

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Appeal No. S-114 of 2024

Appellants:

1. Sodhal alias Sodho Khan.
2. Ubaidullah.
3. Sanwal alias Subhan.

through Mr. Rukhsar Ahmed Junejo, Advocate.

The State:

through Mr. Mansoor Ahmed Shaikh, Deputy Prosecutor General.

Complainant:

Mst. Bilqees *through* Mr. Sheeraz Fazal, Advocate

Date of Hearing: 12.06.2025.

Date of announcement: 14.07.2025.

JUDGMENT

Ali Haider 'Ada',J:- Through this appeal, the appellants have challenged the judgment dated 15.10.2024, passed by the learned Ist Additional Sessions Judge / Model Criminal Trial Court, Naushahro Feroze (hereinafter referred to as the trial Court) in Sessions Case No. 704 of 2023, titled The State vs. Sodhal alias Sodho Khan and others, arising out of Crime No. 159 of 2023, registered at Police Station Paddidan, for offences punishable under Sections 302 and 34, PPC. Through the impugned judgment, the appellants were convicted and sentenced to imprisonment for life and a fine of Rs. 100,000/- (One hundred thousand Rupees) each. In case of default in payment of the fine, they were to undergo simple imprisonment for a further period of six months. Additionally, the appellants were directed to pay compensation of Rs. 1,000,000/- (Ten Hundred Thousand Rupees) jointly or severally to the legal heirs of the deceased under section 544-A, Cr.P.C; and in case of default, the amount to be recovered as arrears of land revenue. The benefit of Section 382-B, Cr.P.C, was also extended to the appellants.

2. The prosecution case, briefly stated, is that Mst. Bilqees, the complainant, is the mother of the deceased namely Mst. Esha. The deceased was married to appellant Sanwal. Appellant Ubaidullah was the deceased's father-in-law and appellant Sodhal alias Sodho Khan was her brother-in-law. According to the prosecution, Mst. Bilqees lodged an FIR against the appellants, alleging that they were responsible for the murder of her daughter. It was stated that Mst. Esha had contracted marriage with appellant Sanwal of her own free will.

However, after some time, she returned to her parental home and complained about being threatened with dire consequences by the appellants. As a result, she remained at her parents' home. On 30.08.2023, the appellants came to her parental home, gave assurances and persuaded Mst. Esha to return with them. On 01.09.2023 at about 1:22 PM, the complainant called appellant Sanwal to speak with her daughter. Sanwal answered the call and stated that Mst. Esha was not at home. However, during the call, the complainant allegedly heard the cries of her daughter in the background. Alarmed by this, the complainant, along with her son Saeedullah and one Muhammad Hashim, rushed to the house of the appellants, which they found locked. They were informed that the accused had taken Mst. Esha to the hospital. Then, they immediately went to the hospital, where they saw the accused fleeing upon their arrival. Mst. Esha was found dead, with visible blackish marks on her neck, indicating she had been strangled with a rope. The complainant informed the police, who issued a letter for post-mortem examination. After the post-mortem, the report was received,; and the FIR was registered.

3. Following the registration of the FIR, an investigation was conducted and all three accused were sent up for trial after submission of the final challan.

4. All necessary documents were supplied to the appellants and on 27.10.2023; the learned trial Court framed a charge against them. The appellants pleaded not guilty and claimed trial. In support of its case, the prosecution examined the following witnesses: PW-1: Mst. Bilqees (complainant), who produced the receipt for receiving the dead body and a copy of the FIR. PW-2: Saeedullah, brother of the deceased and witness. PW-3: Muhammad Malook, Tapedar, who exhibited the letter, site sketch, and map of the place of incident. PW-4: Dr. Nuzhat, who exhibited the Lash Chakas Form, post-mortem report, letters to the Chemical Examiner, Final Certificate, autopsy report and chemical analysis report. PW-5: Athar Ali, mashir of several memos, including the site inspection, recovery of articles, arrest memo of accused Sanwal, Dead body examination memo, Danishnama and memo of deceased's clothes. PW-6: Muhammad Azeem, the First Investigating Officer, who exhibited various entries of the roznamcha, memo of video evidence captured in a USB, and road certificates. PW-7: Ghulam Sarwar, the subsequent Investigating Officer, who exhibited the SSP's order regarding the change of investigation. PW-8: Ms. Naureen Akhtar, police official, who handed over the body to the

complainant and obtained the receipt. PW-9: Hamid Ali, police official, who submitted viscera samples to the laboratory. PW-10: Rehmatullah, another police official who also dispatched viscera samples to Nawabshah Medical College. PW-11: Akhtar Hussain, a police official, mashir of memo related to the USB containing the video footage. PW-12: Muhammad Khan, police official, who maintained the diary entry based on the information provided by Mst. Bilqees and exhibited the same.

5. After recording all prosecution evidence, the learned State Counsel closed the prosecution side. The trial Court then unsealed the parcel containing the USB and via order dated 05.10.2024, viewed the contents of the video clip recorded therein.

6. Thereafter, the trial Court recorded the statements of all the appellants under Section 342, Cr.P.C. Each of the appellants denied the allegations, claimed innocence, and did not opt to testify under oath or produce any witnesses in their defense. However, appellant Ubaidullah submitted in his defense Entry No. 2 of the daily diary, showing that he was on duty at the time of the alleged incident. He also referred to the statements of certain witness recorded by the Investigating Officer in support of his defense.

