

# IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Jail Appeal No.D- 112 of 2019.  
[Confirmation case No.18 of 2019]

Present.  
Mr. Justice Naimatullah Phulpoto.  
Justice Mrs. Kausar Sultana Hussain.

Date of hearing: 08.04.2021.  
Date of judgment: 28.04.2021.

Appellant: Muhammad Ali son of Abdul Sattar Jat  
through Mr. Abdul Hameed Bajwa,  
Advocate.

The State: through Mr. Shahzado Saleem Nahiyoon,  
D.P.G.

Complainant: Abdul Ghafoor through Mr. Pervaiz Tarique  
Tagar, Advocate.

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

**NAIMATULLAH PHULPOTO, J:-** Appellant Muhammad Ali was tried by learned 1<sup>st</sup> Additional Sessions Judge/MCTC, Shaheed Benazirabad , for offence under Section 302 PPC. After regular trial, the learned trial Court vide its' judgment dated 14.06.2019, convicted the appellant for committing Qatl-e-Amd of Ms. Qurat-ul-Ain under section 302(b) PPC as Tazir and sentenced to death. Appellant was directed to pay the compensation of Rs.200,000/- to the legal heirs of deceased Qurat-ul-Ain. In case of default thereof, appellant was further directed to suffer SI for 06 months more.

2. The facts of the prosecution case, as mentioned by the trial court in impugned judgment dated 14.06.2019 are as follows:-

***“The brief facts of the case as narrated in FIR No.43 of 2015 of P.S A-Section Nawabshah lodged on 24.02.2015 by Abdul***

**Ghafoor son of Sher Muhammad Jat are that Muhammad Ali son of Abdul Sttar Jat resident of Jamshed Colony Nawabshah had sought hand of Mst. Qurat-ul-Ain daughter of complainant for marriage. However, complainant refused the above mentioned proposal due to which Muhammad Ali was annoyed and used to state that he would commit murder of Qurat-ul-Ain and thereafter commit suicide. On 24.02.2015 the complainant was available in his house where his son Akbar, brother Muhammad Boota and daughter Qurat-ul-Ain were also available. At about 10:30 a.m. in the morning Muhammad Ali entered in the house of complainant, drawn dagger shaped tool from fold of his Shalwar and approached room of house where Qurat-ul-Ain was available. Qurat-ul-Ain was pulled down and with the dagger shaped tool, accused slaughtered throat of Qurat-ul-Ain. On cries raised by Qurat-ul-Ain the complainant alongwith his above named brother and sons entered into room of Qurat-ul-Ain and saw that Qurat-ul-Ain was lying on floor and blood was oozing. On approach of complainant, accused Muhammad Ali himself slit his own throat with same dagger shaped tool and fell down. The complainant saw that throat of Qurat-ul-Ain has been slit from right to left side and thumb of her left hand, two middle fingers of right hand were also cut and blood was oozing and Mst. Qurat-ul-Ain died on spot. The complainant shifted dead body of Qurat-ul-Ain to PMCH Nawabshah where postmortem was conducted through police and thereafter dead body was returned to complainant who after funeral and burial, lodged F.I.R.”**

It was recorded on 24.02.2015 vide crime No.43/2015 for offence u/s 302 PPC against accused at P.S A-Section Nawabshah.

3. After usual investigation, challan was submitted against accused/appellant under Section 302 P.P.C.

4. Trial Court framed the charge against accused/ appellant under Section 302, 325 P.P.C, to which, he pleaded not guilty and claimed to be tried.

5. At the trial, prosecution examined complainant Abdul Ghafoor (PW-01), Akbar Ali (PW-02), Ashique Ali (PW-3), Dr. Kehaf (PW-4), SIP Muhammad Juman I.O of the case (PW-5), Tapedar Asif Ali (PW-6) and SIP Fazal Muhammad I.O (PW-7). Thereafter, prosecution side was closed.

