines the credibility of the prosecution's case and raises serious doubts regarding the veracity of its narrative. In such circumstances, the benefit of doubt must be extended to the accused.

17. A further glaring inconsistency emerges from the prosecution case concerning the investigation and the recovery of crucial evidence. According to the prosecution's account, each injured person was bleeding, with blood oozing from their wounds at the scene of the incident. The Investigation Officer reportedly observed the presence of blood on the spot. Despite this, the prosecution failed to secure or collect any blood-stained earth or other relevant material evidence that could have substantiated the occurrence of the incident. Reliance in this regard is placed upon the case of ***Lutuf ur Rehman v. The State and another*** **(2023 PCRLJ 1631).** Moreover, a scrutiny of the investigative procedure reveals non-compliance with the Police Rules, 1934, which provide a structured mechanism for the collection and preservation of evidence. Particularly, Rule 25.41 mandates that articles and material relevant to the commission of a crime must be forwarded to the Chemical Examiner for scientific analysis to establish their connection to the accused or victims. For ready reference the Rule 25.41 is read as under:

> ***25.41. Chemical Examination-Channel of communication with. –(1) Superintendents of Police are authorised to correspond with and submit articles for analysis to the Chemical Examiner direct in all cases other than human poisoning cases. Any references in relation to human poisoning cases shall be made through the Civil Surgeon.***

(2) Articles for chemical examination. With regard to the packing of articles sent for chemical examination, the following rules shall be observed:---

(i) Liquids, voit, excrement and the like, shall be placed in clean wide-mouthed bottles or glazed jars, the stoppers or corks of which shall be tied down with bladder, leather or cloth, the knots of the cord being sealed with the seal of the police officer making the investigation.

Such bottles or jars shall be tested, by reversing them for a few minutes to see whether they leak or not.

(ii) Supposed medicines or poisons, being dry substances, shall be similarly tied down in jars or made up into sealed parcels.

(iii) All exhibits suspected to contain stains should be thoroughly dry before being packed and despatched for examination. The safest way of drying exhibits is to expose them to the sun. In cases of exhibits that become brittle on drying, they should be carefully packed in-cotton wool and then in a wooden box.

(iv) Blood-stained weapons, articles or cloth, shall be marked with a seal and made up into sealed parcels. The entire article shall be sent.

(v) Sharp-edged and pointed exhibits like swords, spears, etc should be packed in boxes and not bound up into cloth packages. In their transit through the post they are liable to cut through the packing material and the exhibit is exposed.

(vi) On each bottle, jar and parcel and also on each article or set of articles contained therein, the separate identification of which has to be proved, shall be affixed a label describing the contents, giving full particulars and stating where each article was found.

On such label shall be impressed a counterpart of the seal used to secure the fastening of the bottle, jar or parcel. A copy of each label, and a counterpart impression of the seal shall be given in the inquest report, and in the case of cattle poisoning, in the case diary.

(vii) As far as possible no letters should be glued on to exhibits as they interfere with analysis.

(viii) exhibits such as clods of earth should be packed carefully in wool and placed in a wooden box.

Notes.-(1) Cases in which death is clearly due to natural causes should not be referred to the Chemical Examiner. Medical Officers must accept the responsibility of deciding such cases.

(2) In no case should the Medical Officer attempt apply tests for himself. Any such procedure is liable to vitate the subsequent investigation of the case in the laboratory of the Chemical Examiner.

(3) Exhibits in connection with cases of murder by hurt or violence may be sent direct to the Chemical Examiner. This saves time and relieves the office of the Civil Surgeon of the district of unnecessary correspondence.

(4) Endeavour to send all the exhibits in a case of murder by hurt or violence under one covering letter thereby reducing the cost of examination, etc.

(5) Nail clippings are poor exhibits to send for the detection of blood in murder cases. No court of law could be expected to attach much weight to the finding of buman blood on the nails of the accused.

(6) Stomach tubes in hospitals are frequently kept in a solution of mercury. They should be carefully washed with water before use. Traces of mercury found along with another poison in stomach contents might produce such complications as would handicap the successful prosecution of a case.

(7) Carbon copies of reports are sometimes very difficult to read and should be prepared clearly.

(8) Articles of which return is required for production in court or otherwise should be distinctly specified in the forwarding letter sent with articles for chemical examination.

(3) Any document purporting to be a report from the Chemical Examiner or his assistants is admissible as evidence under section 510, Code of Criminal Procedure. No summons can be issued to the officers of this department in their official capacity without the permission of the Hon'ble Judges of the High Court. Any question or explanation on a certain report should be done by letter or by a personal interview.

(4) Attention is also directed to the further directions for, and precaution to be taken in forwarding articles to the Chemical Examiner for examination report and the rules for preserving and packing exhibits contained in Appendix 25.41(4) .

As in case of ***Jeehand v. The State*** **(2025 SCMR 923),**the Honourable Apex Court in the case cited *supra* has been pleased to hold that…**"Communi observantia non set recedendum**---When law requires a thing to be done in a particular manner, the same must be done accordingly and if prescribed procedure is not followed, it would be presumed that the same had not been done in accordance with law.