7. After hearing arguments from the learned counsel for the appellants, the complainant's counsel and the learned State Counsel, the learned trial Court passed the impugned judgment dated 15.10.2024, whereby the appellants were convicted and sentenced as already mentioned above. This judgment is now under question before this Court.

8. Learned counsel for the appellant contended that the present case is one of suicide, not murder, and emphasized that no eyewitness had seen the accused committing the alleged offence. It was argued that the entire prosecution case rests on weak circumstantial evidence, as the Call Data Record (CDR) only reflects that the complainant allegedly heard the cries of her daughter during a phone call, but no direct evidence exists to link the appellants to the act of murder. Moreover, it was pointed out that no external injuries were found on the body of the deceased apart from the alleged strangulation marks, suggesting the possibility of suicide. In support of this argument, learned counsel relied on the judgment reported as 2020 SCMR 857 and prayed for the acquittal of the appellants.

9. On the other hand, learned counsel for the complainant argued that this is a clear case of murder, not suicide. He submitted that the circumstantial evidence convincingly establishes the guilt of the appellants. The complainant's version was supported by the last seen evidence, as the deceased was last seen in the company of the accused and shortly thereafter, she was found dead. Moreover, it was pointed out that if the accused were innocent or had no involvement in the incident, they would not have fled from the hospital upon the complainant's arrival. Their conduct and silence in not initiating any legal steps in the event of an alleged suicide. He argued that the learned trial Court rightly convicted the appellants based on well-corroborated circumstantial evidence and they are not entitled to the concession of acquittal.

10. Conversely, the learned Law Officer also supported the impugned judgment, submitting that the cause of death, as per the medical evidence, is clearly due to strangulation and ruling out the possibility of suicide. He argued that the deceased was last seen alive in the exclusive custody of the accused, who later failed to offer any plausible explanation or take any lawful action if the death had been due to suicide. Their suspicious silence, coupled with their flight from the hospital, raises serious doubts about their innocence. He contended that the circumstantial evidence, taken collectively, sufficiently proves the prosecution's case beyond reasonable doubt, and the learned trial Court has rightly convicted the appellants.

11. Heard the arguments advanced by the learned counsel for the respective parties. The record has been carefully examined and the evidence has been thoroughly appreciated in light of the facts and the applicable legal principles. A detailed and judicious analysis of all relevant aspects of the case has been undertaken.

12. The prosecution's case originates from a mobile phone call allegedly made by the complainant to the accused, Sanwal alias Subhan (the son-in-law), during which the complainant reportedly heard distressing cries in the background. Prompted by concern, she proceeded to the accused's residence to inquire about the situation. She was accompanied by one Saeedullah, her son; and on their way, they were joined by another person, Hashim Malik. Upon arrival at the accused's house, they observed that the door was closed. They were informed by someone that the accused had taken the complainant's daughter to the hospital. In this context, the Call Data Record (CDR) becomes a

crucial piece of evidence to substantiate the complainant's version of events and establish the timeline and communication between the parties involved.

13. However, despite its significance, no Call Data Record was presented before the learned trial Court, nor was any such record collected during the investigation. The failure of the investigating agency to obtain and produce the CDR amounts to a serious lapse, especially considering that such evidence could have provided corroboration regarding the alleged incident, particularly whether the complainant actually made the call, the timing of the communication and the possible presence of distressing sounds indicating medical emergency. Given the nature of the allegations, whether the case involves homicide by strangulation or suicide, such telecommunication records must be evaluated to form a complete picture. The absence of such evidence raises significant questions regarding the completeness and integrity of the investigation. The serious adverse inference can be drawn from the non-production of the Call Data Record (CDR). Reliance is placed on case of *Abdul Qadeer v. The State* (2024 SCMR 1146), *Muhammad Zeeshan and others v. The State* (2024 YLR 364), *The State v. Akbar Khan and another* (2024 YLR 1662). Additionally, reliance is drawn from the cases of *Master Juman Buriro vs. The State* (2022 YLR 299-DB), wherein it was held that..."

However, no CDR/voice record transcript in order to prove such conversation/calls as well as to show the ownership of said mobile phone(s) had been brought on record neither from the area wherefrom the said calls were made nor from the area of their receiving

***Mujahid vs The State* (2022 P Cr. L J 227-DB).**

Even the investigator did not try to collect the CDR of the phone number through which the alleged abductee had contacted his relatives---

***Afaq Ahmed vs The State* (2020 Y L R 676-DB)**

Friend of complainant was not examined by the prosecution to corroborate the complainant's FIR especially in respect of the shooting of the deceased nor was any CDR (Call Data Record) produced by the prosecution to support such conversation-

14. Moreover, the prosecution's case is silent as to who specifically informed the complainant and her companions that the accused had preceded to the hospital along with her daughter. This piece of information identifying the informer who conveyed such a message was neither established during trial nor investigated by the Investigating officer. The failure to trace and examine this

individual casts further doubt on the authenticity and completeness of the prosecution's version.

