

**THE HIGH COURT OF SINDH, CIRCUIT COURT AT
LARKANA**

Criminal Jail Appeal No.S-115 of 2016

(Noorullah & others v. The State)

Appellants: Noorullah @ Mangi, Hakeem and Zahid,
through M/s. Safdar Ali Bhutto and
Pardeep Kumar B. Butani , Advocates.

Respondent: The State, through Mr. Aitbar Ali Bullo,
Deputy Prosecutor General, Sindh.

Complainant: Haji Jatoi, through Mr. Athar Abbas
Solangi, Advocate.

Date of hearing: **11.06.2026.**

Date of Judgment: **29.06.2026.**

J U D G M E N T.

RIAZAT ALI SAHAR, J. The appellants namely, Noorullah @ Mangi, Hakeem and Zahid have assailed the legality and propriety of the judgment dated 10.11.2016, passed by the learned Additional Sessions Judge, Kashmore in Sessions Case No.27 of 2016, arising out of Crime No.53 of 2011, registered at Police Station Miani @ Badani, for the offence punishable under sections 302, 337-H (2), 114, 148, 149, P.P.C, whereby, the learned trial Court after full-fledged trial, convicted the appellants and sentenced them to suffer imprisonment for life, with direction to pay Rs.100,000/ (Rupees one hundred thousand only) each to the legal heirs of the deceased in equal shares, as required under section 544-A, Cr.P.C.; and in case of default whereof, they were ordered to undergo simple imprisonment for a period of six months more. However, benefit of section 382-B, Cr.P.C. was extended to the appellants.

2. The prosecution case, as set-out in FIR No.53 of 2011, registered at Police Station Miani @ Badani, is that on 21.08.2011, complainant Haji Jatoi, along with Abdul Ghafoor, Khadim Hussain, Muhammad Moosa, his nephew Muhammad Islam, Saddam Hussain and his son Ghulam Yaseen, had gone to Badani town for purchasing household articles and, after completing their business, were returning to their village on foot through the link road leading towards Godi. At about 7:15 p.m., when they reached near the house of Allah Bux Bhutto, they allegedly saw accused Nazeer armed with a Kalashnikov, accused Zahid and Ghulam Nabi armed with guns, accused Saddam armed with a Kalashnikov, accused Bashir Ahmed and Muhammad Azeem armed with guns, accused Ghulam Qadir and Hakeem armed with Kalashnikovs, and accused Noorullah @ Mangi armed with a rifle, emerging from the side of a watercourse. It is alleged that accused Nazeer instigated his accomplices to kill the complainant party on account of an unresolved dispute relating to land and previous murders. Upon such instigation, accused Zahid fired a gunshot at Muhammad Moosa, hitting him on the left side of his chest, while accused Ghulam Nabi also fired at Muhammad Moosa, causing a firearm injury on the left side of his abdomen. Accused Nazeer fired from his Kalashnikov at Muhammad Islam, whereas accused Bashir Ahmed fired from his gun at Muhammad Islam, causing injuries to his mouth and chest. Accused Saddam made a burst from his Kalashnikov at Khadim Hussain, hitting him on the head, while accused Muhammad Azeem fired from his gun, causing injuries to his face and chin. Accused Ghulam Qadir fired from his Kalashnikov at Abdul Ghafoor, hitting him on the face and head; accused Hakeem also fired from his Kalashnikov, causing injuries to his chest and other parts of the body; and accused Noorullah @ Mangi fired from his rifle, hitting Abdul Ghafoor on the back. As a result of the firearm injuries, all four injured persons fell to the ground. Thereafter, the accused persons resorted to aerial firing and fled from the place of occurrence. On

hearing the reports of gunfire, co-villagers gathered at the scene, whereupon the complainant found Abdul Ghafoor, Khadim Hussain, Muhammad Moosa and Muhammad Islam lying dead. The complainant then left Ghulam Yaseen and Saddam Hussain near the dead bodies and proceeded to Police Station Miani @ Badani, where he lodged the FIR against the accused persons.

