IN THE HIGH COURT OF SINDH, Circuit Court Hyderabad

Criminal Appeal No.S-47 of 2025

Present:-
Mr. Justice Jawad Akbar Sarwana, J.

Appellant No.1:	Babar s/o Abdul Ghaffar Khanzada
Appellant No.2:	Mst. Shahnaz w/o Abdul Ghaffar Khanzada
Appellant No.3:	Mst. Muskan d/o Abdul Ghaffar Khanzada through Mian Taj Muhammad Kerio and Peeral Majeedano, Advocates
Complainant:	Ali Raza s/o Sagheer Ahmed through M/s Barrister Muhammad Immad Qamar and Hammad Ahmed, Advocates
The State:	Through Mr. Irfan Ali Talpur, Deputy Prosecutor General and Ms. Sana Memon and Ms. Safa Hisbani, Assistant Prosecutor General Sindh.
Date of hearings:	20.11.2025, 04.12.2025, 11.12.2025, 16.12.2025 and 19.12.2025
Date of announcement:	19.12.2025
Date of reasons:	17.10.2026

J U D G M E N T

Jawad A. Sarwana, J.: The three appellants/convicts are all from the same family/household: son, Babar s/o Abdul Ghaffar Khanzada (appellant/convict no.1); his mother, Mst. Shahnaz w/o Abdul Ghaffar Khanzada (appellant/convict no.2); and his sister, Mst. Muskan d/o Abdul Ghaffar Khanzada (appellant/convict no.3) and were convicted of offences under sections 302(b) and 34 P.P.C. by the learned 1st Additional Sessions Judge/Model Criminal Trial Court, Tando Allahyar ("the trial Court"), on 28.07.2025, and sentenced to suffer imprisonment for life and to pay compensation of Rupees One Million only (Rs.10,00,000/-) to the legal heirs of the deceased Mst. Irum,[1] wife of appellant no.1, daughter-in-law of appellant no.2, and sister-in-law of appellant no.3, under section 544-A

[1] As per the documents available on record, including the impugned Judgment, the name of the deceased victim in FIR No.04/2021 appears interchangeably as "Irum" and "Erum". For the purpose of this appellate judgment, references to either "Irum" or "Erum" refer to the same deceased victim in the said FIR.

Cr.P.C., and, in case of failure to pay the compensation, the accused shall suffer simple imprisonment for six months.

2. The three appellants have preferred this criminal appeal under section 410 Cr.P.C. against the aforesaid judgment dated 28.07.2025 passed by the learned 1st Additional Sessions Judge/Model Criminal Trial Court, Tando Allahyar, in Sessions Case No. 249 of 2021, arising out of Crime No. 04/2021, Police Station Women, Tando Allahyar, registered under sections 302(b) and 34 PPC.

3. The cr. appeal was heard by me on several dates of hearing, and, upon consideration of the submissions and record, I dismissed this criminal appeal through a Short Order dated 19.12.2025 for reasons to be recorded later. These are the reasons for the judgment.

4. Learned counsel for the appellants, who was also the same counsel in the trial, has assailed the conviction on the grounds of delay in registration of FIR, unreliable and interested prosecution testimony, absence of eyewitness evidence, material contradictions, defects in investigation and failure to give due weight to the defence plea that the deceased had committed suicide. Learned counsel for the appellants also relied upon a video recording in support of the plea of suicide and questioned the learned trial Court's assessment of that recording. Meanwhile, the complainant and the State supported the impugned judgment. Heard learned Counsel and DPG/APG.

Prosecution witnesses, appellants' statements and summary of evidence

5. The prosecution case is that Mst. Irum, wife of appellant no.1 Babar, suffered extensive burn injuries at her matrimonial residence on 17.05.2021 and died on 18.05.2021. It was alleged that the appellants, acting with common intention, poured petrol upon her and set her on fire.

The defence denied the allegation and maintained that the deceased had set herself ablaze.

6. The prosecution examined nine witnesses. They included the complainant Ali Raza (PW-1), Muhammad Arshad (PW-2), Habib Ahmed (PW-3), Muneer Hussain, Tapedar (PW-4), Zeeshan (PW-5), DSP Siraj-ud-din Lashari (PW-6), Dr. Mariyam Rukhsana (PW-7), Inspector Nasreen Ghori (PW-8) and Maqbool Ali (PW-9). The documentary evidence included the FIR, investigation and recovery memoranda, medical documents, post-mortem certificates and the statements and reports produced through the investigating officers.

7. A summary of the evidence of the PWs and its implications discussed in this judgment with reason is set out herein below.

8. PW-1 (Ex. 03), Ali Raza, brother of the deceased, testified that Mst. Irum had been married to Babar and that she had been subjected to maltreatment by the appellants. He stated that Babar informed him by telephone that his sister had suffered burns. On reaching the matrimonial residence, he found her seriously injured. He, along with others, arranged to take her to Civil Hospital, Hyderabad, from where she was referred to Karachi. She died the following morning. The FIR was lodged on 18 May 2021 at 1700 hours. PW-1 also stated that when he reached the house, the deceased was able to speak; that Dr. Shazia had attended her and advised immediate transfer to hospital; that Babar (accused-husband) was speaking to a doctor on the telephone; and that Babar accompanied the party to hospital, although the witness attributed that accompaniment to their insistence.

9. PW-2 (Ex. 04), Muhammad Arshad, supported the account that the deceased was found severely burned at the matrimonial residence, that Dr. Shazia attended the scene, and that an ambulance was arranged for her removal to Hyderabad.

10. PW-3 (Ex. 05), Habib Ahmed, likewise described arriving at the residence, finding his sister severely burned, and the subsequent arrangements for an ambulance.

