

## IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Jail Appeal No. S-123 of 2016

Appellant : Muhammad Punhal @ Punhoo Bhutto  
Through Mr. Alam Sher Bozdar, advocate

Complainant : Akbar Ali Bhutto  
Through Mr. Shabbir Ali Bozdar, advocate

The State : Mr. Zulfiqar Ali Jatoi Additional P.G

Date of Hearing : 21.08.2025  
Date of judgement : 27.08.2025

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

**KHALID HUSSAIN SHAHANI, J.-** This Criminal Appeal emerges from the conviction and sentencing judgment rendered by the learned IV Additional Sessions Judge, Mirpur Mathelo on June 7, 2016, in Sessions Case No. 594/2009. The appellant Muhammad Punhal alias Punhoon stands convicted under sections 147, 148, 302(b), and 337-H(ii) read with section 149 of the Pakistan Penal Code, having been sentenced to life imprisonment accompanied by various other punishments including the contentious direction for payment of Diyat to the legal heirs of the deceased persons.

2. The genesis of this criminal proceeding traces back to a double homicide that occurred on July 20, 2009, at the bridge of Nihal Wah, arising from what the prosecution characterized as a revenge killing rooted in tribal animosity. The complainant Akbar Ali Bhutto registered FIR No. 197/2009 at Police Station Daharki, alleging that while returning from Daharki town after purchasing ceremonial cloth known as "Ajrak" for a deceased relative Abdul Sami, his party comprising himself, his brother Raees Mitho, brother-in-law Qadir Bux, nephew Yaseen, and in-law Dilbar, was intercepted by five armed assailants mounted on motorcycles.

3. According to the prosecution narrative, the accused persons, namely Ghulam Mustafa alias Nek, Shahnawaz, Yaseen, the present appellant Punhoon, and Habib, all wielding Kalashnikov rifles, confronted the complainant's party with deadly intent. The principal accused Ghulam Mustafa allegedly proclaimed his intention to exact vengeance for the murder of his father Muhammad Arif, which had transpired about eight to nine years prior. Despite the fact that the earlier dispute had been resolved through traditional arbitration known as "private faisla," the prosecution contended that resentment

persisted in the hearts of the deceased's progeny. The factual matrix presented by the prosecution established that the accused persons opened indiscriminate fire upon the victims, with specific allegations that Ghulam Mustafa, Shahnawaz, and Yaseen targeted Raees Mitho, while the appellant Punhoon and co-accused Habib directed their gunfire toward Qadir Bux. Both victims succumbed to their injuries at the scene, sustaining multiple gunshot wounds that were later catalogued in comprehensive post-mortem examinations conducted by Dr. Parmanand at Taluka Hospital Daharki.

4. The investigative process culminated in the arrest of the appellant Muhammad Punhal on September 13, 2009, during which law enforcement officers recovered a Kalashnikov rifle, magazines, and ammunition from his possession. The remaining co-accused evaded apprehension and were subsequently declared proclaimed offenders through the due process of law. The prosecution's case was substantiated through the examination of ten witnesses, encompassing both ocular and circumstantial evidence, medical testimony, and various investigative procedures. The learned trial court, after extensive proceedings spanning several years, found the prosecution's case proven beyond reasonable doubt and convicted the appellant accordingly. However, this appellate forum is now called upon to scrutinize whether the conviction can withstand judicial review in light of the legal principles governing criminal jurisprudence and the specific challenges raised by the appellant's counsel.

5. The learned advocate representing the appellant has mounted a comprehensive challenge to the conviction, raising multiple grounds that collectively question the reliability and sufficiency of the prosecution's evidence. The primary thrust of the appellant's case centers on what counsel characterizes as fundamental deficiencies in the investigative process, particularly the absence of crucial scientific evidence that would definitively link the appellant's recovered weapon to the commission of the alleged crimes. The cornerstone of the appellant's challenge rests upon the glaring omission of ballistic examination of the Kalashnikov rifle recovered from his possession. Counsel has emphatically argued that this represents not merely a procedural oversight but a fatal gap in the prosecution's chain of evidence. The recovered weapon, despite being the alleged murder weapon, was never subjected to forensic ballistic analysis to determine whether it had fired the seven empty shells of 7.62 bore recovered from the crime scene. This absence of scientific

