

JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Appeal No. S-34 of 2025
[Waseem Akbar & Another v The State]

Counsel of Appellant : Mr. Mian Taj Muhammad Keerio, Advocate
Counsel of Respondents : Mr. Neel Parkash, Deputy Prosecutor General.
Amicus Curiae : Mr. Maisum Hussain Sahar, Advocate
Date of Hearing : 22.09.2026
Date of Judgment : 29.09.2026

JUDGMENT

Muhammad Humayon Khan, J.: Through the instant Criminal Appeal, the appellants Waseem Akbar son of Muhammad Akbar Abbasi and Zeeshan son of Muhammad Ali Rajput question the judgment dated 15-12-2021 of the learned Additional Sessions Judge-I (MCTC), Tando Adam, in Sessions Case No. 246 of 2020, arising out of Crime No. 78 of 2020, Police Station Tando Adam City. Both were convicted under section 302(b) read with section 34, P.P.C. for the murder of Sajid Ali and sentenced to imprisonment for life. Each was directed to pay compensation of Rs.100,000 under section 544-A, Cr.P.C., and to undergo six months' simple imprisonment in default. Benefit under section 382-B, Cr.P.C. was extended. The charge also mentioned section 337-L(i), P.P.C.; the synopsis of the impugned judgment discloses no separate conviction or sentence under that provision. The question in this appeal is whether an independent evaluation of the evidence sustains the finding that both appellants participated in a homicidal act, notwithstanding the serious objections raised to the manner in which the prosecution case was investigated and presented.

2. The prosecution alleged that Sajid Ali, a boy described as approximately fifteen or sixteen years old, went towards the northern side of Sabzi Mandi, Tando Adam, at about 04:00 p.m. on 14-04-2020 to meet the appellants. His father Shabbir Ahmed (PW-2), uncle Ghulam Qadir (PW-1), and their relative Asif (PW-3) said they followed him and saw Zeeshan restrain him while Waseem Akbar poured a liquid described as petrol over him and set him alight with a match. They claimed to have put out the flames and taken him for treatment. The accusation thus distinguishes the person who allegedly ignited the fire from the person said to have prevented the injured from escaping.

3. Roznamcha Entry No. 19 was recorded at 07:20 p.m. on 14-04-2020. Dr. Tahir Nadeem (PW-4) recorded Sajid Ali's arrival at Taluka Hospital at 07:10 p.m., ten minutes before the stated time of the police entry and treatment letter. He found flame burns involving the chest and neck down to below the umbilicus, the left arm and the inner aspect of the right arm. He assessed their extent at approximately 23 per cent, treated the patient initially and referred him to Liaquat University Hospital, Hyderabad. The complainant's FIR, Ex.5/A, was registered at about 11:00 p.m. that night under sections 324, 337-L(i) and 34, P.P.C. Those timings are significant and require assessment; a recorded injury within hours of an occurrence and the interval before its first formal report cannot simply be treated as cancelling each other out.

4. ASI Wali Muhammad (PW-7) inspected the alleged site on 15-04-2020, prepared a memorandum and arrested the appellants in the vicinity of Mari Hotel or Gol Chakra. No bottle, matchbox or other incriminating article was recovered from their possession or from the site. The clothes said to have been worn by the injured were taken into possession. The injured was treated after the initial hospital visit at Hyderabad and subsequently in Karachi. PW-2 said that a police statement of Sajid Ali was recorded at Civil Hospital, Karachi on 04-05-2020. PW-7 placed the recording at Sajid's home after discharge. The place and condition of the maker of that alleged statement are consequently disputed on the prosecution's own account.

5. Sajid Ali died on 20-05-2020, thirty-six days after the burns. Dr Waqar Ali (PW-5) performed a post-mortem examination that day, noted burn-related changes and a perforation of the stomach, and expressed the opinion that the injuries were sufficient to cause death in the ordinary course of nature. He described cardio-pulmonary arrest as the final cause or mechanism of death. The prosecution added section 302, P.P.C. after the death. A blood-stained chaddar and the patient's clothes were subsequently handled as case property. The available synopsis states that chemical and histopathological results were normal; it does not reproduce a scientific finding establishing the presence of petrol or linking any article to either appellant.

6. The subsequent investigation was undertaken by SIP Rab Nawaz (PW-11) from 13-06-2020. The clothes and chaddar were sent to the Chemical Examiner through PC Shahzad Ali (PW-10) on 16-06-2020. Tapedar Umer Farooq (PW-6) inspected the site on 20-10-2020, approximately six months after the event, and prepared a site plan which did not mark the witnesses' or appellants' respective positions. Reports under section 173, Cr.P.C. followed. The charge under sections

302, 337-L(i) and 34, P.P.C. was framed on 16-04-2021. The appellants pleaded not guilty.

7. The prosecution examined eleven witnesses. The three asserted eyewitnesses were PWs 1 to 3. PW-4 examined the burns initially; PW-5 conducted the post-mortem; PW-6 prepared the site plan; PW-7 conducted the first phase of investigation; PW-8 PC Abdul Saboor dealt with post-mortem and chaddar proceedings; PW-9 Abdul Ghani spoke to malkhana custody; PW-10 carried the parcels; and PW-11 completed the investigation.

