

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

Criminal Jail Appeal No. S-67 of 2024
[Rabnawaz @ Rabdino v The State]

Counsel of Appellant : Mr. Aziz Ahmed Laghari, Advocate.

Counsel of Respondents : Mr. Neel Parkash, Deputy Prosecutor General.

Amicus Curiae : Maisum Hussain Sahar, Advocate.

Date of Hearing : 28.09.2026

Date of Judgment : 07.10.2026

JUDGMENT

Muhammad Humayon Khan, J.: Through this Criminal Jail Appeal, Rabnawaz alias Rabdino questions the judgment dated 31-07-2024 passed by the learned Additional Sessions Judge, Khipro, in Sessions Case No.962 of 2023, arising out of FIR No.203 of 2023 of Police Station Khipro. The appellant was convicted under section 302(b), P.P.C. for the murder of his son Anwar and sentenced to imprisonment for life, with a fine of Rs 200,000 and, in default of payment, six months' simple imprisonment. The fact that Anwar died from a penetrating stab wound to the heart is established. The controversy is whether the prosecution proved, beyond reasonable doubt, that it was the appellant who inflicted that wound.

2. The charge at Exh.02 alleges that at about 1500 hours on 23-10-2023, inside the complainant's house near village Pir Bux Laskani, Taluka Khipro, the appellant caused Anwar's death by stabbing him. The prosecution narrative, as reproduced in paragraph 2 of the impugned judgment, was that the appellant habitually demanded money and quarrelled at home; that on the day in question he again demanded money; that a dispute followed; and that he took a knife from his shirt pocket, delivered one blow to Anwar's chest and left towards the east with the knife. The alleged act was thus a single blow within a family home, said to have been witnessed by members of the same family.

3. PW-1 Mst. Sami Khatoon, the appellant's wife and the complainant, testified at Exh.03 that she, Anwar, the appellant's brother

Allah Dino and her other son Javed were inside the house at 3:00 p.m. According to her, the appellant demanded money and then struck Anwar once on the chest with a knife taken from his shirt pocket. PW-2 Allah Dino, examined at Exh.04, gave substantially the same account. Both said that Anwar died at the spot and that his body was taken to Taluka Hospital, Khipro. Their evidence directly incriminates the appellant and cannot be put aside merely because PW-1 was his wife and PW-2 his brother. Its reliability must nevertheless be tested against the remaining evidence and the omissions identified in the appeal.

4. PW-5 Muhammad Urs, the appellant's neighbour, did not see the stabbing. His evidence at Exh.07 was that he heard cries, entered the house and saw Anwar already injured and bleeding. In cross-examination he said that, as he entered, he saw the appellant running away. He and Javed took the body to hospital and, according to his estimate, arrived at about 4:30 p.m. He said that police reached there fifteen to twenty minutes later. PW-6 Inspector Muhammad Nadeem, the investigating officer, testified at Exh.08 that after receiving a telephone message that a body had reached the hospital, he made a roznamcha entry at 1630 hours on 23-10-2023. His reproduced testimony does not identify the caller or set out the contents of the first message beyond the arrival of a body.

5. PW-3 Dr Pardeep received the body at 5:35 p.m. and commenced post-mortem examination at 5:45 p.m. He found one ante-mortem stab wound measuring 1.6 cm by 0.8 cm on the front of the left chest above the nipple. The wound penetrated the heart. His final opinion was that death resulted from this penetrating sharp-instrument injury; he also reported that no poison was detected in the viscera. The evidence proves the medical cause of death and that a knife could cause an injury of this nature. The doctor did not identify the recovered knife as the instrument used, did not identify the assailant and expressed no opinion on whether the wound was inflicted by another person or by Anwar himself.

6. The formal FIR was registered at 2000 hours on 24-10-2023, approximately twenty-nine hours after the alleged occurrence. By then the police had attended the hospital, Anwar's identity and death were known, the post-mortem examination had been conducted and the body had been returned for burial. PW-6 inspected what he described as the complainant's house at 0800 hours on 25-10-2023 and recorded statements under section

161, Cr.P.C. PW-4 Tapedar Imdad Ali prepared a sketch at Exh.06 on the complainant's pointing out. His description of the points marked on that sketch assumes importance when the oral account of an indoor occurrence is examined.

