

JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Appeal No. S-36 of 2024

Appellant : Gul Hassan alias Gullo through Mr. Aziz Ahmed Laghari, Advocate

Respondent : The State through Mr. Neel Parkash, Dy. Prosecutor General Sindh

Date of Hearing : 01.09.2026

Date of Judgment : 08.09.2026

J U D G M E N T

Muhammad Humayon Khan, J.: The Appellant (along with three co-accused who were acquitted) was nominated by the Dilber Khan Mehar Police Station in Crime No. 18 of 2009 under ss. 302 and 34 of the PPC for the *qatl-i-amd* of Muhammad Ameen. He was tried in the said offence by the learned Sessions Judge, Mirpurkhas, under Sessions Case No. 47 of 2009 and by Judgment dated 24.01.2017, he was convicted under s. 302(b) of the PPC and sentenced to imprisonment for life as *ta'zir* with compensation of Rs. 100,000/- to the legal heirs of the deceased or simple imprisonment of three months in default and the benefit of s. 382B of the Cr.P.C was extended to him from 23.03.2009. He has filed this appeal against his said conviction and sentences.

2. The prosecution's case was reported by Nawab Shar (Complainant). He stated that: his son Muhammad Ameen had been married for about twelve years to a daughter of Muhammad Essa Shar and that relations between the two families had become strained. At about 11:30 p.m. on 15.03.2009, Miran, Gul Hassan and Mehar Ali, all sons of Essa, came to his house. Tea was served. At about 12:30 a.m. they asked Muhammad Ameen to accompany them for seeing them off, saying that he would return shortly. He did not return during the night. In the morning of 16.03.2009 information was received that a dead body was lying on the bank of Main Sim Nala near village Nooro Mari, Deh 134, Taluka Sindhri. Nawab, accompanied by Muhammad Qasim and Rasool, reached there and identified the body as that of Muhammad Ameen. It bore sharp-cutting injuries on the head, face and neck. Nawab then went to Police Station Dilber Khan Mehar, where his statement was reduced into writing and FIR No.18 of 2009 was registered at 9:45 a.m.

3. SIP Ghulam Mustafa took up the initial investigation. At about 10:45 a.m. he inspected the place, examined the body, secured blood-stained earth, prepared the site and body inspection memo and inquest report, and dispatched the corpse

for post-mortem examination. The clothes of the deceased were subsequently taken into possession. Miran and Mehar Ali were arrested on 19.03.2009 and statements under s. 161 of the Cr.P.C were recorded. The investigation was thereafter transferred.

4. SIP Muhammad Soomar received the papers on 20.03.2009. On 23.03.2009 he arrested Gul Hassan from the lock-up of Police Station Mirpur Old, where the Appellant was confined in Crime No.26 of 2009 under s. 13-D of the Arms Ordinance, and prepared the arrest memo in the presence of mashirs. On 24.03.2009 he recorded the statements of Muhammad Qasim and Rasool, and on 27.03.2009 handed over the investigation to Inspector Muhammad Bux.

5. Inspector Muhammad Bux obtained the post-mortem report and, on 01.04.2009, produced the Appellant before the Judicial Magistrate-II, Mirpurkhas, for recording a confession. The Magistrate recorded the statement under s. 164 of the Cr.P.C, certified it in terms of s. 364 of the Cr.P.C, and remanded the Appellant to judicial custody. The Chemical Examiner reported human blood on the submitted articles. Co-accused Rasool Bux was arrested on 04.07.2009. Upon completion of investigation, the challan was submitted before the competent Court.

6. The case was sent up for trial before the learned Sessions Judge, Mirpurkhas. A charge under ss. 302 and 34 of the PPC was framed against the four accused. They pleaded not guilty and claimed trial. The prosecution examined twelve witnesses and produced the following oral and documentary evidence:

PW-1 Nawab (Ex.7), father of the deceased and complainant, narrated the visit of Miran, Gul Hassan and Mehar Ali, the deceased leaving with them, his non-return, and discovery of the body the following morning. He produced the FIR as Ex.7/A. In cross-examination he accepted that he had not witnessed the assault, that the parties were related, that there was previous litigation between them, and that Rasool Bux had not accompanied the three men from the house.

