

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKNA.

Criminal Jail Appeal No.D-40 of 2021 a/w
Criminal Conf. Case No.D-36 of 2021 and
Criminal Jail Appeal No.S-54 of 2021

Date	Order with signature of Judge
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Before;

Mr. Justice Abdul Mobeen Lakho.

Mr. Justice Abdul Hamid Bhurgri.

Appellant : Punhal son of Allah Dino Magsi,
through Mr. Habibullah G. Ghouri,
Advocate.

Respondent : The State, through Mr. Aitbar Ali Bullo,
D.P.G.

Complainant : Mst. Haleema Wife of Imdad Admani
Magsi, through Mr. Safdar Ali Ghouri,
Advocate

Dates of Hearing : 31.03.2026, 06.04.2026, 20.04.2026,
18.05.2026 and 20.05.2026.

Date of Judgment : 18.08.2026.

J U D G M E N T

ABDUL HAMID BHURGRI, J.- Through this common judgment, we propose to dispose of the captioned Criminal Appeals preferred by appellant Punhal Admani Magsi and the Murder Reference submitted by the learned trial Court under Section 374, Cr.P.C. The appellant has called in question the judgment dated 09.11.2021 passed by the learned Additional Sessions Judge-I/MCTC, Shahdadkot, in Sessions Case No.188 of 2018 arising out of Crime No.19 of 2018 registered at Police Station Qubo Saeed Khan for offences punishable under Sections 302, 311 and 34, P.P.C., whereby he was convicted under Section 302(b), P.P.C. and sentenced to death as Ta'zir for committing the Qatl-i-Amd of Saddam Hussain. He was further directed to pay compensation of Rs.20,00,000/- to the legal heirs of the deceased under Section 544-A, Cr.P.C., and in default thereof to suffer simple imprisonment for two years. The appellant was also convicted under Section 311, P.P.C. and sentenced to undergo rigorous imprisonment for ten years with a fine of Rs.2,00,000/- and in default thereof to further suffer simple imprisonment for one year. Benefit of Section 382-B, Cr.P.C. was extended to him.

2. Through the connected appeal, the appellant has also assailed the judgment rendered in Sessions Case No.142 of 2018 arising out of Crime No.21 of 2018 registered under Section 24 of the Sindh Arms Act, 2013, whereby he was also convicted under Section 265-H(ii), Cr.P.C and sentenced to undergo Rigorous Imprisonment for seven (07) years with fine of Rs.20,000/-; benefit of Section 382-B, Cr.P.C was also extended in his favour.

3. Briefly stated, the prosecution case, as set out in the F.I.R., is that on 21.03.2018 complainant Mst. Haleeman, accompanied by her sister Mst. Arbab Khatoon, her son Saddam Hussain and her brother-in-law Murad Ali, had proceeded towards Ghanwar Wah for grazing their buffaloes. At about 1:30 p.m., when they reached near the Imam Bargah, they allegedly found appellant Punhal Admani Magsi along with his brothers Sahib and Ghulam Rasool standing there beside a motorcycle. According to the complainant, appellant Punhal and co-accused Sahib were armed with pistols whereas Ghulam Rasool was carrying a repeater. It was alleged that the appellant intercepted Saddam Hussain, declared that he was "Karo" with his wife Mst. Laal Bibi and proclaimed that he would not spare him. Immediately thereafter, the appellant allegedly fired upon Saddam Hussain, causing firearm injuries on the right side of his chest and right arm/wrist. Co-accused Sahib thereafter fired additional shots causing injuries upon the left side of the body. As a consequence of the firearm injuries, Saddam Hussain fell to the ground and expired at the spot. The accused persons allegedly fled from the scene upon their motorcycle while brandishing their weapons. The dead body was shifted to Rural Health Centre, Qubo Saeed Khan for legal formalities. Thereafter, the complainant proceeded to Police Station Qubo Saeed Khan and lodged the F.I.R at about 3:30 p.m. The investigation commenced immediately.

4. During investigation, the Investigating Officer inspected the place of occurrence, prepared the memo of inspection, secured bloodstained earth and crime empties, arranged post-mortem examination of the deceased, recorded statements of witnesses under Section 161, Cr.P.C., arrested the appellant on the same evening and allegedly recovered from his possession one .30-bore pistol along with live rounds. The recovered weapon and the crime empties were subsequently forwarded to the Ballistic Expert for forensic examination. Upon completion of

investigation, a report under Section 173, Cr.P.C was submitted before the competent Court against the present appellant, whereas the remaining nominated accused were shown as absconders and were later declared proclaimed offenders.