7. PW-5 and PW-6 said that the appellant was arrested near Dargah Ghulam Hyder Faqeer at about 1630 hours on 26-10-2023. They further alleged that on 28-10-2023 the appellant led the police to a knife lying in straw behind, or at the side of, his house. PW-5 and Javed were named as mashirs. PW-6 said that the knife was sealed at the spot, but accepted in cross-examination that the place was open and accessible to everyone. No fingerprint examination was requested.

8. PW-6 described the dispatch of viscera to Rohri Hospital and two other samples to Nawabshah on 01-11-2023, followed by dispatch of the deceased's clothes to Karachi on 03-11-2023. He named police constables as carriers and produced two chemical reports as Exhs.08/N and 08/O. The impugned judgment records that human blood was detected on soil, the knife and the deceased's clothes. Neither the six depositions reproduced in the paper book nor the findings in the impugned judgment disclose a blood-group comparison, DNA profile or other individualising result connecting blood on the knife with Anwar.

9. The prosecution examined six witnesses and closed its side. In his statement under section 342, Cr.P.C., the appellant denied the charge and suggested that Anwar had inflicted the injury upon himself. He did not testify on oath and produced no defence evidence. The learned trial Court accepted the eye account of PWs 1 and 2 as consistent and corroborated by PW-5, the medical evidence, the recovery and the chemical reports. It also held, in paragraph 15, that the defence had failed to produce independent or documentary proof of suicide and that a bare denial did not establish innocence. On that appraisal, it convicted and sentenced the appellant as stated above.

10. Mr Abdul Aziz, learned counsel for the appellant, submitted that the trial Court had approached the defence plea as if the appellant bore a burden to prove suicide. He argued that the defence was entitled to point to self-infliction as a reasonably possible alternative emerging from the prosecution record, without proving that alternative as an affirmative fact.

The decisive inquiry, he submitted, remained whether the State had proved the appellant's act beyond reasonable doubt.

11. Learned counsel challenged the asserted eyewitness account. PW-1 and PW-2 were close relations who repeated a common family narrative, while Javed, said by both to have been inside the house when the blow was delivered, was not examined. Javed was also the deceased's brother, the appellant's son and the complainant's son. In addition, he was repeatedly used as co-mashir for the hospital proceedings, arrest and alleged recovery. Counsel submitted that his unexplained absence removed the most obvious means of checking the place of occurrence, the movement of the body and the recovery proceedings.

12. Counsel next relied upon PW-4's evidence concerning the scaled sketch. The charge, PWs 1 and 2, PW-5 and the investigating officer all placed the event or the injured inside the house. PW-4, however, described point A as the place where Anwar's body lay, in an abandoned part of Survey No. 423/1 belonging to Talib Mangrio, while point C represented the deceased's house approximately 200 feet to the east. Counsel submitted that the prosecution did not reconcile this geographical conflict, although the complainant herself had pointed out the site.

13. The alleged motive was also questioned. The FIR history, as reproduced by the trial Court, spoke of habitual demands for money, quarrels with the sons and family mediation. PW-1 accepted in cross-examination that before this incident the appellant had not fought with anyone. PW-2 said that no complaint, even of a light nature, had previously been noted against his brother. Counsel maintained that the unexplained enlargement of the prior history assumed importance because the formal accusation followed the death by more than a day and the earliest caller and message were not proved.

14. As to the knife, learned counsel emphasised the recovery five days after the occurrence, following two days of police custody, from an open place accessible to all. Javed, the co-mashir, was not examined; PW-5 said that the knife produced in Court was not duly bloodstained, whereas PW-6 said that it was; no fingerprints were taken; and no DNA or blood-group result connected it to Anwar. He also drew attention to PW-6's admission that the samples were sent to different laboratories after a delay of about ten days. PC Muhammad Saleem and PC Rajab Ali, named as

carriers, were not examined. Nor, on the record described in the synopsis, was a malkhana in-charge, Register No. 19 entry or specimen seal produced through an independent custody witness.