PW-2 Muhammad Qasim (Ex.8) substantially corroborated PW-1 regarding the late-night arrival of the three brothers, service of tea, Muhammad Ameen leaving with them, and the recovery of his body bearing four or five injuries on the next morning. He also attended the hospital and funeral. He conceded that he had not seen the murder and acknowledged the relationship and previous enmity between the parties. He did not produce a separate document.

PW-3 SIP Ghulam Mustafa (Ex.10), the first Investigating Officer, described his visit to the place of occurrence, examination of the corpse, collection of blood-stained earth, dispatch of the body for autopsy, seizure of clothes and arrest of Miran and Mehar Ali. He produced the memo of inspection of the place and body as Ex.10/A, the inquest report as Ex.10/B, the letter for post-mortem examination as Ex.10/C, the clothes-seizure memo as Ex.10/D, and the arrest memo as Ex.10/E.

PW-4 Dr. Muhammad Saeed (Ex.11) conducted the post-mortem examination between 12:30 p.m. and 1:45 p.m. on 16.03.2009 and produced the report as Ex.11/A. He found four ante-mortem incised wounds: two extensive occipital wounds with fractures and injury to the brain and meninges, a deep facial wound involving the mandible, maxilla and base of skull, and an incised wound on the left arm. In his opinion the head injuries, caused by a sharp-cutting weapon such as a hatchet, were sufficient in the ordinary course to cause death; death was instantaneous due to haemorrhage, brain and meningeal damage and shock, and the post-mortem interval was about six to twelve hours.

PW-5 ASI Laloo Mal (Ex.12) deposed that at 9:45 a.m. on 16.03.2009 he recorded the complainant's statement and registered FIR No.18 of 2009, already exhibited as Ex.7/A. His evidence proved the prompt lodging and formal registration of the case.

PW-6 SIP Muhammad Soomar (Ex.13), the second Investigating Officer, testified about taking over the papers, arresting the Appellant on 23.03.2009 from the lock-up of Police Station Mirpur Old, and recording further statements. He produced the Appellant's arrest memo as Ex. 13/A.

PW-7 Inspector Muhammad Bux (Ex.14) stated that he took over the investigation, received the medical papers, arranged the Appellant's production before the Judicial Magistrate on 01.04.2009, collected the judicial confession and completed the challan. He produced the report of the Chemical Examiner as Ex.14/A and identified the already exhibited FIR and post-mortem report.

PW-8 Muhammad Rafique, then Civil Judge and Judicial Magistrate-II, Mirpurkhas (Ex.15), proved the request for recording confession as Ex.15/A and the judicial confession with his statutory certificate as Ex.15/B. He stated that the Appellant was brought at about 11:30 a.m.; the handcuffs were removed, police personnel were sent out of sight and hearing, the Appellant was cautioned that he was not bound to confess and

that any confession could be used against him, and one hour was allowed for reflection. The Magistrate again questioned him at 12:30 p.m., examined his body, found no mark of violence, recorded the statement, obtained the Appellant's signature/thumb impression, appended the prescribed certificate, and sent him to jail rather than back to police custody. In Ex.15/B the Appellant stated, in substance, that he had twice seen Muhammad Ameen in an illicit situation with his wife; that, after consulting Rasool Bux, he first killed his wife; and that about a month later Rasool brought Muhammad Ameen to the Sim Nala, where the Appellant and Mehar Ali were waiting. He attributed a hatchet to Mehar Ali and a lathi to himself and admitted that both caused the death of Muhammad Ameen because they regarded him as "Karo". The material feature of the confession is the Appellant's unambiguous admission of his own participation in the homicidal assault.

PW-9 Hussain Bux (Ex.18), a mashir, supported the inspection of the place and body and the seizure of clothes and blood-stained earth. He identified his signatures on Ex.10/A, Ex.10/B and Ex.10/D, and identified the deceased's qameez, shalwar and ajrak as Articles 1 to 3 and the blood-stained earth as Article 4. He did not support the prosecution on the arrest of Miran and Mehar Ali despite the signature attributed to him on Ex.10/E, and admitted being related to the complainant.