15. Moreover, as per Exhibit 12/D (the Danishnama), particularly Entry No. 9, it is for the first time recorded that Mst. Bilqees (the complainant) informed the police that her daughter had committed suicide. However, she later stated that she was informed her daughter's death was not a suicide, but rather a murder by strangulation or throttling allegedly committed by her husband. Importantly, the record is completely silent as to who informed the complainant of this purported fact. There is no witness statement, nor any cogent or direct evidence, showing how or from whom the complainant came to know about the cause of death. The complainant's change in narrative from suicide to murder is not validated by any reliable or independent source. On this vital aspect, the prosecution has remained entirely silent, and the investigation has failed to uncover the truth. This lack of evidentiary support creates a significant gap in the prosecution's case, thereby casting a shadow of doubt over the complainant's claims. According to the depositions of both the complainant and prosecution witness Saeedullah, it is admitted that neither of them was an eyewitness to the actual occurrence. Their statements clearly reflect that they did not witness the act of alleged strangulation and arrived at the scene only after the alleged incident had taken place. Furthermore, they failed to attribute any specific overt act or role to the accused. In their testimonies, it was candidly admitted that they could not state which of the accused committed what act in relation to the alleged offence.

16. An additional material aspect which appears to have been overlooked both during investigation and trial pertains to the medical condition of the deceased at the time she was handed over to the accused party. According to the consistent statements of the complainant and witness Saeedullah, the deceased was reportedly suffering from malaria and typhoid shortly prior to her return to the matrimonial home and this fact was well within the knowledge of her family. This circumstance raises a serious doubt, if, the deceased was indeed unwell and suffering from such significant illnesses which typically involve high-grade fever, weakness and the need for medical supervision, it is highly questionable and unnatural that her family would still allow or consent to send her back to live with the accused, particularly when allegations of maltreatment had already been raised. Such conduct appears

inconsistent with ordinary human behavior and raises suspicion regarding the true nature of relations between the parties at the relevant time. This omission also reflects a lapse in investigation, as no medical record, prescription, or health verification report was collected to confirm the deceased's alleged illness prior to her death. The view expressed herein stands fortified by the following relevant case law.

Mst. Saima Noreen vs The State (2024 SCMR 1310)

27. On reappraisal of the evidence available on record, we have no hesitation to conclude that the occurrence of the death of deceased Muhammad Akmal by strangulation was unwitnessed; the conduct of PW-8 was not fair and impartial as an investigating officer; fabrication has been made during investigation by PW-3 with the connivance of PW-8 to falsely implicate the petitioners by planting himself, PW-4 and Muhammad Ashraf as eye-witnesses of the occurrence.

Muhammad Iftikhar vs The State (2022 SCMR 973)

4. Complainant is not an eye-witness of the crime nor anyone else came forward to disclose the circumstances leading to the unnatural death of the deceased. It is also a common ground that the appellant not only took the deceased to the hospital but also informed the complainant at an odd hour of the night. Locale of injury being the face below the right eye with blackened margins is a possible choice for a person hell bent to take his own life. There is no positive opinion by the medical officer that ruled out the possibility of suicide; the conviction is based upon an indiscreet suggestion by defence lawyer with a grievous inaptitude and, thus, the appellant should not be allowed to be victim of a bad choice of his defence. Totality of circumstances fails to qualify to sustain the capital charge. Mystery of the occurrence is fraught with doubts and, thus, it would be unsafe to maintain the conviction. Criminal Appeal No.15-Q of 2020 is allowed; the impugned judgments of the courts below are set aside; the appellant is acquitted of the charge; he has already been ordered to be released forthwith, if not required to be detained in any other case.

17. The another significant aspect of the case pertains to the non-examination of an independent witness, namely Hashim Malik, who was admittedly present at the scene, as per the depositions of both the complainant and her son. It has been consistently stated by the complainant's side that Hashim Malik accompanied them when they reached the house of the accused. Despite being identified as an independent and material witness, the prosecution had failed to produce him before the Court. The withholding of such an important and independent witness, without offering any justification, gives rise to an adverse inference under the established principle of Article 129 (g) of Qanun Shahdat 1984. When a witness, whose presence at the relevant time and place is acknowledged by the prosecution itself, is not examined and

no reason is provided for such omission, the presumption arises that his testimony may not have supported the prosecution's version and may, in fact, have been adverse to it. In this regard, reliance is placed upon the judgment of the Hon'ble Supreme Court in *Muhammad Ramzan vs. The State* (2025 SCMR 762), wherein it was held:

----At the trial, the prosecution has not produced Matloob Hussain, the owner of the house as witness. An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 to the effect that had the above witness been produced by the prosecution at the trial, they would not have supported the version of the prosecution. Reliance in this regard is placed on the case of "Mst Saima Noreen v. The State" (2024 SCMR 1310).

Further, in case of *Mst. Saima Noreen vs The State* (2024 SCMR 1310) wherein held that:

26. At the trial the prosecution has not produced Muhammad Ashraf (paternal uncle of deceased Muhammad Akmal) who was mentioned as an eye-witness by PW-3 and PW-4. The prosecution has also not produced Muhammad Ajmal (brother of deceased Muhammad Akmal and PW-3) about whom it has come on record that he used to reside in the Baithak of the house in a room whereof the occurrence had taken place and he had identified the dead body in the hospital at the time of postmortem examination by PW-6.

An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 to the effect that had the above two witnesses been produced by the prosecution at the trial, they would not have supported the version of the prosecution.

