

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
 Cr. Appeal No. 358 of 2018

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**Before:**  
***Mr. Aftab Ahmed Gorar, J***

Amanullah Tareen	-----	Appellant
	Versus	
The State	-----	Respondent

Appellant: Through Mr. Khawaja Muhammad Azeem Advocate  
 State: Through Mr. Syed Meeral Shah, Addl. P.G. Sindh

**J U D G E M E N T**

**AFTAB AHMED GORAR--J** By this order I intend to dispose of instant Criminal Appeal filed by the appellant Amanullah Tareen.

Appellant Amanullah Tareen son of Abdul Wadood was found guilty of offence and by judgment dated 19.04.2018 passed in Sessions Case No.1417/2009 out of crime No.174/2009, under sections 302/34 PPC, registered at Police Station Model Colony, Karachi was convicted by the learned Additional Sessions Judge-VIII, Karachi-East under section 265-H(ii) for offence under section 302(b) PPC for life imprisonment and imposed fine of Rs.100,000/- upon him which shall be paid to legal heirs of deceased failing whereof he was ordered to suffer S.I for six months more. Appellant was also granted benefit of section 382-B Cr.P.C.

Learned Trial Court examined PW-1 Muhammad Nasir, the complainant at Ex-05, PW-2 Shahid Ahmed Khan at Ex-06, PW-3 SIP Mesal Khan at Ex-07, PW-4 sip Intezar Hussain at Ex-09, PW-5 MLO Dr. Syed Mazharuddin at Ex-12, PW06 SIP Dildar at Ex-13, PW-7 PC Aseem Khan at Ex-14, PW ASI Nasar Hayat at Ex-16 and PW-8 SIP Dildar Hussain at Ex-17.

Learned counsel for the appellant submitted that there are material contradictions in the prosecution witnesses which have not been attached importance. He further submitted that though the medico legal certificate shows five wounds of entry whereas the inquest report shows only one wound of entry. He further submitted that there being inherent defects in the impugned judgment and so its cumulative effect would be that the impugned judgment merits to be set aside. He also submitted that the contradictions in the evidence of prosecution witnesses create doubt in mind and benefit of doubt always goes to accused.

Learned Additional Prosecutor General has opposed arguments of learned Counsel for the appellant and submitted that the order passed by the learned trial Court is a speaking order which thrashed out all doubts. He further submitted that the prosecution witnesses are consistent and they had implicated the appellant in commission of offence. He further argued that mere on minor contradictions, in a heinous case of murder, the appellant could not be considered for any benefit. He prays that the order passed by learned trial Court may be maintained being well reasoned.

I have heard the learned Counsel for the appellant, learned Additional Prosecutor General and have minutely gone through the evidences as well as available record.

It is a matter of record that the alleged crime weapon was sent to FSL after lapse of about 35 days. It has neither come in evidence that the blood stained earth and blood stained cloths were either recovered or any way sent for examination. Admittedly the MLO report reflects five wounds of entry whereas the inquest report shows only one wound of entry. Moreover a bare perusal of evidence of prosecution witnesses are inconsistent and carry no weight. There seems to be material contradictions in their evidences which creates mitigating circumstances.

The Honourable Supreme Court in such circumstances, in a case reported as Niaz-ud-Din versus the State (2007 SCMR 206) was pleased to reduce the sentence from 10 years to 06 years. In another case reported as Gul Naseeb (2008 SCMR 670), the Honourable Supreme Court of Pakistan also reduced the sentence from imprisonment of life to 10 years.

In such circumstances, I am of the opinion that since it is a case of mitigating circumstances, hence the sentences awarded to the appellant is reduced from life imprisonment to ten (10) years R.I. and fine of Rs.100,000/- is reduced to Rs.50,000/-. In case of default of payment of fine the appellant to suffer S.I. for three months more.

Judge