PW-10 Nek Muhammad (Ex.19) was the mashir of the Appellant's arrest from the police lock-up and proved his signature on Ex.13/A. He acknowledged his relationship with the complainant. PW-11 ASI Kamran proved the arrest of Rasool Bux at Jhurbi Mori on 04.07.2009 and the relevant mashirnama as Ex.21/A; no incriminating article was recovered in that arrest.

PW-12 Tapedar Muhammad Sajjan (Ex.22) prepared and produced the site sketch as Ex.22/A on the direction of the trial Court. He marked the material points, including the western bank of Main Sim Nala where the body had been found, the nearby road and the houses of village Nooro Mari. The difference in his evidence whether the sketch was prepared on 07.10.2016 or 10.10.2016 concerns a formal act performed years after the occurrence and does not affect the proved location.

7. When examined under s. 342 of the CrPC, the Appellant denied the prosecution evidence and asserted that the police had maltreated him and procured the confession by promising release of his brothers. He described the Chemical Examiner's report as managed and claimed false implication due to enmity. Miran

and Mehar Ali also denied the charge. Rasool Bux asserted that his name had been supplied by the Appellant because Rasool had earlier lodged FIR No.40 of 2004 at Police Station Shadi Palli regarding injuries caused to his father, and he produced a photocopy as Ex.A. None of the accused examined himself on oath or called a defence witness.

8. The learned trial Court found that the last-seen evidence, standing alone, was insufficient against the co-accused and that the Appellant's confession could not be treated as substantive evidence against them. Miran, Mehar Ali and Rasool Bux were consequently acquitted. As against its maker, however, the Court found Ex. 15/B voluntary and true, and materially corroborated by the last-seen account, the medical evidence, the place of recovery and the report of human blood. The Appellant was accordingly convicted and sentenced in the terms stated above.

9. Mr. Aziz Ahmed Leghari for the Appellant argued that the occurrence was unseen; PW-1 and PW-2 were related and inimical witnesses; there was no recovery from the Appellant; the last-seen story did not reconcile the roles of the several accused; and the acquittal of the co-accused made the remaining evidence unsafe. He submitted that Ex.15/B was retracted, had followed nine days of police custody, and was obtained through maltreatment and the promise that the Appellant's brothers would be released. He also criticized the one-hour reflection period and the use of a printed English form. In the alternative he relied upon the certified jail roll and submitted that the Appellant had remained in actual custody for more than seventeen years and, with earned remissions, had completed the equivalent of the substantive life sentence; therefore, no useful purpose would be served by continuing his imprisonment for the residual default term.

10. Mr. Neel Parkash, the learned Deputy Prosecutor General, however, supported the conviction. He submitted that the Judicial Magistrate removed the handcuffs and police influence, administered repeated warnings, allowed time for reflection, found no injury upon the Appellant and sent him to jail after recording the statement. According to him, the confession contained the Appellant's own motive, the locus and the manner of assault and was corroborated by the prompt last-seen evidence and the medical and scientific record. Its later retraction was unsupported. The acquitted accused stood differently because the Appellant's confession was substantive evidence against its maker alone. He did not dispute the authenticity of the jail roll and left the question of a limited modification in the default imprisonment to the Court.

11. In my view, the following questions arise for the determination of this appeal:

- (i) Whether the Appellant's conviction under s. 302(b) of the PPC rests upon a voluntary and true judicial confession receiving the degree of corroboration required by law, and whether the trial Court's appraisal calls for interference?
- (ii) What order is warranted regarding sentence in view of s. 57 of the PPC, s. 382B of the CrPC, the applicable prison rules and the certified jail roll?

Point No. 1

12. A confession must pass two distinct tests: it must be voluntary, and it must be true. Ss. 164 and 364 of the Cr.P.C and Arts. 37 to 39 of the Qanun-e-Shahadat Order, 1984 require the Magistrate to remove police influence, clearly warn the maker that he is not bound to confess and that the statement may be used against him, provide real time and circumstances for reflection, inquire into any inducement or maltreatment, and record the certificate only after being satisfied that the statement proceeds from free will. This protective approach is embedded in *Rahim Bakhsh v The Crown* PLD 1952 FC 1, *Nadir Hussain v The Crown* 1969 SCMR 442, *Habib Ullah v The State* 1971 SCMR 341, *Dhani Bakhsh v The State* PLD 1975 SC 187, *The State through A.G. N.-W.F.P., Peshawar v Waqar Ahmed* 1992 SCMR 950 and *Abdul Latif v The State* 1999 SCMR 413.