5. The appellant was formally charged, to which he pleaded not guilty and claimed trial.

6. In order to substantiate the accusation, the prosecution examined the complainant Mst. Haleeman, Mst. Arbab Khatoon, Murad Ali, mashir Abdul Karim, Dr. Mazhar Hussain Panhwar, Police Constable Muhammad Ali, the Investigating Officer ASI Barkat Ali Junejo and Tapedar Muneer Hussain Kutrio. Besides oral testimony, the prosecution produced documentary evidence including the F.I.R., mashirnamas, injury and post-mortem reports, sketch of the place of occurrence, chemical examiner's report, ballistic report, memo of arrest and recovery, and other connected documents. Thereafter, the learned State counsel closed the prosecution side.

7. The appellant was examined under Section 342, Cr.P.C. He denied the allegations in toto, professed innocence and alleged false implication on account of previous enmity. He further asserted that the recovery of the pistol had been foisted upon him. Availing the permission contemplated by Section 340(2), Cr.P.C., the appellant entered the witness-box on oath. He asserted that at the relevant time he was grazing cattle at some distance from the place of occurrence when he heard the sound of firing. According to him, after hearing the reports of gunshots, he proceeded towards the place of occurrence, found the deceased lying there, and thereafter quietly returned to the place where his cattle had been left before eventually going home. He emphatically denied having participated in the occurrence.

8. The appellant also examined Hub Ali and Ghulam Ali in defence. Both attempted to support the plea that unknown dacoits had committed the occurrence while stealing cattle and that the appellant reached the place only after hearing the firing.

9. Upon appraisal of the entire evidence, the learned trial Court found the prosecution successful in proving its case beyond reasonable doubt. Consequently, the appellant was convicted and sentenced in the manner

already noticed above, whereas the co-accused, being absconders, were ordered to be dealt with separately in accordance with law. Being dissatisfied, the appellant has preferred the instant appeals.

10. Learned counsel for the appellant assailed the impugned judgment on numerous grounds. It was argued that the prosecution evidence suffers from material contradictions and improvements which strike at the root of the case. According to the learned counsel, all three eyewitnesses were admittedly related to the deceased and, therefore, constituted interested witnesses whose testimony required independent corroboration. It was further argued that no independent inhabitant of the locality was associated either with the investigation or with the recovery proceedings despite availability. He next contended that the evidence relating to the recovery of the weapon is inherently doubtful, particularly because the recovery was allegedly effected during night-time and because the prosecution failed to establish a complete chain of safe custody before the weapon reached the Ballistic Expert. According to him, the recovery has consequently lost its evidentiary value. He also argued that the prosecution failed to satisfactorily explain the alleged motive; that the medical evidence does not materially support the ocular account; that the defence version has been discarded without proper appreciation; and that the prosecution has failed to establish its case beyond reasonable doubt. He accordingly prayed for acquittal. In the alternative, it was contended that even if the conviction is maintained, the sentence of death deserves to be converted into imprisonment for life.

11. Conversely, learned Additional Prosecutor General, assisted by learned counsel appearing for the complainant, supported the impugned judgment. It was argued that the F.I.R. was lodged with promptitude; the appellant was specifically nominated therein with a direct role; the eyewitnesses remained consistent on all material particulars; their evidence receives full support from the medical and forensic evidence; the recovered pistol was scientifically connected with the occurrence through the Ballistic Expert's report; the defence plea is an afterthought unsupported by any independent evidence; and the learned trial Court has correctly appreciated the entire evidence. Learned law officers further contended that the occurrence was a premeditated honour killing committed in broad daylight after a clear declaration by the appellant that the deceased was "Karo". According to them, no mitigating

circumstance whatsoever exists for reduction of sentence and the learned trial Court rightly awarded capital punishment. They accordingly prayed for dismissal of both appeals and confirmation of the sentence of death.

12. We have heard learned counsel for the parties at considerable length and have carefully examined the entire record with their able assistance.