11. The evidence of these witnesses, PW-1, PW-2 and PW-3, bears upon the condition of the deceased, the events following the burning and the conduct of those present.

12. PW-4 (Ex. 06), Muneer Hussain, Tapedar, testified that, pursuant to a police requisition dated 27.05.2021 and directions of the Mukhtiarkar, he visited the place of occurrence on 01.06.2021 and prepared a measured sketch on the pointation of mashir Zeeshan. He identified Point "A" as the room in Babar's house where Irum was reportedly found injured, and Point "B" as the doorway and adjoining verandah, six feet to the north.

He produced the relevant correspondence and sketch as Exs. 06/A to 06/C. In cross-examination, he admitted that the sketch showed neither the bathroom nor the kitchen. His evidence thus establishes the location and general layout of the premises, but does not verify the precise sequence or manner of the burning. The omission of the bathroom and kitchen limits the sketch's utility in assessing the competing accounts of the occurrence. As a subsequent survey based on another witness's pointation, it neither independently establishes the cause of the fire nor links any appellant to its ignition.

13. PW-5 (Ex. 07), Zeeshan, testified that he proceeded to Civil Hospital, Hyderabad, where he saw Mst. Irum in a critical condition. According to his examination-in-chief, she told him that her mother-in-law Shahnaz and sister-in-law Muskan had burned her in the presence of Babar.[2] He further stated that he recorded a video on his mobile telephone, provided it to the investigating officer on a USB, and produced the USB as Article

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[2] This is a materially different category of evidence from a witness's inference about what happened: it is testimony concerning a statement allegedly made by the deceased herself.

P-1 during his deposition, Ex. 07.[3] The trial record establishes its production as an article. PW-5 also testified concerning the recovery of articles from the place of occurrence, including burnt hair, burnt bedding and a plastic bottle, described in paragraph 34 of the trial Court judgment as "an empty bottle of petrol", without any chemical identification of its contents. The investigation evidence identifies and confirms the matrimonial residence as the place of occurrence.

14. PW-6 (Ex. 08), DSP Siraj-ud-din Lashari, the second investigating officer, conducted the subsequent investigation, favoured the conclusion argued by the Counsel for the appellants, that the deceased had committed suicide. He described the inquiries he had made of relatives and others and produced his report as "Ex. 08/D". The investigation report described an occurrence involving a bathroom, a matchbox and the deceased allegedly setting herself on fire. Accordingly, he recommended disposal of the case.

15. PW-7 (Ex. 09), Dr. Mariyam Rukhsana, Senior Women Medical Officer, conducted the post-mortem examination of Mst. Irum at Civil Hospital, Tando Allahyar, on 18.05.2021. According to the provisional post-mortem certificate (Ex. 09/B), the body arrived at 10:00 a.m., the examination commenced at 10:30 a.m. and concluded at 12:30 p.m. The time of the incident was recorded as 2:30 p.m. on 17.05.2021, while the estimated interval between injury and death was 12–15 hours and that between death and post-mortem was 5–6 hours. The prosecution account and the police inquest record place Irum's death at approximately 6:00 a.m. on 18.05.2021. Calculated from the recorded time of the incident, this represents an interval of approximately 15½ hours between injury and death, marginally exceeding the doctor's upper estimate. Similarly, the interval between the reported death and commencement of the post-mortem was approximately 4½ hours, compared with the medical estimate of 5–6 hours. These differences, each of approximately thirty minutes, have been considered. The times attributed to the occurrence and death are recorded

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[3] The learned trial Court acknowledged that the recording was in cut pieces and had not undergone forensic examination

or reported times, whereas the intervals furnished by PW-7 are medical estimates. Indeed, the two estimated intervals would be mutually consistent with a time of death around 5:30 a.m., although the Court does not treat that calculation as proof that death occurred at that precise time. The minor differences therefore do not, by themselves, establish a materially different chronology or undermine the medical conclusion concerning the cause of death. PW-7 found third-degree burns involving more than 70% of the total body surface area and, in her final post-mortem certificate (Ex. 09/D), attributed death to those injuries. The chemical examiner's report (Ex. 09/C) recorded negative results for the substances tested in the preserved viscera. In cross-examination, PW-7 acknowledged that she observed no marks of violence apart from the burns. Her evidence establishes the nature, extent and fatal consequences of the injuries, but does not independently determine whether the burning was homicidal or self-inflicted, or identify the person responsible.

16. PW-8 (Ex. 10), Inspector Nasreen Ghori, the first investigating officer, deposed that upon receiving information concerning the burn injuries sustained by Mst. Irum, she issued a letter for her medical examination and, following information of her death, arranged the post-mortem examination, prepared the Lash Chakas form and handed over the dead body to her brother against receipt. She produced the relevant documents at Exs.10/A to 10/D. She further testified that, after registration of the FIR, she inspected the place of occurrence at the complainant's pointation and recovered an article described in the trial Court judgment as “an empty bottle of petrol”, burnt pieces of clothing, burnt hair and a burnt chadar, which were sealed at the spot in the presence of mashirs. She also supported the memorandum of inspection (Ex.7/C), the arrest of accused Babar (Ex.7/D) and the dispatch of viscera for chemical examination through WPC Maqbool Ali, producing the relevant correspondence at Ex.10/E. Her testimony thus corroborates the investigative steps, the physical aftermath of the burning, and the recovery of physical articles at the reported scene, without establishing that the bottle contained petrol, that petrol was used in the burning, or that any appellant handled the bottle. She

also acknowledged not having examined Dr Shazia, who had reportedly attended the deceased shortly after the occurrence. These omissions disclose shortcomings in the investigation, particularly the failure to secure potentially material contemporaneous medical evidence. Nevertheless, the issuance of a medical letter without first producing a severely burnt patient before the police is not inherently suspicious; nor does the absence of independent local witnesses, by itself, discredit recoveries otherwise supported by the mashirs. The defence's suggestions that the arrest memorandum was managed and the recovered articles planted were expressly denied and, without supporting evidence, do not establish fabrication. The disputed alteration in the medical letter likewise requires assessment of its materiality and cannot, merely from its existence, be treated as proof of manipulation. PW-8's evidence therefore remains relevant to the investigative chronology and recovery of physical articles, although neither those recoveries nor her testimony independently establishes the identity of the persons responsible for setting the deceased on fire.