13. The complementary rule is that a judicial confession, even if subsequently retracted, may legally sustain the conviction of its maker when the Court, upon examining the whole record, finds it voluntary, true and adequately corroborated in material particulars. *Mst. Joygun Bibi v The State* PLD 1960 SC (Pak.) 313, *Muhammad Amin v The State* PLD 2006 SC 219, *Allah Nawaz v The State* 2009 SCMR 736, *Majeed v The State* 2010 SCMR 55, *Hashim Qasim and others v The State* 2017 SCMR 986, and *Shaukat Ali v The State* 2019 SCMR 577 consistently require a searching, not mechanical, scrutiny. Corroboration is a rule of prudence of the highest importance, particularly in a capital charge; it need not reproduce every sentence of the confession, but must connect the maker with the crime through independent circumstances.

14. Tested on the first limb, Ex.15/B bears sufficient assurance of voluntariness. PW-8 was an independent Judicial Magistrate. He removed the handcuffs; excluded the police from sight and hearing; explained both the right not to confess and the adverse use of any statement; allowed the Appellant an hour alone for reflection; repeated the inquiry; examined his body and found no trace of violence; and committed him to jail immediately afterwards. The Code prescribes no inflexible arithmetical duration for reflection; its sufficiency depends upon whether police influence was effectively removed and whether the answers reveal a free choice.

Here the Magistrate was cross-examined but no material was elicited to show police presence, dictation, a pre-arranged statement or failure to understand the proceedings. Nor did the Appellant make a prompt complaint to the Magistrate or jail authority about the alleged maltreatment or promise.

15. The objection concerning a printed English form is also not decisive. The evidentiary question is whether the safeguards were actually communicated and understood, not the language in which the clerical framework was printed. PW-8 gave direct evidence that he questioned and cautioned the Appellant before recording the narrative, and the certificate carries the statutory assurance. The answers in Ex.15/B are coherent, responsive and fact-specific. The belated assertion under s. 342 of the Cr.P.C, unsupported by a contemporaneous complaint, medical mark or defence evidence, does not render the confession involuntary.

16. On the second limb, the confession is not an isolated admission. PW-1 and PW-2 placed the Appellant with Muhammad Ameen at the end of the night and stated that the deceased left the house in the Appellant's company shortly before his body was found. Their relation to the deceased calls for caution, but does not make them legally incompetent; their presence in the family home was natural and their account was reported promptly. The important facts, arrival at night, departure with the deceased, non-return, and discovery of the body at dawn, remained intact in cross-examination. The last-seen circumstance would not, by itself, be a safe foundation for conviction, but it independently corroborates the Appellant's admission of participation.

17. The medical evidence provides stronger corroboration. The Appellant described a joint assault at the Sim Nala involving a hatchet. Dr. Muhammad Saeed found multiple deep incised wounds to the occipital region and face, fractures of the skull and injury to the brain and meninges, and expressly opined that a weapon such as a hatchet could cause them. The six-to-twelve-hour interval fits the prosecution chronology. The body was recovered at the locus named in the confession and the blood-stained earth and clothes were secured there, later yielding a report of human blood. The confession, medical evidence and scene evidence therefore interlock on the place, lethal instrument, manner and timing of death.

18. The Court remains mindful that every reasonable doubt must benefit an accused as of right, not concession, a principle classically stated in *Tariq Pervez v The State* 1995 SCMR 1345 and reiterated in *Muhammad Mansha v The State* 2018 SCMR 772. The omissions and variances relied upon here, however, do not create such a doubt concerning this Appellant. Absence of a weapon recovery is not fatal where the judicial confession is independently proved and the medical evidence

identifies the kind of weapon described. PW-9's departure from the prosecution on the arrest of two co-accused and the late preparation of a revenue sketch bear on peripheral matters; they do not displace the Appellant's own admission or its material corroboration.