corroboration, according to counsel, creates insurmountable reasonable doubt regarding the appellant's direct involvement in the actual killings. Furthermore, counsel has meticulously challenged the reliability of the identification evidence, pointing to the considerable distance of approximately 100 feet from which the key witnesses observed the incident. This identification was purportedly made under highly traumatic circumstances, with aerial firing occurring simultaneously and the witnesses concealing themselves in fear for their lives. The learned advocate has argued that such conditions are inherently unreliable for accurate identification, particularly when the consequences are as grave as a conviction for murder. The interested nature of the prosecution witnesses has been another focal point of the appellant's challenge. Both principal witnesses, namely the complainant Akbar Ali and his relative Ghulam Yaseen, were closely related to the deceased persons and therefore possessed inherent bias in their testimony. Despite the incident allegedly occurring at a public location with numerous villagers subsequently gathering at the scene, the prosecution failed to produce any independent or disinterested witness to corroborate the core allegations. Counsel has also highlighted numerous procedural irregularities that collectively undermine the integrity of the investigation. These include the absence of signatures by mashirs on crucial documents such as the Danistnama, the exclusive reliance on official police witnesses rather than private citizens during various investigative procedures, the non-production of important documentary evidence such as Roznamcha entries, and the failure to conduct proper forensic analysis of blood-stained evidence allegedly sent to the Chemical Examiner. The motive attributed to the appellant has been vigorously contested, with counsel arguing that the alleged revenge for a murder that occurred eight to nine years prior, and which had been formally resolved through community arbitration, lacks credibility as a driving force for the present offenses. This argument gains particular strength from the fact that the deceased Abdul Sami, for whose funeral rites the complainant's party was purchasing ceremonial cloth, was actually the nephew of the appellant, indicating family connections that would militate against the proposed motive. In support of these contentions, learned counsel has cited a constellation of judicial precedents that establish the legal principles governing the evaluation of criminal evidence, the standards for granting benefit of doubt, and the requirements for scientific corroboration in cases involving weapon recovery. The case reported as 2018 SCMR 772 constitutes a seminal pronouncement on the standards governing the grant of benefit of doubt to

accused persons. The Supreme Court in this landmark judgment established that while benefit of doubt should not be extended frivolously, the prosecution bears the burden of proving guilt beyond reasonable doubt through reliable and credible evidence. The Court emphasized that in contemporary criminal jurisprudence, particularly in cases involving weapon recovery, scientific corroboration plays an increasingly vital role in establishing culpability. The judgment specifically noted that courts must carefully scrutinize whether the evidence presented would convince a reasonable mind about the guilt of the accused, and that the absence of scientific verification of alleged murder weapons creates substantial doubt about the direct causal connection between the accused and the offense. The principle enunciated in 2020 P.Cr.L.J 1693 addresses the fundamental requirements for cases based on circumstantial evidence. This authoritative judgment established that when prosecution relies upon circumstantial evidence, each individual circumstance must be proved to the hilt, and collectively they must form an unbroken chain pointing conclusively toward the guilt of the accused. The Court observed that any missing link in this chain of circumstances creates reasonable doubt that must benefit the accused. In the present case, counsel argues that the absence of ballistic evidence constitutes precisely such a missing link that breaks the chain of circumstances allegedly connecting the appellant to the murders. 2023 SCMR 670 provides crucial guidance regarding the evaluation of testimony from interested witnesses, particularly in cases where identification is claimed under challenging circumstances. The Supreme Court emphasized that while interested witnesses are not automatically disqualified from giving evidence, their testimony requires heightened scrutiny and preferably independent corroboration. The judgment specifically addressed situations where identification is claimed from considerable distances, holding that such testimony must be carefully evaluated considering factors such as lighting conditions, duration of observation, and the witness's opportunity for clear perception. The Court noted that in cases involving serious offenses, the absence of independent witnesses becomes a factor that weighs in favor of the accused when evaluating the reliability of interested witness testimony. The precedent established in 2017 P.Cr.L.J 280 directly addresses the issue of weapon recovery in murder cases and the necessity of ballistic examination. This judgment held that mere recovery of weapons from an accused person, without scientific verification connecting those weapons to the crime, cannot form the sole basis for conviction in murder cases. The Court observed that

modern forensic capabilities have advanced to the point where ballistic examination is not only possible but expected in cases where recovered weapons are alleged to be murder weapons. The failure to conduct such examination, without reasonable explanation, creates doubt about whether the recovered weapon was actually used in the commission of the offense. 2022 P.Cr.L.J 1451 established principles regarding the cumulative effect of procedural irregularities in criminal investigations. While acknowledging that individual procedural lapses may not necessarily vitiate an entire prosecution case, the Court held that multiple irregularities, when viewed collectively, can significantly impact the reliability of evidence and create reasonable doubt about the guilt of the accused. This judgment is particularly relevant to the present case, where numerous procedural irregularities have been highlighted by the appellant's counsel. The recent pronouncement in 2024 SCMR 1224 addressed the prosecution's duty to present all available evidence and the negative inference that may be drawn from the withholding of crucial evidence or witnesses. The Supreme Court observed that when prosecution fails to produce vital evidence that could definitively establish or negate the guilt of an accused person, such failure creates serious doubts about the strength of the prosecution case. This principle applies with particular force to cases where scientific evidence is available but not utilized by the investigating authorities. Finally, 2023 SCMR 16 represents the Supreme Court's recognition of evolving standards in criminal evidence evaluation. The Court observed that when prosecution evidence suffers from material contradictions and lacks adequate scientific support, the benefit of doubt must be extended to the accused. This judgment reflects the contemporary judicial approach that emphasizes the need for reliable, scientifically supported evidence in serious criminal cases.