15. Finally, counsel relied on the conflict between PW-5 and PW-6 over the authorship of the hospital memoranda, the uncertainty about who first informed the police, and the fact that PW-5 arrived only after the injury. He submitted that the presence of one fatal wound and a chemical reaction for human blood could not supply the missing proof of who wielded the knife. The material defects, taken together, created reasonable doubt about the prosecution's account of how, where and by whose hand Anwar received the wound.

16. Mr Neel Parkash, learned Deputy Prosecutor General, opposed the appeal. He submitted that PWs 1 and 2 were natural witnesses inside the family home and had no reason to spare the true assailant while falsely accusing the deceased's father. Both consistently attributed a single chest blow to the appellant. PW-5 reached upon hearing cries, found Anwar bleeding and saw the appellant running away. The medical evidence established a penetrating injury in a vital part of the body and was compatible with the knife alleged by the prosecution. A knife was subsequently recovered at the appellant's instance and the chemical reports recorded human blood.

17. The learned DPG argued that relationship did not make a witness unworthy of belief and that modest differences about hospital timing, the side or back of the house, or the visible appearance of the knife were natural. The family first attended to the body and burial, which explained part of the interval before the FIR. The prosecution case, he submitted, had to be read as a whole rather than dismembered into isolated imperfections.

18. On the omission of Javed, PC Muhammad Saleem and PC Rajab Ali, the learned DPG responded that the defence had not raised this objection before the trial Court. He further submitted that the carriers of case property were not, as an inflexible rule, legally required to be examined. The evidence of the investigating officer and the laboratory receipts, in his submission, were sufficient to prove transmission; non-examination could not by itself nullify otherwise reliable substantive evidence.

19. Mr Maisum Hussain Sahar, learned Amicus Curiae, tendered a written synopsis, which was taken on record. In support of his legal submissions he referred to *Abdul Qadeer v The State* 2024 SCMR 1146; *Muneer Malik and Nadeem Ahmed v The State through P.G. Sindh* 2022 SCMR 1494; *Muhammad Akhtar and others v The State and others* 2025 SCMR 45; *Muhammad Riaz and others v The State and others* 2024 SCMR 1839; *Muhammad Abras v The State* 2025 SCMR 1145; and the common judgment in *Naseem Sanjrani v The State and connected appeals* 2025 SHC LAR 2634, which also disposed of the connected appeals involving Shahban Sanjrani. He submitted that these authorities required a contextual appraisal of contradictions, withheld material evidence, an open-place recovery, delayed forensic transmission and the criminal burden of proof.

20. During the hearing, the Court asked Mr Abdul Aziz about the defence plea that Anwar had stabbed himself. Drawing his attention to the photograph at page 53 of the paper book, the Court asked what in the appearance of the wound supported suicide rather than an intentional stab by another person. Mr Abdul Aziz submitted that a wound inflicted by the appellant would have involved greater force, whereas the photograph appeared, in his submission, to show a single stab wound. The submission about force was not supported by an opinion from the medical officer. The existence of a single wound was already part of the medical evidence; by itself, the number of wounds does not identify the hand that caused it.

21. Mr Maisum Hussain Sahar submitted that a self-inflicted stab would, in his view, produce an inverted incision rather than the straight incision visible in the photograph. He fairly drew attention, however, to the absence of any medical opinion upon that feature, the direction or trajectory of the wound, or the manner in which it was inflicted. The proposed distinction between an inverted and a straight incision was therefore the Amicus's submission, not an established medical finding. A court cannot convert visual impression into forensic opinion when the doctor who examined the body was neither asked nor volunteered a reconstruction.

22. The Court also asked the learned DPG why a father who, according to the depositions, had no known mental-health concern, history of short temper or previous quarrel would suddenly stab his son in a vital area near the heart, above the nipple. Mr Neel Parkash suggested that the occurrence arose on the spur of the moment. Mr Abdul Aziz disputed that

explanation in view of the absence of any such prior history. These were submissions upon probability. No witness gave expert evidence concerning the appellant's mental state, and the Court cannot infer a psychiatric condition or its absence beyond what the witnesses actually said. The evidentiary question is narrower: whether the prosecution proved the immediate quarrel and the appellant's act, and what weight the unproved history of habitual fighting may carry.

