

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

Crl. Appeal No. S-133 of 2024

Appellant : Ali Murad through Mr. Abdul Rauf Arain and Mr. Ghulam Zaheer Arain, Advocates.

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

Amicus Curiae : Mr. Maisum Hussain Sahar, Advocate.

Date of Hearing : 11.09.2026

Date of Judgment : 17.09.2026

JUDGMENT

Muhammad Humayon Khan, J.: Through the instant Criminal Appeal, the appellant Ali Murad has called in question the judgment dated 17.09.2019 passed by the learned Additional Sessions Judge-I/Model Criminal Trial Court, Mirpurkhas, in Sessions Case No.140 of 2018 (The State v. Ali Murad and another), arising out of Crime No.48 of 2018 of Police Station Jhudo, District Mirpurkhas, registered for offences under sections 302, 114, 504 and 34, P.P.C. By the impugned judgment the appellant was convicted under section 302(b), P.P.C. for committing qatl-i-amd of Muhammad Sadik and sentenced to imprisonment for life as ta'zir, with compensation of Rs.500,000/- payable to the legal heirs of the deceased under section 544-A, Cr.P.C.; in default thereof he was directed to suffer simple imprisonment for six months. Benefit under section 382-B, Cr.P.C. was extended to him. Co-accused Muhammad Ayoub was acquitted under section 265-H(1), Cr.P.C. The appellant seeks setting aside of his conviction and sentence and his acquittal of the charge.

2. The prosecution case, in chronological sequence, commenced at about 1:30 p.m. on 02.08.2018 at Ahori Stop, Deh 357, Taluka Jhudo, District Mirpurkhas. Muhammad Sadik, who worked at the house of Haji Muhammad Hassan Laghari at Hyderabad and had come to village Ahori that day, was sitting upon a bench beneath the chapra in front of the sweet shop of Abdul Ghaffar alias Abdul Ghaffoor Punjabi. His son Azizullah and relatives Bhooro and Atta Muhammad were stated to be nearby. The appellant Ali Murad, carrying a hatchet, came there with his father Muhammad Ayoub. According to the accusation, Muhammad Ayoub asked Muhammad Sadik to vacate the bench; when he refused, Muhammad Ayoub instigated the appellant, whereupon the appellant inflicted two sharp-side hatchet blows below the deceased's left knee, two upon the back of his neck and one upon

his head. The final blow left the hatchet embedded in the head. Muhammad Sadik died at the spot and the two accused left the place.

3. Azizullah informed Police Station Jhudo by mobile telephone. Inspector Syed Imdad Ali Shah recorded Roznamcha Entry No.11 at 1:40 p.m., ten minutes after the occurrence, reflecting information that the appellant and Muhammad Ayoub had murdered Muhammad Sadik at Ahori Stop. The Investigating Officer proceeded to the place, inspected the scene and the dead body, collected blood-stained earth, prepared the inspection memorandum, Lash Chakas Form and Danistnama, and arranged removal of the body to RHC Jhudo for post-mortem examination.

4. Dr. Raheem Bux commenced the post-mortem examination at 4:10 p.m. and concluded it at 4:55 p.m. on the same day. He found five injuries caused by a sharp-cutting substance. An axe/hatchet embedded in the head was removed during the examination. In his opinion, death had occurred because of fracture of the skull bone, rupture of the soft tissues of the brain and shock resulting from the head injury caused with the axe. The interval between injuries and death was stated to be within seconds and that between death and post-mortem about two hours and forty minutes. The body, its last-worn clothes and the hatchet were handed over under the relevant receipts.

5. After the post-mortem the dead body was delivered to the family under receipt Ex.07-A. Azizullah then went to Police Station Jhudo, where FIR No.48 of 2018 was registered at 6:45 p.m. on 02.08.2018 under sections 302, 114, 504 and 34, P.P.C.; the FIR was subsequently produced as Ex.07-B. During investigation, the last-worn clothes of the deceased and the hatchet removed by the Medical Officer were received at 5:30 p.m.; both accused were shown arrested at about 8:30 p.m. from near Sher Shah Mori; and the blood-stained clothes attributed to the appellant were secured. The blood-stained earth, clothes of the deceased, clothes of the appellant and hatchet were forwarded to the Chemical Examiner through letter dated 06.08.2018, and the report recorded the presence of human blood upon the submitted articles.