17. PW-9 (Ex. 12), WPC Maqbool Ali, deposed that on 03.06.2021, while posted at Police Station Women and Children, Tando Allahyar, the investigating officer entrusted him with the case property of Crime No.04/2021 for delivery to the Chemical Examiner at Karachi. His evidence consequently supports the prosecution's proof of transmission of the preserved samples for chemical examination, subject to the limitations of the custody documentation. It does not, however, establish the manner in which the burns were inflicted or connect any particular accused with their infliction.

18. During the trial, the three appellants denied the allegation in their section 342 Cr.P.C. statements as herein below.

19. Appellant no.1, Babar Khanzada (Ex.14), husband of the deceased victim, in his statement under section 342 Cr.P.C., denied the allegation that he, together with his mother Shahnaz and sister Muskan, had maltreated his

wife, Mst. Irum, on account of domestic disputes. In response to Question No.2, he was specifically confronted with the allegation that, between 2:30 and 3:00 p.m. on 17.05.2021, he and the co-accused, acting with common intention, had beaten Irum, poured petrol upon her and set her on fire inside their house, causing serious burn injuries. He denied the allegation. He was also questioned about the telephone call informing the complainant of the occurrence, the deceased's subsequent hospitalization and death, the investigative proceedings, the recoveries and the medical evidence. He did not elect to examine himself on oath or produce any witness in defence.

20. Appellant no.2, Mst. Shahnaz (Ex.15), mother-in-law of the deceased victim, in her statement under section 342 Cr.P.C., also denied the allegation of maltreatment of her daughter-in-law, Mst. Irum, arising from domestic disputes. Question No.2 expressly confronted her with the accusation that she, Babar and Muskan, in furtherance of their common intention, had beaten Irum, poured petrol upon her and set her on fire at the matrimonial home between 2:30 and 3:00 p.m. on 17.05.2021. She denied the accusation. The material circumstances concerning the inspection of the dead body, recoveries from the place of occurrence, the complainant's further statement, the medical findings and the site sketch were also put to her. She did not elect to examine herself on oath or call any witness in defence.

21. Appellant no.3, Mst. Muskan (Ex.16), sister-in-law, in her statement under section 342 Cr.P.C., likewise denied the allegation that she, along with Babar and Shahnaz, had maltreated her sister-in-law, Mst. Irum over domestic matters. She was specifically questioned about the alleged occurrence of 17.05.2021, including the accusation that all three accused, acting with common intention, had beaten Irum, poured petrol upon her and set her on fire, resulting in extensive burns. She denied the accusation. She was further confronted with the material investigative and medical circumstances relied upon by the prosecution, which she did not accept. She neither elected to testify on oath nor produced any defence witness.

Delay in the lodging of the F.I.R.

22. The appellants have contended in their memorandum of appeal that the FIR was lodged after a delay exceeding one day, without plausible explanation, and that matrimonial enmity afforded an opportunity for false implication. Admittedly, the occurrence took place between 1430 and 1500 hours on 17.05.2021, whereas the FIR was registered at 1700 hours on 18.05.2021. However, the objection cannot be determined merely by calculating the interval between these two events; the intervening circumstances in the prosecution evidence must also be considered.

23. PW-1 Ali Raza (Ex. 03) testified that upon receiving information from appellant Babar, he reached the matrimonial residence and found his sister suffering from serious burns. She was taken to Civil Hospital Hyderabad and thereafter referred to Karachi, where she succumbed to her injuries at approximately 0600 hours on 18.05.2021. The family subsequently brought her body to Tando Allahyar, where the post-mortem examination was conducted before the body was handed over for burial. These circumstances explain the immediate attention given to securing medical treatment and thereafter completing the formalities arising from her death.

24. PW-8 Inspector Nasreen Ghori (Ex. 10) testified that at approximately 2:00 a.m. on 18.05.2021, Ali Raza, brother of the deceased, approached her at Police Station Women and Children, Tando Allahyar, and informed her that his sister had sustained burn injuries after petrol had allegedly been thrown upon her by her in-laws. According to PW-8, Ali Raza requested a letter for his sister's medical treatment and informed her that the occurrence had taken place between 2:30 and 3:00 p.m. on 17.05.2021. PW-8 stated that she issued the medical letter, which she produced as Ex. 10/A, and also made an entry in the roznamcha, although she could not recall its number. The corresponding contemporaneous entry, independently establishing the precise time and contents of this information, has not been identified in the material examined. The production of Ex. 10/A supports

PW-8's account that a medical letter was issued, but its existence does not, without scrutiny of its contents and the alteration appearing on it, independently establish every detail of the information allegedly communicated at 2:00 a.m. Nevertheless, PW-8's sworn testimony is material to the question of delay. If accepted, it establishes that an allegation implicating Irum's in-laws had reached the police while she was still alive and approximately fifteen hours before registration of the formal FIR at 5:00 p.m. on 18.05.2021. The weight to be attached to this circumstance must therefore be assessed in light of the absence of independently verified contemporaneous documentation.