18. As far as the alleged motive is concerned, the complainant asserted that the deceased had previously complained about maltreatment at the hands of the accused party. However, the reliability of this allegation is significantly weakened by the fact that, despite such complaints, the complainant permitted her daughter to return and live with her husband, the accused Sanwal. This conduct does not align with a genuine apprehension of harm or ongoing antagonism. Moreover, in her deposition, the complainant herself admitted that she was unaware of any recent quarrel or serious dispute between her daughter and the accused at or near the time of the alleged occurrence. The lack of any consistent, specific, or proximate allegation of domestic abuse or conflict undermines the claim of motive, which is an essential element in cases where direct evidence is lacking and the prosecution relies on circumstantial evidence. It would be highly relevant to mention here that the motive is a double-edged weapon, which can be used either way or by either side i.e. for real or false involvement. As held by Honourable Supreme Court of Pakistan in case of *Muhammad Hassan and another Versus The State and others*

(2024 SCMR 1427); *Muhammad Ashraf alias Acchu v. The State* ((2019 SCMR 652). Further, guided in this regard by the principle laid down by the Hon'ble Supreme Court in *Muhammad Nasir Butt and 2 others v. The State and others* (2025 SCMR 662), wherein it was held that

11. *The motive of the occurrence was stated to be altercation between Muhammad Hamid Amjad (brother of the complainant) and convict Baqir Butt prior to the occurrence by the complainant. Muhammad Hamid Amjad, allegedly present at the crime scene during the occurrence, was neither targeted by the accused nor he received any injury. As per statement of Shumaila (DW-1) the deceased Abid Ali had held her hand in the street, in the meanwhile the convict Baqir Butt (brother of Shumaila) came there and rescued her from Abid Ali and at the same moment Abid Ali made firing on them and she received firearm injuries at her arm. The alleged motive lacks the force necessary to connect the convicts with the commission of the offence. Reliance in this regard is placed on the case of "Muhammad Ijaz v. The State".*

(underline is for emphasis)

19. Now as per prosecution, the alleged incident took place on 1-9-2023 at about 2:00 pm. Another key aspect of the case pertains to the unexplained delay in the registration of the First Information Report. The alleged occurrence took place on 01-09-2023; so far the FIR was lodged on 02-09-2023 at 5:45 pm, indicating a delay of nearly 27 hours. According to the record, this delay was sought to be justified on the ground that the complainant was awaiting the post-mortem report. However, the post-mortem examination was conducted and concluded on 01-09-2023 between 5:00 pm and 6:00 pm, much earlier than the time of registration of FIR. Moreover, the memo of dead body examination was prepared at 4:15 pm, and the Danishnama was prepared at 4:00 pm on 01-09-2023. These facts demonstrate that police proceedings were already in motion well before the FIR, further casting doubt on the substance of the prosecution's explanation. Additionally, the complainant attempted to improve her version during her deposition, stating that she had protested against the police for their refusal to record the FIR in time. However, this version appears to be an afterthought, as it finds no corroboration from any independent witness or official record. There is no evidence to support the claim that her FIR was refused initially by the police. The inordinate and unexplained delay in lodging the FIR, coupled with the complainant's improved version during trial, creates serious doubt regarding the authenticity of the prosecution's case. In criminal law, prompt lodging of the FIR is essential to ensure the credibility of the allegations, and any delay, unless satisfactorily explained, is presumed to affect the truthfulness of the version presented. In view of the unexplained

delay in the registration of the FIR, and in the absence of any cogent or satisfactory explanation for such delay, this aspect adversely affects the credibility of the prosecution's case, a position fortified by judgments of the Hon'ble Supreme Court." in case of *Pervaiz Khan and another v. The State* (2022 SCMR 393) and *Ghulam Abbas v. The State* (2021 SCMR 23).

20. According to the memo of place of occurrence, the police recovered several items from the scene, include one solar wire, a red-colored cloth (*dupatta*), one iron stand of a water cooler and one wooden table. These items were documented as being relevant to the circumstances surrounding the death. During cross-examination, the Mashir (witness to the recovery) testified that there was a hook on the ceiling fan, from which the solar wire and red *dupatta* were found hanging or attached. Additionally, the door to the room was found to be latched or locked from the inside, and the internal latch was damaged, having fallen from its cemented position on the wall. This fact was corroborated in the contents of the recovery memo itself, where it was recorded that the internal latch had become detached from the cement wall. The presence of hanging materials (*wire and dupatta*) attached to a ceiling hook, combined with a damaged internal door latch, points toward the possibility of suicide by hanging or self-strangulation, rather than a homicidal act. Importantly, physical and forensic findings were not adequately addressed by the prosecution. In a case of alleged murder by strangulation, such circumstantial evidence must be carefully weighed, particularly in the absence of direct eye witnesses. In such circumstances, it becomes imperative to evaluate what investigative measures were required and what role the medical officer was expected to play in this regard. Guidance on this point is found in *Modi's Medical Jurisprudence and Toxicology, 26th Edition, Chapter 20, titled 'Death from Asphyxia', under the topic 'Nature of the Ligature Used'*, wherein it is mentioned:

Any substance that is available at the time of the impulse has been used by the suicides as a ligature for hanging. For example a cotton hemp or moonj rope of any thickness , newar, dhoti saree, turban (Safa), bedsheet, sacred thread, handkerchief, neck cloth (dupatta), belt and electric wire. When a material with which an individual is alleged to have been hanged, is sent for medical examination , the medical jurist should see if the mark on the neck corresponds with its thickness, and whether it is strong enough to bear the weight of the body or the sudden strain. He should also note its texture and length, and after labeling it with some distinctive mark for future identification, should return it in sealed packet to the police constable who brought it.