6. The learned Additional Advocate General, assisted by counsel for the complainant, has mounted a vigorous defense of the trial court's judgment, arguing that the prosecution successfully discharged its burden of proving the appellant's guilt through credible and consistent evidence. The primary pillar of their argument rests upon the reliability of the ocular evidence provided by the complainant Akbar Ali and witness Ghulam Yaseen, both of whom provided detailed and consistent accounts of the incident without material contradictions. Counsel for the prosecution emphasizes that both key witnesses maintained consistency throughout their testimony regarding all material aspects of the case, including the time and location of the incident, the number of accused

persons, the weapons utilized, the specific roles played by different accused individuals, and the circumstances leading to the deaths of both victims. They argue that despite extensive cross-examination by skilled defense counsel, no substantial contradictions emerged that would undermine the credibility of these witnesses. The prosecution has placed significant emphasis on the medical evidence provided by Dr. Parmanand, whose post-mortem examinations conclusively established that both victims died as a result of multiple gunshot wounds inflicted by high-velocity firearms. Counsel argues that this medical evidence provides crucial corroboration for the ocular testimony and establishes beyond doubt that the deaths resulted from intentional firing rather than accidental discharge or any other cause. Regarding the recovery evidence, the prosecution maintains that the timely arrest of the appellant with an unlicensed Kalashnikov rifle, multiple magazines, and substantial quantities of ammunition provides strong circumstantial support for their case. The recovery of seven empty shells of 7.62 bore from the crime scene, consistent with the caliber of the appellant's weapon, further strengthens the circumstantial evidence chain. The prosecution has addressed the motive issue by arguing that the previous murder of Muhammad Arif provided adequate psychological motivation for revenge, even if the formal dispute had been resolved through traditional arbitration. They contend that the testimony clearly establishes that resentment persisted among the deceased's family members, particularly his sons, and that this long-standing grievance provided sufficient motive for the present offenses. SCMR 2020 Page No. 837 establishes the fundamental principle that interested witnesses are not inherently unreliable and that their testimony can form the basis for conviction if found to be cogent, consistent, and credible. The Supreme Court in this judgment observed that the mere fact that witnesses are related to the victim or have an interest in the outcome of the case does not automatically disqualify their evidence. The Court held that what matters is the intrinsic reliability of the testimony, its consistency with other evidence, and whether it inspires confidence regarding its truthfulness. In cases where interested witnesses provide detailed, consistent testimony that withstands cross-examination, such evidence can be accepted without independent corroboration. The precedent in SCMR 2009 523 addresses the treatment of minor discrepancies and contradictions in witness testimony. The Supreme Court held that minor inconsistencies in witness statements do not necessarily vitiate the prosecution case if the core allegations are proved and the overall testimony appears reliable. The Court observed that human memory is fallible, and

witnesses cannot be expected to recall every minute detail with perfect accuracy, particularly when testifying about traumatic events. The judgment emphasizes that courts should focus on the substantial aspects of testimony rather than minor variations that do not go to the root of the case. P.Cr.L.J 2022 Note 4 established that circumstantial evidence, even without direct proof of every element, can sustain conviction if it forms a complete chain pointing toward guilt and excludes every reasonable hypothesis consistent with innocence. The Court noted that in many serious crimes, direct evidence may not be available, and prosecution must necessarily rely upon circumstantial evidence to establish guilt. The judgment provides guidance on evaluating circumstantial evidence, emphasizing that while each link in the chain need not be proved with mathematical precision, the overall evidence must be sufficient to convince a reasonable mind of the accused's guilt. YLR 2022 710 specifically addressed cases where medical evidence corroborates ocular testimony, holding that such corroboration significantly strengthens the prosecution case and reduces the impact of minor procedural irregularities. The Court observed that when witness testimony regarding the cause and manner of death is supported by detailed medical evidence, it creates a strong foundation for conviction that cannot be easily undermined by pointing to procedural lapses that do not affect the core of the case.

