IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Appeal No. 433 of 2020

Applicant	:	Faqeer Muhammad through Mr.Mohammad Hanif, Advocate.
Complainant	:	Mst. Samina Shahab in person.
Respondent	:	The State through Mr. Muhammad Noonari, D.P.G.
Date of Hearing	:	09.12.2025.
Date of Order	:	19.02.2026

JUDGMENT

TASNEEM SULTANA-J.:- Through this Criminal Appeal, appellant has assailed the judgment dated 09.09.2020 penned down by the learned Additional Sessions Judge-II Karachi (South) in Sessions Case No. 778/2017, whereby the appellant Faqeer Muhammad was convicted under Section 302 (b) PPC and sentenced to suffer rigorous imprisonment to twenty five (25) years and seven (07) years R.I. for the offence punishable under Section 392 PPC read with Section 397 PPC, with fine of Rs. 100,000/-, in default whereof to further undergo one (01) year simple imprisonment (S.I.). Both sentences were ordered to run concurrently with the benefit of Section 382(b) Cr.P.C.

2. The brief facts of the prosecution case,are that on 22.04.2017 at 0245 hours SIP Abdul Raheem of P.S Darakhshan had recorded statement of complainant Mst. Sameena Shahab wife of Shahab Mazhar under Section 154 Cr.P.C wherein she alleged that her son Umair Shahab, aged approximately 27 years, was murdered by the appellant, who was deployed as a police constable for the security of her family residence at Bungalow No. 105/II, Street No. 21, Khayaban-e-Sehar, Phase-VI, DHA, Karachi. It is further alleged that on the intervening night of 21st/22nd April 2017, at approximately 0130 hours, the complainant heard a commotion from the ground floor of her residence. Upon descending from her first-floor room, she found the door to her son's room open. When she entered, she witnessed the appellant strangulating her son Umair Shahab with a rope wrapped around his neck. The complainant raised an alarm, whereupon the appellant turned toward her. She immediately locked the room from outside, and her daughter Sheeza contacted the emergency police helpline

(15). Within a short time, SIP Abdul Rahim of P.S. Darakhshan arrived with his team, opened the locked room, and apprehended the appellant. Umair Shahab was found lying unconscious on the floor with a rope around his neck. Upon personal search of the appellant, a wrist watch and an iPhone identified by the complainant as belonging to her deceased son were recovered. The rope was removed from the victim's neck, and he was shifted to the hospital, where he was declared dead. It is further alleged by complainant that the appellant, who had been deployed at their residence since 09.12.2016, was scheduled to depart for his native village Kashmore on 22.04.2017 at 07:00 AM. She alleged that with the criminal's intention of committing robbery, he entered her son's room, snatched his belongings, and upon resistance, murdered him by strangulation, therefore, the FIR is registered to the above effect.

3. After usual investigation, the police submitted charge sheet under Section 173 Cr.P.C against appellant/accused Faqeer Muhammad. Having supplied requisite documents as provided under Secion 265-C Cr.P.C, the trial Court framed a formal charge against the appellant to which he pleaded not guilty and claimed to be tried.

4. In order to prove its case, the prosecution examined as many as 12 witnesses namely PW-01 PC Abdul Razzaq at Ex-03, PW-02 HC Syed Arshad Hayat at Ex-04, he produced the Inquest Report (Ex-4/A), memo of dead body (Ex-4/B), letter to Incharge Edhi Cold Storage (Ex-4/C), receipt of dead body (Ex-4/D), and letter to Incharge Graveyard (Ex-4/E). Subsequently, the case was transferred to the Court of learned X-Additional Sessions Judge, Karachi South, where the prosecution examined PW-03 PC Abdul Jabbar at Ex-05. Thereafter, PW-04 Mst. Sameena Shahab (complainant) was examined at Ex-06 she produced memo of arrest and recovery (Ex-6/A), her statement under section 154 Cr.P.C. (Ex-6/B), FIR (Ex-6/C), and memo of place of incident (Ex-6/D). During her examination, the learned DDPP placed on record a statement that the case property had been destroyed in a fire incident at City Court Maalkhana, Karachi, which statement and corresponding entry were produced through the complainant at Ex-6/E and Ex-6/F. The prosecution further examined PW-05 SIP Abdul Rahim at Ex-07, he produced two entries at Ex-7/A and Ex-7/B, followed by PW-06 SIP Muhammad Akram at Ex-08 *(noted that he was mistakenly typed as PW-04 at Ex-07)*. The learned DDPP gave up three police witnesses by filing statements dated 13.09.2009 and 21.11.2019 at Ex-09 and Ex-10, *(both mistakenly numbered as Ex-08)*, PW-07 ASI Mujahid Iqbal at Ex-11, he