8. In their statements under section 342, Cr.P.C., Exs.19 and 20, the appellants denied guilt and alleged false implication. Neither testified on oath under section 340(2), Cr.P.C. nor called a defence witness. The learned trial Court accepted the three private witnesses as mutually consistent on the principal act and treated the burn injuries and subsequent death as medical support. It considered the remaining discrepancies insufficient to undermine their account, attributed the act of ignition to Waseem and the restraining act to Zeeshan, found common intention and awarded the life sentences now under challenge.

9. Mian Taj Muhammad Keerio, learned counsel for the appellants, contended that the trial Court had accepted an occurrence of self-immolation as homicide on the word of relatives whose presence at the site was uncertain. He drew attention to the admitted factory hours of PW-1 and PW-2, the absence of attendance or leave records, and the omission of a clear reason in the FIR for three family members to follow Sajid to a public market. PW-3 put himself 300 to 400 paces away, a distance at which, counsel submitted, he could not safely have identified a bottle, liquid, matchbox and detailed restraint. Counsel challenged the alleged mode of restraint of Zeeshan, arguing that no burn on him or his clothing was proved notwithstanding the asserted proximity to the flames.

10. Counsel further pointed to the three-hour interval between the alleged act and hospital arrival, the discrepancy between the 07:10 p.m. medical entry and the 07:20 p.m. police letter, PW-1's description of an afternoon FIR although Ex.5/A bears a night-time registration, and his mistaken date of death. PW-3's assertion in cross-examination that a bottle had been recovered is contradicted by the memorandum and the investigating officer. No independent market witness was examined. The two officers' different versions of who witnessed the arrest, the absence of recovered implements, and the unpreserved footprints made the objective investigation, counsel said, incapable of supporting the asserted eyewitness account.

11. The subsequent statement of Sajid was, counsel submitted, especially unsafe: PW-2 placed it at a Karachi hospital, PW-7 at a home following discharge, and the source material supplied for this draft does not contain its complete proved text. No inference of identification or voluntariness should be made from the bare assertion that the police took such a statement. Counsel also relied on the incomplete hospital record during the thirty-six days before death and PW-5's description of cardio-pulmonary arrest. On this account, the prosecution had not satisfactorily proved either that the burns caused death or that the appellants caused the burns. The possible suicide of Sajid was put forward as an alternative hypothesis, not as a burden on the appellants to establish innocence.

12. For the distinction between harmless variation and material improvement, counsel referred to *Muhammad Akhtar and others v The State and others 2025 SCMR 45*, where the Supreme Court scrutinized additions which materially altered the prosecution story, and *Zafar Ali Abbasi and another v Zafar Ali Abbasi and others 2024 SCMR 1773*, where objective findings undermined the asserted presence and account of witnesses. He invoked *Shaukat Hussain v The State through Prosecutor General Punjab and another 2024 SCMR 929* and *Pervaiz Khan and another v. The State 2022 SCMR 393* concerning delay and other doubts evaluated in context. Those decisions do not prescribe acquittal whenever an FIR is delayed or an article is missing; their relevance depends on whether the omissions here leave a genuine doubt after the substantive witnesses are tested.

13. Mr. Neel Parkash, learned D.P.G, opposed the appeal. He submitted that Sajid sustained flame burns at approximately the time and over broadly the bodily area described by three witnesses who knew both appellants. PWs 1 and 2 directly attributed the coordinated acts to the appellants. Their family relationship gave them an immediate reason to help the victim but did not itself furnish a motive to substitute innocent factory workers for a real assailant. The FIR was registered on the same evening, while Sajid was alive, and named the persons alleged to have participated. The father, uncle and Asif were cross-examined at length yet maintained the central attribution. The doctor documented a real flame injury; the post-mortem doctor linked the injuries with death.

14. The learned D.P.G submitted that errors about the precise hospital or police timing, which person witnessed an arrest, or the colour and subsequent fate of an alleged bottle did not change the eye account of who restrained and ignited Sajid. The delay should be considered against immediate efforts to extinguish flames, take the child for treatment and pursue hospital and police formalities. Even if the police failed to investigate factory attendance, collect an accelerant container or preserve footprints, their shortcomings would not displace

direct evidence which independently inspired confidence. The suggested suicide had no affirmative evidentiary foundation and was inconsistent, in his submission, with two men being identified as present and acting together at the point of ignition.

15. The State's legal position finds support in *Muhammad Ehsan v The State* 2006 SCMR 1857, where the Supreme Court sustained a conviction on the evidence of natural witnesses who were known to the parties and whose relationship with the deceased did not make them interested in a false accusation. *Farooq Khan v. The State* 2008 SCMR 917 distinguishes a relation from a witness shown to have a motive to falsely implicate; it does not make a relative's evidence self-proving. *Niaz-ud-Din and another v. The State and another* 2011 SCMR 725, read with *Allah Bakhsh v. Shammi and others* PLD 1980 SC 225, confirms that one wholly reliable eyewitness may in law suffice. The DPG relied on those principles to resist a rule that an additional neutral witness or scientific recovery was indispensable.

