

THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Present:

Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Abdul Hamid Bhurgri

Criminal Appeal No. D-14 of 2025
Cr. Confirmation Case No. D-05 of 2025

Appellant : Ahsan Ali son of Inayatullah through
M/s. Asif Ali Abdul Razak Soomro
and Safdar Ali Ghouri, Advocates.

The State : Through Mr. Nazeer Ahmed
Bhangwar, Deputy Prosecutor General
Sindh.

Date of hearing : 25-02-2026

JUDGMENT

Adnan Iqbal Chaudhry J. - The appeal under section 410 Cr.P.C. and the Confirmation Case under section 374 Cr.P.C. are from judgment dated 06.05.2025 passed by the V-Additional Sessions Judge, Shikarpur in Sessions Case No. 330/2019 whereby the Appellant, Ahsan Ali Jafferi, has been convicted for the *qatl-i-amd* of Manzoor Ahmed and sentenced to death as *tazir* under section 302(b) PPC.

2. The facts are that on 07.03.2019, around 14:00 hours, Manzoor Ahmed s/o Azizullah Jafferi and Mst. Rajul wife of Ali Ahmed @ Goroo [**victims**] were gunned down within the limits of P.S. Golo Daro, District Shikarpur. Crime No. 04/2019 was registered the same day at 17:30 hours for offences punishable under sections 302, 311, 148, 149 PPC alleging a case of honour-killing (*karo-kari*).

3. The Informant, ASI Abdul Rasheed Lashari, narrated that he and five police constables were on mobile patrol when he received spy-information around 13:40 hours that: "(i) Ali Ahmed @ Goroo armed with Kalashnikov (ii) Rawat armed with T.T. pistol, both sons of Habibullah (iii) Khan Muhammad (iv) Ahsan, both sons of Inayatullah, armed with T.T.

*pistols, residents of village Baqa Muhammad Jafferi (v) Aijaz son of Malho resident of village Khair Bux Jafferi, armed with T.T. pistol, all by caste Jafferi, and (vi) one unknown person armed with T.T. pistol", were taking away the victims to the forest for honour killing; that the police party reached the disclosed spot near Bagro Jafferi link road around 14:00 hours; upon arrival they saw and identified aforesaid accused persons taking away a man and woman; that upon seeing the police, the accused Rawat raised *hakal* that the woman was *kari* with Manzoor Ahmed, and then fired upon her; that the accused Khan Muhammed also fired upon the woman who fell to the ground; that the accused Ali Ahmed @ Goroo fired upon Manzoor Ahmed who fell to the ground; that at the same time the accused Ahsan (Appellant), Aijaz and an unknown person also fired upon Manzoor Ahmed; that as the police party alighted from the mobile, the accused persons escaped into the forest; that when the police examined the victims, they had succumbed to firearm injuries and died.*

4. None of the accused persons could be arrested. They were declared absconders on 31.05.2019. After issuing proclamation against them under sections 87 and 88 Cr.P.C., the Magistrate recorded the deposition of prosecution witnesses under section 512 Cr.P.C. Thereafter, by order dated 02.09.2019, the Sessions Judge ordered that the case against accused persons be kept on the dormant file till their arrest.

5. On 16.03.2024, the Appellant appeared before the trial court on interim pre-arrest bail. On 16.08.2024, he was charged with the *qatl-i-amd* of Mst. Rajul and Manzoor Ahmed by firearm on the pretext of honour, thus for offence punishable under section 302 read with sections 311 and 149 PPC. The Appellant pleaded not guilty, thus commenced the trial against him.

6. At trial, the prosecution examined the following witnesses:

- (i) the Tapedar who had prepared the sketch of the place of incident (Exhibit 17);

- (ii) the Informant and eye-witness, ASI (Retd.) Abdul Rasheed (Exhibit 18);
- (iii) eye-witness, SI (Retd.) Muhammad Hassan (Exhibit 19);
- (iv) Dr. Saima Manzoor, Women Medical Officer who conducted the post mortem of Mst. Rajul (Exhibit 21);
- (v) Dr. Majid Ali Mahar, Medical Officer who conducted the post mortem of Manzoor Hussain (Exhibit 22);
- (vi) I.O. of the case, SIP Muzaffar Ali (Exhibit 23).

By statement dated 13.01.2024, the ADPP gave up the private witnesses namely Mst. Leelan and Mst. Inaytaan, who were the widow and mother respectively of the victim Manzoor Ahmed, stating that they were not willing to support the prosecution.

7. Statement of the Appellant was recorded under section 342 Cr.P.C. where he stated that he had been falsely implicated by the police when he refused to pay the bribe demanded from him. However, he did not give evidence on oath under section 340(2) Cr.P.C. nor did he produce any witness in defense.

8. Based on the testimony of the Informant, ASI Abdul Rasheed and SI Muhammad Hassan, who claimed to be eye-witnesses of the murder, the trial court convicted and sentenced the Appellant for the *qatl-i-amd* of Manzoor Ahmed, but not for the *qatl-i-amd* of Mst. Rajul.

9. Mr. Asif Razak Soomro, learned counsel for the Appellant submitted that there was no evidence that placed the Appellant at the scene of crime; that the two eye-witnesses examined by the prosecution had contradicted themselves on cross-examination when they admitted that they never saw the faces of the assailants; and that no family member of the victims had come forth to accuse the Appellant of the murder. The widow, mother and brother of the victim Manzoor Ahmed, and the mother and brother of the victim Rajul filed affidavits in support of the appeal, stating that the Appellant was not amongst the assailants. The learned Deputy Prosecutor General of course supported the judgment of the trial court.