13. Since the present matter involves confirmation of a sentence of death, the evidence requires independent re-appraisal by this Court irrespective of the conclusions recorded by the learned trial Court. It is by now a settled principle of criminal jurisprudence that while hearing an appeal arising out of a conviction carrying capital punishment, coupled with a Murder Reference under Section 374, Cr.P.C., the High Court is under a statutory as well as judicial obligation to independently examine the entire evidence, reassess its intrinsic worth, evaluate the submissions advanced by both sides and thereafter arrive at its own conclusion regarding the guilt or innocence of the accused and the appropriateness of the sentence awarded.

14. Keeping the above principle in view, we have independently examined the prosecution evidence, the defence plea, the medical and forensic material, the documentary evidence and the reasoning recorded by the learned trial Court. We now proceed to examine the rival contentions issue-wise rather than witness-wise so as to determine whether the prosecution has succeeded in establishing the guilt of the appellant beyond reasonable doubt and whether the sentence awarded by the learned trial Court calls for any interference?

15. The foremost circumstance which lends assurance to the prosecution case is the prompt registration of the F.I.R. The occurrence admittedly took place at about 1:30 p.m., whereas the F.I.R. came to be lodged at about 3:30 p.m. Although the place of occurrence was situated at a considerable distance from the police station, the complainant first shifted the dead body of her deceased son to the Rural Health Centre for legal formalities and thereafter proceeded to the police station for lodging the report. In the facts and circumstances of the case, the interval of approximately two hours stands reasonably explained and cannot be regarded as indicative of consultation or deliberation.

16. The F.I.R. is noteworthy not merely because of its promptness but also because of the completeness of its contents. It contains the names of all the assailants, the specific role assigned to each accused, the motive attributed to the appellant, the nature of weapons carried by them, the places where firearm injuries were allegedly caused, and the names of the eyewitnesses who were accompanying the deceased. Such particulars, furnished at the earliest available opportunity, considerably reduce the possibility of embellishment or subsequent fabrication. The promptness with which the law was set into motion, therefore, provides intrinsic assurance to the prosecution version.

17. It is equally significant that during the entire cross-examination no plausible suggestion was advanced as to why the complainant would immediately nominate the present appellant while deliberately allowing the real offender to escape. The prompt F.I.R., therefore, constitutes an important circumstance supporting the truthfulness of the prosecution case.

18. The prosecution principally rests upon the ocular account furnished by PW-1 Mst. Haleeman, PW-2 Mst. Arbab Khatoon and PW-3 Murad Ali. Their evidence, therefore, requires careful and independent scrutiny. It is well settled that conviction can safely be founded upon the testimony of a single truthful witness and where more than one eyewitness consistently narrates the occurrence on material particulars, their testimony ordinarily furnishes sufficient basis for conviction provided it inspires confidence and withstands judicial scrutiny. In the present case, all three eyewitnesses consistently stated that they had accompanied the deceased for grazing buffaloes and were present near Imam Bargah Ghanwar Wah when the appellant along with his brothers intercepted Saddam Hussain. All three consistently deposed that immediately before opening fire, the appellant declared that Saddam Hussain was "Karo" with his wife and proclaimed that he would not spare him. According to each of them, the appellant thereafter fired at the deceased causing firearm injuries upon the right side of his body, whereas co-accused Sahib also fired additional shots.

19. We have independently examined their evidence in its entirety. Despite lengthy and searching cross-examination extending over numerous pages, their testimony regarding the identity of the appellant, the motive, the declaration immediately preceding the occurrence and

the specific role assigned to the appellant remained substantially unshaken. It is true that during cross-examination each witness gave different estimates regarding the distance from which firing was made, the exact position where the deceased fell, the precise time consumed in arranging transportation of the dead body, the duration for which the accused remained at the spot and certain other collateral matters. However, on the central questions requiring determination namely the identity of the appellant, his presence at the place of occurrence, the declaration made by him before firing, his possession of the pistol and the firearm injuries caused by him the testimony of all three witnesses remained consistent. The occurrence took place in broad daylight. The appellant and the prosecution witnesses admittedly belonged to the same locality and knew each other from before. Consequently, no question of mistaken identity arises. Another circumstance which significantly enhances the credibility of the eyewitness account is the complete absence of any suggestion that the appellant was unknown to the witnesses or that the occurrence took place under circumstances preventing proper observation. The defence throughout proceeded on the footing that the appellant was falsely implicated due to previous hostility and not because of mistaken identity. This itself proceeds upon an admission that the witnesses were fully capable of recognizing the appellant. We are therefore satisfied that the ocular account possesses intrinsic worth and inspires confidence. It is natural, straightforward and materially consistent upon every essential aspect of the prosecution story.