16. The learned DPG also referred to *Nazir Ahmed v The State* (2023 SCMR 1299: discrepancies which do not affect a prosecution account possessing a ring of truth should not be elevated into a reason for rejecting it, although a contradiction at its root must be confronted. *State v. Rab Nawaz and another* PLD 1974 SC 87 requires the entire evidence to be viewed together. These propositions do not permit the Court to label a difficulty 'minor' without showing why it has no rational bearing on identity, the act alleged or death. They require that question to be answered in relation to the evidence actually led.

17. It may also be recorded that, vide order dated 02-09-2026, the complainant appeared before the Court and stated that, owing to financial constraints, he was unable to engage counsel for representation in the present appeal. In the circumstances, while the learned Deputy Prosecutor General was to address the Court on behalf of the State, this Court considered it appropriate, having regard to the nature of the controversy and the sentence under challenge, to appoint Mr. Maisum Hussain Sahar, Advocate, as Amicus Curiae to assist the Court on the questions of fact and law arising from the record. Learned Amicus Curiae thereafter examined the paper-book and prosecution evidence and rendered assistance to the Court, including through a written synopsis placed on record.

18. Mr. Maisum Hussain Sahar, Advocate, learned Amicus Curiae, tendered a written synopsis, which was taken on record. It gave a detailed account of the eleven prosecution witnesses and identified substantial potential weaknesses: uncertain duty and presence of the private witnesses; PW-3's distance and assertion of a bottle recovery absent from the memoranda; the chronology from 04:00 p.m. to 07:10 p.m.; differing locations for Sajid's subsequent police statement;

incomplete clinical records; the failure to examine neutral persons or secure a bottle and matchbox; and imperfections in parcel custody. In its concluding assessment the Amicus nevertheless regarded the consistent direct account of PWs 1 to 3 and medical opinion as sufficient, even if the police statement and asserted bottle recovery were excluded. The apparent tension between the synopsis's critical discussion and its conclusion requires reasons; the conclusion is assistance to the Court, not a substitute for judicial evaluation.

19. The written synopsis referred, amongst others, to *Nazir Ahmed* 2023 SCMR 1299, *Muhammad Riaz and others v The State and others* 2024 SCMR 1839, *Muhammad Akhtar* 2025 SCMR 45, *Muhammad Jahangir v. The State* 2024 SCMR 1741, *Shaukat Hussain* 2024 SCMR 929, *Pervaiz Khan* 2022 SCMR 393, *Abid Hussain and another v The State and others* 2024 SCMR 1608, *Farooq Khan* 2008 SCMR 917, *Zafar Ali Abbasi* 2024 SCMR 1773, *Muhammad Hassan and another v The State and another* 2024 SCMR 1427, *Majeed v The State* 2010 SCMR 55, *Farmanullah v Qadeem Khan and others* 2001 SCMR 1474, *Muhammad Ramzan v The State* 2025 SCMR 762, *Naveed Asghar and two others v The State* PLD 2021 SC 600), *Muhammad Ehsan* 2006 SCMR 1857, *State v Rab Nawaz* PLD 1974 SC 87), *Tariq Pervez v The State* 1995 SCMR 1345 and *Muhammad Mansha v The State* 2018 SCMR 772. These decisions concern different factual settings and sometimes opposite results. Each principle can assist only after the evidence in this appeal is independently weighed.

20. During hearing the Court asked the Amicus what objective feature, apart from the assertion of a relative, distinguishes accidental ignition, an act of self-immolation and ignition by another person. He answered that the presence and quality of an eye account, the circumstances of access to an accelerant and ignition source, contemporaneous history, scene material and medical distribution must be considered together. A burn pattern can establish that flame contacted a part of the body; without expert interpretation it seldom identifies the hand responsible. The DPG agreed that the medical officer did not name an assailant, but maintained that PWs 1 and 2 did. Learned counsel for the appellants replied that those witnesses' very presence was doubtful. The answer depends therefore on their reliability, not on a presumption arising from the fact of a burn.

21. The Court next asked about a photograph said to appear at page 85 of the paper-book. The Amicus drew attention to what he described as burns predominantly at the front of the torso from the chest towards and below the umbilicus, with the head comparatively unaffected. He urged that the distribution be considered when the appellants advanced a theory of suicide. In response to the Court's specific question whether an unburnt head scientifically excludes self-

immolation, the Amicus properly accepted that it does not, in the absence of expert evidence about the application of an accelerant, clothing and spread of fire. The DPG said the visible distribution accords with PW-4's medical description; defence counsel observed that a person could conceivably pour liquid onto the torso. Both points have force in their limited sphere. The photograph, if duly proved and accurately described, illustrates the injuries; it is not an expert reconstruction of the cause of ignition.

22. The Court asked whether the prosecution had to disprove every imaginable version of suicide. The Amicus answered that the burden always rests on the State to establish guilt beyond reasonable doubt; a defence hypothesis requires consideration when it emerges reasonably from the proved circumstances, but a bare suggestion unsupported by such circumstances does not itself generate doubt. Learned counsel for the appellants maintained that failure to recover the alleged accelerant and the time before reporting made suicide a reasonable possibility. The DPG replied that those weaknesses in investigation should be set against the direct identification. The Court must examine both sides of that contention; the accused do not have to produce affirmative evidence if the prosecution's proof itself leaves an alternative explanation reasonably open.