25. PW-8 admitted in cross-examination that no report had been registered at the police station on 17.05.2021, that Irum had not been brought before her when the medical letter was issued, and that overwriting of the date was visible on Ex. 10/A. She nevertheless denied the suggestion that the letter had been manipulated. These matters require the Court to distinguish between PW-8's sworn testimony concerning the approach made to her at approximately 2:00 a.m. on 18.05.2021 and independent documentary confirmation of the time and contents of that information. Although PW-8 asserted that she made an entry in the roznamcha, she could not recall its number, and no corresponding entry has been independently verified in the material examined. The overwriting on Ex. 10/A is a further circumstance requiring caution, particularly when the document is relied upon to establish the chronology of the first police information. These deficiencies limit the corroborative value of the documentary record, but do not, without additional evidence, establish that PW-8's account was false or that the allegation against the appellants was subsequently fabricated. Conversely, the later registration of the FIR does not remove those deficiencies or independently establish that the earlier information was received at the precise time asserted. The Court must therefore assess PW-8's testimony on its own merits, while maintaining the distinction between information allegedly communicated to the police and its formal recording under section 154 Cr.P.C.

26. The objection concerning delayed registration of the FIR must therefore be assessed in the context of the circumstances established by the prosecution evidence. The occurrence took place between 2:30 and 3:00 p.m. on 17.05.2021, whereas the FIR was registered at 5:00 p.m. on 18.05.2021, an interval of approximately twenty-six hours. During this period, Irum was taken for medical treatment at Civil Hospital, Hyderabad, subsequently referred to Karachi, where she succumbed to her injuries, and thereafter brought to Tando Allahyar for post-mortem examination. These circumstances provide a substantial explanation for the attention of her family being directed towards her treatment and the formalities following her death. Additionally, PW-8 Inspector Nasreen Ghori (Ex. 10) testified that Ali Raza had approached the police at approximately 2:00 a.m. on 18.05.2021 and communicated an allegation that Irum had been burnt by her in-laws. For the reasons discussed in paragraphs 24 and 25 above, the Court treats this testimony as a relevant circumstance, while recognising that the precise time and contents of the alleged first information have not been independently established through a verified roznamcha entry and that the medical letter, Ex. 10/A, bears an alteration concerning its date. The earlier approach to the police is therefore not treated as conclusively documented, but neither can PW-8's testimony be disregarded merely because independent documentary corroboration is deficient. Considered cumulatively, the medical emergency, Irum's subsequent death, the post-mortem proceedings and PW-8's account of the earlier police information provide a reasonable explanation for the delay in formal registration. The deficiencies in the documentary record remain relevant to the assessment of the prosecution evidence; nevertheless, the delay, viewed in the context of the record as a whole, does not by itself establish that the accusation was subsequently fabricated or that the appellants were falsely implicated on account of matrimonial discord.

27. The ground for delay in registration of the FIR, insofar as it challenges the prosecution case solely on account of its delayed registration, is accordingly without merit.

Reliability and Sufficiency of the Prosecution Evidence

28. The appellants in their memorandum of appeal have challenged the appreciation of prosecution evidence by the learned trial Court. They contend that the prosecution witnesses were closely related to the deceased, that no independent person from the locality supported the accusation, and that contradictions and discrepancies in the evidence rendered the conviction unsafe. These objections require examination against the evidence actually adduced, rather than upon the assumption that a witness becomes unreliable merely because of relationship with the deceased.

29. The prosecution case admittedly does not rest upon an eyewitness account of the act of setting Irum on fire. PW-1 Ali Raza (Ex. 03), her brother, stated that appellant Babar informed him by telephone that his sister had sustained burns. On reaching the matrimonial home, he found her seriously injured and arranged, with others, for her medical treatment. PW-2 Muhammad Arshad (Ex. 04) and PW-3 Habib Ahmed (Ex. 05) substantially supported the circumstances in which the family learnt of the occurrence and attended to the injured. None claimed to have witnessed the actual ignition of the fire. Their evidence must therefore be appreciated for what they personally observed and did; it cannot be treated as direct proof of the identity of those who inflicted the burns.

30. The mere relationship of these witnesses with the deceased does not, by itself, justify rejection of their testimony. The distinction between a related witness and an interested witness, and the necessity of examining whether the latter has a demonstrated motive to falsely implicate an accused, has been recognised in *Muhammad Ramzan v. Khizar Hayat* (2024 SCMR 1085). In the present case, the relationship of PW-1, PW-2 and PW-3 with the deceased was neither concealed nor disputed. Their presence after receiving information of a serious domestic emergency was natural. The defence allegation of matrimonial enmity calls for caution in evaluating their evidence, but does not automatically render their accounts

of the discovery of the injured woman and her subsequent treatment unworthy of belief.

31. The evidence of PW-7 Dr. Mariyam Rukhsana (Ex. 09) establishes that Irum sustained third-degree burns affecting more than seventy per cent of her body and died as a consequence of those injuries. The medical findings are consistent with the serious condition described by the witnesses who saw her after the occurrence. The doctor, however, did not identify the person responsible for the burns or determine independently whether they were homicidal or self-inflicted. The absence of injuries other than burns, admitted in cross-examination, must also be kept in view. The medical evidence corroborates the occurrence of a fatal burning, but the manner of its infliction must be determined from the remaining evidence.