6. Upon completion of investigation, challan was submitted before the competent Court. On 18.10.2018 the learned First Additional Sessions Judge, Mirpurkhas, framed a joint charge against the appellant and Muhammad Ayoub under sections 302, 114, 504 and 34, P.P.C. The substance of the charge was that, in furtherance of their common intention, Muhammad Ayoub instigated the appellant and the appellant intentionally caused the death of Muhammad Sadik with

hatchet blows. Both accused pleaded not guilty and claimed trial. The prosecution thereafter examined six witnesses and produced the following oral, documentary and material evidence.

PW-1 Azizullah (Ex.07), complainant and son of Muhammad Sadik, narrated the arrival of the appellant with Muhammad Ayoub, the demand that the deceased vacate the bench, the alleged instigation and the five hatchet blows in the sequence already stated. He said that his father died at the spot; he informed the police by mobile telephone; the body was shifted to RHC Jhudo; and after post-mortem he received it under Ex.07-A and lodged the FIR Ex.07-B. He identified the accused and case property. In cross-examination he admitted that the place was surrounded by houses and shops; ten to twenty persons and the sons of the shopkeeper were present; he, Bhooro and Atta Muhammad were not beside the deceased but stood about five or six paces away near the shop of Dileep; the bench could seat about four persons; and the Government hospital was nearby. He stated that he and the other witnesses went towards his father after the blows, his hands and clothes became blood-stained, but those clothes were not taken by police. He further admitted that neither the use of his mobile telephone nor the interval before informing police appeared in the FIR. On his movements, he said that after working in the fields until 11:00 a.m. he ate at home, carried a forty-kilogram cotton bale to the road, took a rickshaw and reached Ahori Stop at about 12:30 p.m. He denied having been informed later by Juma Khaskheli, denied false implication on account of prior enmity and maintained that he had witnessed the occurrence.

PW-2 Bhooro (Ex.08), cousin of the complainant and deceased and a mashir, gave the same material account of the demand to vacate the bench and of the appellant inflicting two blows below the left knee, two upon the back of the neck and one upon the head. He said that he, Atta Muhammad and the complainant were nearby and rushed towards the deceased; the police inspected the scene and body, shifted the body for post-mortem, received the clothes and hatchet from the Medical Officer, arrested both accused and secured the appellant's clothes. He produced the connected memoranda as Ex.08-A to Ex.08-E and identified his signatures, the accused and the case property. In cross-examination he admitted his relationship with the complainant and Atta Muhammad and that Ahori Stop contained forty to fifty shops. He said he came by rickshaw and alighted at the sweet shop just before 1:30 p.m., while also saying that he, the complainant and Atta Muhammad came together. He placed the witnesses

two or three paces from the deceased and referred to five or six persons at the shop. He said that papers were signed or thumb-marked at the scene and hospital without being read over; as to some papers he was uncertain whether they had been written or were blank, and he stated that police obtained his signatures on two or three blank papers in connection with the arrest. He maintained that he saw the appellant at the scene and rejected the suggestions of absence, enmity and false implication.

PW-3 Atta Muhammad (Ex.09), brother of PW-2 and another eye-witness/mashir, also attributed all five hatchet blows to the appellant and confirmed the investigative proceedings reflected in Ex.08-A to Ex.08-E. He said that the deceased died at the spot, the police inspected the scene and body, the body was taken for post-mortem, the clothes and hatchet were received from the Medical Officer, both accused were arrested and the appellant's clothes were secured. In cross-examination he said that he and the other witnesses had worked in the fields until 11:00 a.m., went to Ahori Stop on foot, reached at about noon and remained at the shop for about one and a half hours. He acknowledged that the water turn commenced at 12:30 p.m. and that the place was thickly populated. He placed the witnesses two or three paces from the deceased, said that they did not apprehend the appellant, that they did not touch the dead body until police arrived and that it was carried in Abdul Ghafoor's Shehzore vehicle. He was uncertain whether some papers thumb-marked at the place had been written or blank, and said that police did not obtain his signature at the place of arrest. He denied absence, enmity and false implication and adhered to his account of the assault.