20. Learned defence counsel laid considerable emphasis upon the fact that all three eyewitnesses are closely related to the deceased. PW-1 is the mother of the deceased, PW-2 is his maternal aunt and PW-3 is his maternal uncle. According to the learned counsel, such relationship by itself renders their testimony unsafe for reliance. We are unable to subscribe to the above proposition. Relationship is not synonymous with interestedness. It is now firmly settled that evidence cannot be discarded merely because the witness happens to be related to the deceased. What the law requires is careful scrutiny of such evidence. Once, after such scrutiny, the Court finds the testimony natural, consistent and confidence inspiring, there exists no legal impediment in placing reliance upon it. The august Supreme Court has repeatedly held that ordinarily a close relative would be interested in bringing the actual offender to

justice rather than falsely substituting an innocent person and allowing the real culprit to escape. Mere relationship, therefore, does not by itself impair credibility. In this regard, reference may beneficially be made to *Sharafat Ali v. The State* (1999 SCMR 329), wherein the Honourable Supreme Court reiterated that relationship alone is no ground to discard otherwise reliable testimony.

21. In the present case, the defence was unable to demonstrate any such extraordinary circumstance which could reasonably persuade the mother, maternal aunt and maternal uncle of the deceased to falsely implicate the appellant while shielding the actual murderer. No previous litigation of such magnitude has been proved which could reasonably furnish a motive for such false substitution. Their presence at the place of occurrence is also natural. According to the prosecution, they had all proceeded together for grazing buffaloes. The defence has not established that their presence there was either improbable or impossible. Once their presence stands naturally explained, their relationship with the deceased does not diminish the evidentiary value of their testimony. We have therefore examined their evidence on its own intrinsic merits rather than upon the basis of relationship and find no legal reason to discard it.

22. Learned counsel for the appellant next argued that numerous contradictions appearing in the evidence demolish the prosecution case. We have ourselves carefully examined every contradiction highlighted during arguments. They broadly relate to the distance between the witnesses and the accused, the exact place where the deceased fell, whether blood had stained the clothes of every witness, the time required for arranging the ambulance, the exact duration for which the accused remained present after the firing, whether statements under Section 161, Cr.P.C. were recorded at the hospital or at the police station and similar collateral matters. In our view, none of these discrepancies touches the substratum of the prosecution case. Human memory is neither infallible nor photographic. Witnesses who depose after considerable lapse of time cannot be expected to reproduce every minute detail with mathematical precision. Some variation in peripheral matters is not only natural but is often regarded as a hallmark of truthful testimony, for rehearsed witnesses generally reproduce identical versions on every trivial detail.

23. The Honourable Supreme Court has consistently held that only those contradictions which go to the root of the prosecution case and

materially affect the identity of the offender or the manner of occurrence deserve serious consideration. Discrepancies relating to estimates of distance, duration, sequence of collateral events or similar ancillary matters do not by themselves render otherwise trustworthy evidence unreliable. Reference in this regard may be made to Muhammad Ilyas and others v. The State (2011 SCMR 460), Zakir Khan and others v. The State (1995 SCMR 1793) and Muhammad Azeem v. The State (2014 P.Cr.L.J. 967), wherein the settled distinction between material contradictions and insignificant discrepancies has been reiterated. Likewise, in Muhammad Ishaque v. The State (2018 YLR 786), it was observed that minor investigative lapses or peripheral inconsistencies, unless affecting the core of the prosecution case, do not justify rejection of otherwise confidence-inspiring evidence.

24. Tested on the above principles, we find that the discrepancies pointed out by the defence relate only to peripheral matters. None of them creates any doubt regarding the presence of the appellant at the place of occurrence, the declaration made by him immediately before the firing, the firearm injuries attributed to him or the identity of the assailant. The core prosecution story has remained intact from the inception of the case till the conclusion of trial.

25. We are, therefore, of the considered view that the contradictions relied upon by the learned defence counsel are wholly insufficient to discredit the otherwise trustworthy ocular account.

