

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Omar Sial
Mr. Justice Muhammad Hassan (Akber)

Criminal Appeal No. 680 of 2023
[Shakeel Ahmed vs. The State]

Confirmation Case No. 06 of 2023
[Reference made by the Additional Sessions Judge-II, Karachi (West)
for confirmation of death sentence against the appellant]

Appellant : Shakeel Ahmed
through Mr. A.K. Brohi, Advocate.

Complainant : through Mr. Naeem Akhtar,
Advocate

Respondent : The State
through Mr. Muhammad Iqbal
Awan, Additional Prosecutor
General, Sindh

Date of Hearing : 26.05.2025

Date of Decision : 04.07.2025

JUDGMENT

Omar Sial, J: The dead body of a person identified as Kamlesh Kumar who had sustained a bullet injury was brought to the Agha Khan Hospital in Karachi on 29.06.2019. A.S.I. Muhammad Atif Bajwa reached the hospital and saw the dead body. The deceased's brother (Wajesh Kumar) refused the police request to conduct a post-mortem. A section 154 Cr.P.C. statement was however recorded by Muhammad Sufyan Khan (Kamlesh's friend and an eyewitness to the shooting), which was then converted into F.I.R. No. 167 of 2019 and registered at the Gulshan-e-Maymar police station on 30.06.2019.

2. Sufyan recorded in his section 154 Cr.P.C. statement that he along with the deceased and four other office colleagues were on their way in a car to a picnic at a farmhouse when they were intercepted by one armed person, who during the course of robbing the five friends of their valuables fired a shot which had hit Kamlesh.

3. On 13.07.2019, Shakeel Ahmed was arrested in a case of police encounter in which two F.I.R.'s (192 and 193 of 2019) were registered against him. Shakeel during interrogation had confessed to the Kamlesh incident and was therefore re-arrested on 13.07.2019 for that crime. When arrested in those cases a weapon was recovered from him. The bullets recovered from the crime scene of the Kamlesh killing incident had subsequently matched the weapon.

4. Shakeel pleaded not guilty and claimed trial. The prosecution examined **PW-1 Muhammad Atif Bajwa** (the first police responder to the information that a dead body had been brought to Agha Khan Hospital); **PW-2 Muhammad Sufiyan Khan** (the complainant and eye-witness); **PW-3 Uzman Khan** and **PW-4 Sajjan Kumar** (both eyewitness); **PW-5 H.C. Nazeer Hussain** (witness to the re-arrest of Shakeel Ahmed) and **PW-6 S.I. Abdul Majid Leghari** (the investigating officer of the case). Shakeel Ahmed provided no defence but said that he was innocent.

5. The learned trial court, in our view, correctly, observed that this was not a terrorism case but sentenced Shakeel Ahmed to fourteen years imprisonment for an offence under section 392 and 397 P.P.C. and death for an offence under section 302(b) P.P.C.

6. Learned counsel for the appellant at the very beginning of his arguments said that under instructions he would not like to argue on merits but requested that the death sentence be reduced to life imprisonment. The learned Additional Prosecutor General and the learned counsel for the complainant, both

recorded their categoric no-objections to the reduction in the sentence. In spite of their no-objections we have gone through the record of the case. Our observations and findings are as follows.

7. We find the eyewitnesses testimony to be reliable and confidence inspiring. The bullet empties collected from the crime scene had been sent for forensic analysis prior to the recovery of the weapon from Shakeel Ahmed and the laboratory had reported a match. The three eyewitnesses had absolutely no motive to falsely accuse Shakeel Ahmed as being the shooter. All eyewitnesses were natural witnesses. All remained consistent with their story of how the incident unfolded.

8. Apart from the no-objections from the complainant and State counsels, we have also observed that no identification parade was held but that the accused was identified for the first time in Court by the eyewitnesses. The incident, even according to the eyewitnesses was a sudden incident and no pre-meditation or prior intention is borne out from the record. The motive apparently was to rob and not to kill. A combination of the foregoing factors convinces us to uphold the conviction and sentence for the offence under section 397 P.P.C. but convert the death sentence awarded for the section 302(b) P.P.C. offence to imprisonment for life. Both sentences will run concurrently and the appellant entitled to section 382-B Cr.P.C. remissions.

9. The appeal is dismissed subject to the modification of the sentence as given in the preceding paragraph. The death reference is answered in the negative.

JUDGE

JUDGE