3. Initially, charge against accused Noorullah @ Mangi and Hakeem was framed by the trial Court on 12.04.2013, to which they pleaded not guilty and claimed trial. During the course of proceedings, the case was transferred to the Court of learned Additional Sessions Judge, Kandhkot, where the prosecution examined SIP Obhayo Khan at Exh.11, who produced the FIR at Exh.11/A, mashirnama of arrest at Exh.11/B and Roznamcha entries at Exhs.11/C and 11/D. The prosecution further examined complainant Haji Jatoi at Exh.12; PW Ghulam Yaseen at Exh.13, who produced his statement recorded under section 164 Cr.P.C. at Exh.13/A; Tapedar Mubarak Ali at Exh.15, who produced the sketch of the place of occurrence at Exh.15/A; HC Murad Ali at Exh.16, who produced the attested copy of the mashirnama relating to the arrest of accused Noorullah and recovery of rifle at Exh.16/A; Medical Officer Dr. Abdul Aziz at Exh.17, who produced the postmortem reports and relevant police papers at Exhs.17/A to 17/F; and PC Qamaruddin Bhutto at Exh.19, who produced the receipt regarding handing over of the dead bodies at Exh.19/A. Thereafter, the record and proceedings of the case were transferred to the Court of learned Additional Sessions Judge, Kashmore, for disposal in accordance with law.

4. Subsequently, on 07.04.2016, a supplementary challan pertaining to accused Zahid Bhutto was also received by transfer from the Court of learned Sessions Judge, Kashmore @ Kandhkot. After compliance with the mandatory provisions of law and supply of requisite police papers to the said accused, an amended charge was framed against accused Noorullah @ Mangi,

Hakeem and Zahid at Exh.21, to which they pleaded not guilty and claimed trial. Their respective pleas were recorded at Exhs.21/A to 21/C. Thereafter, the prosecution re-examined and produced its witnesses before the transferee Court, namely complainant Haji Jatoi at Exh.22, who produced the receipt at Exh.22/A; PW Ghulam Yasin at Exh.23; PW Muhammad Essa at Exh.25; PW HC Murad Ali at Exh.26; PW Tapedar Mubarak Ali at Exh.27; PW ASI Akber Ali, the Investigating Officer, at Exh.28; PW SIP Obhayo Khan at Exh.29; and PW Dr. Abdul Aziz, Medical Officer, at Exh.30. Upon completion of the prosecution evidence, learned Assistant District Public Prosecutor closed the prosecution side through statement recorded at Exh.31.

5. After conclusion of the prosecution evidence, statements of the accused persons under section 342, Cr.P.C. were recorded at Exhs.32 to 34, wherein they denied the allegations levelled against them, professed their innocence and claimed false implication due to previous enmity. The accused did not opt to examine themselves on oath in terms of section 340(2), Cr.P.C. However, accused Hakeem produced certain documents in his defence at Exhs.33/A to 33/W and further examined three defence witnesses, namely Sultan Khan alias Rano at Exh.35, Muhammad Nawaz at Exh.36 and Sharafuddin at Exh.37, in support of his plea of innocence.

6. Learned trial Judge after hearing the learned counsel for the parties and examining the evidence available on record convicted and sentenced the appellants through impugned judgment. Hence, the appellants have preferred instant appeal against the said judgment.

7. Learned counsel for the appellant contended that the impugned judgment is contrary to law and facts available on record; that the appellants are innocent and have been falsely implicated due to longstanding enmity and previous murder and land disputes between the parties; that the

prosecution witnesses are closely related to the deceased and no independent witness from the locality was produced despite availability, rendering the ocular account doubtful. Learned counsel further contended that material contradictions exist between the statements of the complainant, eye-witnesses and medical evidence regarding the number, seat and nature of injuries sustained by the deceased persons; that in the case of deceased Muhammad Moosa only one firearm injury was found, whereas separate firing roles were assigned to two accused, thereby creating serious doubt regarding the prosecution version. He further contended that recoveries allegedly secured by the police were doubtful, as empties recovered from the scene were never sent for forensic examination and no effective ballistic evidence was produced to connect the appellants with the offence. Learned counsel contended that the complainant admittedly had deep-rooted hostility with the accused party, providing a strong motive for false implication; that the conduct of the eye-witnesses, who allegedly remained unhurt despite being present throughout the occurrence, was also questioned. Learned counsel further contended that discrepancies regarding transportation of dead bodies, timing of occurrence, place of incident, preparation of mashirnamas and investigative lapses cumulatively shattered the prosecution case. Learned counsel further contended that medical evidence merely corroborates the occurrence and cannot identify the assailants. Lastly, it was contended that the prosecution failed to establish the charge beyond reasonable doubt and, therefore, the appellants are entitled to acquittal by extending the benefit of doubt.

