

**IN THE HIGH COURT OF SINDH KARACHI**  
**Criminal Jail Appeal No.349 & 534 of 2020**

Appellants : i. Kashan son of Muhammad Sultan  
Through Mr. Habib-ur-Rehman Jiskani  
Advocate

ii. Kamran Hussain @ Kami s/o Intizar Hussain  
iii. Muhammad Farhan s/o Syed Muhammad Suleman  
Through Mr. Muhammad Immad Qamar, Advocate

Respondent : The State  
Through Mr. Muhammad Iqbal Awan,  
Additional Prosecutor General, Sindh

Date of hearing : 20.05.2026, 06.10.2026,  
Date of decision : 07.10.2026

**JUDGMENT**

**MIRAN MUHAMMAD SHAH, J:-** By this single judgment, I intend to dispose of the captioned two criminal appeals, as both arise out of the same impugned judgment.

2. Through the above Criminal Appeals, the appellants, Kashan son of Muhammad Sultan, Kamran Hussain @ Kami son of Intizar Hussain and Muhammad Farhan son of Syed Muhammad Suleman, have challenged the judgment dated 13-09-2019, passed by the learned Additional Sessions Judge-I, Karachi East, in Sessions Case No.1090/2012 [The State v. Kashan & others], arising out of FIR No.493/2012, registered at Police Station Jamshed Quarter, Karachi, under Sections 302, 324, 397, 337-D and 337-F(ii) PPC, whereby the learned trial Court convicted and sentenced the appellants as under:—

- i. For offence u/s 302(b) PPC, they were sentenced to imprisonment for life in two counts and to pay compensation of Rs.2,00,000/- each to the legal heirs of the deceased.
- ii. For offence u/s 397 r/w section 34 PPC they were sentenced to suffer R.I for seven years and to pay fine of Rs. 50,000/- each.
- iii. For offence u/s 324 r/w section 34 PPC they were sentenced to suffer R.I for seven years and to pay fine of Rs. 50,000/- each to be paid to the victim Mst. Sumaiya.

- iv. For offence u/s 337-D PPC they were sentenced to pay 1/3<sup>rd</sup> of Diyat amount to Mst. Sumaiya which comes to Rs.773,400/- each. The amount of Diyat was ordered to be paid in lump sum or in installments. In case of failure to pay Diyat amount the accused persons shall remain in prison till whole amount is paid to the victim.
- v. For offence u/s 337-F(iii) PPC they were sentenced to pay Daman of Rs.50,000/- each to be paid to victim Mst. Sumaiya;

In case of failure to pay fine/compensation (Except Diyat and Daman) the accused persons shall further undergo to simple imprisonment for six months. Benefit of section 382-B, Cr.P.C was extended to the accused and all sentences were ordered to run concurrently.

3. Succinctly the facts of the prosecution case, as set out by the complainant, Muhammad Waqas son of Muhammad Ibrahim is that on 05.11.2012, he was present at his shop located at Rainbow Centre, Saddar, Karachi, at about 1715 hours, he received a telephone call from his brother-in-law (husband of his wife's sister), Waqas son of Muhammad Yaqoob, who asked him to come to Agha Khan Hospital immediately due to an emergency. Upon receiving the call, the complainant rushed to the hospital. On reaching there, he found his wife, Sumaiya, in an injured condition. She informed him that accused Kashan, along with his two accomplices, had entered the house and had inflicted serious injuries upon her as well as upon her father and mother. While she was giving this statement, the doctors and hospital staff shifted her to the operation theatre as her condition had become critical. At the hospital, the complainant also found the dead bodies of Mst. Tahira and Salahuddin (the in laws of the complainant). Thereafter, the dead bodies of the deceased were shifted to Abbasi Shaheed Hospital for postmortem examination, while Mst. Sumaiya remained admitted at Agha Khan Hospital for medical treatment. In the meantime, ASI Imran Ali, on the basis of Roznamcha Report No. 50 of Jamshed Quarter Police Station, recorded the statement of the complainant under Section 154 Cr.P.C., pursuant to which the

instant FIR was registered against accused Kashan and his two unknown accomplices.