PW-4 Dr. Raheem Bux, Medical Officer, RHC Jhudo (Ex.10), proved the police letter for post-mortem as Ex.10-A, the post-mortem report as Ex.10-B and the two receipts as Ex.10-C and Ex.10-D. He stated that Azizullah and Bhooro identified the body; that five sharp-cutting injuries were present; that he removed an axe/hatchet embedded in the head; and that death resulted from fracture of the skull, rupture of brain tissues and shock caused by the head injury. He identified the hatchet and clothes produced in Court. The medical facts establishing homicidal death, number and nature of injuries, probable weapon and cause of death were not displaced in cross-examination.

PW-5 Jahwar Lal, Tapedar (Ex.11), dealt with the location and physical layout of the scene. Pursuant to the police request, he inspected the place of

occurrence and prepared its sketch/map in the discharge of his official duty. He produced the police letter as Ex.11-A and the sketch/map as Ex.11-B. His evidence was formal and was not relied upon to identify the assailant; no material contradiction affecting the occurrence's location emerges from the record.

PW-6 Inspector Syed Imdad Ali Shah, Investigating Officer (Ex.12), described the investigation from the first telephonic information. He proved that Roznamcha Entry No.11 was recorded at 1:40 p.m.; described inspection of the body and scene, collection of blood-stained earth, preparation of the inquest papers, dispatch of the body for post-mortem, registration of the FIR at 6:45 p.m., arrest of the accused, seizure of the appellant's blood-stained clothes and transmission of the articles for chemical examination. He produced the Danistnama as Ex.12-A, forwarding letter dated 06.08.2018 as Ex.12-B, Chemical Examiner's report as Ex.12-C and Roznamcha entries as Ex.12-D and Ex.12-E. The criticism emerging from cross-examination and the surrounding record concerns his association of related witnesses as mashirs, non-association of shopkeepers and non-seizure of PW-1's allegedly blood-stained clothes; his evidence regarding the prompt first information, medical proceedings and forwarding of the articles nevertheless remained on record.

7. The learned ADPP closed the prosecution side through statement Ex.13. Statements of the accused under section 342, Cr.P.C. were thereafter recorded as Ex.14 and Ex.15. The appellant denied the prosecution allegations, professed innocence and maintained that he had been implicated falsely. He neither examined himself on oath under section 340(2), Cr.P.C. nor produced any witness or document in defence.

8. The learned trial Court first held, principally upon the medical evidence and contemporaneous papers, that Muhammad Sadik had suffered an unnatural homicidal death. It then examined the three related eye-witnesses with caution. The Court treated their evidence regarding the appellant's direct assault as consistent on the identity of the assailant, the weapon, number and location of blows, and found it supported by the five sharp-cutting injuries, removal of the axe/hatchet from the head, prompt Roznamcha entry and chemical report. It considered the variations about distance, time and mode of transportation to be minor. Conversely, it found the alleged instigation by Muhammad Ayoub doubtful because he was empty-handed, committed no overt act and the witnesses' position raised doubt whether they could hear his words. Muhammad Ayoub was accordingly acquitted, while the

appellant was convicted and sentenced in the terms set out in paragraph 1 above. The order concerning disposal of the case property after the appeal period was also made.

9. Mr. Abdul Rauf Arain, learned counsel for the appellant contended that the prosecution had not proved its case beyond reasonable doubt; all three ocular witnesses were closely related and their presence was doubtful because their accounts differed as to the time, manner and company in which they reached Ahori Stop, whether they stood at Dileep's shop or the sweet shop, and whether they were two or three or five or six paces from the deceased. It was argued that the occurrence allegedly took place in broad daylight at a busy commercial stop, yet no shopkeeper or independent person was examined; three close relatives did not intervene against one assailant; and their descriptions of transporting the body in an ambulance, police mobile or Shehzore were mutually inconsistent. Counsel further relied upon the non-seizure of PW-1's allegedly blood-stained clothes, the uncertainty of PW-2 and PW-3 concerning written or blank papers, the dispute regarding arrest near Sher Shah Mori, the absence of a recovery from the appellant's exclusive possession, lack of blood grouping or DNA comparison, the interval of over five hours before formal registration of the FIR, and the acquittal of Muhammad Ayoub upon the same ocular account. It was submitted that the medical and chemical evidence could establish homicidal death but not the appellant's identity, and that the cumulative defects entitled him to acquittal.

