

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
MIRPURKHAS**

**Criminal Jail Appeal No.S-22 of 2024  
Old Criminal Jail Appeal No.S-08 of 2019.**

Appellant : Muhammad Ayoub s/o Zahoor Ahmed Qureshi  
Through Ms. Salma Fateh advocate

The State : Through Mr. Ghulam Abbas Dalwani,  
Deputy P.G

Complainant : Sultan Qureshi  
In person

Date of hearing : 11 & 18-09-2025.

Date of decision : 18-09-2025

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

**Amjad Ali Sahito, J:-** This judgment shall decide the fate of the captioned Jail Appeal preferred by appellant Muhammad Ayoub s/o Zahoor Ahmed Qureshi through Senior Superintendent Central Prison, Hyderabad, impugning the judgment dated 26-12-2018, passed by learned Additional Sessions Judge-II, Mirpurkhas, in Sessions Case No.176/ 2015 (Re. St.Vs.Muhammad Ayoub), vide FIR Crime No.37/2015, registered for offence punishable under Sections 302, 324, 504 PPC at Police Station Town Mirpurkhas, whereby he, for having committed the murder of complainant's brother Ehsan, was sentenced to suffer imprisonment for life under Section 302(b) PPC, with compensation of Rs.25,000/=, to be paid to the legal heirs of the deceased as provided under section 544-A Cr.P.C, and in default thereof, to suffer S.I for three months more. However, benefit of section 382-B Cr.P.C was extended to the appellant.

2. The facts of the prosecution case are that complainant Sultan Qureshi lodged FIR at PS Town Mirpurkhas on 22-03-2015 at 2300 hours stating therein that on 19-03-2015 at 04.00 a.m he along with his brother Ehsan went and opened their shop namely *Muhammad Din Sweets* when accused Muhammad Ayoub S/o Zahoor Ahmed Qureshi came there and demanded breakfast from his brother Ehsan, on which, he replied that breakfast was

not ready yet as they were just opening shop; whereupon, accused annoyed and started abusing to Ehsan. On this, his brother Ehsan stopped him from abusing, due to which, accused Ayoub annoyed, took out knife/Churri from fold and started causing knife/ Churri blows to Ehsan with intention to commit his murder who, received injuries on his chest, armpit, back and both arms and fell down. Meanwhile, passerby Muhammad Ayoub S/o Muhammad Yaqoob and others came and accused Muhammad Ayoub, seeing to them, ran away with knife/ Churri. Then, they shifted injured Ehsan at Civil Hospital, Mirpurkhas where police also reached and issued letter for medical treatment of injured and the doctors, after providing first aid, referred the injured to L.M.C Hospital Hyderabad, who was admitted there, and complainant came at PS and lodged instant F.I.R. Later on, injured Ehsan succumbed to the injuries on 27-03-2015 at 6.45 a.m in the said hospital.

3. After completion of usual investigation, the I.O submitted a police report under section 173 Cr.P.C before the trial court, showing appellant in custody. After supplying copies of necessary documents to the appellant, charge was framed against him, to which he pleaded not guilty and claimed trial

4. At trial, the prosecution to prove its' case, examined in all five (05) witnesses, who produced numerous documents and then learned Prosecutor closed the prosecution side by filing statement. Thereafter, statement of the appellant/ accused under section 342 Cr.P.C was recorded wherein he denied the allegations being false and claimed his innocence. At first instant the appellant wanted to examine himself on oath as required under section 340(2) Cr.P.C and to examine defence witness Haji Muhammad Usman s/o Shahabuddin; but subsequently, neither he examined himself on oath nor produced his defence witness. After hearing learned counsel for both parties, learned trial Court convicted the appellant through impugned judgment, hence this Criminal Jail Appeal.

5. It is pertinent to mention here that due to absence of learned counsel for the appellant, P.O of the appellant was issued

and in pursuance thereof on last date of hearing he was produced in custody and he submitted that he remained in jail for sufficient time and learnt the lesson and prayed for his acquittal. The complainant Muhammad Sultan, who was also present in Court, has recorded his no objection for acquittal of the appellant and also filed affidavit in this regard.

6. Learned Deputy P.G looking to the above position, raised no objection for conversion of the sentence of the appellant from section 302(b) PPC to section 302(c) PPC and reduction of sentence as one of already undergone.

7. After a careful and thorough examination of the testimony of the sole eye-witness, namely the complainant Muhammad Sultan Qureshi, recorded by the prosecution during the trial, it transpires that the complainant deposed that on 19-03-2015, he and his brother, the deceased Muhammad Ehsan, were present at their sweet shop where they used to sell *halwa* and *puri* as breakfast and were engaged in preparing the same. At about 4:00 a.m., the accused Muhammad Ayoub Qureshi arrived at the shop and demanded breakfast from the deceased Muhammad Ehsan, to which the deceased replied that he should wait as the breakfast was still being prepared. In the meantime, the accused became enraged, used abusive language against the deceased, and upon being cautioned by the deceased not to utter filthy words, the accused drew a *chhuri* (knife) and inflicted repeated blows on the abdomen, ribs, and other parts of the body of the deceased, causing approximately ten injuries.