23. The Court then examined the omission of material witnesses. Mr Abdul Aziz identified Javed as the deceased's brother, the appellant's son, the complainant's son, an alleged eyewitness and a mashir of arrest and recovery. He also questioned the non-examination of PC Muhammad Saleem and PC Rajab Ali, who allegedly carried the case property for chemical examination after a delay of ten days. The learned DPG repeated that this objection had not been raised at trial and that carriers were not legally required in every case. The Amicus drew attention to column 5 of the charge sheet, where Javed and both constables were listed as prosecution witnesses. Their omission must be considered by reference to the facts each could have proved; it is not an automatic formula for acquittal.

24. The Amicus further relied upon the Tapedar's sketch and sworn description. Point A was marked where the body was found, outside and approximately 200 feet from the house marked as point C, in land described as abandoned. He submitted that this circumstance undermined the prosecution's account of an indoor occurrence and lent support to the defence version. The location, even if accepted, does not itself prove suicide. It does, however, require an explanation of how an occurrence and death said to have taken place inside the house resulted in the complainant pointing out a materially different place as the position of the body.

25. I have heard the learned counsel, the learned DPG and the learned Amicus Curiae, and have reappraised the evidence described in the paper book. The questions for determination are: first, whether PWs 1 and 2 provide a reliable account that the appellant delivered the fatal blow; second, whether the site-plan evidence, first-report history and omission of Javed create a material doubt about the place and manner of occurrence; third, whether the medical evidence and photograph identify the manner in which the wound was inflicted; fourth, whether the recovery and

chemical evidence independently connect the appellant with the fatal injury; and, finally, whether the prosecution evidence, considered cumulatively, meets the standard of proof beyond reasonable doubt.

26. Article 117 of the Qanun-e-Shahadat Order, 1984 places upon the prosecution the burden of proving the facts constituting the charge. An accused who denies the accusation does not assume a burden to prove innocence. Where the defence suggests a factual alternative such as self-infliction, the court may reject that alternative if it has no evidentiary foundation; it may not use the defence's inability to prove it as a substitute for proof of the prosecution case. *Abdul Qadeer v The State* 2024 SCMR 1146 restates both aspects of the rule: the prosecution must stand on its own evidence, and even one circumstance producing reasonable doubt in a prudent mind entitles the accused to its benefit as a right.

27. *Muhammad Akhtar and others v The State and others* 2025 SCMR 45 is relevant not because every contradiction destroys a witness, but because the Supreme Court examined whether material contradictions and improvements affected the asserted occurrence and whether an uncorroborated recovery could repair them. *Muhammad Riaz and others v The State and others* 2024 SCMR 1839 likewise requires the manner of killing, medical evidence and recoveries to be read together; where material parts contradict each other and the State fails to establish the accused's participation, there is no need to require proof of the alternative defence. These principles direct attention to the quality and interaction of the evidence, not the number of objections.

28. Evidence must also be separated into questions of admissibility and weight. A close relation is competent to testify; relationship does not exclude the evidence. A chemical report may be admissible according to law; admissibility does not prove an unbroken chain or identify the source of a stain. Under Article 40 of the Qanun-e-Shahadat Order, only so much of custodial information as distinctly relates to a fact discovered may be proved; the investigating officer's description of an article as the knife used in the crime is not an admissible confession of its use. Article 129(g) permits, but does not compel, an adverse inference when evidence which could be produced is withheld. Each question must therefore be answered by what the record proves and what the omitted evidence would have tested.

29. PWs 1 and 2 gave a simple and mutually consistent account on the central act: an immediate demand for money, one knife blow to the chest and the appellant's departure. Their relationship to both the deceased and the appellant cuts in two directions. It gives them a natural opportunity to be present and supplies no obvious reason why a mother and paternal uncle would substitute the father for a different assailant. At the same time, their close relationship does not create a presumption of truth. Their account must possess intrinsic reliability and fit the objective evidence.