10. Conversely, Mr. Neel Parkash learned D.P.G. for the State supported the conviction and submitted that the appellant was named with a specific role within ten minutes in Roznamcha Entry No.11; thus the later formal recording of the FIR after scene and post-mortem proceedings afforded no room for substitution. The three eye-witnesses knew the appellant, saw the daylight occurrence from close range and remained unanimous that he alone delivered five hatchet blows in a particular sequence. Their relationship with the deceased did not make them interested in falsely substituting an innocent person. The variations about how each witness reached the stop, estimated distance and vehicle used after death were collateral matters elicited long after a sudden occurrence. The precise ocular account stood independently corroborated by five sharp-cutting injuries, the hatchet embedded in the head, the medical time and cause of death, blood-stained earth, and human blood found upon the clothes and articles. The appellant offered no plausible reason why the witnesses would spare the true killer and nominate him; nor did the acquittal of the empty-handed alleged instigator create parity with the principal assailant.

11. Mr. Maisum Hussain Sahar, learned Amicus Curiae, rendered valuable assistance to the Court and took us through the charge, depositions of the prosecution witnesses and their cross-examinations, medical and documentary evidence, as well as the impugned judgment. He fairly pointed out the discrepancies appearing in the prosecution evidence concerning the manner and time of arrival of the eye-witnesses at the place of occurrence, their respective positions, post-occurrence conduct, transportation of the dead body, non-examination of independent shopkeepers and certain infirmities relating to the investigative memoranda. He submitted, however, that such discrepancies were peripheral in nature and did not strike at the substratum of the prosecution case, particularly when weighed against the prompt Roznamcha Entry No.11 recorded at 1340 hours, the consistent attribution by the eye-witnesses of the direct and fatal role to the appellant, and the substantial correspondence between the ocular account and the medical evidence. He further submitted that the authorities relied upon for extending benefit of doubt on account of unnatural conduct or non-intervention were distinguishable on their own facts, particularly where the presence or nomination of the eye-witnesses was itself doubtful, the first information was belated or there was absence of corroborative material. According to him, minor discrepancies or variations on collateral matters cannot outweigh otherwise confidence-inspiring ocular evidence where the witnesses remain consistent on the identity of the assailant, the weapon employed and the material manner of the assault. He further submitted that the acquittal of co-accused Muhammad Ayoub did not attract the rule of consistency in favour of the appellant, as Muhammad Ayoub had been assigned the distinct role of instigation, whereas the appellant Ali Murad was specifically attributed the actual fatal hatchet blows. In his considered opinion, therefore, the prosecution had succeeded in proving the guilt of the appellant beyond reasonable doubt and no case for interference with the conviction and sentence was made out. Ultimately, he placed reliance upon *Sohail Akhtar and another v The State and another* 2024 SCMR 67, *Khalid v The State through P.G. Sindh* 2024 SCMR 1474, *Nasir Ahmed v The State* 2023 SCMR 478, and *Ali Taj and another v The State* 2023 SCMR 900.

12. I have heard the learned counsel for the appellant as well as the learned D.P.G. for the State and have carefully perused the impugned judgment, evidence available on record and the entire record and proceedings with their able assistance. I have also considered the assistance rendered by the learned Amicus Curiae. The questions requiring determination are whether the ocular account identifying the appellant as the principal assailant remains trustworthy after the admitted discrepancies and investigative omissions; whether the medical, documentary and chemical material supplies legally relevant corroboration; and whether the acquittal

of Muhammad Ayoub or any other circumstance creates a reasonable doubt requiring interference with the conviction or sentence.