8. The evidence of the eye-witness/complainant thus indicates that the incident occurred on the spur of the moment, without any prior planning or premeditation. There is nothing on record to suggest that the murder of Muhammad Ehsan was pre-planned. Consequently, I am of the considered view that the appellant did not have the intention to commit *qatl-i-amd* as contemplated under Section 300(a), Pakistan Penal Code. Therefore, the conviction and sentence awarded under Section 302(b), P.P.C., are not sustainable, and the case of the appellant properly falls within the ambit of Section 302(c), P.P.C. In this regard, I am

fortified with the cases of *Amjad Shah v. The State* [PLD 2017 Supreme Court 152], *Zeeshan @ Shani v. The State* [PLD 2017 Supreme Court 165], *Azmat Ullah v. The State* [2014 SCMR 1178].

9. In the case of *Zeeshan @ Shani [supra]*, the Honorable Supreme Court has held that:

*11. The appellant did not premeditate the killing, nor could he have since the complainant party had arrived unannounced at his house. Needless to state that if the complainant side had not sought out the appellant no fight would have occurred. Be that as it may, the appellant should not have struck the deceased with force and that too on a vital part of his body. The appellant, however, struck only a single blow with a simple stick and not with any weapon. Both the victim and the perpetrator were young men and had joined hands to render slaughtering services together. Unfortunately, a dispute over the share of the takings resulted in the death of one of them. There is no reason for us to take a different view from the one taken in the afore-cited precedents. In this case the appellant without premeditation and in the heat of a free fight had struck the deceased with a single blow of a stick. In such circumstances, his case would come within clause (c) of section 302 PPC.*

*12. Therefore, in view of the facts and circumstances of the case it would be appropriate to alter the conviction of the appellant recorded under section 302 (b) PPC to one under section 302 (c) PPC and, consequently, reduce his sentence to ten years rigorous imprisonment whilst maintaining the sentence of fine and the simple imprisonment in default thereof. The benefit under section 382-B of the Cr.P.C. shall be extended to the appellant.*

In another case of *Azmat Ullah [supra]*, the Honorable Supreme Court has held that:

*4. ... A bare perusal of the F.I.R., the statements made by the eyewitnesses before the learned trial Court and the findings recorded by the learned courts below clearly shows that there was no background of any ill-will or bitterness between the appellant and his deceased brother and that the incident in issue had erupted all of a sudden without any premeditation whatsoever. The medical evidence shows that the deceased had received one blow of a chhurri on his chest whereas another blow was received by him on the outer aspect of his left upper arm. The doctor conducting the post-mortem of the dead body had categorically observed that both the injuries found on the dead body of the deceased could be a result of one blow of chhurri.*

*These factors of the case squarely attract Exception 4 contained in the erstwhile provisions of section 300, P.P.C. It has already been held by this Court in the case of Ali Muhammad v. Ali Muhammad and another (PLD 1996 SC 274) that the cases falling in the exceptions contained in the erstwhile provisions of section 300, P.P.C. now, attract the provisions of section 302(c), P.P.C. The case in hand was surely a case of lack of premeditation, the incident was one of a sudden fight which was a result of heat of passion developed upon a sudden quarrel and no undue advantage had been taken by the appellant nor had he acted in a brutal or unusual manner. In these circumstances Exception 4 contained in the erstwhile section 300, P.P.C. squarely stood attracted to the case in hand and, thus, the case against the appellant fell within the purview of the provisions of section 302(c), P.P.C.*

*5. Keeping in view the facts and circumstances of the case this appeal is partly allowed, the conviction of the appellant for an offence under section 302(b), P.P.C. is converted into that for an offence under section 302(c) P.P.C. and consequently his sentence is reduced from rigorous imprisonment for twenty five years to rigorous imprisonment for ten years. The sentence of fine passed against the appellant by the learned trial court and upheld by the Lahore High Court, Lahore has been found by us to be unwarranted because section 302 (b) or 302 (c), P.P.C. do not contemplate any such sentence. Instead of fine we direct that the appellant shall pay a sum of Rs. 50,000 to the heirs of the deceased by way of compensation under section 544-A, Cr.P.C. or in default of payment thereof he shall undergo simple imprisonment for six months. The benefit under section 382-B, Cr.P.C. shall be extended to him. This appeal is disposed of in these terms.*

10. During pendency of instant Jail Appeal, Jail Roll of the appellant was called from the concerned Jail Superintendent, who sent the same vide letter dated 11-09-2025, which shows that appellant has served out 10 years, 05 months and 24 days without remission and has earned remission of 10 years, 03 months and 26 days, hence the appellant has served total sentence more than 20 years. The appellant has served out major portion of his sentence and learnt the lesson as he has undergone for his sentence. Further complainant has also recorded his no objection for acquittal of the appellant and so also learned A.P.G has also raised his no objection for conversion of the sentence of the appellant from section 302(b) PPC to section 302(c) PPC and reduction of sentence as one of already undergone.

11. For what has been discussed above, instant Criminal Jail Appeal was **dismissed** vide short order dated 18.09.2025; however, conviction and sentence awarded through impugned judgment dated 26-12-2018 by the learned trial court to the appellant for an offence under section 302(b) PPC in FIR No. 37/2015 of PS Town Mirpurkhas was converted into that for an offence under section 302(c) PPC and consequently, appellant's sentence was converted from life imprisonment to imprisonment for twenty (20) years. However, compensation amount of Rs.25,000/= was ordered to be paid to the legal heirs of the deceased as provided under section 544-A Cr.P.C, in case of failure whereof, the appellant shall suffer S.I for three months more. Since the appellant has completed his sentence, therefore, concerned Jail Superintendent was directed to release him forthwith if not required in any other case/crime. **Consequently, instant Criminal Jail Appeal stands disposed of with the above modification.** These are the reasons of short order dated 18.09.2025.

**JUDGE**

"Saleem"