26. We shall now examine whether the medical evidence lends assurance to the ocular account furnished by the prosecution witnesses. It is by now well settled that medical evidence is essentially corroborative in nature. Its primary object is to determine the cause of death, the nature and seat of injuries, the probable weapon employed and the approximate time of occurrence. Unless it completely rules out the ocular version, trustworthy direct evidence ordinarily prevails. In the present case, the post-mortem examination was conducted by Dr. Mazhar Hussain Panhwar, who found four ante-mortem firearm injuries upon the person of the deceased. One injury was located on the right side of the chest near the nipple, another upon the right upper limb, while the remaining firearm injuries were present upon the left side of the body. The doctor opined that the deceased died due to shock and haemorrhage

resulting from the firearm injuries, which, in the ordinary course of nature, were sufficient to cause death.

27. The ocular account consistently attributes the first firing to the appellant, resulting in firearm injuries upon the right side of the body, including the chest, whereas the remaining injuries were attributed to co-accused Sahib. Although the eyewitnesses have, at places, described the injury as being on the wrist, arm or elbow, such variation is wholly inconsequential. Rustic witnesses cannot be expected to describe anatomical locations with the precision of a medical expert. What is important is the broad consistency between the ocular account and the medical findings, which unmistakably establish multiple firearm injuries substantially corresponding to the role attributed by the eyewitnesses.

28. Learned defence counsel sought to emphasize that the Medical Officer did not notice blackening or tattooing around the wounds and opined that the shots had been fired from a distance of more than five feet. We do not find any inconsistency between such opinion and the prosecution version. None of the eyewitnesses asserted that the muzzle of the pistol was placed against the body of the deceased or that the firing was made from point-blank range. Rather, their evidence indicates that the assailants were standing at a short distance. The absence of blackening or tattooing is, therefore, fully compatible with the prosecution case. It is also significant that the doctor found no injury inconsistent with the ocular account and nothing emerged during cross-examination to suggest that the injuries could not have been caused in the manner alleged by the prosecution. The medical evidence, therefore, substantially corroborates rather than contradicts the ocular version. We are, accordingly, satisfied that the medical evidence furnishes independent assurance to the direct testimony of the eyewitnesses and reinforces the prosecution case.

29. The prosecution further relies upon the recovery of a .30-bore pistol from the appellant on the evening of the occurrence and the subsequent report of the Ballistic Expert. According to the prosecution, the appellant was arrested on the same day at about 8:30 p.m., and a .30-bore pistol loaded with four live rounds was recovered from his possession in the presence of mashirs. The mashir supported the recovery during trial and remained consistent on this material aspect.

30. Learned defence counsel argued that the recovery becomes doubtful because it was effected during the night and because the prosecution did not produce every link of the chain of custody, particularly the Malkhana register. We have given anxious consideration to this submission, mindful that the burden of affirmatively establishing both the safe custody and the safe transmission of case property rests upon the prosecution, and that this burden is not discharged merely by the absence of a defence suggestion of tampering (*Ikramullah v. The State*, 2015 SCMR 1002). Examined on that standard, we find that the record discloses an unbroken sequence of facts material to this aspect. The appellant was arrested on the same evening as the occurrence, at about 8:30 p.m., and the .30-bore pistol together with live rounds was recovered from his possession in the presence of mashirs, whose testimony on this aspect has remained consistent and unshaken despite lengthy cross-examination. The mashir categorically and without contradiction stated that the recovery proceedings were conducted in the light available from the police vehicle. The weapon and the crime empties were thereafter forwarded to the Ballistic Expert in sealed condition. No suggestion was put to the Investigating Officer, nor does the record otherwise disclose, that the seals were broken, tampered with, or substituted at any stage between recovery and forensic examination. In these circumstances, we are satisfied that the prosecution has affirmatively discharged its burden of proving safe custody and safe transmission notwithstanding the non-production of the Malkhana register. The omission to produce that register is, at best, an isolated administrative lapse; it does not, without more, dislodge an otherwise cogent and mutually corroborated chain established through direct testimony. The report of the Ballistic Expert assumes considerable significance in this context. The expert examined the recovered .30-bore pistol and compared it with the crime empties secured during investigation, and concluded that three of the recovered empties had been fired from the pistol recovered from the appellant. This scientific evidence provides objective corroboration to the prosecution case and connects the recovered weapon with the occurrence.