30. PW-5 provides some support for the prosecution, but its limits are important. He heard cries, entered after the injury and saw Anwar bleeding. His statement that he saw the appellant running as he entered is an incriminating circumstance capable of supporting an otherwise reliable account. It does not reveal what occurred before entry or by whom the wound was inflicted. Flight may arise from guilt, fear or other circumstances; without a secure account of the event it cannot by itself establish the charged act.

31. The first objective difficulty is the place of occurrence. Exh.02 charges an act inside the complainant's house. PWs 1 and 2 place themselves and Javed there. PW-5 says that he found Anwar injured inside, and PW-6 describes inspecting the house. PW-4, however, said that the complainant pointed out point A where Anwar's body lay, in an abandoned area of Survey No. 423/1 belonging to Talib Mangrio, while the deceased's house at point C was about 200 feet to the east. The complete sketch is not reproduced in the synopsis, but PW-4's sworn evidence of what he marked is part of the record summarised before this Court.

32. This is not a discrepancy that can be resolved by assuming the body was later moved, that the Tapedar made a mistake or that point A denoted something other than the body. Any of those explanations is possible; none was supplied in the prosecution evidence reproduced before the Court. PW-4 also admitted that the sketch bore no date or time of visit and no signature of a local landholder or other witness, and that the police letter did not record an order of the Mukhtiarkar deputing him. Those defects do not prove point A false. They mean that the plan cannot independently establish the complainant's account, while its unexplained description of a different place remains material.

33. The submission that point A proves suicide is rejected. A body located outside a house does not identify whether the wound was self-inflicted or caused by another person. The narrower submission is accepted: the separation of the body location from the house casts doubt on where the fatal event occurred and, consequently, on the claimed opportunity of PWs 1 and 2 to observe it. The trial Court was required to confront that conflict before treating their consistency with each other as sufficient.

34. Javed's absence deepens the same evidentiary gap. According to both asserted eyewitnesses he was inside the house when the blow was delivered. According to PW-5, Javed helped take the body to hospital and acted as co-mashir in the hospital proceedings, arrest and recovery. PW-6 also associated him with the scene and recovery. Javed was thus able to speak to the event itself, the first position of the body, its movement to hospital and the contested police proceedings. His evidence was not merely repetitive of one isolated fact.

35. The State is correct that a prosecutor is not bound to examine every person named in a charge sheet and that no automatic adverse conclusion follows whenever a witness is omitted. The defence's failure to raise a formal objection at trial likewise does not create missing evidence. An appellate court reappraising a conviction must consider the record as it stands. Here the omission is material because Javed occupied several distinct roles and no reason for withholding him appears in the impugned judgment. Under Article 129(g), the Court may take that unexplained withholding into account. I do not treat it as conclusive proof that he would have contradicted the prosecution; I treat it as the loss of the most direct available check upon evidence already affected by a dispute about location and recovery.

36. The asserted motive does not remove that doubt. Proof of motive is not indispensable where reliable direct evidence establishes the act. Conversely, an unproved motive cannot repair uncertain direct evidence. The immediate demand for money appears in the testimony of PWs 1 and 2. The wider FIR history of habitual demands, fights with the sons and family intervention did not receive comparable support. PW-1 accepted that before this incident the appellant did not fight with anyone, and PW-2 said that no prior complaint even of a light nature had been noted against his brother. PW-2's statement alone would not exclude private

domestic discord that had never reached the police; PW-1's broader admission nonetheless conflicts with the asserted pattern.

37. The learned DPG's suggestion that the attack occurred on the spur of the moment is possible. It is not itself evidence. A sudden quarrel can explain why a person without a proved prior history acts violently, but the prosecution must first prove that such a quarrel and act occurred. The Court's question about the apparent improbability of a father suddenly stabbing his son near the heart does not establish innocence, just as the absence of a known mental-health concern does not make the act impossible. The point of legal consequence is that the prosecution's own account of a settled pattern of aggression was weakened at trial and cannot be used as corroboration.

38. The chronology of the first report requires similar restraint. The alleged act occurred at 1500 hours on 23-10-2023. PW-6 made a diary entry at 1630 hours upon a telephone message that a body had reached hospital. The formal FIR was lodged at 2000 hours the following day. The return and burial of a young man's body reasonably explain some time and distress. Delay is therefore not treated as fatal by arithmetic alone. The material question is what was said when the police first became involved and whether the appellant was promptly named.