8. Learned Deputy Prosecutor General, Sindh opposed the appeal and supported the impugned judgment. He contended that the prosecution succeeded in proving its case through trustworthy ocular evidence furnished by natural witnesses who were present at the place of occurrence and

whose testimony remained consistent on all material particulars. He contended that the medical evidence fully corroborated the ocular account regarding the nature of injuries, cause of death, type of weapons used and the time of occurrence. Learned D.P.G. further contended that mere relationship of witnesses with the deceased is not a ground to discard otherwise confidence-inspiring testimony. He contended that the alleged discrepancies highlighted by the defence are minor in nature and do not affect the core of the prosecution case. According to him, the conviction recorded by the trial Court is based upon proper appreciation of evidence and does not call for interference.

9. Learned counsel for the complainant adopted the arguments advanced by the learned D.P.G. and further added that the accused and complainant party belonged to the same locality and were well known to each other; therefore, there was no possibility of mistaken identity. He added that four innocent persons lost their lives in a brutal armed assault committed in broad daylight and no plausible reason existed for the complainant party to falsely substitute the real culprits with innocent persons. He contended that the FIR was lodged promptly and contained specific attribution of roles to each accused, which excludes the possibility of deliberation or fabrication. Learned counsel further contended that the ocular account furnished by Haji Jatoi and Ghulam Yasin remained unwavering throughout lengthy cross-examination and received substantial corroboration from medical evidence, site inspection, inquest proceedings and surrounding circumstances. He contended that minor inconsistencies are natural and rather lend assurance to the truthfulness of witnesses. He further contended that non-recovery or defective recovery of weapons cannot override direct and trustworthy ocular evidence establishing participation of the accused. According to learned counsel, the prosecution successfully

proved the guilt of the appellants beyond reasonable doubt and the appeal merits dismissal.

10. I have given anxious consideration to the submissions advanced by learned counsel for the parties and have minutely examined the entire evidence available on record. At the very outset, it may be observed that the appeal filed by appellant Noorullah @ Mangi s/o Akber Ali Bhutto already stands abated in view of his death on 20.01.2026 and the order passed by this Court on 09.02.2026. Therefore, the merits of the appeal survive only to the extent of appellant Zahid and appellant Hakeem.

11. The prosecution case rests primarily upon the ocular account furnished by complainant Haji Jatoi and eye-witness Ghulam Yasin. Both witnesses were natural witnesses of the occurrence, as they were accompanying the deceased persons at the relevant time while returning from Badani town. Their presence at the place of occurrence has been satisfactorily established and finds support from the prompt lodging of FIR wherein the names of the assailants and their specific roles were clearly mentioned. The FIR was recorded without undue delay and before sufficient time could become available for consultation, fabrication or substitution of the culprits. The promptitude with which the law was set into motion provides intrinsic assurance regarding the truthfulness of the prosecution version.

12. The ocular account furnished by the complainant and Ghulam Yasin is consistent on all material particulars. Both witnesses unequivocally deposed that accused Nazeer instigated his companions whereupon the accused persons jointly opened fire upon the deceased. Specific roles were assigned to the appellants. Their evidence remained steadfast despite lengthy and searching cross-examination. No material contradiction affecting the substratum of the prosecution case

could be elicited. The discrepancies pointed out by learned defence counsel relate to peripheral matters concerning exact positioning, transportation of dead bodies, number of injuries perceived by lay witnesses and other collateral details. Such discrepancies are natural in human testimony and, rather than discrediting the witnesses, indicate absence of tutoring.

13. The stance of the defense that the prosecution witnesses are related to the deceased is devoid of substance. Relationship by itself is not a ground for discarding testimony when the witnesses are natural, confidence-inspiring and have no reason to spare the real offenders and falsely implicate innocent persons. In the present case, four close relatives of the complainant lost their lives in the incident. Under such circumstances, it is inconceivable that the actual perpetrators would be allowed to escape while innocent persons are substituted in their place. The evidence of the complainant and eye-witness inspires confidence and bears the ring of truth. No animus has been shown which could reasonably lead them to falsely implicate the appellants while exonerating the real assailants.

14. The medical evidence furnished by Dr. Abdul Aziz Soomro provides substantial corroboration to the ocular account. The Medical Officer categorically deposed that all four deceased sustained ante-mortem firearm injuries and died due to shock and hemorrhage resulting from such injuries. The injuries were sufficient in the ordinary course of nature to cause death. The postmortem reports reveal firearm injuries on vital parts of the bodies of the deceased, fully supporting the prosecution allegation that a heavily armed group opened indiscriminate firing upon them. The medical evidence thus confirms the manner of occurrence, nature of weapons used and cause of death. The settled principle that medical evidence is corroborative in nature does not advance the defence case;

rather, in the present matter, the medical evidence lends full support to the ocular account.