4. Investigating Officer Inspector Nadeem Ahmed Siddiqui conducted the investigation during which he visited the site and prepared site inspection memo, recorded statements of witnesses on 7-11-2012. On 12-11-2012 arrested nominated accused Kashan from Parda Park, also arrested his accomplices namely Kamran and Farhan. According to accused Kashan, the accused Farhan and Kamran were his accomplices at the time of incident. During interrogation of the accused persons the I.O. recovered robbed property on their pointation, secured crime weapons i.e. three churries on the tip off the accused persons, dispatched crime weapons and blood stained clothes to chemical examiner, which resulted in positive. The accused persons led the police party to the shop from where accused persons purchased churries. The I.O. recorded statement of one Pervez who was the shop owner from whom the accused persons had purchased churries. The I.O. recorded statement under Section. 161 of Mst. Sumaiya on 16-11-2012 when she was fit for making statement. The I.O. deposited the case property including crime weapon to Malkhana of City Courts which met the incident of fire on 11-4-2018 as a result the case property was burnt and destroyed. After completion of legal formalities, the I.O. filed charge sheet against the accused persons and forwarded them for trial for offence punishable under Sections 302, 324, 397, 337-D, 337-F(ii) PPC.

5. The learned trial Court framed charge against the appellants, to which they pleaded not guilty and claimed trial. In support of its case, the prosecution examined 17 witnesses namely PW-1 Dr. Yasmeen Qamar, PW-2 ASI Anwar Hussain, PW-3 Dr. Zahoor Ahmed, PW-4 ASI Syed Arif Ali, PW-5 PI Muhammad Ameen PW-6 Complainant Muhammad Waqas, PW-7 Mst. Sumaiya, PW-8 Muhammad Yaseen, PW-9 Muhammad Hussain, PW-10 Muhammad Waqas, PW-11 Muhammad Pervez, PW-12 SIP Imran Ali, PW-13 DSP Muhammad

Nadeem Siddiqui, PW-14 Dr. Irum Qamar, PW-15 Hasnain Zafar, PW-16 WMLO Dr. Rekha Kumari, Court witness P.L. Muhammad Riaz as well conversant of ASI Allah Yar. The witnesses also produced various documents and items, which were duly marked and exhibited as evidence. Thereafter the learned DDPP closed the side of prosecution evidence.

6. Thereafter, the statements of the appellants were recorded under Section 342, Cr.P.C. in which they denied the allegations and claimed innocence. However, they neither examined themselves on oath under Section 340(2), Cr.P.C. nor produced any evidence in their defence.

7. After hearing the parties and evaluating the evidence, the learned trial Court convicted and sentenced the appellants as mentioned in the impugned judgment. Hence, the present appeal.

8. Learned respective Counsels for the appellants made common submissions. They argued that FIR was lodged with inordinate delay of about 7 to 8 hours for which no plausible explanation was furnished; accused Farhan and Kamran were not nominated in FIR and their identification was not made before the concerned Magistrate; there are material contradiction in the evidence of all prosecution witnesses; the case property was never produced during trial; the robbed property was not identified by any of the prosecution witnesses; all the private prosecution witnesses are closely related to each other and no independent witness was examined; evidence of the complainant is doubtful as he made so many improvements and contradictions; evidence of sole eyewitness Mst. Sumaiya is full of improvements, the judgment delivered by the learned trial Court contravenes settled principles of criminal justice administration and is marred by legal and factual infirmities; that the impugned judgment is perverse and fails to reflect proper appreciation of the evidence on record; that the trial Court did not duly consider material contradictions and inconsistencies in the testimonies of the

prosecution witnesses; that the impugned judgment suffers from misreading and non-reading of evidence, resulting in a gross miscarriage of justice, thus warranting its reversal and the acquittal of the appellants.

9. The learned AAG assisted by counsel for the complainant supported the impugned judgment and argued that the medical report which was produced on record is unrebutted and implied admissions. He further argued that blood stained cloths of the persons of deceased were sent to chemical examiner, which resulted in positive. He further argued that memo of recovery of crime weapon there is no denial in cross-examination by the accused persons. He next argued that chemical reports regarding blood stained Churries, and last worn clothes of deceased persons, were tested positive. He next contended that delay in lodging of FIR is not attributed to the complainant. He further argued that PW-7 Mst. Summaiya was examined by the prosecution who is the star eye witness/victim of the incident, who fully implicated all accused persons in the commission of offence. He further argued that PW-11 Muhammad Pervez was examined by the prosecution who is independent witness in his evidence he fully implicated accused Kashan and Kamran that they had purchased two Churries from his shop and thereafter, went away. H lastly prayed for dismissal of the appeal and maintaining the conviction and sentence of accused persons. In respect of his contention he relied upon the case laws reported in 2001 SCMR 199, 2006 SCMR 1857, 2010 SCMR 697, and 2011 SCMR 460.