23. The Court also asked whether the express medical opinion of PW-5 suffices to prove causation despite a thirty-six-day interval and incomplete treatment notes. The Amicus distinguished the terminal mechanism of cardio-pulmonary arrest from the injury or disease causing it and submitted that the doctor's opinion and post-mortem findings must be assessed with the absent clinical history. The DPG said that a serious burn followed by continuous treatment and death was explained by the expert's opinion; counsel for the appellants said that treatment interruptions, discharge and an unelucidated perforation precluded certainty. The legal answer is neither that every interval severs causation nor that any death after a burn is necessarily its consequence. What the expert actually concluded and whether objective material contradicts the conclusion are decisive.

24. As to section 34, P.P.C., the Court asked whether mere presence at the scene could implicate Zeeshan. The Amicus answered that presence alone could not; the specific act of restraining the victim while another poured and ignited a liquid would, if proved, be purposeful participation from which common intention could be inferred. The defence relied on the lack of burns to Zeeshan and the embellishment of how the arms were held. The DPG distinguished the alleged act of holding from the later detail that the arms were twisted behind the back. Whether the first was consistently proved must be kept distinct from whether the additional detail was proved.

25. Finally, the Court asked whether Article 122 of the Qanun-e-Shahadat Order, 1984 placed any burden on the appellants to explain how Sajid caught fire and whether a defective investigation could be ignored. The Amicus answered that Article 122 concerns a fact especially within a person's knowledge but does not absolve the State of proving the act and participation in an open public setting; the appellants' silence cannot repair an unproved identification. An omission in investigation can be material if it undermines the remaining evidence or withholds a natural means of testing it; the charge does not automatically fail whenever the investigator could have done more. The State agreed with the latter proposition, while defence counsel submitted that the accumulated omissions in this case were central rather than collateral. Both are correct statements at their proper level of generality. Their application requires an appraisal of what remains after unsafe supporting material is set aside.

26. The real questions for determination are therefore:

- (i) whether the three private witnesses, individually and together, reliably prove the asserted acts of Waseem and Zeeshan;
- (ii) whether the physical and medical material supports the occurrence and the causal link to death without improperly supplying identification;
- (iii) whether the suicide hypothesis reasonably arises on this evidence;
- (iv) how the reporting interval, disputed police statement, missing articles and investigation defects affect the substantive proof; and
- (v) whether each appellant's guilt under section 302(b), read with section 34, P.P.C. remains proved beyond reasonable doubt. The statutory history of attempted suicide must be addressed because it was argued, but it does not itself decide any of these evidential questions.

27. The criminal standard is constant in an appeal against conviction. Section 423, Cr.P.C. obliges the appellate Court to examine the material evidence and the legality of the judgment; it cannot affirm a conviction solely because the trial Judge saw the witnesses. Nor is the prosecution required to exclude speculative alternatives unsupported by the evidence. *Tariq Pervez v The State 1995 SCMR 1345* and *Muhammad Mansha v The State 2018 SCMR 772* establish that even one circumstance creating reasonable doubt requires acquittal as a matter of right. Those decisions are applied by asking whether a doubt actually follows from the evidence considered as a whole, rather than by counting omissions or measuring how strongly counsel can imagine another event.

28. In relation to PW-1, his factory hours of 07:00 a.m. to 07:00 p.m. demand an answer to why he was at Sabzi Mandi around 04:00 p.m. His statement,

as summarised, was that he was with his brother and Asif and that the family went towards the market for some work after Sajid announced his intention to meet the appellants. PW-2 said PW-1 had taken leave. The absence of a roster or written leave request prevents objective confirmation, but a stated ordinary duty period does not, without more, prove that an employee actually remained at work on the day in question. The omission in the FIR of the words 'for some work' does not alter the identity of the accused or the two acts described in the first report. It is a legitimate reason to examine PW-1 carefully; standing alone it does not establish his absence.

29. PW-1's statement that the FIR was recorded in daytime at about 04:00 p.m. cannot be reconciled literally with the document's time of 11:00 p.m. His stated date of death, 02-05-2020, is also demonstrably wrong; Sajid died on 20-05-2020. I do not call those errors accurate or insignificant. They concern events after the assault and reduce the care with which one should accept a chronology offered from his memory. The actual FIR and medical document provide fixed dates against which the errors can be recognised. Neither error changes what PW-1 said he saw at the market, and no contradictory documentary evidence places him at his factory at 04:00 p.m. It would be impermissible to infer the truth of his eyewitness account from the papers alone; it would equally be an error to reject a potentially direct observation simply because his recollection of a later procedural event was wrong.

30. PW-2 located the three relatives together at home in the afternoon, related Sajid's announcement and repeated that he saw Zeeshan restrain him and Waseem set him alight. His description of night-shift duty and PW-1's leave is uncorroborated by a factory official. The question is whether the missing record is a necessary condition for believing a witness who directly says he was there. *Abid Hussain and another v The State and others 2024 SCMR 1608* and *Farooq Khan 2008 SCMR 917* do not permit acceptance of a father merely because he is natural, any more than they permit rejection merely because he is the father. Here the issue of work hours was put to PW-2 and he gave an explanation; there is no affirmative factory register or official contradicting it. The lack of independent verification is a weakness, but it does not alone displace a direct and materially consistent account.