produced departure and arrival entries at Ex-11/A and Ex-11/B,. Subsequently, the instant Sessions Case was transferred to this Court as a Model Criminal Trial Court (MCTC) under Letter No. A/5/5411/2019 dated 11.12.2019 and thereafter PW-08 Syed Qamaruddin at Ex-12, PW-09 SIP Mehdi Afzal at Ex-14 he produced photocopies of departure and arrival entries (Ex-14/A), photocopies of 12 photographs of latent fingerprints of the crime scene (Ex-14/B to Ex-14/B-2), Crime Scene Visit Report (Ex-14/C-1), and letter for handing over secured latent fingerprints including the incriminating knife (Ex-14/D), PW-10 SIP Muhammad Shakeel Anwar Khan at Ex-15, he produced letter to AIG Forensic (Ex-15/A), photocopies of latent fingerprint impressions secured from the crime scene (Ex-15/B to Ex-15/B-3), specimen ten-digit fingerprints card of the accused (Ex-15/C), and Forensic Report (Ex-15/D), PW-11 MLO/Dr. Ali Raza at Ex-16, he produced letter to MLO (Ex-16/A), postmortem examination report (Ex-16/B), provisional death certificate (Ex-16/C), chemical examiner's report dated 03.05.2017 (Ex-16/D), and final cause of death certificate (Ex-16/E), PW-12 SIP Imran Hussain at Ex-17, he produced departure entry (Ex-17/A), site sketch (Ex-17/B), eight photographs of the place of incident (Ex-17/C to Ex-17/C-2), arrival entry (Ex-17/D), attested photocopies of Geo Royal City Bus Service Register dated 22.04.2017 (Ex-17/E and Ex-17/E-1), letters to CDR and CDR reports (Ex-14/F and Ex-17/F-1), letter to Police Surgeon (Ex-17/G), letter to Chemical Examiner (Ex-17/G-1), letter to Incharge Pathology (Ex-17/G-2), letter to Incharge CRO (Ex-17/H), letter to AIG Forensic (Ex-17/I), letter to SSP (Ex-17/J), letter of SSP regarding misconduct report of the accused (Ex-17/J-1), letter to SSP Investigation South for service record of the accused (Ex-17/K), forwarding letter by SSP South to DPO Kashmore (Ex-17/K-1), and letter from SSP Kashmore to SSP South along with service record and details of loan obtained by the accused (15 pages) at Ex-17/K-2. Thereafter, prosecution closed its side vide statement at Ex.18.

5. The statement of the appellant under Section 342 Cr.P.C was recorded at Ex.19, wherein he denied the allegations levelled against him by prosecution and claimed to be innocent, however, he did not examine himself under Section 340(2) Cr.P.C.,nor led any evidence in his defence.

6. On conclusion of the trial, after hearing of ADPP and learned counsel for the appellant, learned trial Court convicted and sentenced the appellant vide judgment dated 09.09.2020 which is impugned through this appeal.