32. Of particular significance is the testimony of PW-5 Zeeshan (Ex. 07), who stated that he visited Irum in the burns ward at Civil Hospital, Hyderabad, where he found her in a critical condition. According to him, Irum told him that she had been burnt by her mother-in-law Shahnaz and sister-in-law Muskan in the presence of Babar. This was an account of a statement allegedly made by the deceased herself concerning the circumstances resulting in her death and is therefore relevant under *Article 46(1) of the Qanun-e-Shahadat Order, 1984*. A dying declaration does not become inadmissible merely because a Magistrate or medical officer did not record it, or because no contemporaneous medical certificate confirming the declarant's fitness to speak was obtained. Its acceptance nevertheless depends upon a careful assessment of whether the statement was actually made, whether the deceased was capable of communicating it and whether the witness reporting it is worthy of reliance. The absence of medical certification is thus a circumstance requiring scrutiny, rather than an automatic ground for rejecting the declaration.

33. Applying these considerations to the evidence, PW-5 gave a direct account of the circumstances in which he reached the burns ward and spoke to Irum. His testimony was subjected to cross-examination, which

principally concerned the preparation of police documents, overwriting of dates, his inability to read Sindhi and the circumstances of Babar's arrest. Notably, no question was directed specifically towards challenging his assertion that Irum spoke to him and identified Shahnaz and Muskan as the persons who burnt her in Babar's presence. Nor was it suggested to him that Irum was unconscious, incapable of speech or otherwise unable to make the statement attributed to her. Although the absence of such a challenge cannot, by itself, establish the truth of the declaration, it is a relevant circumstance in assessing whether his account was materially shaken. Furthermore, PW-1 Ali Raza (Ex. 03) expressly testified in cross-examination that Irum was in a position to talk when he reached the matrimonial residence after the occurrence. This provides independent evidence of her ability to communicate at an earlier stage. PW-7 Dr. Mariyam Rukhsana (Ex. 09) established that Irum suffered extensive and ultimately fatal burns, but her post-mortem findings do not establish that Irum was unconscious or incapable of speech when PW-5 met her. The Court is conscious that Irum's condition was critical, that there was no contemporaneous medical certification of her fitness to make the declaration and that PW-1's observation did not relate to the precise time of PW-5's conversation. These limitations have been weighed against PW-5's direct testimony, the absence of any material contradiction elicited from him concerning the declaration itself and the evidence that Irum was capable of speech following the occurrence. On this assessment, the Court finds PW-5's account of the statement made to him by Irum reliable and accepts the oral dying declaration as evidence of the circumstances of her burning. The declaration expressly identifies Shahnaz and Muskan as the persons who burnt her. Its language concerning Babar is narrower: it places him at the occurrence but does not expressly attribute the act of pouring petrol or igniting the fire to him.

34. PW-5 Zeeshan (Ex. 07) also produced the USB recording as Article P-1. Its production does not, without proof of authenticity, completeness and contents, make it independent corroboration of his account of Irum's

oral declaration. The competing interpretations of the recording, including the appellants' plea of suicide, are examined separately below.

35. The appellants' account of suicide refers to Irum obtaining a matchbox from the kitchen and setting herself on fire in the bathroom. As PW-4 admitted, neither location appears in the measured sketch, Ex. 06/C. The sketch therefore provides no independent support for that proposed sequence; equally, its omissions do not disprove suicide. The significance of the second investigation's failure to document the alleged bathroom ignition is considered with the suicide defence below.

36. The appellants have also referred to discrepancies in the documentary evidence, including overwriting appearing on certain police papers. Such matters must be assessed according to their materiality. An irregularity in the preparation of a recovery memo or medical letter does not necessarily falsify the independently proved fact that Irum sustained fatal burns. Equally, an irregularity affecting the provenance, timing or reliability of an incriminating circumstance cannot be dismissed merely as technical. The proper inquiry is whether, after excluding doubtful or insufficiently established circumstances, the remaining evidence proves the charge.

37. The learned trial Court, in paragraphs 32 to 39 of its judgment, treated the prosecution case as one resting upon circumstantial evidence and concluded that the chain was complete. The governing principle is that circumstantial evidence may sustain a conviction where its proved links, considered collectively, exclude a reasonable hypothesis consistent with innocence. This principle has been reiterated in *Zahir Zakir Jaffar v. The State* (2025 SCP 220). It follows that the circumstances must connect each accused with the offence; proof of the death and proof that it occurred in the matrimonial home are not, without more, sufficient to establish the criminal liability of every person present.

38. The relationship of the witnesses to Irum, the absence of a neighbourhood eyewitness and minor discrepancies do not, without more, justify rejecting their evidence. The significance of the medical findings, physical recoveries and PW-5's oral declaration must be assessed cumulatively, with the latter's reliability examined in paragraphs 32 and 33 above.

39. Babar's position requires separate consideration. The words attributed to Irum place him at the occurrence but do not, by themselves, establish participation or common intention under section 34 PPC. His liability must be assessed individually on the proved circumstances, without enlarging her alleged words or shifting the burden to the defence.

40. The foregoing general objections do not warrant wholesale rejection of the prosecution evidence. The competing plea of suicide and the distinct criminal liability of each appellant are considered below.

Suicide Defence, Second Investigation and USB Recording

41. The appellants have contended in the grounds of appeal set out in the memorandum of appeal that the learned trial Court failed to give due consideration to the subsequent investigation conducted by PW-6 DSP Siraj-ud-din Lashari (Ex. 08), who concluded that Irum had committed suicide, and to the USB recording which, according to the appellants, contained an admission by Irum that she had set herself on fire in an emotional state. Both contentions require examination, since the existence of an alternative account cannot be dismissed merely because the prosecution alleges homicide.