10. I have heard the learned counsel for the respective parties and perused the record with their assistance.

11. This is a double murder case in which a couple was killed/murdered by accused Kashan, who is a relative of the deceased, along with his two accomplices, as alleged by the prosecution. The star witness in this case is Sumaya Waqas, who was not only the sole eyewitness of the incident but also a victim herself, as she

was also given knife blows, causing her serious injuries. The deceased couple were the parents of the injured witness, Sumaya Waqas. They were also given knife blows and could not survive the injuries and lost their lives as a result thereof.

12. As per the prosecution story and the evidence of the witnesses, one of the accused, Kashan, was a close relative of the deceased family and a cousin of the injured witness, Sumaya Waqas. Initially, the prosecution story starts with the fact that perhaps it was a robbery that the accused wanted to commit; however, as the situation developed, the scuffle resulted in the deaths of the parents of injured Sumaya and caused severe injuries to her. Certain circumstantial evidence came on record and, upon examining the same, it becomes apparent that accused Kashan was very well known to the family and was permitted to enter the house without any resistance. Indeed, Sumaya Waqas, in her evidence, stated that the accused was a regular visitor to the family and was therefore allowed entry without hesitation. The star witness further stated that she was staying at her parents' house because her father was unwell and suffering from mouth cancer. As per her statement, at the time of the incident, she was herself seven months pregnant. The incident took place at her parents' house in broad daylight at 1600 hours. The deceased, Tahira and Salahuddin, were present in the house, and it was the injured eyewitness/star witness who allowed the entry of the present appellant/accused, who was well recognized by her. She informed her parents that appellant Kashan was there. In fact, she went on to ask him as to why he had not gone to work, which further fortified that the victim party was very well aware of appellant Kashan and knew about his activities of the day. Regarding the two other accused, it is the prosecution's story that they were his co-accused and wanted to meet the father, deceased Salahuddin. It further transpired that Kashan started closing the windows of the lounge and room of deceased Salahuddin and locked the door of his room. Then, the other two victims, deceased Tahira and injured Sumaya, were also taken to the room of deceased Salahuddin, where they started tying their hands. After

their hands and feet were tied, they started searching for the golden ornaments, as per the evidence of injured Sumaya, and finally found the jewelry along with some cash amount. Despite the fact that the star witness continued to name the other two accused, it never transpired as to how she knew the names of the other two accused who, as per her initial statement, were not known to her. However, Kashan, being her cousin, continued to remain very well known to the family. While the brutalization continued, and after tying the hands and feet of the injured family members, their mouths were also muffled by putting cloth in their mouths. The accused Kashan was the one who initiated the murder by using a knife, which was the weapon of offence, and slit the abdomen of the injured witness. The injured witness later stated that further knife blows were given to her; however, she did not specifically mention anyone who had inflicted those injuries. She stated that she only heard that Kashan was calling one of the accused “Kami”. However, in her statement, she remained silent as to what happened after she was inflicted with knife blows and was brutally injured, as perhaps due to shock she became unconscious and could not narrate the further story. Upon regaining consciousness, she called out to her neighbour, who came there, and the door was opened. All three accused had left the house by then. Her statement, though, very emphatically names appellant Kashan as the person who caused the injuries and committed the dacoity in the house. The other two names are barely mentioned, except for the name Kami, which is not further clarified by her in her statement. The third accused is never mentioned, and no specific role has been attributed by this star witness to the third appellant/accused, whose name, as per the prosecution story, is stated to be Farhan. She was later shifted to the hospital by her family members, where initially she could not narrate any incident. She only told her husband, who is the complainant of the case, that appellant Kashan, along with two of his accomplices, entered the house and caused the death of her mother and father, i.e., the deceased Tahira and Salahuddin, and injured her, Sumaya, who remains the star witness of the entire case. Not only she was the eyewitness, but she was also

injured by the present appellant/accused when she was pregnant. She never identified the other two accused, whom she never named. No identification parade was conducted through the Magistrate, and no effort was made by the prosecution/Investigating Officer to have Sumaya Waqas participate in an identification parade of the appellants. Hence, the identity of the other two appellants, Kamran and Farhan, remained unestablished. It was only on the pointation of the main appellant, Kashan, that the other two appellants were implicated in the charge-sheet, which is a very weak piece of evidence, and no corroborative piece of evidence came on record to establish their identity, except the evidence of one of the PW from whom allegedly the crime weapons were purchased.