31. PW-3's assertion that he observed detailed acts from 300 to 400 paces away has different implications. At such a distance fine detail about the colour of a bottle or the exact placement of fingers or matches cannot safely be assumed without evidence about visibility and movement. The late plan failed to mark his position. His volunteered claim that the petrol bottle was recovered is contrary to the site memo and PW-7 and cannot be accepted. Nor should his

disputed account of who witnessed the arrest be used to shore up his credibility. I accordingly attach no independent weight to his identification of the supposed accelerant, his description of the precise implement or his assertion of an actual recovery. His evidence may still establish that a fire occurred in his vicinity, but the conviction cannot rest on those questionable particulars of his account.

32. That conclusion does not mechanically extend to PWs 1 and 2. The synopsis attributes the figure of 300 to 400 paces to PW-3, not to either of them; it gives no proved measurement of their positions. Both described approaching or following Sajid and identifying the two men known to the family. The State must still prove that they had an opportunity to observe; no measurement may be invented to fill the omission. The fact that PW-3 overstated a collateral recovery or his vantage point reduces the independent support he can provide. It does not establish that the two separately examined family witnesses could not see Waseem pour liquid and ignite it or Zeeshan restrain Sajid, when those are the acts each said he witnessed.

33. The relationship of the witnesses to Sajid demands caution in testing the possibility of consultation, especially because the occurrence is said to have happened in a market with hotels, shops and movement of people. PW-3 described the locality differently. PW-7 did not examine an unrelated bystander. It would have strengthened the prosecution to obtain such evidence, and the discrepancy about the surroundings limits any confident assertion of immediate public corroboration. Yet the law does not prescribe a neutral witness to every open-place offence. Under *Muhammad Ehsan 2006 SCMR 1857*, *Farooq Khan 2008 SCMR 917*, and *Allah Bakhsh PLD 1980 SC 225*, the question remains whether the testimony actually available withstands testing. The suggested consultation is to be evaluated through the chronology and witness detail; it cannot be presumed solely from kinship or a public location.

34. The first police entry at 07:20 p.m. and hospital arrival at 07:10 p.m. leave about three hours and ten minutes from an occurrence placed around 04:00 p.m. No satisfactory minute-by-minute explanation was given. PW-7's volunteered suggestion that the family first took Sajid home was not confirmed by PWs 1 to 3 or by a history entered in the initial medical paper; it should not be adopted as a finding. PW-3's own travel estimates of 25 to 45 minutes are short of the entire interval. The ten-minute ordering of arrival and police letter also shows that a simple claim of police formalities first and medical admission second cannot be sustained. These are real limitations upon the State's claim of immediate reporting.

35. The FIR was nevertheless registered at 11:00 p.m. on the same evening, while Sajid remained alive, and the witnesses did not wait until his death

thirty-six days later to identify the appellants. The first doctor recorded flame burns corresponding in general location and approximate duration with an afternoon incident. In *Shaukat Hussain* (2024 SCMR 929) and *Pervaiz Khan* (2022 SCMR 393), delay mattered with other circumstances making the eyewitnesses' presence or version doubtful. Those judgments require inquiry into opportunity for deliberation, not a conclusive presumption that every interval produced fabrication. Having accepted that the route and intervening hours are incompletely explained, I assess the risk of consultation against the early treatment and the substantive eyewitness attribution. The unexplained interval does not, by itself or with PW-1's erroneous later dates, establish a reasonably possible alternative assailant or mode of ignition.

36. PW-4 saw Sajid conscious at about 07:10 p.m. and found flame burns affecting the chest and neck down to below the umbilicus, with burns on the arms and none on the face, head or distal areas below the elbows. He assessed them at 23 per cent and estimated a duration consistent with the alleged approximate time. PW-2's lay estimate of 30 to 35 per cent cannot be treated as a competing expert measurement. The difference is unsurprising given that an observer's visual estimate was not a clinical calculation. PW-4 could not establish from the injury alone that the liquid was petrol rather than some other accelerant, or that Waseem, Zeeshan or Sajid lit the flame. Medical support goes to the occurrence of the burn and its distribution, not the identity of its author.

37. This also defines the use of the photograph said to appear at page 85. If the original photograph is admitted, identified and shown to depict Sajid after the event, it may illustrate the doctor's recorded distribution. The Amicus was right to direct attention to the front of the torso and to ask for reconciliation of the suicide theory with the proved injuries. He would go too far if his submission were taken to assert that an unburnt head necessarily excludes suicide: no doctor or fire expert supplied that proposition, and the arrangement of burns cannot alone decide who applied the flame. Conversely, the defence cannot use the same pattern, without supporting evidence, as positive proof of self-immolation. On the present evidentiary reasoning, the photograph adds no independent identification and the absence of head burns is not a premise necessary to the finding against either appellant.

38. The medical issue of death is more complex. PW-5 saw Sajid's body after thirty-six days, found the antecedent burns and skin changes, noted a stomach perforation, described cardio-pulmonary arrest and stated that the injuries were sufficient to cause death in the ordinary course of nature. He lacked the complete Hyderabad and Karachi treatment records and appears not to have personally

followed the course before death. The 'discharged on request' notation in a hospital record mentioned by PW-4 was not itself exhibited through that witness. A discharge or transfer does not, without evidence of recovery and an independent fatal event, break causation; equally, a certificate of terminal cardiac arrest is not an explanation of what caused the arrest.