31. Learned defence counsel argued that whereas the eyewitnesses attributed two shots to the appellant, the Ballistic Expert connected three empties with his pistol. In our considered opinion, this circumstance does not weaken the prosecution case. Eyewitnesses

observing a sudden and terrifying occurrence cannot be expected to count with exactitude the number of shots fired by each assailant. The material consideration is not the precise numerical count of trigger pulls but the consistent attribution of direct firing to the appellant and the forensic linkage of his weapon with the occurrence. The ballistic evidence, therefore, reinforces rather than detracts from the prosecution case. The Chemical Examiner's report further establishes that the bloodstained earth secured from the place of occurrence contained human blood. Read together with the recovery of crime empties from the same spot, this circumstance further corroborates the prosecution version regarding the place and manner of occurrence. We are, therefore, satisfied that despite minor investigative lapses, the recovery and the forensic evidence substantially support the prosecution case and provide independent corroboration to the ocular account.

32. The defence taken by the appellant requires equally careful examination. In his statement under Section 342, Cr.P.C., the appellant merely denied the prosecution allegations and asserted false implication. However, while making his statement on oath under Section 340(2), Cr.P.C., he introduced a specific plea that he was grazing cattle elsewhere, heard the sound of firing, reached the place of occurrence after the incident and thereafter quietly returned to his cattle before going home. This defence, in substance, amounts to a plea of alibi. Although an accused is not required to establish such plea beyond reasonable doubt, he must nevertheless produce evidence sufficient to create a reasonable probability in its favour. We find the defence version wholly unconvincing. The appellant did not specify with certainty the exact place where he was grazing cattle, the distance between that place and the scene of occurrence, or the persons who had continuously remained with him before the firing. No independent inhabitant of the locality was produced to establish that the appellant was elsewhere at the relevant time. Equally important is the conduct attributed by the appellant to himself. According to him, after reaching the place and finding a person murdered, he quietly returned to graze his cattle and thereafter went home without informing the police, assisting the injured, raising an alarm or reporting the occurrence to any authority. Such conduct is wholly inconsistent with ordinary human behaviour and renders his explanation inherently improbable. The two defence witnesses attempted to improve the plea by introducing a theory that

unknown dacoits had committed the occurrence while stealing cattle. Their testimony, however, is entirely hearsay in nature. Neither witness claimed to have actually seen any dacoits. They disclosed no source of information, nor did they identify any person who had witnessed the alleged robbery. Admittedly, no report regarding robbery of cattle was ever lodged. It is also significant that these witnesses never appeared before the Investigating Officer during investigation. Their version surfaced for the first time during the defence evidence. Such a belated defence, unsupported by any contemporaneous circumstance, carries little evidentiary value. We are, therefore, unable to place reliance upon the defence evidence. Far from creating any doubt in the prosecution case, it appears to be an afterthought designed to provide an alternative explanation after the prosecution evidence had been completed.

33. The prosecution alleged that the appellant suspected the deceased of maintaining illicit relations with his wife Mst. Laal Bibi and, immediately before opening fire, declared him “Karo” and proclaimed that he would not spare him. This declaration finds mention in the promptly lodged F.I.R. and has consistently been repeated by all the eyewitnesses throughout the trial. It was not introduced as an improvement at a later stage. Although motive assumes comparatively lesser significance where trustworthy direct evidence is available, the prosecution has nevertheless succeeded in establishing the motive attributed to the appellant. The declaration immediately preceding the firing forms part of the same transaction and clearly reflects the intention with which the occurrence was committed. The plea advanced by the defence that the motive remained unproved is, therefore, without substance.

34. Learned counsel for the appellant lastly contended that the cumulative effect of the discrepancies, the alleged defects in investigation and the defence evidence entitle the appellant to the benefit of doubt. There can be no cavil with the proposition that the doctrine of benefit of doubt occupies a central place in criminal jurisprudence. However, such benefit is available only where the Court, after evaluating the entire evidence, entertains a reasonable doubt regarding the guilt of the accused. The doubt contemplated by law must arise from the evidence itself and must be real, substantial and reasonable. It cannot be founded upon fanciful conjectures, remote possibilities or speculative arguments. In the present case, we find no such doubt. The prosecution case rests

upon a promptly lodged F.I.R.; three natural eyewitnesses whose presence at the place of occurrence stands satisfactorily explained; consistent attribution of the principal role to the appellant; substantial corroboration by the medical evidence; forensic linkage of the recovered weapon with the occurrence; and an improbable defence unsupported by any independent material. The minor discrepancies highlighted by the defence neither individually nor collectively affect the core of the prosecution case. It is a settled principle that while every reasonable doubt must enure to the benefit of an accused, the doctrine cannot be stretched to the extent of ignoring trustworthy and confidence-inspiring evidence. Criminal justice requires that the guilty should not escape merely because of insignificant discrepancies or minor investigative lapses which do not occasion prejudice or undermine the substratum of the prosecution case.