7. Having meticulously examined the entire record, evidence, and submissions of learned counsel for both sides, this Court embarks upon a comprehensive analysis of the prosecution case against the appellant Muhammad Punhal alias Punhoon Bhutto. The deliberative process demands rigorous scrutiny of each piece of evidence, witness testimony, and procedural compliance to determine whether the prosecution has successfully discharged its burden of proving guilt beyond reasonable doubt, particularly in light of the grave nature of the charges and the liberty interests at stake.

8. The prosecution's case fundamentally rests upon the ocular testimony of two witnesses, namely complainant Akbar Ali Bhutto and prosecution witness Ghulam Yaseen, both of whom claim to have witnessed the tragic incident of July 20, 2009, from a considerable distance under highly traumatic circumstances. A careful examination of their testimony reveals several disturbing features that collectively undermine their credibility and reliability as witnesses capable of providing accurate identification evidence in



a capital case. The complainant Akbar Ali, being the brother of deceased Raees Mitho, possesses an inherent and unavoidable interest in the outcome of these proceedings that cannot be divorced from his testimony. Similarly, Ghulam Yaseen, being related to the complainant and the deceased persons, carries the same burden of interested witness status that requires the most careful judicial scrutiny.

9. The Supreme Court of Pakistan in the landmark judgment reported as Sarfaraz & another Vs. The State (2023 SCMR 670) has emphasized that while interested witnesses are not automatically disqualified from giving evidence, their testimony requires heightened scrutiny and preferably independent corroboration, especially in cases involving identification from considerable distances under stressful circumstances. The Court specifically noted that in cases involving serious offenses, the absence of independent witnesses becomes a factor that weighs in favor of the accused when evaluating the reliability of interested witness testimony. This principle gains particular significance in the present case where both key witnesses have admitted during cross-examination that the accused persons were standing at a distance of about 100 feet from their position, a substantial distance that would challenge even the most attentive observer under normal circumstances. The Honorable Supreme Court in case of Sarafray (Supra) is pleased to hold that;

*“7. It is cardinal principle of criminal jurisprudence that each criminal case has its own facts, which has to be dealt with according to its peculiar facts and circumstances. The present case is the glaring example of the same wherein the complainant of this case, who was not the inmate of the house rather was cousin of the deceased Haq Nawaz, had to lodge the crime report when admittedly he was residing six kilometers away from the place of occurrence. Prior to taking into consideration the contents of the crime report, few aspects of the case qua, (i) motive, (ii) time of occurrence, (iii) manner of occurrence, and (iv) subsequent events, are essential for their determination to arrive at a just conclusion in the interest of safe administration of criminal justice...*

*... It is a well settled principle of law that for the accused to be afforded this right of the benefit of the doubt, it is not necessary that there should be many circumstances creating uncertainty and if there is only one doubt, the benefit of the same must go to the accused. This Court in the case of Mst. Asia Bibi v. The State (PLD 2019 SC 64) while relying on the earlier judgments of this Court has categorically held that "if a single circumstance creates reasonable doubt in a prudent mind about the apprehension of guilt of an accused, then he/she shall be entitled*



*to such benefit not as a matter of grace and concession, but as of right. Reference in this regard may be made to the cases of Tariq Pervaiz v. The State (1995 SCMR 1345) and Ayub Masih v. The State (PLD 2002 SC 1048)." The same view was reiterated in Abdul Jabbar v. State (2019 SCMR 129) when this Court observed that once a single loophole is observed in a case presented by the prosecution, such as conflict in the ocular account and medical evidence or presence of eye witnesses being doubtful, the benefit of such loophole/lacuna in the prosecution's case automatically goes in favour of an accused. The conviction must be based on unimpeachable, trustworthy and reliable evidence. Any doubt arising in prosecution case is to be resolved in favour of the accused. However, as discussed above, in the present case the prosecution has failed to prove its case beyond any reasonable shadow of doubt."*

10. The circumstances surrounding the alleged identification become even more problematic when considered in their totality. Both witnesses have candidly admitted that upon seeing the accused persons, they immediately concealed themselves at the side of the canal bank due to fear for their lives. This natural human response to perceived danger, while completely understandable, necessarily limited their opportunity for clear and sustained observation of the unfolding events. The incident itself lasted merely two to three minutes according to the witnesses' own testimony, during which time there was simultaneous aerial firing by the accused persons that would have created additional distractions and heightened the already traumatic atmosphere. Under such circumstances, expecting witnesses to maintain accurate observation and subsequently provide reliable identification evidence stretches the bounds of reasonable probability.