13. An appeal against conviction requires an independent and comprehensive reappraisal of the evidence; nevertheless, interference follows from an error which affects the safety of the conviction, not from the mere possibility of taking a different view upon an immaterial detail. The prosecution carries the burden throughout and must establish guilt beyond reasonable doubt. *Tariq Pervez v The State* 1995 SCMR 1345, *Muhammad Mansha v The State* 2018 SCMR 772 and *Muhammad Akram v The State* 2009 SCMR 230 settle that even one circumstance creating reasonable doubt in a prudent mind entitles the accused to its benefit as a matter of right. The converse is equally important: an imagined, artificial or merely speculative doubt is not reasonable doubt. Each discrepancy must therefore be assessed by whether it touches presence, identity, participation or another essential link, and the evidence must ultimately be weighed as a whole.

14. The first and most important feature is the core ocular account. PW-1, PW-2 and PW-3 were cross-examined at length, yet each consistently attributed to the appellant the same direct role: two sharp-side blows below the left knee, followed after the deceased fell by two blows upon the back of the neck and a final blow upon the head in which the hatchet remained embedded. They identified the appellant, who was already known to them and belonged to a nearby village; no test identification issue therefore arises. Their account was not first introduced in Court. Within ten minutes of the stated occurrence the complainant telephoned the police, and Ex.12-D/Ex.12-E include the Roznamcha material recording that Ali Murad and Muhammad Ayoub had murdered Muhammad Sadik. The immediate naming of the appellant, before inspection, post-mortem or the formal FIR, is a weighty contemporaneous assurance against deliberated substitution.

15. The eye-witnesses' relationship with the deceased necessitates careful scrutiny but does not render them incompetent or inherently unreliable. *Sheeraz Tufail v The State* 2007 SCMR 518 and *Khair Muhammad and another v The State* 2007 SCMR 158 recognise that mere relationship is not sufficient to discard an otherwise trustworthy witness. More recently, *Aman Ullah and another v. The State and others* 2023 SCMR 723, *Imran Mehmood v The State and another* 2023 SCMR 795, and *Khalid v The State through P.G. Sindh* 2024 SCMR 1474 reaffirm that confidence-inspiring testimony of a witness whose presence is established cannot be rejected merely because of kinship, particularly where animus for false implication is not proved. Here, the suggested background dispute concerning the murder of PW-2 and PW-3's sister and Lal Bux acting as surety was denied, and no

document or defence evidence was produced to establish it. Even if caution is applied at its highest, the witnesses' prompt and unwavering attribution of the fatal acts to the appellant survives.

16. The contradictions about arrival and vantage point have been carefully considered. PW-1 described carrying a cotton bale and reaching at about 12:30 p.m. by rickshaw; PW-2 spoke of alighting from a rickshaw shortly before 1:30 p.m. while also saying the three witnesses came together; PW-3 said they went on foot, reached at noon and remained for about one and a half hours. PW-1 placed the witnesses near Dileep's shop at about five or six paces, whereas PW-2 and PW-3 estimated two or three paces and used the expression that they were at or near the sweet shop. These variations show imprecision in recalling the witnesses' individual route, time and exact position; they do not alter the admitted fixed scene at Ahori Stop or dislodge the fact that all three located themselves within a few paces before the assault. The field-water evidence was explored, but each witness explained leaving the field before the occurrence. No contradiction was brought out as to the appellant's identity, the hatchet, the five blows, the parts struck, the death at the scene or the weapon remaining in the head. Human observation does not produce a photographic account. *Qasim Shahzad and another v The State and others 2023 SCMR 117*, while reiterating that evidence is weighed for quality rather than counted, permits reliance even upon a single witness when the Court finds that testimony reliable. The remaining two accounts here furnish mutual support on every essential fact.

17. The argument based upon non-intervention is more substantial but not decisive on these facts. PW-1 to PW-3 stated that they rushed towards the deceased, though by then the blows had been delivered; PW-3 accepted that they did not apprehend the armed appellant. Courts do not impose one uniform model of human reaction to a sudden lethal assault. In *Pathan v The State 2015 SCMR 315*, *Masood Ahmed and another v The State 1994 SCMR 6*, and *Zafar Ali Abbasi and another v. Zafar Ali Abbasi and others 2024 SCMR 1773*, non-intervention assumed decisive significance because it operated with other circumstances undermining the claimed presence, handling of the injured or objective record. Those authorities turn on their cumulative facts. Here, the assault by repeated hatchet blows could occur within moments; the witnesses were unarmed; the police were informed immediately; the appellant's name and role were fixed contemporaneously; and the physical fact of a hatchet embedded in the head precisely matches their account. Their failure to overpower an armed assailant cannot, without more, erase evidence otherwise found natural and corroborated.