13. PW Pervaiz identified Kashan and Kamran as the purchasers of the knives; however, no identification parade was ever held even through him in the case. Even in cross-examination, the injured witness, Sumaya, established that she had initially mentioned only the name of the accused/appellant Kashan. While making an improvement in her statement, she stated that she took the names of Kamran and Farhan after she had become stable and made her statement before the Investigating Officer. However, she did not explain how she came to know the names of the other two accused-appellants. She merely stated that, after regaining consciousness, she came to know the names of accused Kamran and Farhan. However, her evidence is well established that there was a robbery that took place, that injuries were caused due to knife blows to the two deceased persons, who were the parents of the star witness, while she was also seriously injured. As per the narration of the injured/star witness, such a brutal act was committed by Kashan with his two other friends, whose identity could never be established, at least in any of her statements. It seems that otherwise her statement appears to be confidence-inspiring, and the defence was unable to shatter her deposition vis-à-vis appellant Kashan. Despite lengthy and detailed cross-examination, the

statement of the eyewitness remained unshattered, even with regard to the motive, which initially, and during cross-examination, was perhaps to implicate the husband of the injured in the case. The defence was working on the conspiracy theory that the husband and wife did not have cordial relations and that the marriage had taken place without the consent of the parents, who were not happy with the marriage. Therefore, it was suggested that actually the husband of the injured and son-in-law of the deceased had committed the entire crime. No proof with regard to his presence or any incriminating evidence was shown by the defence to establish that the complainant was the one involved in this case. Later, during cross-examination, it was suggested that the motive was the property which was not being given to appellant Kashan, but none of these allegations was established by the defence. The star witness, Sumaya, had categorically denied any such allegation. From her confidence-inspiring deposition, the impression is clear and categorical that her first cousin, Kashan, entered the house and committed the robbery. Perhaps his actual motive was to kill the inmates of the house through knife blows along with his two accomplices, whose presence, namely Kamran and Farhan, was not established. Perhaps there was some hidden motive behind the whole incident; however, that never came on record.

14. Other than the evidence of PW Sumaya, there is evidence of PW Muhammad Yaseen, who is the maternal first cousin of injured Sumaya. However, since he was not present at the place of incident at the time of commission of the crime, his evidence and that of some other witnesses, though subjected to lengthy cross-examination, was not much relevant to the case. The statement of Muhammad Waqas, who was the complainant of the case, also did not offer much to ponder upon, except that when he received the information, he rushed to the hospital, obtained the initial facts, and approached the concerned police station for registration of the FIR. Even in cross-examination, the defence was unable to shatter his evidence. The matrimonial dispute was also barely touched upon by

defence, to which he categorically denied. As to why his wife, Sumaya, was living separately from him, he categorically stated that due to the condition of his father and her own condition, as she was seven months pregnant, she was residing with her parents. Such an arrangement is quite normal, particularly during the later months of pregnancy, when a woman may stay with her parents to receive better care and support. However, no substantial or relevant questions were put to this witness during cross-examination that could provide any meaningful advantage to the defence. PW-1 is the witness who identified appellant Kamran, other than Kashan. However, his testimony does not inspire confidence, as the identification was made before the police, which is an inadmissible piece of evidence. Apart from this, the Investigating Officer, who conducted the investigation, had little direct evidence to offer regarding the actual occurrence. However, he produced the relevant documents and demonstrated that a detailed investigation had been conducted, resulting in the establishment of a case against the appellants. Some photographs of the house were initially taken, showing the condition of the property and the manner in which household articles had been removed and scattered, which shows that the accused were searching for something which they were unable to find. However, it was not established whether any stolen property had been taken or not. There are also contradictory statements of the witnesses as to which particular articles were removed. However, from the narration given by the witness in her deposition, it appears that an attempt to commit robbery had taken place.