35. Having independently reappraised the entire evidence, we are fully satisfied that the prosecution has succeeded in proving its case against the appellant beyond reasonable doubt. The findings recorded by the learned trial Court regarding the appellant's guilt are supported by the evidence on record and do not suffer from any misreading, non-reading or arbitrary exercise of discretion.

36. We may also observe, for the sake of completeness, that even if, for the sake of argument, the recovery of the pistol and the report of the Ballistic Expert were to be excluded from consideration in their entirety, the conviction of the appellant would remain wholly unaffected. It rests independently and squarely upon the direct testimony of three consistent eyewitnesses, whose account is fully corroborated by the medical evidence and by the promptly lodged F.I.R. The recovery and forensic evidence, while found to be reliable for the reasons already discussed, constitute additional and not foundational support for the finding of guilt.

37. Having affirmed the conviction of the appellant, we now proceed to examine whether the sentence of death awarded by the learned trial Court calls for interference.

38. The question of sentence in a case of Qatl-i-Amd is not to be decided mechanically. Even after affirming conviction, an appellate Court is duty-bound to independently evaluate whether the circumstances of

the case warrant the extreme penalty or justify substitution by imprisonment for life. Such determination depends upon the totality of the facts proved on record, the manner in which the offence was committed, the role attributed to the accused, and the presence or absence of mitigating circumstances.

39. We have, therefore, independently examined the record from the standpoint of sentence and have given anxious consideration to the submissions advanced on behalf of the appellant seeking conversion of the sentence into imprisonment for life. The record reveals that the occurrence was neither sudden nor accidental. It was not the result of a free fight, grave and sudden provocation or a chance encounter. The prosecution has successfully established that the appellant, accompanied by his armed brothers, was already present near the place of occurrence carrying deadly weapons. Immediately upon intercepting the deceased, the appellant publicly declared that Saddam Hussain was “Karo” with his wife and proclaimed that he would not spare him. Without any exchange of words capable of provoking a sudden reaction, he immediately resorted to firing. The appellant was not assigned a secondary or constructive role. On the contrary, he was the principal assailant who initiated the occurrence. The eyewitnesses consistently attributed to him the first shots directed towards the deceased, including the firearm injury upon the chest, a vital part of the human body. Such conduct unmistakably manifests a deliberate intention to cause death.

40. The medical evidence fully supports this conclusion. The firearm injuries resulted in extensive haemorrhage and shock leading to instantaneous death. The appellant’s participation, therefore, cannot be regarded as doubtful, marginal or subsidiary. The subsequent forensic examination provides further assurance. The Ballistic Expert scientifically connected the recovered pistol with crime empties secured from the place of occurrence. This objective circumstance materially reinforces the appellant’s individual role.

41. Learned defence counsel argued that since more than one accused allegedly fired upon the deceased and the Medical Officer did not identify one particular injury as independently sufficient to cause death, the sentence should be reduced. We are unable to agree. Criminal liability in the present case does not depend upon determining which individual firearm injury ultimately proved fatal. The appellant himself intentionally

fired at the chest of the deceased after publicly announcing his intention to kill him. Where an accused intentionally aims and fires at a vital part of the body with a deadly firearm, his culpability does not diminish merely because another assailant also participated in the occurrence. The law looks to the proved intention and the proved participation rather than to speculative physiological calculations regarding the precise injury which may have proved immediately fatal.

42. Equally without substance is the contention that the alleged motive should itself operate as a mitigating circumstance. The prosecution has established that the murder was committed on the self-assumed allegation that the deceased was “Karo” with the appellant’s wife. Such a circumstance does not mitigate criminal responsibility; rather, it aggravates it. No individual is permitted under the law to assume the role of complainant, judge and executioner by taking the life of another upon a unilateral allegation affecting family honour. Honour-based killings strike at the very foundation of the rule of law. Personal perceptions regarding honour or morality cannot furnish legal justification for taking the life of another human being. Courts are under a constitutional and legal obligation to ensure that such offences receive an appropriate judicial response in accordance with law. The present occurrence was committed in broad daylight in the presence of the deceased’s mother and close relatives. The appellant acted with deliberation, armed himself beforehand, confronted the deceased, announced the intended killing and thereafter executed his threat by repeatedly firing upon him. These circumstances unmistakably establish premeditation and calculated execution.