7. Learned counsel for the appellant mainly contended that the prosecution case is inherently improbable and contrary to human conduct; it is unnatural that the complainant, upon witnessing her son being strangle d, would merely lock the door from outside instead of attempting rescue or calling other security personnel present at the premises; that the prosecution failed to examine material witnesses, namely Sheeza Shahab (daughter of complainant who made the call to police helpline), the cook (Khwansaama), and another daughter who were present at the time of incident; their non-examination is fatal to the prosecution case; that there are material contradictions in the prosecution evidence making the entire prosecution story highly doubtful; that the complainant stated that the appellant was arrested from the room of the deceased, whereas HC Arshad Hayat (PW-2) stated that the appellant was found hiding in the computer room; that the medical evidence does not support the ocular account; the prosecution alleged ligature strangulation (by rope), whereas the Medical Officer opined that death occurred due to manual strangulation (by hands); that the alleged recovery of the wrist watch and iPhone is not credible as no documentary proof was produced to establish that these items belonged to the deceased; therefore, the motive of robbery has not been established; the investigation suffers from serious irregularities and infirmities; that the case property was destroyed in a fire, raising doubts about the integrity of evidence; that the appellant has been falsely implicated due to the influence of the complainant's family, as the deceased's father was a serving DIG of Police; that the fingerprint evidence is unreliable due to irregularities in collection and analysis; that the conviction is based on suspicion and surmises rather than concrete proof beyond reasonable doubts, therefore, impugned judgment is not sustainable under law and facts and appellant may be acquitted of the charge by extending benefit of doubt.

8. The learned **Deputy Prosecutor General** for the State duly assisted by complainant supported the impugned judgment and submitted that the prosecution has proved its case beyond reasonable doubt through consistent and corroborative evidence; the complainant, being an eyewitness and the mother of the deceased, had no motive to falsely implicate the appellant, who was deployed for their security; the appellant was caught red-handed at the crime scene with the belongings of the deceased recovered from his possession; the forensic evidence, including matching of latent fingerprints secured from the crime scene with the appellant's fingerprints, conclusively establishes his presence and involvement; the medical evidence supports the prosecution case, as death

was caused by asphyxia resulting from strangulation; the appellant's possession of a bus ticket for departure on the morning after the incident, his purchase of rope shortly before the crime, and his presence at the crime scene establish premeditation and guilt; that the minor contradictions, if any, do not shake the foundation of the prosecution case, which is based on direct eyewitness testimony supported by circumstantial and forensic evidence; that the non-examination of certain witnesses is not fatal where the eyewitness account is cogent, consistent, and corroborated by other evidence.

9. Heard. Record perused.

10. A meticulous, re-appraisal of the prosecution evidence reveals that the prosecution case rests primarily upon the ocular account furnished by PW-4 Mst. Sameena Shahab, the complainant and mother of the deceased. She is the solitary eyewitness to the actual act of strangulation. Since the defense has set up a plea of false implication, the testimony of PW-4 assumes central importance and requires careful, cautious and deeper reappraisal considering her cross-examination and surrounding corroborative material. Her presence at the place of occurrence, being her own residence and that too at the dead hour of night, is most natural, probable, and free from artificiality. The complainant has categorically deposed that upon hearing commotion emanating from the room of her son Umair Shahab, she rushed downstairs and witnessed the appellant who was deputed as police security guard at the residence, strangulating her son by tightening a rope around his neck. She further narrated that upon witnessing the gruesome act she raised alarm, whereupon the appellant turned towards her, compelling her, out of fear and shock, to immediately step out and secure the room from outside to prevent his escape. She then directed her daughter to contact the police helpline, whereafter police officials arrived within a short span, the room was opened in their presence, and the appellant was found inside while the deceased lay unconscious with the rope still fastened around his neck. She also deposed the contemporaneous recovery of the deceased's wristwatch and iPhone from the appellant's possession.

11. The conduct of the complainant in securing the room, assailed by the defense as unnatural, does not appeal to reason. Human reactions in moments of sudden trauma cannot be measured through the lens of detached logic. Faced with a violent assailant who had already demonstrated lethal intent, her act of locking the room prevented escape

and facilitated immediate police intervention, thus reflecting presence of mind rather than improbability.