10. Heard learned counsel and reappraised the evidence.

11. It was a foregone conclusion that the victims, Manzoor Ahmed and Mst. Rajul were shot dead near the link road leading to village Bagro Jafferi. Per the post-mortem reports (Exhibit 7/A and Exhibit 8/A), Manzoor Ahmed died of firearm injuries, one to the temple, two to the abdomen and one to chest; and that Mst. Rajul died of firearm injury to the abdomen and upper chest. Six empties were collected from the crime scene, one of a Kalashnikov and five of T.T. pistols (Exhibit 5/C and Exhibit 10/D). However, since no firearm was recovered, the empties could not be matched to any firearm.

12. As per the Informant, ASI Abdul Rasheed, the police party remained at the place of incident for one and half hour but no male from the locality came out of his house and only ladies from the locality accompanied the dead bodies to the hospital (Exhibit 18). SI Muhammad Hassan stated that the mother and brother of deceased Manzoor Ahmed had accompanied the dead body to the hospital (Exhibit 19). Yet, none of the family members of the victims went to the police station to report the incident. The I.O. of the case, SIP Muzaffar Ali stated that he tried to associate private witnesses but none was willing (Exhibit 23).

13. The fact that the victims, a man and woman, were gunned down at the same time and at the same place by more than one assailant, and that no one from the family of the victims came forth to report the crime or to testify, indicated a case of honour-killing. However, apart from the reprehensible nature of the crime, the question remained whether the prosecution brought evidence beyond reasonable doubt that the Appellant was amongst the assailants.

14. The entire evidence on which the Appellant was convicted by the trial court was the testimony of two police officers, namely the Informant, ASI Abdul Rasheed and SI Muhammad Hassan, who had stated on examination-in-chief that they arrived at the scene just in time

to see the accused persons firing upon the victims, which including the Appellant who was seen firing upon Manzoor Ahmed with a T.T. pistol. But then, upon cross-examination, both these witnesses contradicted themselves. The Informant, ASI Abdul Rasheed stated:

“When we reached at the pointed place of incident the accused persons had already been escaped from the place of incident. When we reached at place of incident, the ladies near about 20-25 ladies were present at the place of incident and the said ladies disclosed about the incident. We also chased the accused persons for about 50-60 steps when they escaped from the place of incident. We saw the accused by escaping from their back side at the place of incident.” (Exhibit 18).

Whereas, SI Muhammad Hassan stated:

“When we reached at the place of incident we saw that few ladies were available and they were weeping and they informed that accused nominated in FIR have killed both deceased namely Manzoor Ahmed and Mst Rajul Khatoon on the pretext of honour killing and now they have escaped away from the place of incident. We saw the accused were running towards jungle and we chased them for about 1000 steps but they succeeded to run away. We saw the accused while running towards the jungle from their back side but we did not see their faces.” (Exhibit 19).

15. Thus, both eye-witnesses relied upon by the prosecution had admitted on cross-examination that by the time they reached the scene, the victims had already been shot and they only saw the back of the assailants fleeing into the forest and never saw their faces. This was in complete contradiction of the ocular account given by them during examination-in-chief that they saw the Appellant firing upon Manzoor Ahmed. The cross-examination reflects that ASI Abdul Rasheed and SI Muhammad Hassan were not eye-witnesses of the shooting itself or of the Appellant's presence at the crime scene.

16. ASI Abdul Rasheed also admitted on cross-examination that before the incident he had never seen the accused persons. That meant he could not have named the Appellant in the FIR. Both witnesses then went on to admit that names of the accused persons, including the Appellant, was in fact disclosed to them by ladies of the village who were present at the crime scene when the police arrived. But then, none of those ladies was examined as witness by the prosecution. Therefore,

statements by ASI Abdul Rasheed and SI Muhammad Hassan on examination-in-chief that the Appellant committed the murder of Manzoor Ahmed, were at best hearsay and inadmissible by Article 71 of the Qanun-e-Shahadat Order, 1984. *Ergo*, the prosecution did not bring any evidence to tie the Appellant to the crime.

17. It is a settled principle of criminal jurisprudence that even if there is a single circumstance creating reasonable doubt in a prudent mind about the guilt of the accused person, he is entitled to the benefit of doubt as a matter of right and not as a matter of grace.¹ Contrarily, judgment of the trial court manifests that it was swayed by the reprehensible nature of the crime rather than the evidence. To quote the Supreme Court of Pakistan in *Muhammad Luqman v. The State* (PLD 1970 SC 10): "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 his 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 that 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 the superior Courts, will be reduced to a naught."

18. In view of the foregoing, the appeal is allowed. Judgment dated 06.05.2025 passed by the V-Additional Sessions Judge, Shikarpur in Sessions Case No. 330/2019 is set-aside and the Appellant is acquitted under section 423(1)(b) Cr.P.C. He shall be released from prison forthwith unless he is in custody in another case. Consequently,

¹ *Tariq Pervez v. The State* (1995 SCMR 1345); *Muhammad Akram v. The State* (2009 SCMR 230); *Muhammad Mansha v. The State* (2018 SCMR 772); *Imran v. The State* (2026 SCMR 47).

Confirmation Case No. D-05/2025 stands answered in the negative
and disposed of accordingly.

JUDGE

Signed at Karachi on 23.05.2026

JUDGE

Announced on 25-05-2026

By

Sd/-

Mr. Justice Abdul Hamid Bhurgri

Sd/-

Mr. Justice Nisar Ahmed Bhanbhro