21. Now, even for the purpose of establishing the factual truth, it is the primary duty of the Investigating agency to secure and preserve the fingerprints of the accused from the articles recovered at the place of occurrence. Moreover, the agency is obligated to seek expert assistance to ascertain the truth including the collection of the accused's fingerprints and their comparison with any impressions found on the body of the deceased in cases involving allegations of throttling. Particularly in the instant case, the failure to preserve and collect fingerprint evidence constitutes a significant deficiency in the prosecution's case. This omission reflects a serious lapse in the investigative process and undermines the reliability of the evidence presented. Reliance is placed upon the cases of *Muhammad Faheem vs The State* (2023 YLR 1084), *Aqeel Hussain vs The State* (2022 YLR 999) and *Abdul Manan vs The State* (2020 MLD1477). Further, *Rule 25.14 of the Police Rules 1934* specifically provides a procedural mechanism. For ready reference, the relevant provision reads as under:

25.14 Technical assistance in investigation. – (1) Investigating officers are expected to take steps to secure expert technical assistance and advice, whenever such appears desirable in the course of an investigation for purposes of evidence or for demonstration in court.

(2) The Criminal Investigation Department is able to obtain expert technical assistance on many subjects and should be freely consulted in that connection by investigating officers through their Superintendents of Police. When such assistance is required a full report shall be sent to the Assistant Inspector General, Crime and Criminal Tribes, so that he may be in a position to decide whether it is essential to send an expert to the scene of the crime or whether the material to be dealt with should be sent to the expert. In making such reports use should be made of telegraphic and telephonic facilities.

(3) The Criminal Investigation Department, in conjunction with the Finger Print Bureau, undertakes photographic and some other varieties of technical work. In addition it is in contact with technical experts on many subjects, whose services can frequently be obtained for work in connection with criminal investigation. In respect of the examination of hand writing, investigating officers can obtain the services of the Examination of Questioned Documents with the Government of India, through the Criminal Investigation Department. That department is also the channel for obtaining the services of the Inspector of Explosives for Northern India who, as well as advising on explosives generally, can give expert opinion as to whether a weapon has been recently fired, whether certain matter is gunpowder or not, and all questions generally savoring of chemical analysis.

22. It is evident that the investigation in the present case suffers from serious procedural and factual deficiencies. Not only this, the initial Investigating Officer conducted the investigation in a casual and perfunctory manner, but even the subsequent Investigation Officer, who was appointed on the direction

of Senior Superintendent of Police, failed to take any meaningful or corrective steps to address the gaps in the earlier investigation, including the cause and manner of death through medical or forensic means. This lack of diligence reflects a flagrant disregard for the investigative responsibilities entrusted to law enforcement under the criminal justice system. The Investigating Officer is legally and morally obligated to act fairly and investigate in accordance with settled principles not to build a biased case, but to unearth the truth. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Asmatullah Khan and others vs The State and others* (PLD 2024 Supreme Court 1119)**, wherein held that:

10. So far as the investigation of this case is concerned, we believe that the investigation of heinous offences, such as kidnapping or abduction for ransom, is of paramount importance due to the severe implications these crimes have on victims and society. An organized and thorough investigation serves several critical functions in the pursuit of justice. First and foremost, a well-conducted investigation ensures that all relevant evidence is collected, preserved, and presented before the court in a manner that supports the case of the prosecution. This includes gathering physical evidence, such as surveillance footage, phone records, and ransom notes, as well as securing witness testimonies strictly in accordance with the prescribed rules/law on the subject. Each piece of evidence must be carefully analyzed to construct a coherent and compelling narrative of the events. The I.O., in such cases, must employ various modern techniques, including geofencing for tracing communications, identifying patterns in the kidnappers' behavior, and leveraging technological tools to track movements. The urgency of these situations demands prompt and precise action to prevent harm to the victim. It is essential to explore all leads and corroborate findings to build a strong case that withstands judicial scrutiny. This process also involves understanding the motives and methods of the kidnappers, which can provide invaluable insights for future prevention and enforcement strategies. Additionally, the credibility of the criminal justice system hinges on the integrity of the investigation. A flawed or negligent investigation can lead to wrongful accusations, undermining public trust and allowing the true culprits to evade justice. Therefore, the I.O. must adhere to the highest standards of professionalism and diligence, ensuring that their findings are accurate and unbiased. Unfortunately, in this case, the I.O. conducted the investigation very casually. He did not consider it appropriate to inquire about the ownership of the motorcycle used in the commission of the offence, allegedly recovered from the petitioner Asmat Ullah. He (PW-15) failed to investigate the sources from which the complainant arranged the ransom amount. Additionally, he did not document the denominations of the currency notes intended for the ransom payment. He (PW-15) did not use the modern technology of geofencing and acknowledged that he made no effort to determine the location of the petitioner Lal Khan from which the alleged calls to the complainant demanding the ransom were made. Furthermore, the I.O. (PW-15) concluded that two cars were used in this incident, one owned by Dr. Haroon and the other by Niaz for the transportation of the abductees from one place to another. However, neither of these individuals was investigated or cited as a prosecution witness. During cross-examination, the abductee, Aziz ur Rehman (PW-5) disclosed