12. Despite lengthy and searching cross-examination, her presence at the scene and witnessing of the occurrence could not be shaken; nor could any material contradiction, omission, or improvement be elicited to dent the veracity of her account. The defense failed to extract any circumstance suggestive of false implication, ulterior motive, or mistaken identity. Her statement finds prompt reflection in the FIR and remains materially consistent, thereby lending assurance to her credibility. However, no material contradiction, omission, or improvement could be elicited to dislodge her version on the core particulars, namely, manner of assault, immediate locking of the room, prompt calling of police, and the appellant being found at the spot. Suggestions of tutoring, departmental influence, or mala fide were categorically denied and remained unsupported by any tangible material. The argument that her conduct in locking the door was "unnatural" is devoid of substance. Human behaviour in moments of sudden trauma cannot be judged by ideal standards. A mother witnessing her son being strangulated by a trained guard would instinctively adopt a course that prevents the assailant's escape and safeguards other family members while summoning immediate help. Thus, her conduct is neither improbable nor destructive of her credibility; rather, it is consistent with the surrounding circumstances.

13. Even otherwise, the ocular account furnished by PW-4 does not stand in isolation. The same finds corroboration from the surrounding circumstantial evidence. PW-5 SIP Abdul Rahim, being the first responder, reached the place of occurrence immediately after the emergency call and found the appellant inside the room along with the deceased, who was lying unconscious with a rope around his neck. The appellant was apprehended at the spot, and that wristwatch and iPhone belongings of the deceased were recovered from his possession. contemporaneously, supported by the arrest and recovery memo (EX. 6\A). Similarly, the evidence of PW-2 and PW-3, who were co-deputed at the same residence, lends further assurance on the crucial aspect of presence, access and opportunity. Their testimony establishes that the appellant was on duty at the relevant time and had lawful ingress to the premises, thus explaining how he could be inside the residence at the odd hours without any breaking mechanism. Opportunity, though not conclusive alone, becomes relevant when read with direct ocular evidence and corroborative circumstances.

14. Medical evidence lends strong corroboration to the ocular account. PW-11 Dr. Ali Raza conducted post-mortem examination and observed a rope-like ligature mark measuring 9 × 3 cm on the neck, fractured hyoid bone, congestion of tracheal mucosa, cyanosis, and congested lungs. He opined the cause of death as "asphyxia leading to cardio-pulmonary failure due to constriction of neck by strangulation." During cross-examination, he clarified the medical terminology distinguishing manual strangulation (by hands) from ligature strangulation (by an object) and confirmed that the presence of rope-like mark substantiates strangulation through ligature force. Thus, any semantic variance in the phrasing of the medical opinion does not detract from the substantive conclusion; rather, the medical evidence stands in harmony with the ocular version that the deceased was strangulated with rope.

15. Forensic evidence further fortifies the prosecution case. PW-9 Mehdī Afzal (Crime Scene Unit) secured latent fingerprints from the scene and from a knife recovered therefrom, while PW-10 SIP Muhammad Shakeel Anwar Khan, Fingerprint Expert, matched the latent impressions with specimen fingerprints of the appellant and found them identical. No procedural illegality, analytical defect, or chain-of-custody break of such nature was demonstrated in cross-examination as could render the forensic evidence unreliable. The forensic linkage thus supplies an independent scientific circumstance placing the appellant at the crime scene and connecting him with incriminating articles.

16. Circumstantial evidence completes the evidentiary chain. PW-8 Syed Qamaruddin deposed that the appellant had purchased rope from his shop two days prior to the incident, which fact was verified during investigation. Recovery of bus ticket for departure to Kashmore on the morning following the incident, duly verified by the Investigating Officer, constitutes relevant conduct evidence indicative of intended immediate departure after the occurrence when read cumulatively with the other incriminating circumstances. The service record proved the appellant's deputation at the bungalow, thereby establishing access and opportunity. CDR evidence places him at the locus criminis at the relevant time. These circumstances, assessed cumulatively, form an unbroken chain incompatible with innocence.