39. *Muhammad Hassan and another v The State and another 2024 SCMR 1427* emphasises the limited function of medical evidence in identifying the assailant. It does not deprive a post-mortem doctor's reasoned opinion about the cause of death of weight. Here PW-5 examined the body and expressed an opinion expressly connecting the injuries to death. His omission to obtain full clinical notes bears on weight and would have mattered decisively had his opinion been contradicted by a proved independent cause or by the anatomical findings. No such contrary clinical evidence appears in the material summarised. The record does not permit a court to invent an intervening fatal condition from the bare expression 'cardio-pulmonary arrest' or from the possibility that a patient who survived many weeks might have encountered complications. The finding of a fatal consequence must rest on PW-5's opinion considered with the proved burns, not on the proposition that the appellants failed to prove another cause.

40. The unexplained stomach perforation warrants direct examination of PW-5's words and the full post-mortem and treatment papers before this draft is adopted. On the facts described in the synopsis, the expert was aware of the perforation yet maintained the opinion that the antecedent injuries were sufficient; the chemical and histopathological results were said to be normal. It would be unsafe to describe the perforation as surgically caused, burn-related or wholly independent without evidence. The absence of an alternative diagnosis and the express medical conclusion allow a reasoned causal inference on the summarised material, but its strength is the point most dependent upon checking the actual papers and cross-examination.

41. The asserted statement of Sajid on 04-05-2020 cannot be relied upon to resolve any of these issues. PW-2 put its making at Civil Hospital, Karachi; PW-7 placed it at home after discharge. The conflict affects the setting, persons who could have heard it, Sajid's medical condition and the ability to authenticate its content. Article 46, QSO can make a deceased person's statement relating to the cause or circumstances of his death relevant, but relevance does not prove that a particular statement was made accurately or voluntarily. *Majeed v The State 2010 SCMR 55* concerned a declaration whose content and hearers were tested with substantial supporting circumstances; *Farmanullah v Qadeem Khan and others 2001 SCMR 1474* involved a police-recorded statement accepted as voluntary and

corroborated. Neither requires this Court to accept an unidentified text amid irreconcilable versions of its recording. I exclude the alleged later statement as a supporting link for purposes of this appraisal. The ocular account, if sufficient, must stand independently of it.

42. PW-7 conceded there was no recovered bottle, matchbox or other implement at the scene or with the appellants. PW-3's contrary claim about a bottle is not treated as an alternative proof of recovery. No scientific result in the synopsis identifies petrol; the clothes and chaddar belonged to the victim and do not link Waseem or Zeeshan. PW-8 made additions about post-mortem attendance and sealing not recorded in his earlier police statement. PW-9's account uses the same malkhana entry particulars for articles received on different dates. PWs 9 and 10 explained incorrect dates of their section 161 statements as errors. These shortcomings prevent the forensic parcels from being treated as a secure, independent identification of the appellants. The Court neither assumes tampering without proof nor attributes to a chemical report a finding not reproduced in evidence.

43. The failure to record a phone number, SIM or call-detail data is of similar relevance. It is asserted that a call asking Sajid to meet the appellants was suggested, but no electronic trace was secured; Sajid's disputed later statement apparently omitted it. The essential act alleged is the burning at the market, witnessed directly according to PWs 1 and 2, rather than proof of the precise communication bringing him there. The absence of electronic evidence means the prosecution cannot use a supposed invitation as objective corroboration or as independent proof of planning. It does not make it impossible that Sajid went to meet the appellants, as PW-1 and PW-2 said he told them.

44. PW-6's plan, made months after the occurrence, cannot establish where each participant stood or how far an observer was from the flame. PW-7 found two footprints but did not preserve them. An earlier scene memorandum also did not secure the alleged implements. The subsequent arrest memo suffers from a conflict: PW-3 claimed to have been present with Wahid, whereas PW-7 named policemen Iqbal and Shahzad. The circumstances of arrest do not constitute a decisive link to the offence because no incriminating item was recovered from the appellants. I therefore do not rely on the arrest account as corroboration of guilt. The site investigation supports at most the general place described by the witnesses; it does not scientifically reconstruct the act.

45. The test for withholding evidence under Article 129(g), QSO is whether a particular, naturally available item which could have shed light on a disputed material point was kept back in circumstances justifying an inference

about its unfavourable content. *Naveed Asghar and two others v The State (PLD 2021 SC 600)* illustrates the importance of best available evidence where proof is otherwise uncertain. The factory roster, nearby market witnesses, early hospital history and complete clinical record would have been valuable; the police should have secured them. On the material summarised, however, no factory official gave a contrary version, no identified bystander was shown to have observed the act and been deliberately withheld, and the post-mortem doctor was examined. The omissions reduce possible corroboration and require restraint in treating secondary material as proof. Article 129(g) does not compel an assumption that every missing paper contradicted the two persons who say they saw the event.