18. According to the prosecution's case, the incident occurred in a public place within the city, and it was asserted that independent persons were present at the scene. However, the prosecution failed to produce any such independent witnesses during the trial, nor was any independent corroborative evidence brought on record to substantiate the complainant's version. This glaring omission is further compounded by the Investigation

Officer's failure to collect or present any evidence from independent sources during the course of investigation. The absence of independent eyewitnesses or corroborative evidence severely weakens the prosecution's case and raises serious doubts regarding the authenticity of the complainant's allegations. The failure to procure evidence from independent sources amount to a significant lacuna that dent the veracity of the entire prosecution narrative. In this regard, reliance is placed on the pronouncements in case of ***Sajjad Khan alias Shahzad Khan v. The State*** **(2025 SCMR 835) and** ***Muhammad Ramzan v. The State*** **(2025 SCMR 762).** The deficiency of independent corroboration in the present case thus significantly impairs the prosecution's ability to establish the guilt of the accused beyond reasonable doubt.

19. The sketch map prepared by the Tapedar merely depicts the position of witnesses at the scene but conspicuously fails to indicate the presence, location, or position of the accused or co-accused. Such omission gives rise to serious doubt about the actual presence of the accused at the place of incident. Reliance in this regard can be placed on the judgment in **Muhammad Shaukat and others v. The State** ***(2020 PCRLJ Note 170).*** Regarding the appellant Amanullah, the prosecution has candidly admitted that no recovery was affected from him during the investigation. This circumstance clearly does not support the prosecution's case against him. Reliance is placed on the case of ***Chetan v. The State*** **(2025 SCMR 944).** Insofar as the accused Nawab alias Naboo and Moula Bux are concerned, the prosecution claims to have recovered lathis from them. However, the recovered lathis bore no blood stains, which diminishes their evidentiary value. Furthermore, the material question of recovery was never put to the accused persons during their statements under Section 342 Cr.P.C. It is settled law that when no question regarding recovery is put to the accused at this stage, such recovery cannot be used as substantive evidence against them. Reliance is placed on the judgment in ***Abdul Hayee alias Abdullah alias Ghazali and another v. The State*** **(2025 SCMR 281)**, as held that:

> ***we have noted that the said recoveries were not put to the petitioners in their statements recorded under Section 342 Cr.P.C., therefore, the above-mentioned pieces of prosecution evidence cannot be considered against the petitioners and the same have rightly been discarded by the learned High Court in paragraph No. 15 of the impugned judgment. Reference in this context may also be made to the cases of, Fida Hussain Shah v. The State (2024 SCMR 1622), Haji Nawaz v. The State (2020 SCMR 687) and Mst. Anwar Begum v. Akhtar Hussain (2017 SCMR 1710).***

20. Coming to the aspect of misreading and non-reading of evidence vis-à-vis the appellant Amanullah, it is noteworthy that the learned trial court, on the same set of evidence, acquitted the co-accused while convicting the appellant. Such contradictory findings are against the principles of natural justice and settled criminal jurisprudence. The case against the appellant is replete with material inconsistencies, contradictions, and dishonest improvements, which ought to have entitled him to the same benefit of doubt extended to the acquitted co-accused. The Hon'ble Supreme Court, in the judgment of ***Khizar Hayat v. The State*** **(2025 SCMR 1339)**, extended such benefit. In the instant case, since the ocular testimony was disbelieved against the co-accused for similar roles, the same testimony cannot be used to sustain conviction against the appellant Amanullah without independent corroboration, which is glaringly absent. Accordingly, the conviction recorded against the appellant on such a flawed and inconsistent basis cannot be sustained. The law is settled that if the eye-witnesses have been disbelieved against some accused persons attributed effective roles then the same eye-witnesses cannot be believed against another accused person attributed a similar role unless such eye-witnesses receive independent corroboration qua the other accused person.

21. 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).**

22. In view of the foregoing reasons, discussions, and thorough examination of the record, we have reached the conclusion that the prosecution has completely failed to establish its case against the accused beyond reasonable doubt. Consequently, no case is made out to sustain the conviction and sentence of the appellant Amanullah, and to convict the acquitted accused persons. Accordingly, Criminal Acquittal Appeal No. D-41 of 2019 is devoid of merit and is hereby dismissed. However, Criminal Appeal No. 107 of 2019 filed by appellant Amanullah is hereby allowed. The judgment dated 28-10-2019 passed in Sessions Case No. 159 of 2019 (Old No. 163 of 2016) arising out of Crime No. 47 of 2014 is set aside to the extent of accused Amanullah. In so far as conviction and sentence of the appellant Amanullah are concerned. The appellant Amanullah is acquitted of the

charges and shall be released forthwith, if not required in any other case. With these observations, the captioned appeals stand disposed of accordingly.

JUDGE

JUDGE