18. The occurrence did take place at a populated commercial stop. PW-1 referred to ten to twenty persons and the shopkeeper's sons; PW-2 referred to five or six persons; PW-3 said that fifteen to twenty gathered and one person was present at the flour mill. None was examined. *Lal Khan v. The State* 2006 SCMR 1846 cautions that withholding the most natural and material witness may justify an adverse inference where it amounts to suppression of the best evidence. That rule is applied contextually. Article 17 of the Qanun-e-Shahadat Order, 1984 does not prescribe a particular number of witnesses, and *Asim v The State* 2005 SCMR 417, *Niaz-ud-Din v. The State* 2011 SCMR 725, *Muhammad Sadiq v. The State* 2022 SCMR 690, and *Qasim Shahzad (supra)* emphasise quality rather than numerical strength. The prosecution here did not present a solitary doubtful witness: it produced three witnesses who were at the place for a stated purpose, knew the appellant, named him immediately and agreed upon his precise active role. Non-association of a shopkeeper was an investigative omission and warranted caution, but in this evidentiary setting it does not produce a reasonable doubt by itself.

19. The interval between occurrence and formal FIR also requires proper classification. The occurrence was alleged at 1:30 p.m. and FIR Ex.07-B was registered at 6:45 p.m. Standing alone, an unexplained interval may permit consultation, as the principle concerning delayed first information in *Mst. Asia Bibi v. The State* PLD 2019 SC 64 illustrates. This record, however, contains the materially earlier police information: Roznamcha Entry No.11 at 1:40 p.m., followed by the Investigating Officer's arrival, inspection, collection of blood-stained earth, preparation of inquest papers and dispatch for post-mortem. The post-mortem ran from 4:10 p.m. to 4:55 p.m.; the body and articles were then handed over, and the complainant went to the police station. The essential accusatory version, including the appellant's name, preceded all those proceedings. Formal registration at 6:45 p.m. therefore did not provide an unoccupied period in which the identity of the assailant could be reconstructed.

20. The medical evidence furnishes close, objective corroboration. The ocular witnesses described five sharp-side hatchet blows, including a terminal head blow leaving the weapon fixed in the skull. PW-4 found five sharp-cutting injuries, physically removed the axe/hatchet from the head, and attributed death to skull fracture, rupture of brain tissue and shock from the head injury. His estimate that death followed within seconds and that the interval between death and the commencement of post-mortem was about two hours and forty minutes corresponds to the stated occurrence at 1:30 p.m. and examination at 4:10 p.m. Medical evidence ordinarily confirms the nature, seat and probable weapon of injury and does not identify the offender. *Ali Taj and another v The State* (2023

SCMR 900), *Muhammad Ilyas v The State 2011 SCMR 460*, *Faisal Mehmood v The State 2010 SCMR 1025*, *Naeem Akhtar v The State PLD 2003 SC 396*, and *Muhammad Iqbal v The State 1996 SCMR 908* recognise that where a trustworthy ocular account is compatible with medical evidence, the latter lends valuable corroboration and minor imprecision about wounds does not defeat the direct account. In the present case the correspondence is not merely general; it extends to the number, weapon, fatal region and embedded hatchet.

21. The chemical evidence must be kept within its proper bounds. Ex.12-B shows forwarding of the blood-stained earth, deceased's clothes, appellant's clothes and hatchet on 06.08.2018, while Ex.12-C records human blood. The hatchet had been removed from the deceased's head and the absence of blood grouping or DNA comparison means that the report cannot independently identify the appellant. The record placed before this Court also does not disclose a complete malkhana and seal-by-seal narrative. I therefore do not treat Ex.12-C as a self-sufficient link. It remains corroborative to the limited extent that the collected articles were blood-stained, and the blood-positive clothes attributed to the appellant are a supporting circumstance. More importantly, even if that circumstance is excluded, the prompt and medically supported ocular account remains capable of sustaining the conviction.