19. Nor does the acquittal of Miran, Mehar Ali and Rasool Bux create an indivisible parity. Art. 43 of the Qanun-e-Shahadat Order permits consideration of a joint-trial confession against a co-accused only within its limited legal sphere; it remains substantive evidence against the maker. The trial Court therefore acted consistently, not selectively, in requiring independent proof against the other accused while treating the Appellant's own voluntary admission as a distinct incriminating circumstance against him. Differences between the last-seen account and the confession as to which co-accused were present justified caution and acquittal of those persons, but do not erase the Appellant's categorical acknowledgment that he took part in causing Muhammad Ameen's death.

20. Circumstantial evidence is to be examined as a connected chain and not in detached compartments; *Azeem Khan and another v Mujahid Khan and others* 2016 SCMR 274 is an important reminder that every material link must point consistently toward guilt. Here the prompt last-seen account, short interval, recovery of the body at the stated locus, homicidal medical findings, human-blood evidence and, centrally, the voluntary judicial confession form a complete chain against the Appellant. His explanation does not furnish a reasonably possible innocent hypothesis. I therefore hold that the prosecution proved his culpability beyond reasonable doubt and that the conviction under s. 302(b) of the PPC is well founded.

Point No. 2

21. The question of sentence nevertheless requires separate consideration. S. 57 of the PPC provides that, in calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to twenty-five years. Rule 140 of the Pakistan Prison Rules, 1978 treats twenty-five years as the maximum period for calculation of a life sentence, while ordinarily requiring at least fifteen years of substantive imprisonment before the case is placed for the competent Government's consideration. Ss. 382-B and 401 of the Cr.P.C operate in their respective fields, and s. 423(1)(b)(3) of the Cr.P.C empowers the appellate Court, while maintaining the finding, to alter the nature or extent of the sentence without enhancement.

22. The controlling sentencing principles have been explained in *Javed Shaikh v The State* PLD 1985 SC 153, *Zargul v The State* 1989 SCMR 529, *Abdul Malik and others v The State and others* PLD 2006 SC 365, *Mst. Zubaida v Falak Sher and others* 2007 SCMR 548, *Shah Hussain v The State* PLD 2009 SC 460, *Dilawar*

Hussain v The State 2013 SCMR 1582, and *Ishfaq Ahmad v The State* 2017 SCMR 307. These authorities recognize both the statutory computation of life imprisonment and the need to distinguish the substantive term from a consecutive imprisonment ordered in default of payment.

23. The certified jail roll issued by the Senior Superintendent, Central Prison and Correctional Facility, Mirpurkhas, on 31.08.2026 records that, up to 01.09.2026, the Appellant had served 17 years, 5 months and 8 days without remission and had earned remissions of 7 years, 7 months and 28 days. His sentence served with remission therefore stood at 25 years, 1 month and 6 days. The roll further shows an unexpired period of only 1 month and 24 days attributable to the three-month default imprisonment attached to compensation, the total sentence with compensation being 25 years and 3 months. Thus the substantive life sentence, even on the twenty-five-year calculation, already stands satisfied; actual custody alone exceeds seventeen years and the fifteen-year substantive threshold.

24. The compensation of Rs.100,000/- under s. 544A of the Cr.P.C, being a statutory obligation, is maintained in terms of *Khalid and others v The State* 1975 SCMR 500. However, keeping in view that the Appellant has undergone more than seventeen years' actual imprisonment and over twenty-five years with admissible remissions, the default sentence of three months' simple imprisonment, being distinct from the substantive sentence as explained in the above cases of *Ashraf* and *Jalal*, is reduced to the period already undergone, without affecting the recoverability of compensation in accordance with law.

Conclusion

25. For these reasons, I dismiss this appeal to the extent of the conviction and sentence for imprisonment of life. However, I modify the simple imprisonment of three months to be served in default to the time already served. Consequently, since the Appellant has already served the required substantive sentence as now modified, he is directed to be released immediately if not required in any other case. The Superintendent of the concerned prison shall make the necessary endorsement in the jail record and report compliance to the Additional Registrar of this Court.

JUDGE

APPROVED FOR REPORTING

Faisal