42. PW-6 testified that the investigation was transferred to him on 14.06.2021. He examined the case papers, recorded statements from persons in both families, visited the place of occurrence, made inquiries in the locality, and obtained the medical and chemical examination reports. On 31.08.2021, he concluded that Irum had committed suicide by burning

herself and forwarded his report, Ex. 08/D, along with a USB containing videos, for further proceedings. His opinion was not accepted by the concerned Magistrate, who took cognizance of the offence. The subsequent prosecution and conviction therefore proceeded notwithstanding the contrary conclusion reached during investigation.

43. The conclusion reached by an investigating officer concerning the manner of death does not, by itself, constitute a judicial determination of that question. Its evidentiary value depends upon the material collected during investigation and the extent to which that material supports the conclusion reached. The learned trial Court examined PW-6's account and considered that his conclusion of suicide rested substantially upon statements obtained from members of Babar's family, without sufficient independent corroboration of the particular sequence of events advanced during the second investigation. PW-6 also testified that he had examined the case papers, recorded statements from persons belonging to both families, visited the place of occurrence and considered the medical and chemical examination reports. These investigative steps cannot be disregarded merely because his conclusion differed from the prosecution's case. Although the defence did not cross-examine PW-6, that circumstance does not render his opinion binding upon the Court or convert his investigative conclusion into conclusive proof of suicide. His evidence must instead be evaluated alongside the remaining prosecution and defence material, including the physical circumstances of the occurrence and the limitations of the site inspection discussed below.

44. The physical circumstances surrounding the alternative account of suicide also require examination. According to the account reproduced by the learned trial Court from the second investigation, Irum allegedly obtained a matchbox from the kitchen, entered the bathroom and set herself on fire before emerging in a burning condition. PW-6 stated that he visited the place of occurrence and found its condition consistent with the earlier mashirnama, for which reason he did not prepare a fresh inspection memorandum. The earlier recovery evidence, however, concerned the room

in Babar's residence, where burnt bedding, burnt hair and an article described as “an empty bottle of petrol” were recovered. Furthermore, PW-4 Muneer Hussain (Ex. 06) admitted that the measured site sketch did not depict either the kitchen or the bathroom. Thus, although PW-6 visited the premises, the second investigation did not produce a separate inspection memorandum, measured sketch or independently documented physical findings specifically corroborating the bathroom as the place where ignition occurred. This omission limits the independent evidentiary support for the particular sequence of events reconstructed by PW-6. It does not, however, establish that his reconstruction was false, nor does it exclude the possibility of suicide. Equally, the recovery of burnt articles from the room does not, without further evidence, conclusively establish the precise location of ignition or the identity of the person responsible. The competing accounts must therefore be assessed upon the entirety of the reliable evidence, bearing in mind that the prosecution retains the burden of establishing the appellants' guilt beyond reasonable doubt.

45. A further question arises concerning the inflammable substance allegedly involved in the occurrence. The learned trial Court noted that the account emerging from the second investigation referred alternatively to kerosene oil or petrol, without identifying independent evidence establishing where Irum allegedly obtained the substance or how it came to be used in the manner suggested. This uncertainty limits the evidentiary support for the particular reconstruction advanced by PW-6. At the same time, the recovery of an article described as “an empty bottle of petrol” does not, without chemical or other reliable evidence, establish that petrol was present in that bottle at the material time, that it was used to cause the burns, or that any particular appellant handled it. The absence of such proof cannot be employed selectively against the defence. The appellants bear no burden to establish the precise manner in which suicide might have occurred, and deficiencies in the second investigation cannot substitute for affirmative proof of the prosecution allegation. The Court must therefore consider whether the prosecution evidence, independently assessed and taken as a whole, establishes intentional homicidal burning and the criminal

responsibility of each appellant beyond reasonable doubt, notwithstanding the alternative account of suicide.

46. The USB recording relied upon by the parties requires separate consideration. PW-5 Zeeshan (Ex. 07) testified that he recorded Irum on his mobile telephone and subsequently provided the recording to the investigating officer, producing a USB as Article P-1. PW-6 DSP Siraj-ud-din Lashari (Ex. 08) also testified that he prepared a USB containing videos before forwarding the investigation papers. The appellants contend that the recording supports their plea that Irum set herself on fire, whereas the learned trial Court understood its contents as implicating all three appellants. These are competing interpretations of the recording, and neither is treated here as an independently verified account of the precise words spoken by Irum. Significantly, the learned trial Court itself acknowledged that the video existed in cut portions and had not undergone forensic examination to establish its genuineness. These circumstances raise questions concerning the completeness and integrity of the recording, the significance of which must be assessed before any decisive evidentiary weight can be attached to its alleged contents.

47. Article 164 of the Qanun-e-Shahadat Order, 1984 recognises the use of modern devices and techniques in judicial proceedings, subject to the applicable law of evidence. The admissibility of material obtained through such devices must, however, be distinguished from its probative value. In *Ishtiaq Ahmed Mirza and others v. Federation of Pakistan and others* (PLD 2019 SC 675), the Honourable Supreme Court examined the principles governing the proof and reliability of audio and video recordings, emphasising the importance of establishing their genuineness, accuracy and integrity before reliance is placed upon their contents. These considerations include the source of the recording, identification of the persons recorded, the circumstances of its preparation and preservation, and the possibility of editing, tampering or manipulation. The significance of any deficiency in these respects must be assessed in the circumstances of the particular case. Accordingly, the mere production of a USB recording as an exhibit does

not, by itself, establish the truth or reliability of its disputed contents, particularly where questions arise concerning the recording's completeness and authenticity.