15. As far as the recovery of the crime weapon is concerned, the record shows that the bloodstained knives were recovered on the joint pointation of the appellants. Such crime weapons were verified by PW Pervaiz, from whom the knives had allegedly been obtained. Medical evidence further establishes that a sharp-edged weapon was used in the commission of the murders. However, the alleged robbed articles perhaps were never recovered nor brought on record. There

is no memo of recovery of the robbed articles available on the record. The medical evidence brought on record also supports and corroborates the ocular account of the injured witness, Sumaya Waqas. The prosecution evidence and documents brought on record show that the crime weapon was not physically produced before the Court during the recording of evidence, as the Malkhana record was burnt in some incident. However, the Chemical Examiner's report is available on record, indicating that the crime weapon was used in the commission of the offence and was positive in nature. Despite the fact that the recovery of the weapon was effected on the pointation of the accused, the statement of the accused is also based on allegation, and no further documents or other evidence were placed on their behalf after the statements of the accused. That was also the case of appellant Kashan. However, the other two accused, Kamran and Farhan, categorically stated that they had nothing to do with the incident and that merely for not bribing the police, they had been falsely implicated in the case, as the police had to complete the count of three accused persons.

16. After sufficiently going through the lengthy evidence, which was perhaps required as it was a double murder case in which a couple was subjected to brutality, their hands and feet were tied, their mouths were muffled, and they were brutally given knife blows while an attempt to commit robbery was being made. Kashan is fully implicated in the entire case, especially by the star witness, who is herself injured and the sole eyewitness. She fully identified him as her first cousin, who entered the house with his other two friends and subjected the inmates of the house to severe torture and brutality. Even the injured, who was seven months pregnant, was subjected to torture and several knife blows were given to her, despite which she survived the attack. Whereas the identity of the other two accused/appellants remained unestablished, as no identification parade was held and no other incriminating evidence was produced before the Court. Whether the robbery was committed or not is also not established; however, the photographs

show that there was some attempt made to commit robbery. Such cases require very minute and patient scrutiny of the evidence and the other material based on the deposition of the PWs. Such matters cannot be decided in a hasty manner. This case was a case of brutality committed by one's own family, perhaps in order to avenge the marrying of the daughter to someone outside the family. This crime, as established, involved knives being specially bought to commit the offence, making their own kith and kin the victims of such insane and inhuman brutality. The purpose was solely to kill all the inmates; however, to the disappointment of the assailants, one of them survived and remained injured and became the eyewitness of the incident, fully implicating appellant Kashan. However, her statement with regard to the other two appellants remained unestablished and cannot be considered at the time of this judgment. While pronouncing the judgment, I place my reliance upon the following case law along with their relevant portion:

**2001 SCMR 177**

18. There is no force in the contention that conviction could not be awarded on the basis of solitary statement of Mst. Manzooran as it is quality of evidence and not quantity which is to be considered. The conviction can be based on the evidence of a solitary witness. In this regard we are fortified by the dictum laid down in PLD 1980 SC 225; 1971 SCMR 659; 1969 SCMR 76; 1971 SCMR 273 and 1995 SCMR 1979. As mentioned hereinabove the statement of Mst. Manzooran finds corroboration from medical evidence, motive surrounding circumstances and absconsion irrespective of her inter se relationship with deceased (PLD 1979 SC 144; 1975 Cr.LJ (DB) 218).

**2008 SCMR 917**

4. The learned trial Court having found the case against the appellant proved beyond reasonable doubt, convicted him under section 302(b), P.P.C. and sentenced him to death. He was also directed to pay a sum of Rs.1,00,000 as compensation under section 544-A, Cr.P.C. to the legal heirs of the deceased, in default whereof to undergo five years' S.I. The co-accused of the appellant were, however, acquitted of the charge.

13. The prosecution witness has passed the test of lengthy cross-examination by the defence but no material discrepancies have been credited by the defence counsel in favour of the appellant. The prosecution has been successful in establishing the guilt of the accused-appellant by producing ocular account, medical evidence, blood-stained earth and report of Chemical Examiner. The learned counsel for the appellant has failed to point out any legal infirmity in the impugned judgment calling for interference by this Court.