46. The argument about suicide must be dealt with in its own terms. Counsel has identified no statement by Sajid expressing such an intention, no witness who saw him obtain an accelerant or light a match, no scene article associated with him rather than either appellant, and no medical opinion preferring self-ignition to assault. These absences do not transfer the burden to the defence; they describe the evidentiary basis of the hypothesis as advanced. The absence of burns to Sajid's head is neutral for the reasons already given. The fact that Zeeshan was not shown to have been burnt is a caution in accepting the claimed hold but cannot scientifically demonstrate that the victim held himself. Once the principal account of PWs 1 and 2 is assessed as reliable on the two acts, suicide does not remain an alternative reasonably supported by the proved facts. If those witnesses fail, the absence of suicide evidence could not by itself rescue the State's case.

47. Section 325, P.P.C., as it stood on 14-04-2020, criminalised an attempt to commit suicide and an act done towards its commission, subject to its specified punishment. Parliament later omitted that section, together with the corresponding entries in Schedule II to the Cr.P.C., by sections 2 and 3 of the Criminal Laws (Amendment) Act, 2022 (Act XXXVII of 2022), published in the Gazette on 28-12-2022 after assent on 23-12-2022 and brought into force at once. The subsequent legislative change neither retrospectively describes what happened in April 2020 nor supplies evidence of Sajid's intent. The criminal status of a hypothetical attempt and the factual question whether a particular injury was self-inflicted are distinct.

48. In *Hammad Saeed Dar v. Federation of Pakistan and others, Shariat Petition No. 03/I of 2023, heard with Shariat Petition No. 01/I of 2025 and decided on 18-05-2026*, the Federal Shariat Court held the statutory omission repugnant to the injunctions of Islam and pronounced that section 325 stood restored. The Court's decision and its legal effect must also be read with Article 203D(2) of the Constitution, which restricts when such a declaration may take effect during the period for a Shariat appeal and, where an appeal has been filed, pending its disposal,

subject to the later constitutional proviso concerning a twelve-month period. An appeal from that decision has been reported as instituted; no appellate disposition or operative stay has been produced in this appeal. I express no final opinion about the current enforceability of section 325 in proceedings to which that question directly arises. The burning alleged here preceded both the 2022 omission and the 2026 declaration. Neither the initial offence, its omission nor the subsequent ruling determines whether these appellants committed the charged homicide.

49. The remaining legal issue is Zeeshan's liability. Section 34, P.P.C. is concerned with an act done by several persons in furtherance of the common intention of all; it does not make presence or acquaintance alone sufficient. PW-1 and PW-2 consistently attributed a concrete facilitating act, restraint at the moment Waseem poured liquid and lit a flame. The later expression that Zeeshan twisted the arms behind the back is more detailed than the account in the first report; that refinement cannot be used to enlarge his role or repair a doubtful core. The act of holding the victim, if believed in its simpler form, is itself meaningful assistance at the decisive moment. It was contemporaneous, directed to preventing escape and continued while an obviously dangerous act was performed. Common intention may be inferred from that conduct without proof that Zeeshan personally held the match.

50. Counsel's observation that Zeeshan showed no burn is a legitimate test of physical plausibility, not a contradiction of a medical finding about the victim. The witnesses did not establish the precise angle or duration of restraint, and a Court cannot invent it; equally, it cannot infer from an absence of recorded injury that every person who briefly restrained another when a liquid ignited must have sustained a burn. No expert supported such a universal proposition. The claimed hold must succeed or fail on the reliability of PWs 1 and 2, judged with the circumstances. It is neither automatically corroborated nor automatically refuted by the absence of burns to Zeeshan.

51. The claim of motive is undeveloped. The bare statement that the boy went to meet known factory workers gives the setting, not a reason for a deliberate attack. There is no established earlier threat or quarrel from which a motive could properly be found. The State accordingly receives no support from motive, and the absence of motive may properly explain why the trial Court did not select death as punishment. But motive is not an additional statutory element where the intentional act of pouring an inflammable liquid on a child and igniting it, together with participation by restraint, has been proved by trustworthy direct evidence. The absence of a proved cause for such cruelty cannot on its own prove that the act never happened.

52. The DPG's contention that the medical evidence corroborates the account is accepted with a precise limitation. It supports that a flame contacted the front of the upper body and arms in the relevant period and, subject to the causation assessment, resulted in death. It does not independently identify Waseem or Zeeshan, prove the liquid was petrol or establish the precise movements of Zeeshan's hands. *Muhammad Hassan 2024 SCMR 1427* and *Muhammad Ramzan 2025 SCMR 762* require that limit. The DPG's related-witness authorities are accepted in the equally limited sense that PWs 1 and 2 are legally capable of proving the act if their evidence is found trustworthy after the workplace and chronology objections are answered.

53. The defence's authorities are not displaced merely by citing the contrary group. *Muhammad Akhtar 2025 SCMR 45* and *Muhammad Jahangir v The State 2024 SCMR 1741* condemn dishonest additions bearing on the substance of the accusation. Here PW-3's bottle recovery is rejected, and PW-1's and PW-2's fuller description of how the arms were held does not become an additional finding. The primary attribution of two actors and their distinct roles was, on the synopsis, in the first account and their sworn evidence. *Zafar Ali Abbasi 2024 SCMR 1773* turned on affirmative medical and physical findings irreconcilable with the asserted occurrence. The hospital paper here confirms a real flame burn rather than negating one. The incomplete treatment file is a concern about causation, but PW-5's affirmative opinion cannot be ignored as if no doctor had spoken on that subject.