48. In the present case, the learned trial Court referred to the contents of the USB recording in its assessment of the competing accounts of the occurrence. It also expressly acknowledged that the video consisted of cut portions and that no forensic examination had been conducted to establish its genuineness. The absence of forensic examination does not, by itself, render a recording inadmissible or necessarily deprive it of all evidentiary value. Nevertheless, where the contents are disputed and the recording is acknowledged to be incomplete, the Court must consider whether its authenticity, continuity and integrity have otherwise been satisfactorily established. The evidence concerning the preparation, preservation and production of the recording, as reflected in the trial record, does not satisfactorily resolve those concerns so as to justify treating the recording as decisive proof of either the prosecution allegation or the appellants' contention that Irum admitted having set herself on fire. The recording must accordingly be approached with caution, and the sustainability of the convictions assessed principally upon the remaining reliable evidence, without treating either party's disputed interpretation of the video as an established fact.

49. This Court has not independently viewed or played the USB recording and, therefore, makes no finding based upon its own examination as to the precise words spoken by Irum therein. The descriptions of its contents considered in this appeal are derived from the evidence recorded at trial, the learned trial Court's assessment and the competing positions advanced by the parties. For the reasons already discussed, neither the appellants' assertion that the recording contains an admission of suicide nor the prosecution's interpretation that it implicates the appellants can be treated as independently verified electronic evidence establishing those propositions. This conclusion does not, however, dispose of the separate question concerning PW-5 Zeeshan's oral testimony about the statement

which he says Irum made to him. That testimony must be assessed independently, having regard to the circumstances in which the statement was allegedly made, the witness's credibility and the other evidence on record. The limitations affecting the USB recording neither automatically discredit PW-5's oral account nor supply independent corroboration of it.

50. The relevant question is not whether the appellants have affirmatively proved that Irum committed suicide. The burden of establishing the prosecution case beyond reasonable doubt remains upon the prosecution throughout. The inquiry is whether the alternative account emerging from the second investigation, when considered alongside the remaining evidence, gives rise to a reasonable doubt concerning the allegation that Irum was deliberately set on fire. In undertaking that assessment, PW-6's investigative conclusion favouring suicide must be weighed against PW-5 Zeeshan's oral testimony concerning Irum's statement attributing the act of burning to Shahnaz and Muskan, the medical evidence establishing the nature and fatal consequences of her injuries, and the physical circumstances disclosed by the recovery and site inspection evidence. The limitations of the second investigation, including the absence of the kitchen and bathroom from the measured site sketch, are relevant to the evidentiary weight of PW-6's reconstruction. Equally, the disputed USB recording must be considered subject to the limitations already identified. Neither the investigative opinion favouring suicide nor the deficiencies in the reconstruction of that theory can, by itself, determine the outcome. The Court must assess the competing accounts upon the cumulative effect of the reliable evidence.

51. Upon a cumulative assessment of the evidence, the conclusion reached by PW-6 in the second investigation does not, by itself, displace the prosecution account of the occurrence. Although PW-6 visited the premises, his reconstruction of suicide was not supported by a separately documented examination of the bathroom, while the measured site sketch omitted both the kitchen and the bathroom, notwithstanding their significance to the sequence of events he advanced. These limitations

diminish the independent corroborative value of that reconstruction, without establishing that suicide was impossible. Similarly, the disputed USB recording, having regard to the unresolved questions concerning its completeness and authenticity, cannot safely be treated as conclusive evidence that Irum admitted setting herself on fire. Against these circumstances stands PW-5 Zeeshan's oral testimony concerning Irum's statement that Shahnaz and Muskan had burnt her, the reliability of which must be determined upon the considerations already examined in this judgment. The medical evidence establishes the fatal burn injuries but does not independently determine whether they were homicidal or self-inflicted. Considering these matters together, and without treating deficiencies in the second investigation as affirmative proof of guilt, this Court finds that the investigative opinion favouring suicide and the disputed interpretation of the USB do not, in the circumstances, give rise to beyond reasonable doubt sufficient to displace the prosecution evidence found reliable for the reasons separately recorded.

52. The criminal liability of appellant nos. 2 and 3, Shahnaz and Muskan, respectively, falls to be examined independently upon the evidence directly implicating them in the occurrence. The principal incriminating circumstance is the statement attributed to the deceased, Irum, by PW-5 Zeeshan (Ex. 07), who testified that, while undergoing treatment for her burn injuries, Irum stated that she had been burnt by her mother-in-law Shahnaz and sister-in-law Muskan in the presence of her husband Babar. The statement, insofar as it concerns Shahnaz and Muskan, is neither ambiguous nor dependent upon any inference arising from their relationship with the deceased. It identifies both women by name and attributes to them the very act which resulted in Irum's death. Being a statement concerning the cause and circumstances of the injuries from which Irum subsequently died, it falls for consideration under *Article 46(1) of the Qanun-e-Shahadat Order, 1984*. Its reliability has been examined in paragraphs 32 and 33 above, including the circumstances in which PW-5 heard the statement, the evidence concerning Irum's ability to communicate and the effect of PW-5's cross-examination. The medical evidence of PW-