39. The reproduced evidence does not answer that question. PW-1's account suggests Muhammad Urs informed the police; PW-5 said Allah Dino did so; PW-2 said the family informed them; and PW-6 identified only a telephone message about a body without naming its maker or setting out an accusation. Police attended the hospital and knew of the death on 23-10-2023, yet no contemporaneous first account naming the appellant was proved. The twenty-nine-hour interval therefore acquires weight when read with the embellished prior-history narrative, the missing witness and the disputed scene. It does not independently prove consultation or fabrication.

40. There is also a limited but real question about confirmation of the FIR. PW-1 said that the police read it over to Muhammad Urs in her presence and obtained her right thumb-impression. PW-6 stated that he read it over to "him" before taking her thumb-impression. The masculine pronoun could be a recording error. PW-1's own version nevertheless leaves uncertainty whether the detailed later report was read back to and

confirmed by its maker. That circumstance does not invalidate the FIR; it reduces the assurance available for details found in the FIR but not sustained in her testimony.

41. The medical evidence is firm as to the cause of death. Dr Pardeep found a single ante-mortem penetrating wound on the front left chest above the nipple, entering the heart, and attributed death to it. The estimate of three to four hours between death and post-mortem was approximate and was not explained as an exact clock. It would be unsafe to manufacture a contradiction between that estimate and an occurrence alleged at 3:00 p.m. The negative toxicology result bears upon poison, not upon the identity of the person who wielded the knife.

42. Medical compatibility is not medical identification. The doctor proved that a sharp instrument could cause the injury and that the injury caused death. He did not compare the dimensions or characteristics of the wound with the recovered 4.5-inch knife, state the direction or angle of entry, identify the force required, discuss hand dominance or reconstruct the act. The photograph at page 53 can illustrate the external appearance of the wound; it cannot, without expert interpretation, establish who caused it.

43. Mr Abdul Aziz's contention that a blow by the appellant would necessarily involve greater force is therefore not accepted as a medical proposition. Nor can the Amicus's proposed distinction between an inverted incision from self-infliction and the straight incision he perceived in the photograph be treated as established science in this case. It was responsibly qualified by the Amicus himself because the medical officer expressed no opinion on incision orientation, trajectory or manner. The Court must not fill that omission with its own forensic speculation.

44. The record does not establish suicide, but that is not the test. Suicide is neither medically established nor disproved by the wound photograph and the doctor's evidence as presented. The prosecution may succeed without excluding a fanciful hypothesis; it must exclude a reasonable alternative arising from the evidence. Here the suggested alternative gains relevance not from the wound shape alone, but from the disputed place of occurrence, the missing direct witness, the uncertain first accusation and the absence of medical reconstruction. The Court's

conclusion is not that Anwar stabbed himself. It is that the prosecution must still prove that the appellant stabbed him.

45. he alleged recovery does not supply secure independent proof. The knife was recovered on 28-10-2023, five days after the death and after the appellant had been in police custody for two days. PW-5 described its location at the side of the house; PW-6 referred to straw behind the house. Those descriptions may concern the same general location and are not, by themselves, a material contradiction. The decisive admission is that the location was open and accessible to everyone. There was no evidence of exclusive possession or concealment known only to the appellant, and Javed, the co-mashir, was not examined.

46. Article 40 permits proof of information distinctly connected with a discovered fact. It does not permit the prosecution to transform an investigating officer's assertion that the appellant offered to produce the "knife used in the crime" into proof that the appellant used it. Discovery of an ordinary knife from accessible straw may be relevant, but its weight depends upon the exclusivity of the place, the integrity and identification of the article and reliable scientific linkage.

47. PW-5 said that the knife produced in Court was not duly bloodstained. PW-6 said that it was duly bloodstained. Visible appearance is not a substitute for chemical analysis; traces may be microscopic or may change with time. The conflict nevertheless concerns the same exhibit and matters to its identification and handling. No fingerprint analysis was sought. The chemical result, as described by the trial Court, showed human blood, but the supplied record identifies no blood group, DNA profile or comparison sample establishing whose blood it was. The result therefore cannot connect this particular knife with Anwar to an individualising standard.