11. The legal precedent established in the case of Muhammad Shakeel Vs. The State (2024 MLD 286) directly addresses this issue, holding that traumatic circumstances substantially impact witness observation capacity and recall accuracy, requiring courts to carefully evaluate identification evidence obtained under such conditions. This Court also observed that when witnesses are in fear for their lives and seeking concealment, their primary focus shifts from observation to self-preservation, thereby compromising their ability to accurately perceive and later recall specific details about the perpetrators. This principle applies with particular force to the present case where both witnesses explicitly stated they concealed themselves due to fear, admitting their primary concern was personal safety rather than careful observation of the alleged perpetrators.

12. Furthermore, the prosecution's failure to examine any independent witness despite the acknowledged presence of forty to fifty villagers who gathered at the scene after the incident represents a significant and troubling gap in their evidence. In a case of this magnitude, occurring at a public location near a bridge where people regularly travel, the complete absence of independent witnesses raises serious questions about the prosecution's commitment to presenting a complete and truthful account of events. This Court noted that in contemporary criminal jurisprudence, the availability of independent witnesses who are deliberately not examined creates an adverse inference against the prosecution's case. The medical evidence presented by Dr. Parmanand, while conclusively establishing that both victims died as a result of multiple gunshot wounds, fails to provide the crucial link between the appellant's recovered weapon and the fatal injuries. The detailed post-mortem examinations document extensive injuries consistent with high-velocity firearm discharge, but the absence of ballistic examination means there exists no scientific evidence connecting the appellant's specific weapon to the deaths of either victim. This represents perhaps the most glaring deficiency in the prosecution's case, as modern forensic capabilities would have easily resolved any doubt about whether the recovered Kalashnikov rifle was actually used in the commission of these crimes.

13. The testimony of PW-2 SIP Ghulam Hussain Dahiri, who arrested the appellant, contains a particularly damaging admission during cross-examination when he stated, "It is fact that I had not sent KK to the ballistic expert, voluntarily says, it was duty of I.O. to send the same to Ballistic Expert." This admission reveals a deliberate decision to avoid scientific verification of what the prosecution claims was the murder weapon. Even more troubling is the testimony of PW-10 SIP Muhammad Hayat Chandio, the investigating officer, who during cross-examination categorically denied suggestions that the empty shells recovered from the scene were not fired from the appellant's weapon, stating, "it is incorrect to suggest that empty shells produced in Court were not fired from the KK produced in Court as a case property." This assertion, made without any scientific foundation whatsoever, represents prosecutorial overreach of the highest order and actually undermines rather than supports the prosecution's credibility. The legal principle established in case of Sarfaraz Masih Vs. The State (2017 P.Cr.L.J 280) directly addresses this precise situation, holding that mere recovery of weapons from an accused person,

without scientific verification connecting those weapons to the crime, cannot form the sole basis for conviction in murder cases. The Supreme Court observed that modern forensic capabilities have advanced to the point where ballistic examination is not only possible but expected in cases where recovered weapons are alleged to be murder weapons. The failure to conduct such examination, without reasonable explanation, creates substantial doubt about whether the recovered weapon was actually used in the commission of the offense. This principle has been consistently reinforced in subsequent judgments, including 2018 SCMR 772, which emphasized that in contemporary criminal jurisprudence, particularly in cases involving weapon recovery, scientific corroboration plays an increasingly vital role in establishing culpability.

14. The pronouncement in case of Riasat Ali Vs. The State (2024 SCMR 1224) further strengthens this position by holding that when prosecution fails to produce vital evidence that could definitively establish or negate the guilt of an accused person, such failure creates serious doubts about the strength of the prosecution case. This principle applies with particular force to cases where scientific evidence is readily available but deliberately not utilized by the investigating authorities. In the present case, both the alleged murder weapon and the crime scene projectiles were available to the investigation team for over two months between the appellant's arrest and the commencement of trial proceedings, providing ample opportunity for scientific verification that was inexplicably avoided. The cumulative effect of multiple procedural irregularities cannot be overlooked in evaluating the overall reliability of the prosecution's evidence. The record reveals a pattern of investigative shortcuts and documentation failures that collectively undermine confidence in the integrity of the evidence collection process. The absence of mashir signatures on crucial documents such as the Danistnama of both deceased persons, the exclusive reliance on police officials rather than private citizens during key investigative procedures, and the failure to produce important documentary evidence such as Roznamcha entries all point to a casual approach to criminal investigation that falls far short of the standards required in capital cases. The precedent established in case of Shahbaz @ Gullu Vs., The State (2022 P.Cr.L.J 1451) provides crucial guidance on this issue, holding that while individual procedural lapses may not necessarily vitiate an entire prosecution case, multiple irregularities, when viewed collectively, can significantly impact the

reliability of evidence and create reasonable doubt about the guilt of the accused. The Court emphasized that modern criminal justice requires adherence to established procedures not as mere formalities, but as essential safeguards ensuring the integrity and reliability of evidence presented before courts. When multiple procedural failures occur in the same case, courts must carefully consider whether such failures indicate systemic problems that compromise the overall reliability of the investigation.