15. As to the version of defense regarding alleged inconsistency concerning injuries sustained by deceased Muhammad Moosa also carries no force. Medical evidence is not expected to reproduce the ocular account with mathematical precision. Where multiple assailants simultaneously participate in an armed assault and firing takes place within moments, minor variations regarding the exact impact of individual shots cannot eclipse otherwise reliable ocular testimony. The broad features of the prosecution case remain intact and un-impeached.

16. In the present case, the prosecution has produced direct ocular evidence through complainant Haji Jatoi and eye-witness Ghulam Yasin, both of whom have furnished a consistent, straightforward and confidence-inspiring account of the occurrence. They have categorically described the date, time, place and manner of the incident, besides assigning specific roles to each of the accused persons. The occurrence took place at about 7:15 p.m. on a public road near the house of Allah Bux Bhutto, where the accused persons and the complainant party, being residents of the same locality and well known to each other, had no difficulty in identifying one another. Their presence at the place of occurrence is natural and stands established from the prompt lodging of the FIR, wherein the names of the accused and the details of the occurrence were specifically mentioned without any delay. Mere relationship of the complainant and eye-witness with the deceased does not render their testimony unreliable, particularly when no material has been brought on record to demonstrate that they were actuated by any ulterior motive to falsely implicate the appellants while allowing the actual culprits to go scot-free. It is highly improbable that a person who lost four close relatives in a single occurrence would

substitute the real offenders with innocent persons. The evidence of the said witnesses remained unshaken despite lengthy cross-examination and finds substantial corroboration from the medical evidence, recovery of crime empties from the place of occurrence, preparation of mashirnamas, inquest reports and the site inspection conducted during investigation. The settled principle of law is that relationship is not a disqualification for a witness; rather, the test of credibility is whether the testimony is truthful, trustworthy and consistent with the surrounding circumstances. In the instant case, the ocular account furnished by the prosecution witnesses fully satisfies these requirements and inspires confidence, therefore, the same cannot be discarded merely on the ground that the witnesses are related to the deceased persons.

17. Besides the direct evidence, the prosecution also produced important corroborative circumstances. The Investigating Officer visited the place of occurrence immediately after registration of the case, secured blood-stained earth, collected numerous crime empties of different calibers and prepared mashirnamas and inquest reports. The site inspection conducted by the Tapedar further confirmed the location of the occurrence and the positions of the participants. The recovery of a rifle at the instance of appellant Noorullah during investigation, though by itself not decisive, constitutes an additional incriminating circumstance supporting the prosecution case. Even otherwise, it is by now well settled that failure to establish a recovery or forensic linkage is not fatal where trustworthy ocular evidence is available. The defence evidence also does not advance the appellants' case. The documents produced and the testimony of defence witnesses was rightly disbelieved by the trial Court as they failed to establish any convincing plea of alibi or false implication. The defence version lacks independent corroboration and appears to be a mere afterthought intended to create doubt where none

exists. The motive suggested by the prosecution i.e. longstanding land and murder disputes between the parties, also stands established from the evidence on record. Significantly, the existence of previous hostility cuts both ways. While the defence seeks to rely upon enmity as a reason for false implication, the same enmity equally furnishes a strong motive for commission of the offence. Once direct and trustworthy evidence is available, the question of motive recedes into the background.

18. For what has been discussed above, I am of the considered view that the learned trial Court has undertaken a comprehensive appraisal of the evidence and has recorded findings based upon proper appreciation of the material available on record. No instance of misreading, non-reading or arbitrary exercise of discretion has been pointed out. The findings are fully supported by ocular evidence, medical evidence, circumstantial corroboration and the conduct of the parties. The prosecution has succeeded in proving its case against the appellants beyond any shadow of reasonable doubt. Consequently, I hold that the conviction and sentence recorded by the learned trial Court through impugned judgment, are based on sound legal and factual grounds and warrant no interference by this Court. The instant Criminal Jail Appeal filed by appellant Noorullah @ Mangi having already abated on account of his death, and the appeal preferred by appellants Zahid and Hakeem being devoid of merit, the same is hereby **dismissed**. The conviction and sentence awarded to the appellants under section 302(b), PPC, along with compensation and other ancillary directions contained in the impugned judgment, are **maintained**. The appellants shall serve out the remaining sentence in accordance with law.

J U D G E