22. The admissions concerning investigative papers likewise call for measured treatment. PW-2 said that signatures or thumb-impressions were obtained upon papers not read over to him and referred to blank papers in the arrest proceedings; PW-3 was uncertain whether some papers at the scene were written or blank and said no signature was taken from him at the arrest site. Their evidence reduces the independent assurance otherwise claimed for the arrest and seizure memoranda. Yet neither the arrest location nor a recovery at the appellant's pointation is the foundation of the prosecution case. The hatchet came from the deceased's head, not from a later disclosure; the place, body and medical examination were established through official as well as ocular evidence; and the principal evidence is the witnessed assault. A defect or irregularity in investigation does not automatically entitle an accused to acquittal where reliable substantive evidence establishes guilt, although the Court must exclude the doubtful investigative feature from consideration. I have accordingly placed no determinative reliance upon the disputed arrest memorandum.

23. The descriptions of removal of the body - ambulance according to PW-1, police mobile as attributed to PW-2, and Abdul Ghafoor's Shehzore according to PW-3 - are inconsistent. So too are PW-1's statement that he handled his father and

stained his clothes and PW-3's statement that the body was not touched until police arrived. These details concern events after Muhammad Sadik had already died and after the assailant had left. Non-seizure of PW-1's clothes deprived the prosecution of one available corroborative circumstance and is a lapse; it does not contradict the post-mortem, the dead body's identity, the scene or the assault. The vehicle used for a short transfer to RHC Jhudo has no rational bearing upon who inflicted the injuries. Treating such post-occurrence variances as destructive would elevate imperfect recollection over an otherwise stable account of the crime itself.

24. The acquittal of Muhammad Ayoub has no automatic or indivisible effect upon the appellant. The allegation against Muhammad Ayoub was confined to words of instigation; he was empty-handed and no physical act was attributed to him. The allegation against the appellant was that he personally wielded the hatchet and delivered every injury. The trial Court could therefore entertain doubt whether the witnesses heard the precise instigating words while accepting what they saw of the appellant's physical attack. *Khalid v The State through P.G. Sindh 2024 SCMR 1474* is instructive: the Supreme Court maintained the conviction of the active assailant upon unshaken related ocular evidence corroborated by medical and circumstantial material even though the co-convict alleged to have instigated the offence had been acquitted. The principle of consistency protects similarly placed accused; it does not erase a proved, direct and distinct role merely because a person assigned a different and peripheral role receives the benefit of doubt.

25. No elaborate antecedent motive was proved beyond the immediate exchange concerning the bench. Proof of motive is not an indispensable substitute for direct evidence, and its weakness may affect sentence where the remaining evidence is otherwise sound. The immediate occurrence described by the witnesses supplies its own context. More significantly, the nature of the attack proves intention: after two blows to the leg caused Muhammad Sadik to fall, the appellant delivered two blows to the back of the neck and a further forceful blow to the head which fractured the skull, ruptured brain tissue and left the weapon embedded. The selection of vital parts and repetition of sharp-weapon blows exclude accident and satisfy the ingredients of qatl-i-amd. Since the trial Court already selected imprisonment for life rather than death, the absence of a developed motive affords no further basis to reduce the lawful sentence.

26. Upon cumulative appraisal, the deficiencies are neither concealed nor exaggerated. The witnesses differed about routes, estimates of distance, the transfer vehicle and some investigative paperwork; independent shop witnesses were not examined; PW-1's clothes were not secured; and the chemical report lacks blood

grouping. Against those matters stand three mutually corroborative eye-witnesses, prior acquaintance with the appellant, an immediate police entry naming him, a consistent and unusually specific account of five blows, an axe/hatchet physically embedded in the head, medical evidence matching the number, weapon, timing and fatal mechanism, and no proved animus capable of explaining substitution. The minor and post-occurrence discrepancies do not reach the identity or participation of the appellant. The material as a whole excludes a reasonably possible innocent hypothesis and proves the charge under section 302(b), P.P.C. beyond reasonable doubt.

27. For these reasons, I dismiss this appeal. The conviction and sentences awarded to the Appellant are maintained. Consequently, the appellant shall continue to serve his sentence as per law. All pending applications stand disposed of.

JUDGE

Approved for Reporting
Faisal