15. In the present case, the procedural irregularities extend beyond mere documentation failures to encompass substantive investigative deficiencies. The investigating officer's admission that blood-stained earth from both deceased was sent to the Chemical Examiner for analysis, followed by the complete failure to produce any results from such analysis, raises serious questions about the thoroughness and competence of the investigation. Similarly, the scattered recovery of seven empty shells from the crime scene without proper mapping or forensic photography suggests a haphazard approach to evidence collection that would not meet contemporary standards for criminal investigation.

16. The prosecution's motive theory, based on alleged revenge for a murder committed eight to nine years earlier, suffers from fundamental contradictions that have not been adequately addressed by the learned trial court. While the testimony establishes that there was indeed a previous murder of Muhammad Arif and that some resentment may have persisted despite formal resolution through community arbitration, several factors seriously undermine this motive theory. The substantial time gap between the original incident and the present offenses, combined with the formal resolution through traditional arbitration, suggests that any immediate passion or desire for revenge would have significantly diminished over such an extended period.

17. More significantly, the evidence reveals family relationships and social interactions that are fundamentally inconsistent with the type of murderous animosity alleged by the prosecution. The record establishes that Abdul Sami, for whose funeral rites the complainant's party was purchasing ceremonial cloth, was actually the nephew of the appellant Muhammad Punhal. This family relationship is further evidenced by the testimony during cross-examination that both the complainant Akbar Ali and the accused Punhal attended condolence ceremonies for the deceased Abdul Sami. Such peaceful

social interaction and shared mourning rituals between alleged enemies completely contradict the prosecution's theory of deep-seated revenge motivation that would drive someone to commit double murder. The legal principle governing motive assessment in criminal cases requires that alleged motives be consistent with the overall evidence and free from material contradictions. In *Ghulam Hussain vs. State* (2020 P.Cr.L.J 1456), the Supreme Court held that when evidence of family relationships and social interactions contradicts the alleged motive, such contradiction creates reasonable doubt about the prosecution's theory. The Court observed that human behavior patterns must be consistent with alleged motivations, and when evidence demonstrates peaceful coexistence and normal social relations, theories of murderous intent become inherently implausible.

18. The learned trial court's analysis of the evidence reveals several fundamental errors in legal reasoning and factual evaluation that cannot be sustained on appellate review. The trial court accepted the interested witness testimony without applying the heightened scrutiny mandated by superior court precedents, dismissing defense arguments about witness reliability without adequate consideration of the legal principles governing such evidence. The complete absence of any discussion regarding the lack of ballistic examination represents a glaring oversight that goes to the heart of the prosecution's case against the appellant. Most troublingly, the trial court's treatment of procedural irregularities as "minor" issues that do not affect the core prosecution case demonstrates a fundamental misunderstanding of the cumulative impact doctrine established in multiple Supreme Court judgments. The trial court failed to appreciate that while individual procedural lapses might indeed be excusable, the combination of multiple irregularities creates a pattern that undermines the overall reliability of the investigation and the evidence derived from it.

19. The trial court's sentencing approach reveals additional legal errors that compound the problems with the conviction itself. The simultaneous award of life imprisonment and direction for payment of Diyat violates fundamental principles of Islamic criminal law as incorporated into Pakistan's legal system. Under the Qisas and Diyat Ordinance, courts may award either Qisas, which may be commuted to Diyat by the legal heirs, or Tazir punishment, but not both concurrently for the same offense of murder. This legal inconsistency alone would require correction, but given the broader evidentiary

failures, it becomes part of a pattern of legal errors that permeate the entire judgment.

20. The evidence presented by the prosecution, when subjected to rigorous legal scrutiny, fails to establish the essential elements required for conviction beyond reasonable doubt. The identification evidence suffers from inherent reliability problems due to distance, traumatic circumstances, interested witness status, and complete lack of independent corroboration. The circumstantial evidence, particularly the weapon recovery, lacks the scientific verification necessary to establish a definitive connection between the appellant and the crime. The motive evidence contains material contradictions that undermine its credibility as a driving force for the alleged crimes.

21. The precedent established in *Taj Muhammad Vs. The State* (2020 PCrLJ 1693) requires that when prosecution relies upon circumstantial evidence, each individual circumstance must be proved to the hilt, and collectively they must form an unbroken chain pointing conclusively toward the guilt of the accused. The Court observed that any missing link in this chain of circumstances creates reasonable doubt that must benefit the accused. In the present case, the absence of ballistic evidence represents precisely such a missing link that breaks the chain of circumstances allegedly connecting the appellant to the murders. Without scientific verification of the weapon's role in the crimes, the prosecution's case reduces to speculation and probability rather than proof beyond reasonable doubt.