48. The chain of custody is also incomplete. PW-6 admitted a delay of approximately ten days in sending samples to different laboratories. He named PC Muhammad Saleem and PC Rajab Ali as carriers, but neither testified, although column 5 of the charge sheet listed them as prosecution witnesses. The supplied record identifies no testimony of a malkhana in-charge, no Register No. 19 custody entry and no specimen-seal evidence proving the condition in which the parcels remained before

dispatch. A destination receipt may prove receipt; without the preceding links, it does not by itself prove continuous sealed custody during the delay.

49. The learned DPG is right that the law does not demand oral evidence from every carrier in every case. If safe custody and transmission are otherwise established by credible and complete evidence, omission of one functionary may have no consequence. The gap here is factual, not formal. The investigating officer admitted delayed dispatch, the recovery was from an accessible place, the co-mashir was withheld, the examined witnesses disagreed about the knife's appearance and no other identified custody evidence covered the interval. In that setting, testimony from the named carriers would have addressed a live issue. The absence of an objection at trial does not prove the missing links.

50. *Muneer Malik and Nadeem Ahmed v The State through P.G. Sindh 2022 SCMR 1494* demonstrates the loss of evidentiary force where crime articles and weapons are not shown to have remained in safe custody and are sent for examination after unexplained delay. *Muhammad Abras v The State 2025 SCMR 1145* similarly treated a delayed dispatch, in the particular circumstances of that case, as depriving a positive forensic report of corroborative value. Those decisions do not create an automatic number-of-days rule. They require the prosecution to prove the intervening links before a scientific result is used as independent corroboration.

51. The common judgment reported as *Naseem Sanjrani v The State and connected appeals 2025 SHC LAR 2634* applies the same disciplined approach to non-examination of a malkhana witness and carrier, delayed dispatch, medical evidence which does not identify the assailant and the intrinsic appraisal of related witnesses. Its value here lies in the combined inquiry, not in treating any single investigative lapse as decisive. Applying that approach, the human-blood finding remains admissible in its proper setting but cannot bear the weight which the trial Court placed upon it.

52. The soil evidence adds a further uncertainty. The impugned judgment says that human blood was detected on soil, but PW-5's testimony, as summarised, does not explain where or how soil was collected, packed and sealed, and PW-6's account of the site visit does not narrate its collection. The property order is said to mention mud in an iron bottle. Without proof whether the sample came from inside the house or

from point A in the abandoned area, the chemical result cannot resolve the dispute about the scene.

53. The conflict over authorship of the hospital papers is not a clerical difference. PW-5 said that the police munshi wrote all memoranda; PW-6 categorically said that he personally wrote the body papers at hospital and not the munshi. Their estimates of police arrival also differ, though approximate timing can be affected by travel and waiting. The authorship conflict bears upon the authenticity and sequence of the earliest documents, at a time when no proved first report named the appellant. It needed assessment rather than the trial Court's general conclusion that cross-examination had produced nothing material.

54. Some variations relied upon by the defence are minor. PW-1's estimate of Anwar's age as about twenty against the FIR's twenty-three or twenty-four does not concern identity or the act. The side-versus-back description of straw can refer to the same place. The three-to-four-hour medical estimate cannot be converted into a precise contradiction. The evidence about who carried the body to hospital may also be reconcilable: PWs 1 and 2 said the family took it, while PW-5 specifically named himself and Javed. These points do not support acquittal. Their proper treatment demonstrates why the remaining conflicts, which concern the scene, witness presence, first accusation and integrity of corroborative evidence, cannot be dismissed in the same manner.

55. The principal submissions can now be answered directly. The appellant's argument that the prosecution had to prove a homicidal act by him, rather than require proof of suicide, is accepted. His proposed medical inference from force and wound shape is not accepted because no expert supplied it. The challenge to the place of occurrence, the non-examination of Javed and the limited value of the open-place recovery is accepted for the reasons given. The FIR delay is not independently fatal, but it becomes material because the earliest caller, message and prompt nomination were not proved.