54. The Amicus's extensive objections deserve an explicit response. His criticism of PW-3's claimed long-range description, false bottle recovery, and contested arrest mashirs is accepted. The conflict over the injured's later statement is accepted as preventing reliance on that statement. His observations about the first three hours, missing treatment papers, market witnesses, absence of chemical linkage and inadequate site map are also accepted as material matters to be weighed. The further step in his concluding opinion is justified only if the remaining direct evidence is itself found coherent on the essential acts and supported on the occurrence and causation by the doctors. A prosecution cannot win by disregarding the deficiencies identified in an Amicus synopsis; it can succeed only if, after assigning those deficiencies their proper weight, guilt still admits of no reasonable doubt.

55. I have therefore considered the case once without PW-3's detailed claim about a bottle, the asserted recovery, any conclusion based on chemical examination, the post-event arrest, the unproved police statement of Sajid, a conclusive inference from the photograph and any alleged motive. What remains is the evidence of PW-1 and PW-2 that they saw Zeeshan restrain Sajid while Waseem applied liquid and ignited it; prompt documentation of the kind and position of burn

they described; the same-evening FIR naming both appellants; and PW-5's opinion linking those injuries to the subsequent death. That evidence is direct in relation to the acts and medical in relation to injury and death. It does not have to be described as a circumstantial chain merely because the investigators failed to recover a matchbox.

56. The identified deficiencies still qualify that remaining evidence. PW-1 misstated subsequent dates, PW-2's work explanation lacks documents, the witnesses did not account fully for the journey before 07:10 p.m., and the cause of death would have been more securely established with every treatment note. After addressing each, the question is whether one of them, singly or together, gives a prudent person a real reason to doubt that these two witnesses saw the concerted burning or that the burn caused Sajid's death. On the facts recited in the synopsis, their basic description of the two distinct acts did not change, PW-4's objective findings accord with a flame event in the asserted period, and PW-5 gave an affirmative post-mortem opinion. No contradictory work register, medical opinion, clinical diagnosis or independent account of self-ignition appears. The conclusion is drawn from that affirmative proof rather than from the appellants' failure to prove their innocence.

57. *Nazir Ahmed 2023 SCMR 1299* does not direct blind acceptance of an account said to have a 'ring of truth'. It demands separation of a discrepancy concerning the act from one concerning a peripheral matter. The false assertion that a bottle was found is serious for PW-3 and removes that asserted corroboration; it does not change the corroborated fact of flame burns or directly contradict the testimony of PWs 1 and 2 about who acted. The inconsistent location of a subsequent police statement removes that statement; it does not retrospectively erase an accusation in the FIR lodged three weeks earlier. The percentage estimate, mistaken procedural time and contested arrest witnesses are evaluated but do not individually prove the material identification mistaken. The unsolved journey interval is the strongest defence circumstance, yet no evidence puts either direct witness elsewhere at 04:00 p.m.

58. There is no occasion to invoke Article 122, QSO against either appellant or to regard their election not to testify as corroboration. A suggestion of suicide need not be proved by them. The theory fails here because, having scrutinised the direct evidence and the medical material, it does not emerge as a reasonable alternative to the concerted act testified to by PWs 1 and 2. If the prosecution had led no reliable proof of that act, a court could not find them guilty simply because no one established suicide. The Court also does not adopt the Amicus's proposed head-burn comparison as medical proof of homicide; the conclusion rests on independently assessed testimony.

59. The trial Court's reference to the alleged police statement of Sajid cannot be approved without resolving its contradictory provenance. Its broad description of every discrepancy as minor is also unsatisfactory. A judgment of conviction must identify why a particular difficulty does or does not affect the proof of an ingredient of the offence. The appellate review undertaken above does not adopt either shortcut: it discards several supporting circumstances and examines whether the principal acts and causal consequence remain proved. On the summarised material, the first two eyewitnesses supply the identification; PW-4 supports the fact and approximate time of ignition; and PW-5 supplies the causal opinion. The defects of investigation do not erase testimony which independently meets the criminal standard.

60. The specific finding concerning Waseem is that he intentionally applied a flammable liquid to Sajid and ignited it in circumstances plainly likely to cause death. The finding concerning Zeeshan is not that he was with Waseem or knew him; it is that he intentionally held Sajid during that very act. On the evidence accepted, section 34, P.P.C. attaches to that joint act. The precise kind of accelerant, the fate of an alleged bottle and the manner in which the hands were twisted are not essential to that finding. The post-mortem opinion, viewed with the original flame injuries and subsequent death, supports the offence under section 302(b), P.P.C. The sentence of imprisonment for life was within the statutory range; the absence of a proved motive and the concerns identified above furnish no ground to replace the sentence with death or otherwise alter it.

61. For these reasons, the conviction is sustained. The appeal is dismissed. The conviction and sentence dated 15-12-2021 under section 302(b) read with section 34, P.P.C., including compensation, default term and benefit under section 382-B, Cr.P.C., are maintained. The trial Court and prison authorities shall give effect to the sentence according to law and to the actual custody status of each appellant. A copy of this judgment shall be sent to the learned trial Court for compliance.

JUDGE

FAISAL