that he and the abductee Bashir were confined in two different places, one owned by Waris and the other by Muhammad Yaqoob. Yet, neither of these individuals was investigated or presented as witnesses. All these noted facts and circumstances make the case of the prosecution highly doubtful. It is a settled principle of law that once a single loophole/lacuna is observed in a case presented by the prosecution, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused as held by this Court in Daniel Boyd (Muslim Name Saifullah) and another v. The State (1992 SCMR 196); Gul Dast Khan v. The State (2009 SCMR 431); Muhammad Ashraf alias Acchu v. The State (2019 SCMR 652); Abdul Jabbar and another v. The State (2019 SCMR 129); Mst. Asia Bibi v. The State and others (PLD 2019 SC 64) and Muhammad Imran v. The State (2020 SCMR 857).

23. At this stage, the medical aspect of the case assumes paramount importance, particularly in relation to the cause of death and the expert opinion of the Medical Officer. According to the post-mortem report and testimony of the Medical Officer, multiple ligature marks were observed around the neck, extending from the front toward right side as well left side obliquely upward. The cause of death was opined to be asphyxia due to strangulation. However, during cross-examination, the Medical Officer conceded that the ligature marks were upward in direction, which is consistent with suicidal hanging. Further, during the internal examination, the doctor noted that the walls, ribs, and cartilages of the thorax were healthy, clearly indicating that there was no fracture or trauma to the chest, which would otherwise be expected in cases involving a struggle or forced throttling. Crucially, the medical report is silent on important forensic indicators, such as whether the hands were clutched, which could reflect a defensive response, or whether the eyes were open or closed, which is often noted in forensic assessment of suicidal versus homicidal asphyxia. Support is drawn from the judgment of the Hon'ble Supreme Court in *Muhammad Ehsan Shah v. The State (2025 SCMR 730)*, wherein the Apex Court held that:

3. Admittedly, there is no eye-witness of the occurrence and the case of the prosecution solely rests upon the medical evidence furnished by Dr. Saima Najeeb, Medical Officer, Federal Government Services Hospital, Islamabad (PW-2). The said witness while answering to a question during the course of cross-examination stated that it is correct that if the ligature mark is not round the neck, eyes are closed, ribs are not fractured and hands are not clenched then the case will be one of suicide. The report is raising a very high probability of asphyxia death and killing by hanging, which under all probabilities is deemed to be a suicide unnatural death and not homicide at all and there was no sign and symptom of killing by strangulation and throttling. The report Ex-PB indicates that the eyes of Mst. Javaria were closed and ribs were also not fractured.

24. The medical evidence in the present case significantly undermines the prosecution's claim of homicidal strangulation. The ligature mark observed on the deceased's neck was obliquely upward, as specifically recorded in the post-mortem report. As per *Modi's Medical Jurisprudence and Toxicology, 26th Edition, Chapter 20, titled 'Death from Asphyxia*, that in cases of suicidal hanging, ligature marks usually appear obliquely upward, while in manual or ligature strangulation by another person, such marks are generally horizontal or transverse in direction. Moreover, the absence of any external injuries or signs of struggle, including no abrasions, contusions, nail marks, or bruises on the neck or body, further supports the inference that no physical resistance occurred. Support is drawn from the case of *Muhammad Zahid versus The State and others (2020 Y L R 2018)*, wherein it was held that:

6. According to the prosecution case the death of the deceased had occurred due to strangulation, but undeniably, rather admittedly it was an unwitnessed crime as nobody had seen the accused while pressing the neck of the deceased, as such the entire edifice of the prosecution case has been built around the cause of death of the deceased. Did the victim die as a result of throttling caused by the appellant is the main and crucial question which is to be resolved here in the light of medical evidence as well as the medical jurisprudence?

Asphyxia

Asphyxia or asphyxiation from Ancient Greek a "without" and sphyxis, "squeeze" is a condition of severely deficient supply of oxygen to the body that arises from abnormal breathing. Asphyxia is something that many people died of throughout the world and it is something that many people think simply the act of suffocation or smothering a victim until he can no longer breathe. Asphyxiation is defined as hypoxia/anoxia that is caused when respiratory function is hampered by interference with the mechanics of breathing.

Appearances due to Asphyxia.

The face is puffy and cyanosed, and marked with petechiae. The eyes are prominent and open. In some cases they may be closed. The conjunctivae are congested, and the pupils are dilated. Petechiae are seen in the eyelids and the conjunctivae. The lips are blue. Bloody foam, escapes from the mouth and nostrils, and sometimes pure blood issues from the mouth nose and ears, especially if great violence has been used. The tongue is often swollen, bruised, protruding violence has been used. The tongue is often swollen, bruised, protruding and dark in colour, showing patches of extravasation and occasionally bitten by the teeth. There may be bruising at the back of the neck. The hands are usually clenched. The genital organs may be congested and there may be discharges of urine, faces and seminal fluid.