56. The State's submission that relationship does not disqualify PWs 1 and 2 is correct. Its submission that their repeated nomination alone overcomes the objective difficulties is not accepted. Their testimony is not rejected merely for kinship; it is found unsafe because it was not reconciled with the complainant-pointed site, was not tested through Javed and did

not receive secure independent corroboration. PW-5's evidence that he saw the appellant running is relevant but, as he did not see the stabbing, does not cure those defects.

57. The State is also correct that a penetrating wound in a vital area, recovery of a knife and a human-blood result are circumstances which must be considered cumulatively. The wound proves death by stabbing, not the author of the act. The recovery was late and from an accessible place; the article was not identified through fingerprints, DNA or blood grouping; the co-mashir and carriers were not examined; and safe custody during the admitted delay was not otherwise established. Cumulative appraisal cannot enlarge the proved content of each circumstance.

58. The Amicus's submission on Article 129(g) is accepted in its qualified form. The inference from Javed's absence is permissive and tied to the particular facts he could have proved. It is not used as a punishment for prosecutorial choice. His omission matters because it leaves multiple related gaps in a case resting on a single disputed family occurrence. The omissions of PC Muhammad Saleem and PC Rajab Ali are likewise assessed only in relation to safe custody and transmission; they do not impeach PWs 1 and 2 directly.

59. The trial Court did not maintain the necessary distinction between weakness in a defence suggestion and proof of the charge. Its finding that the appellant failed to produce independent or documentary proof of suicide reversed the order of inquiry. The appellant's statement under section 342, Cr.P.C. did not prove self-infliction; nor was he required to testify on oath. Before drawing any conclusion from his denial, the Court had to determine whether the prosecution evidence itself established the act beyond reasonable doubt.

60. The circumstances favouring the prosecution remain substantial. Anwar sustained a real and fatal stab wound. PWs 1 and 2 consistently named the appellant, whom they knew intimately. PW-5 arrived after cries, saw the injured and said the appellant was running. A knife was recovered at the appellant's instance and human blood was reported on physical articles. The conclusion in this appeal is not reached by ignoring those circumstances or by presuming misconduct by the family or police.

61. Their probative force is nevertheless reduced by defects directed to the core issue of authorship. The prosecution alleged an indoor stabbing, while its Tapedar said the complainant pointed out the body about 200 feet away in an abandoned area. Javed, said to be present and later used throughout the police proceedings, was withheld without explanation. The first police contact established only a body at hospital, and the named FIR followed approximately twenty-nine hours later. The alleged history of habitual fighting was not sustained at trial. The doctor did not reconstruct the wound. The only weapon recovery was from an open place, and its chain and source-specific forensic connection were not proved.

62. These matters interact. The site conflict makes witness presence and movement of the body important; Javed's absence leaves both untested. The absence of a proved contemporaneous accusation makes the later FIR less capable of resolving that conflict. The weakness of the recovery and forensic chain leaves no objective evidence strong enough to restore confidence in the disputed identification. The doubt is therefore neither fanciful nor produced by counting minor discrepancies. It concerns whether the prosecution has reliably established that the appellant caused the single wound despite the reasonably possible alternative emerging from the record.

63. *Muhammad Riaz 2024 SCMR 1839, Muhammad Akhtar 2025 SCMR 45 and Abdul Qadeer 2024 SCMR 1146* require that doubt arising from material contradictions and missing links be resolved before a conviction is maintained. The prosecution cannot derive proof from the appellant's inability to establish suicide. On the whole record, the evidence establishes Anwar's death from a stab wound, but does not establish beyond reasonable doubt that Rabnawaz alias Rabdino inflicted it. The appellant is entitled to the benefit of that doubt as a matter of right.

64. For the foregoing reasons, the appeal is allowed. The judgment dated 31-07-2024 passed by the learned Additional Sessions Judge, Khipro, in Sessions Case No. 962 of 2023 is set aside. The conviction and sentence of appellant Rabnawaz alias Rabdino under section 302(b), P.P.C. are set aside and he is acquitted of the charge by extending to him the benefit of reasonable doubt. He shall be released forthwith if not

required to be detained in connection with any other case. The observations made above are confined to the decision of this appeal.

JUDGE

APPROVED FOR REPORTING
FAISAL