7 Dr. Mariyam Rukhsana (Ex. 09) establishes that Irum sustained extensive burn injuries resulting in her death. Although that evidence does not independently establish whether the burns were homicidal or self-inflicted, it is consistent with the nature and fatal consequence of the injuries described in the statement attributed to Irum. The recovery of burnt articles and an article described in the investigation as “an empty bottle of petrol” from the room of the matrimonial residence supplies physical context for the occurrence. The recovery does not, without chemical or other reliable proof, establish that the bottle contained petrol, that petrol was used to inflict the burns, or that either appellant handled or used it. PW-1 Ali Raza (Ex. 03) also testified to the preceding maltreatment of Irum by the appellants on account of domestic disputes. This evidence is relevant as background to the occurrence, although it is not, by itself, proof of the fatal assault. PW-3 Habib Ahmed (Ex. 05) described an altercation with Shahnaz and Muskan after arriving at the matrimonial residence and finding Irum severely burnt. Importantly, PW-3 himself acknowledged that he first lost his temper and spoke rudely to both women, following which Muskan slapped him three or four times. He further stated that the accused persons abused Irum's relatives while she was being shifted to the ambulance. The Court has considered this evidence in its proper context. The confrontation occurred after the burning, when emotions were understandably heightened, and PW-3's own conduct preceded the alleged assault upon him. Consequently, the altercation cannot safely be treated as independent corroboration of Shahnaz's or Muskan's participation in setting Irum on fire, nor does it establish consciousness of guilt. It is therefore assigned no material weight in determining their responsibility for the fatal occurrence. The decisive evidence against Shahnaz and Muskan remains PW-5's account of the statement made by Irum identifying both women as the persons who burnt her. Having considered the objections concerning the relationship of the witnesses, the alleged inconsistencies in the prosecution evidence, the absence of contemporaneous medical certification of Irum's fitness to speak and the alternative account of suicide, this Court, for the reasons recorded in paragraphs 32 and 33 above, accepts PW-5's testimony concerning the declaration as reliable. The medical evidence establishes the

nature, extent and fatal consequences of the burn injuries, while the physical recoveries provide context for the occurrence without independently identifying its perpetrators. The evidence of preceding domestic discord is relevant background but does not, by itself, prove participation in the fatal assault. Nor does the subsequent altercation described by PW-3 constitute independent corroboration of the women's involvement in the burning. Upon a cumulative assessment of the reliable evidence, with particular reliance upon Irum's declaration as recounted by PW-5, this Court finds that the prosecution has proved beyond reasonable doubt that Shahnaz and Muskan intentionally set Irum on fire, causing the injuries from which she died. Accordingly, the charge against Shahnaz and Muskan under section 302(b) PPC stands proved beyond reasonable doubt.

53. The criminal liability of appellant Babar under section 302(b) read with section 34 PPC must be assessed upon the cumulative effect of the prosecution evidence and the principles governing common intention. In *Muhammad Akram v. The State and others* (2007 SCMR 1539) and Abdul Khaliq v. The State (2006 SCMR 1886), the Honourable Supreme Court considered the application of section 34 PPC and the circumstances from which common intention may be inferred. Common intention need not be established by direct proof of an express agreement or by showing that each participant personally performed the act causing death; it may develop at the scene and be inferred from proved circumstances, provided intentional participation is established. In the present case, PW-5 Zeeshan (Ex. 07) testified that Irum, while suffering from the injuries which subsequently caused her death, stated that Shahnaz and Muskan had burnt her in Babar's presence. This places Babar at the occurrence itself. His presence assumes additional significance when considered alongside PW-1 Ali Raza's testimony (Ex. 03), attributing the preceding maltreatment of Irum to all three appellants on account of domestic disputes. The prosecution's case against Babar thus rests upon his contemporaneous presence during the fatal occurrence, the alleged background of shared hostility and the circumstances immediately following the burning. Notwithstanding the severity of Irum's injuries, she remained at the matrimonial residence when

her relatives arrived, and PW-3 Habib Ahmed (Ex. 05) testified that her brother Jameel had gone to arrange an ambulance. These circumstances provide a legitimate basis for examining whether Babar's presence was merely passive or formed part of his association with the criminal act. The evidence that Babar informed PW-1 of the occurrence, spoke to a doctor and subsequently accompanied the family to hospital must also be considered. Those actions are not necessarily inconsistent with earlier participation, although they cannot themselves be treated as incriminating. Of particular procedural significance is Babar's examination under section 342 Cr.P.C. Question No. 2 of his statement (Ex. 14) expressly confronted him with the allegation that he, together with Shahnaz and Muskan, acting with common intention over domestic issues, had beaten Irum, poured petrol upon her and set her on fire in the room of their residence, thereby causing serious burn injuries. His response was a denial, without any particularised explanation in answer to that question. The question identified the participants, the alleged acts, the asserted common intention and the resulting injuries. It therefore conveyed the substance of the incriminating transaction, notwithstanding that PW-5's account of Irum's statement was not reproduced verbatim. The omission to quote that statement separately did not, in itself, deprive Babar of an opportunity to answer the allegation of his participation. His denial does not, however, constitute affirmative evidence of guilt, nor does his failure to elaborate supply an otherwise missing element of the prosecution case. The prosecution's strongest contention remains that his presence at the burning, viewed against the alleged history of joint maltreatment and the surrounding circumstances, supports an inference of intentional association with the conduct of Shahnaz and Muskan. Accordingly, on a cumulative appreciation of the prosecution evidence and the surrounding circumstances, this Court finds that the prosecution has established appellant Babar's guilt under section 302(b) read with section 34 PPC beyond reasonable doubt. His conviction and sentence are, therefore, maintained.

54. For the foregoing reasons, upon reappraisal of the evidence on record and consideration of the submissions advanced by learned counsel for the parties and learned DPG/APG, the conviction and sentences awarded to the appellants, Babar Khanzada, Mst. Shahnaz and Mst. Muskan, by the learned trial Court through its judgment dated 28.07.2025 are maintained, and this Criminal Appeal stands dismissed. These are the reasons for the short order announced on 19.12.2025.

JUDGE
17.10.2026