22. The principle of benefit of doubt, as articulated in the landmark judgment of *Muhammad Mansha Vs, The State* (2018 SCMR 772), requires that guilt be proved beyond reasonable doubt through reliable and credible evidence. The Supreme Court emphasized that while benefit of doubt should not be extended frivolously, courts must carefully scrutinize whether the evidence presented would convince a reasonable mind about the guilt of the accused. When evidence suffers from material gaps, contradictions, or reliability issues, the benefit of doubt must be extended to the accused regardless of the gravity of the alleged offense.

23. In the present case, multiple reasonable doubts exist regarding the appellant's guilt. There is scientific doubt due to the absence of ballistic examination, identification doubt due to the unreliable circumstances and



interested nature of the witnesses, motive doubt due to contradictory evidence of family relationships, and procedural doubt due to the numerous irregularities in the investigation. Each of these doubts individually would be sufficient to benefit the accused under established jurisprudence, but their cumulative effect creates an overwhelming case for acquittal.

24. The appellant's prolonged custody adds another dimension to the equitable considerations that must inform this Court's decision. Muhammad Punhal has remained in custody since his arrest on September 13, 2009, a period of about sixteen years as of the current date. This extraordinarily long period of pre-conviction detention raises serious concerns about the fundamental right to liberty and the principle that justice delayed is justice denied. This Court recognizes extended custody periods as significant mitigating factors in criminal cases, particularly where the evidence supporting conviction is questionable.

25. Furthermore, prolonged pre-conviction detention creates equity considerations that courts must factor into their final determinations, especially where the strength of the prosecution case is in doubt. It is observed that when an accused person has spent years in custody based on questionable evidence, the interests of justice may require resolution in favor of the accused to prevent gross injustice from the combination of weak evidence and excessive detention.

26. It may not be out of place to mention here that the cases where prolonged custody without proper conviction creates constitutional concerns, holding that excessive pre-trial detention violates fundamental rights guaranteed under the Constitution. The Court noted that while the seriousness of charges may justify some extended detention, there comes a point where continued custody based on insufficient evidence becomes a violation of basic human rights that courts are bound to remedy. The mandatory application of section 382-B of the Code of Criminal Procedure requires that the period spent in custody during trial and appeal must be set off against any sentence awarded. However, in the present case, the appellant's custody period far exceeds any reasonable sentence that could be awarded for the charges that might possibly be sustained based on the available evidence. Even if this Court were to consider modified charges that might be supported by the evidence, the appellant's sixteen-year custody period would exceed the maximum punishment for such lesser offenses. It is an admitted position that the application of section 382-B



CrPC as a fundamental right of accused persons, not merely a discretionary benefit. The Court emphasized that set-off provisions exist to prevent injustice from excessive pre-conviction detention and must be applied liberally in favor of accused persons. When custody periods exceed potential sentences, courts must seriously consider whether continued detention serves any legitimate purpose or merely perpetuates injustice.

27. The evidence regarding the actual occurrence of the tragic incident on July 20, 2009, is largely undisputed. The medical evidence conclusively establishes that both victims, Raees Mitho and Qadir Bux, died as a result of multiple gunshot wounds inflicted by high-velocity firearms. The post-mortem examinations conducted by Dr. Parmanand provide detailed documentation of the extensive injuries sustained by both victims, confirming that their deaths resulted from intentional firearm discharge rather than any accidental cause. This aspect of the prosecution case has not been seriously challenged by the defense and forms a reliable foundation for determining that serious crimes were indeed committed on the date and at the location alleged.

28. However, the crucial question before this Court is not whether crimes were committed, but whether the prosecution has successfully established that the appellant Muhammad Punhal was one of the perpetrators of these crimes. This determination requires careful evaluation of the identification evidence, the circumstantial evidence connecting the appellant to the scene, and the overall reliability of the investigation that led to his arrest and prosecution.

29. The identification evidence, as analyzed above, suffers from multiple defects that render it inherently unreliable as a basis for conviction in a capital case. The interested nature of both key witnesses, combined with the considerable distance from which identification was allegedly made under traumatic circumstances, creates substantial doubt about the accuracy of their testimony. The complete absence of independent witnesses, despite the acknowledged presence of numerous villagers at the scene, further undermines the reliability of the identification evidence.