Strangulation

Strangulation is a violent form of death, which results from constricting the neck by means of a ligature or by any other means without suspending the body. It is called throttling, when constriction is produced by the pressure of the fingers and palms upon the throat. Strangulation may also be brought

about by compressing the throat with a foot, knee, bend of elbow, or some other solid substance. Strangulation is defined as form of asphyxia (lack of oxygen) characterized by closure of blood vessels/or air passages of neck as a result of external pressure on the neck.

Manual Strangulation (throttling) is usually done with the hands.

Neck anatomy.

A rudimentary knowledge of neck anatomy is critical in order to understand adequately the clinical features of strangled victim.

The hyoid bone a small horseshoe shaped bone in the neck helps to support the tongue.

The larynx, made up of cartilage, not bone, consist of two parts: the thyroid cartilage and the tracheal rings.

Carotids are the major vessels that transport oxygenated blood from the heart and lungs to the brain. These are the arteries at the side of the neck that persons administering CPR (cardio-pulmonary resuscitation) check for pulses.

Jugular veins are the major vessels that transport deoxygenated blood from the brain back to the heart.

The general clinical sequence of a victim who is being strangled is one of severe pain followed by unconsciousness, followed by brain death. The victim will lose consciousness by any one or all of the following:-

- (i) Blocking of the carotid arteries (depriving the brain of oxygen);*
- (ii) Blocking of the jugular veins (preventing deoxygenated blood from exiting the brain;) and*
- (iii) Closing off the airway, causing the victim to be unable to breathe.*

Probably one or more causes may operate during strangulation. A pale face would indicate a rapid death from reflex cardiae arrest, while a cyanosed face with patchiae would suggest a delayed death.

7. In this case postmortem examination on the dead body of Mst. Manzoora Bibi deceased was conducted by Dr. Sobia Batool (PW.9) on 23.1.2015 at about 8.00 a.m.

It is significant to point out here that no marks of violence were noted by the doctor on any part of the body of the deceased at the time of her examination. Even otherwise, she was unable to give time between death and postmortem as well as between injury and death. However, during the cross-examination she opined that death might be occurred due to suffocation without any marks of violence on the body or any injury to the hyoid bone of the deceased. Even other-wise, according to medical jurisdiction as opined by various jurists signs and symptoms of strangulation would be the tongue may be swollen, bruised bitten by teeth and protruded. Bleeding from the ears due to rupture of blood vessels of tympanum be seen, but in the case in hand a large number of symptoms were absent which ordinarily point out to the cause of death of asphyxia by throttling, therefore, it is not proved by the prosecution that the deceased met the un-natural death as result of strangulation.

(under line is for emphasis)

25. Accordingly, the medical evidence in the present case raises a strong probability that the death was a result of suicide, falling under the category of unnatural death, but not necessarily a homicidal one. This view is further fortified by the judgment of the Hon’ble Supreme Court in *Muhammad Ijaz alias Billa and another v. The State and others* (2024 SCMR 1507), wherein the Honourable Apex Court highlighted the forensic differences between hanging and strangulation. The relevant paras are reproduced as under:

13. *The differences between hanging and strangulation have been highlighted by Modi in Medical Jurisprudence and Toxicology, 26th Edition, as follows:*

Hanging		Strangulation	
1.	Most suicidal.	1.	Mostly homicidal.
2.	Face-Usual pale and petechiae rare.	2.	Face-Congested, livid and marked with petechiae.
3.	Saliva-Dribbling out of mouth down on the chin and chest.	3.	Saliva-No such dribbling
4.	Neck-stretched and elongated in fresh bodies.	4.	Neck-Not so.
5.	External signs of asphyxia usually not well marked.	5.	External signs of asphyxia, very well marked (minimal if death due to vasovagal and carotid sinus effect.
6.	Ligature mark-Oblique, Non-continuous placed high Up in the neck between the Chin and the larynx, the Base of the groove or furrow Being hard, yellow and Parchment-like.	6.	Ligature mark-Horizontal or transverse continuous, round the neck, low down in the neck below the thyroid, the base of the groove or furrow being soft and reddish.
7.	Abrasions and ecchymoses round about the edges of the ligature mark, rare.	7.	Abrasions and ecchymoses round about the edges of the ligature Mark, common.
8.	Subcutaneous tissues Under the mark-- White, Hard and glistening.	8.	Subcutaneous tissues under the mark-Ecchymosed.
9.	Injury to the muscles of the Neck-Rare.	9.	Injury to the muscles of the neck-Common.
10.	Carotid arteries, Internal coats ruptured in violent cases of a long drop.	10.	Carotid arteries, internal coats ordinarily ruptured.
11.	Fracture of the larynx and trachea-Very rare and may be found that too in judicial	11.	Fracture of the larynx, trachea and hyoid bone.