17. With regard to conviction on the evidence of solitary eyewitness, by now, it is settled proposition of law that the conviction can be based upon the statement of even a solitary witness if it inspires confidence and carries unimpeachable character. Reliance is placed in this case reported as

Muhammad Mansha v. The State (2001 SCMR 199) wherein, at page 204, it was enunciated as under: —

> "6. ...The question as formulated hereinabove as to whether conviction could have been awarded on the basis of solitary statement of a witness has been examined at first instance in the light of Article 17 of the Qanun-e-Shahadat Order, 1984, (section 134 of the Evidence Act, 1872). The said Article is reproduced herein below for ready reference: —
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> "17. Competence and number of witnesses. — (1) The competence of a person to testify and the number of witnesses required in any case shall be determined in accordance with the Injunctions of Islam as laid down in the Holy Qur'an and Sunnah.
>
> (2) Unless otherwise provided in any law relating to the enforcement of Hudood or any other special law—
>
> (a) in matters pertaining to financial or future obligations, if reduced to writing, the instrument shall be attested by two men, or one man and two women, so that one may remind the other, if necessary, and evidence shall be led: accordingly, and
>
> (b) in all other matters, the Court may accept, or act on, the testimony of one man or one woman, or such other evidence as the circumstances of the case may warrant.'"

18. A bare perusal would reveal that the language employed in the said Article 17(1)(b) is free from any ambiguity and no scholarly interpretation is required. The provisions as reproduced hereinabove of the said Article would make it abundant clear that particular number of witnesses shall not be required for the proof of any fact meaning thereby that a fact can be proved only by a single witness "it is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of an occurrence, where determination of guilt depends entirely on circumstantial evidence. If the Legislature were to insist upon plurality witnesses, case where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of Presiding Judge comes into play. The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the Court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. The Court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact". (Principles and Digest of the Law of Evidence by M. Monir, page 1458).

19. I am further fortified by another pronouncement of the Hon'ble Supreme Court of Pakistan in the case of ***Niaz-ud-Din and another v. The State and another (2011 SCMR 725)*** wherein, the Hon'ble Supreme Court was pleased to observe as under: —

> "11. …There is apt observations appearing in **Allah Bakhsh v. Shammi and others (PLD 1980 SC 225)** that "even in a murder case conviction can be based on the testimony of a single witness, if the Court is satisfied that he is reliable." The reason being that it is the quality of evidence and not the quantity which matters…"

Similarly in the case of **Farman Ali v. The State & another (2020 SCMR 597)** it is held that:

> "4. …. Non-examination of Jamshed PW is not fatal to the prosecution because it is prerogative of prosecution to produce the witnesses of its own choice. In the case prosecution had produced two witnesses of ocular account, who had been found reliable by the Courts below. Even otherwise, the requirement for proving the case is quality and not quantity."

20. I would further observe that in matters involving a single accused in a murder case, the presumption arising from the charge normally carries weight unless rebutted through cogent defence material or unless the prosecution witnesses are shown to be inimical or interested in the sense recognized by law. An "interested witness" is one who harbours motive for false implication or is actuated by previous enmity against the accused. Mere relationship with the deceased, by itself, does not render a witness interested so as to discard his or her testimony. Reference in this regard may be made to the case of ***Farooq Khan v. The State*** **(2008 SCMR 917)** as under:

> "11. PW.8 complainant is real brother of the deceased who is a natural witness but not an interested witness. An interested witness is one, who has motive, falsely implicates an accused or has previous enmity with the person involved. There is a rule that the statement of an interested witness can be taken into consideration for corroboration and mere relationship with the deceased is not "sufficient' to discredit the witness particularly when there is no motive to falsely involve the accused. The principles for accepting the testimony of interested witness are set out in Nazir v. The State PLD 1962 SC 269 and Sheruddin v. Allhaj Rakhio 1989 SCMR 1461."