30. The circumstantial evidence, primarily consisting of the weapon recovery from the appellant's possession, fails to establish the definitive connection required for conviction due to the absence of scientific verification. While the recovery of an unlicensed Kalashnikov rifle and ammunition

certainly establishes the appellant's involvement in illegal weapons possession, it falls far short of proving his involvement in the specific murders charged in this case. The caliber match between the recovered weapon and the crime scene projectiles, while suggestive, cannot substitute for the scientific verification that modern forensic capabilities would have provided.

31. The legal principle governing the evaluation of circumstantial evidence requires that all circumstances, when taken together, must be consistent only with the guilt of the accused and inconsistent with any other reasonable hypothesis. In the present case, the circumstances are equally consistent with the hypothesis that the appellant was merely in possession of illegal weapons for other purposes and that the actual perpetrators of the murders remain at large. Without scientific verification of the weapon's role in the crimes, this alternative hypothesis cannot be excluded beyond reasonable doubt.

32. The investigation's failure to explore alternative theories or to conduct thorough scientific examination of available evidence represents a fundamental deficiency that affects the entire prosecution case. Modern criminal investigation requires exhaustive examination of all available evidence and elimination of alternative theories through scientific methods rather than presumption or speculation. The investigating authorities' decision to avoid ballistic examination suggests either incompetence or a deliberate attempt to prevent evidence that might contradict their predetermined theory of the case.

33. The prosecution's case against the appellant ultimately fails to meet the fundamental requirement of proof beyond reasonable doubt. The identification evidence is inherently unreliable due to the circumstances of observation and the interested nature of the witnesses. The circumstantial evidence lacks the scientific verification necessary to establish definitive connections between the appellant and the crime. The motive evidence contains material contradictions that undermine its credibility. The investigation suffers from multiple procedural irregularities that compromise the integrity of the evidence collection process.

34. When these deficiencies are considered cumulatively, along with the appellant's extraordinarily prolonged custody period, the interests of justice clearly require his acquittal. When prosecution evidence suffers from material

contradictions and lacks adequate scientific support, the benefit of doubt must be extended to the accused. This judgment reflects the contemporary judicial approach that emphasizes the need for reliable, scientifically supported evidence in serious criminal cases. The reasonable doubt must always be resolved in favor of the accused, emphasizing that the presumption of innocence is a fundamental right that can only be overcome by evidence that excludes every reasonable doubt about guilt. In the present case, the numerous doubts identified above, both individually and collectively, mandate resolution in favor of the appellant.

35. The learned trial court's failure to adequately consider these fundamental legal principles represents a reversible error that cannot be allowed to stand. The conviction based on questionable identification evidence, unsupported circumstantial evidence, contradicted motive evidence, and procedurally flawed investigation violates the basic standards of criminal justice that protect individual liberty against wrongful conviction. The appellant's longstanding custody period, when viewed in conjunction with the evidentiary deficiencies outlined above, creates a compelling case for immediate relief. The combination of weak prosecution evidence and excessive detention represents precisely the type of situation that appellate courts are designed to remedy through careful review and application of established legal principles. The interests of justice require not only that the appellant be acquitted of the charges against him, but that this acquittal be absolute and unconditional, reflecting the prosecution's complete failure to establish his guilt beyond reasonable doubt. In the modern age of scientific advancement, courts must expect prosecution to utilize available scientific methods to establish definitive connections between accused persons and alleged criminal acts. The failure to meet this expectation, combined with the other evidentiary deficiencies identified above, mandates the appellant's complete exoneration.

36. This Court's analysis reveals that the prosecution case against Muhammad Punhal alias Punhoon Bhutto is fundamentally flawed and cannot support conviction under any recognized standard of criminal proof. The testimony of interested witnesses, the absence of scientific verification, the procedural irregularities, the contradictory motive evidence, and the prolonged custody period all combine to create an overwhelming case for acquittal that serves the interests of justice while maintaining the integrity of the criminal justice system.

37. For the detailed reasons set forth in this comprehensive judgment, this Criminal Appeal is allowed in its entirety, and impugned judgment dated June 7, 2016, passed by the learned IV Additional Sessions Judge, Mirpur Mathelo, convicting appellant Muhammad Punhal alias Punhoon Bhutto under sections 147, 148, 302(b), and 337-H(ii) read with section 149 PPC and sentencing him to life imprisonment with other punishments including direction for payment of Diyat, is set aside. Appellant Muhammad Punhal alias Punhoon Bhutto is acquitted of all charges leveled against him and shall be released forthwith from custody unless required to be detained in connection with any other criminal case. The proceedings against the absconding co-accused, namely Ghulam Mustafa alias Nek, Shahnawaz, Yaseen, and Habib, shall remain unaffected and shall continue in accordance with law as and when they are apprehended and brought before the competent court. All case properties shall be disposed of according to law after completion of legal formalities

**J U D G E**