43. We have also examined the record to ascertain whether any mitigating circumstance exists. We find none. No evidence has been produced showing that the appellant was acting under grave and sudden provocation; no circumstance has emerged indicating diminished responsibility or mental incapacity; no uncertainty exists regarding his participation; and no residual doubt survives after independent reappraisal of the evidence. The appellant’s role remained direct, specific and consistently proved throughout the prosecution evidence. Reliance is placed on the case of *Muhammad Hayat and another V. The State* (2021 SCMR 92).

44. In these circumstances, we are satisfied that the learned trial Court exercised its sentencing discretion judiciously and strictly in accordance with law. The sentence of death awarded under Section 302(b), P.P.C. is proportionate to the gravity, manner and circumstances of the offence and does not call for any interference.

45. The learned trial Court has further convicted the appellant under Section 311, P.P.C. on the finding that the murder had been committed on the pretext of honour, thereby attracting the principle of fasad-fil-arz. We have independently examined this aspect of the matter. The prosecution evidence consistently establishes that immediately before opening fire the appellant declared the deceased to be “Karo” with his wife. The occurrence was not the outcome of any private quarrel or sudden altercation but constituted a deliberate execution founded upon the appellant’s own perception of honour. Such conduct, besides constituting Qatl-i-Amd, clearly falls within the mischief sought to be addressed by Section 311, P.P.C. We, therefore, find no legal infirmity in the conviction and sentence recorded by the learned trial Court under Section 311, P.P.C., which are accordingly maintained.

46. The appellant has also challenged his conviction recorded in the connected case arising under Section 24 of the Sindh Arms Act, 2013. The prosecution has established through the evidence of the mashir and the Investigating Officer that the appellant was arrested on the same day and an unlicensed .30-bore pistol loaded with four live rounds was recovered from his possession. The recovery has remained substantially unimpaired during cross-examination. The recovered pistol was subsequently examined by the Ballistic Expert, whose report connected it with crime empties recovered from the place of occurrence. The appellant failed to produce any licence authorizing possession of the weapon. Learned counsel has been unable to point out any illegality, misreading or non-reading of evidence in the judgment rendered by the learned trial Court in the Arms Act case. The conviction recorded under Section 24 of the Sindh Arms Act, 2013 is, therefore, fully supported by the evidence available on the record and requires no interference.

47. We now advert to the Murder Reference submitted by the learned trial Court under Section 374, Cr.P.C. Confirmation of a sentence of death is not an automatic consequence of dismissal of an appeal. Before confirming such sentence, the High Court is under an independent

statutory obligation to scrutinize the entire evidence and satisfy itself that both the conviction and the sentence are legally sustainable. We have discharged that obligation by independently reappraising the entire evidence, examining the submissions advanced on behalf of both sides and evaluating the findings recorded by the learned trial Court. For the reasons discussed in the preceding paragraphs, we are fully satisfied that the prosecution has proved the guilt of the appellant beyond reasonable doubt; that the conviction recorded by the learned trial Court is free from any legal infirmity; and that no mitigating circumstance exists warranting substitution of the sentence of death by imprisonment for life. Consequently, the Murder Reference is answered in the AFFIRMATIVE, and the sentence of death awarded to appellant Punhal Admani Magsi under Section 302(b), P.P.C. is hereby **CONFIRMED**.

48. In view of the foregoing discussion Criminal Jail Appeal No.D-40 of 2021 arising out of Crime No.19 of 2018 is **dismissed**. The conviction and sentence awarded to appellant Punhal Admani Magsi under Sections 302(b) and 311, P.P.C., together with compensation awarded under Section 544-A, Cr.P.C., are **maintained**. Criminal Jail Appeal No.S-54 of 2021 arising out of Crime No.21 of 2018 registered under Section 24 of the Sindh Arms Act, 2013, is likewise dismissed, and the conviction and sentence recorded therein are maintained. The benefit of Section 382-B, Cr.P.C., as extended by the learned trial Court, shall remain available to the appellant in accordance with law.

JUDGE

JUDGE