	<i>hanging.</i>		
12.	<i>Fracture-dislocation of the cervical vertebrae-Common in judicial hanging.</i>	12.	<i>Fracture-dislocation of the cervical vertebrae--Rare.</i>
13.	<i>Scratches, abrasions and bruises on the face, neck and other parts of the body--- Usually not present.</i>	13.	<i>Scratches, abrasions fingernail marks and bruises on the face, neck and other parts of the body-- Usually present.</i>
14.	<i>No evidence of sexual Assault.</i>	14.	<i>Sometimes evidence of sexual assault.</i>
15.	<i>Emphysematous bullae on the Surface of the lungs-May be present.</i>	15.	<i>Emphysematous bullae on the surface of the lungs- Not Present.</i>

14. In light of the differences between hanging and strangulation, it has been noted with great importance that the medical officer (PW-9), in the post-mortem examination report (Ex. PJ)while examining the external appearance of the body, observed that there were two separate ligature marks, mild to moderate in depth, on the neck. These marks were more prominent on the front and slightly on the sides. However, as per Modi's Medical Jurisprudence and Toxicology, the ligature mark in cases of throttling is horizontal or transverse, continuous, and encircles the neck, typically located low on the neck below the thyroid, with the base of the groove or furrow being soft and reddish. The ligature marks noted by the medical officer (PW-9) are neither continuous nor encircle the neck; rather, there were only two separate ligature marks found on the front and slightly on the sides of the neck. Even otherwise, in case of hanging and in case of throttling pressure on the neck is a common factor. In the case of throttling by hand or wire, as alleged in this case, a person can resist the throttling. In case of resistance, there will be nail marks on the neck. The person being throttled, if one person is holding his arms and another is holding his legs, will resist by banging their hands on the ground, which would result in injuries to the hands. It is also likely that if the legs are held by hand, injuries may occur on the posterior side of the legs. However, in the post-mortem report (Exh. PJ), no injury marks on the hands or the posterior side of the legs are noted by the medical officer. Additionally, the medical officer (PW-9), during cross-examination, stated that there were no scratches or any marks of injury on any other part of the body of the deceased. Having considered the conclusion in the post-mortem report (Exh. PJ) and the evidence of the medical officer, and analyzed them in light of the principles laid down in Modi's Medical Jurisprudence and Toxicology, we find the prosecution's claim that the death of the deceased was caused by throttling to be doubtful. It may be said that a finding of guilt against an accused person cannot be based merely on the high probabilities that may be inferred from evidence in a given case. The finding as regards the guilt should be rested surely and firmly on the evidence produced in the case and the plain inferences of guilt that may irresistibly be drawn from the evidence. Mere conjectures and probabilities cannot take the place of proof. If a case were to be decided merely on high probabilities regarding the existence or non-existence of a fact to prove the guilt of a person, the golden rule of "benefit of doubt" to an accused person, which has been a dominant feature of the administration of criminal justice in this country with the consistent approval of this Court, would be reduced to naught.

15. From the above-stated facts and circumstances, it is abundantly clear that in this particular case, the prosecution version is burdened/ loaded with major discrepancies, which create serious doubts about its authenticity. The prosecution

version with regard to manner of killing, the medical evidence being at variance and the recoveries, contradict each other on material points creating serious cracks in the prosecution version. The prosecution has failed to bring on record any convincing material to establish that it was the appellants who had committed the occurrence. It is an established principle of law that to extend the benefit of the doubt it is not necessary that there should be so many circumstances. If one circumstance is sufficient to discharge and bring suspicion in the mind of the Court that the prosecution has faded up the evidence to procure conviction then the Court can come forward for the rescue of the accused persons as held by this Court in Daniel Boyd (Muslim Name Saifullah) and another v. The State (1992 SCMR 196); Gul Dast Khan v. The State (2009 SCMR 431); Muhammad Ashraf alias Acchu v. The State (2019 SCMR 652); Abdul Jabbar and another v. The State (2019 SCMR 129); Mst. Asia Bibi v. The State and others (PLD 2019 SC 64) and Muhammad Imran v. The State (2020 SCMR 857).

26. It is a well-settled principle of Criminal Law that even a single reasonable doubt regarding the guilt of an accused is sufficient to extend the benefit of doubt in their favour; even one credible doubt is enough to justify an acquittal. In this regard, the Hon'ble Supreme Court in *Tariq Mehmood v. The State* (2025 SCMR 780) held that:

According to these principles, once a single loophole/ lacuna is observed in a case presented by the prosecution, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused. Reference in this regard may be made to the cases of Daniel Boyd (Muslim Name Saifullah) and another v. The State (1992 SCMR 196); Gul Dast Khan v. The State (2009 SCMR 431); Muhammad Ashraf alias Acchu v. The State (2019 SCMR 652); Abdul Jabbar and another v. The State (2019 SCMR 129); Mst. Asia Bibi v. The State and others (PLD 2019 SC 64 and Muhammad Imran v. The State (2020 SCMR 857).

27. Upon a comprehensive appraisal of the evidence on record, and in light of the detailed discussion and legal analysis set out hereinabove, it is evident that the prosecution has failed to discharge its burden of proof to establish the guilt of accused/appellants. Given the presence of material doubts in the prosecution's case, the appellants are entitled to the benefit thereof under settled principles of Criminal Jurisprudence. Accordingly, the instant Criminal Appeal is allowed. The conviction, sentence, and compensation awarded to the appellants are hereby set aside. The impugned judgment dated 15.10.2024, passed by the learned Ist Additional Sessions Judge / Model Criminal Trial Court, Naushahro Feroze, in Sessions Case No. 704 of 2023 (arising out of Crime No. 159 of 2023 registered at Police Station Paddidan under Sections 302 and 34 PPC), is set aside. Consequently, the appellants are acquitted of the charge. They shall be released forthwith if not required to be detained in any other case.

JUDGE