**PLD 1985 Lahore 33**

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The next question for determination would be whether Asif shared the common intention. Admittedly there is no evidence of preconcert between the two, therefore, the question would be whether on the evidence of this case it can be said that common intention developed during the occurrence. The answer is in the negative because Asif was said to be empty-handed. He did not go inside the house where the attack was made, he neither incited Yusuf. His mere presence in the lane would not be enough because there is no evidence that they came together.....

..... In view of these improvements and contradictions, it cannot be said that Asif had also held out a threat. He may have run away with Yusuf because they were known to be friends and friendship alone is no proof of common intention. There is no overt act committed by Asif, towards the commission of the crime, under these circumstances, we are not satisfied with the prosecution case against him. Giving the appellant the benefit of doubt, we accept his appeal and acquit him of the charges.

In so far as Yusuf is concerned, Mst. Shamim Akhtar (informant) was, the solitary witness who saw her father and mother being stabbed to death and while intervening she also suffered an injury at the hands of Yusuf. True, she was the daughter of the deceased but she had no axe to grind against Yusuf. Undoubtedly she was a natural witness. It is in her evidence that a lantern was burning inside the room which the Investigating Officer took into possession. Moreover, an electric bulb was also lit near the verandah in the lane, as such there could be no doubt about the identification of Yusuf, accused, by her and her two neighbours who saw Yusuf coming down from the roof of deceased's house. P. Ws. Tahir and Aslam are not related to the deceased nor they have enmity with Yusuf. Being deceased's neighbours they were natural witnesses. We find no reason to disbelieve their testimony. Keeping in view the evidence of Mst. Shamim Akhtar and that of P. Ws. Tahir and Aslam who reached the house of the deceased soon after the attack and saw Yusuf, accused, jumping down from the roof of deceased's house and then running away with a Chhurri in his hand, coupled with the evidence of the recovery of his blood-stained clothes which he got recovered on the following day of the occurrence, we are satisfied with the prosecution case against Yusuf. His conviction is, therefore, maintained.

17. After going through the entire evidence, the impugned judgment and all documentary evidence brought on record, I do not see any material wrong in the impugned judgment to the extent of appellant No.1, Kashan son of Muhammad Sultan, who was sentenced for the offence u/s 302(b) PPC, to suffer imprisonment for life in two counts and to pay compensation of Rs.200,000/- each to the legal heirs of the deceased. He was also sentenced for the offence under Section 324 read with Section 34, PPC, to suffer R.I. for seven years and to pay Rs.50,000/- to be paid to the victim, Mst. Sumaya. For the offence under Section 337-D, PPC, he was sentenced to pay 1/3 of the Diyat amount to Mst. Sumaya, which comes to Rs.7,73400/-. The amount of Diyat was ordered to be paid in lump sum or in installments. In case of failure to pay the Diyat amount, the accused persons shall remain in prison till the whole amount is paid to the victim. For the offence under Section 337-F(iii), PPC, he was sentenced to pay Daman of Rs.50,000/- to the victim, Mst. Sumaya. However, as far as the offence under Section 397 read with

Section 34, PPC, is concerned, the same was not established against the present appellant; hence, he is acquitted of this charge.

18. As far as the two other appellants, Kamran Hussain alias Kami son of Intizar Hussain and Muhammad Farhan son of Muhammad Suleman, are concerned, the case against them has not been established beyond reasonable doubt. Hence, the benefit of doubt is given to both the appellants, who are acquitted of all the charges, and the conviction against them is set aside. If they are not required in any other case, they may be released forthwith.

19. In the above-mentioned circumstances, the impugned judgment dated 13.09.2019, pronounced by the Court of learned Additional Sessions Judge-I, Karachi East, in Sessions Case No.1090 of 2012, is partially upheld to the extent of appellant Kashan son of Muhammad Sultan, whereas the judgment with regard to Kamran Hussain alias Kami son of Intezar Hussain and Muhammad Farhan son of Muhammad Suleman is set aside.

20. The, Criminal Jail Appeals Nos.349 and 534 of 2020, pending before this Court, stand disposed of accordingly. Office is directed to place a signed copy of this judgment in the captioned connected matter.

**JUDGE**