21. The defence plea of false implication projected through cross-examination and reiterated in the statement of the accused under Section 342 Cr.P.C., has been examined with due judicial circumspection. The appellant denied the occurrence, alleged that he was called inside and then implicated falsely, and asserted that recoveries and fingerprint evidence

were “managed.” However, such plea remained bald and unsubstantiated. No defence evidence was led, nor any plausible motive shown explaining why the complainant would falsely implicate a security guard entrusted with her family’s protection while shielding the real culprit. The appellant did not furnish any plausible explanation regarding his presence within the premises in the incriminating circumstances, the recovery of the deceased’s belongings from his possession, or the forensic linkage. A bare denial, unsupported by any material, cannot create reasonable doubt against a coherent body of prosecution evidence.

22. Besides above, the wristwatch and iPhone belonging to the deceased were recovered from the appellant’s possession and identified by the complainant. Though documentary proof of ownership was not produced, immediate recovery coupled with prompt identification lends credence to the prosecution version. This recovery also supplies motive. The appellant, facing financial liabilities reflected in his service record, and holding a bus ticket for departure to his native village the same morning, appears to have attempted robbery and, upon resistance, strangulated the deceased to eliminate a witness.

23. Record reflects that several circumstances establish premeditation and guilt like PW-8 Syed Qamaruddin testified that the appellant purchased rope from his shop on 20.04.2017, two days before the incident. The appellant was brought to the shop during investigation and was identified by the shopkeeper. This establishes that the appellant acquired the murder weapon in advance. A ticket for Geo Royal City Bus Service for departure to Kashmore on 22.04.2017 at 07:00 AM was recovered from the appellant. The booking was verified by the IO (Ex. 17/E). This shows the appellant planned to flee immediately after committing the crime. The CDR (Ex. 17/F-1) places the appellant at the crime scene on the date and time of incident. The service record (Ex. 17/K-2) confirms the appellant was officially deployed for security at the complainant's residence from 15.12.2016, giving him access and opportunity. All these circumstances, when viewed cumulatively, form an unbroken chain pointing inexorably toward the guilt of the appellant.

24. It is also noteworthy that although the case property was unfortunately destroyed in a fire at the City Court Malkhana, as evidenced by Ex. 6/E and 6/F, however, this occurred after the trial had substantially progressed and all relevant recoveries had been duly documented, photographed, sealed, and sent for forensic examination. The recovered articles were identified in court by witnesses before their

destruction. While regrettable, the destruction of exhibits in a fire a fact beyond the control of the prosecution does not vitiate the entire case where the articles were properly documented and identified by witnesses at the appropriate stage. The photographs, forensic reports, and testimony regarding these articles remain on record.

25. When ocular, medical, forensic, and circumstantial evidence are examined in juxtaposition, they form a coherent, corroborative, and mutually reinforcing body of proof. The defence cross-examination largely remained confined to peripheral omissions and speculative suggestions; it did not fracture any essential link in the prosecution chain. Benefit of doubt is not to be extended on fanciful or hypothetical grounds; it must arise from real, reasonable, and tangible infirmities. No such infirmity exists herein. The prosecution has proved its case beyond reasonable doubt, and the conviction recorded by the learned trial Court is based on proper appreciation of evidence and correct application of law. The sentence awarded, considering the appellant's status as a police constable entrusted with protection and the way the offence was committed, is neither excessive nor disproportionate.

26. Accordingly, this Court finds no misreading, non-reading, or legal infirmity in the impugned judgment warranting interference in appellate jurisdiction, therefore, instant criminal appeal is dismissed. Consequently, the conviction and sentence awarded to the appellant by the learned IV-Additional Sessions Judge/Model Criminal Trial Court, Ext: Karachi (South) vide judgment dated 09.09.2020 in Sessions Case No. 778/2017, is maintained and the appeal stands dismissed.

JUDGE

Shabir/PS