6. Trial court recorded the statement of accused Muhammad Ali under Section 342 Cr.P.C at Ex.15. Accused claimed his false implication in this case and denied the prosecution allegations. Accused / appellant was asked as to why the PWs have deposed against him? he replied as under:-

**“Due to enmity and I was in love with Qurat-ul-Ain which was cause of dispute between me and complainant therefore the complainant has falsely deposed against me and all the PWs have falsely deposed against me at instance of complainant.”**

Accused / appellant neither examined himself on Oath in disproof of the prosecution allegations, nor led evidence in defence.

7. Trial Court after hearing the learned counsel for the parties and assessment of the evidence available on record came to the conclusion that prosecution had established its' case against the appellant and vide its' judgment dated 14.06.2019 convicted and sentenced the appellant to death, as stated above. Trial Court has made reference to this Court for confirmation of death sentence as required by the law. Hence, appellant has filed the present appeal. By this single judgment, we intend to decide the aforesaid appeal as well as confirmation Reference No.18/2019 sent by the trial Court.

8. Mr. Abdul Hameed Bajwa, learned advocate for appellant mainly contended that actual incident was un-witnessed; complainant is the father of deceased and other PWs are also closely related to the deceased and interested; that no reliance could be placed upon their evidence without any independent corroboration; that deceased has been killed by her father. It is further argued that there are material contradictions in the evidence of prosecution witnesses. Lastly, it is submitted that prosecution has failed to prove its motive at the trial and prayed for acquittal of the appellant.

9. On the other hand, Mr. Shahzado Saleem Nahiyoan, learned Deputy Prosecutor General Sindh assisted by Mr. Parvez Tarique Tagar, learned counsel for the complainant fully supported the impugned judgment. Learned D.P.G contended that the appellant demanded the hand of Ms. Qurat-ul-Ain from her father, on his refusal, he entered into the house of complainant and committed Qatl-e-Amd of Ms. Qurat-ul-Ain and attempted to commit suicide. It is further submitted that witnesses of the incident had no motive to falsely implicate the appellant in this case; that ocular evidence has been fully corroborated by medical evidence. Crime weapon was also recovered from the room of deceased and report of the chemical examiner was positive. Lastly, prayed for dismissal of the appeal.

10. We have heard the arguments of learned counsel for the parties, gone through the entire evidence which has been read out by the learned advocate for the appellant.

11. After our re-assessment of the evidence, we have come to the conclusion that the prosecution has succeeded to prove it's case beyond a reasonable doubt against appellant for the reasons that complainant who is the father of the deceased has deposed that appellant Muhammad

Ali Jat proposed his daughter Quran-ul-Ain but he refused such proposal. Appellant declared that he would commit murder of his daughter and will commit suicide. Complainant has further stated that on 24.02.2015, he was present at his house alongwith his brother Muhammad Boota; his son Akbar Ali and his daughter Quran-ul-Ain who was present in her room. At about 10-30 a.m, accused Muhammad Ali entered into his house and drew out a knife shaped weapon from the fold of his shalwar and pushed his daughter Qurat-ul-Ain and cut her throat. Keeping in view the importance of evidence of the complainant, examination-in-chief of Abdul Ghafoor (PW-1) is reproduced hereunder:-

***“I have four sons and four daughters and one of my daughter has died. My daughter who died was Qurat-ul-Ain. Muhammad Ali Jat had sought hand of my daughter Qurat-ul-Ain for purpose of marriage but I refused. Due to my refusal Muhammad Ali Jat had stated that he would commit murder of my daughter Qurat-ul-Ain and also commit suicide. On 24.02.2015 I was available in room of my house alongwith my brother Muhammad Boota, my son Akbar Ali. My daughter Qurat-ul-Ain was available in her room. At about 10:30 a.m. in the morning accused Muhammad Ali Jat entered into my house and drawn knife shaped tool from fold of his Shalwar. He pushed down my daughter Qurat-ul-Ain and slit her throat with knife. On hearing screams of my daughter I rushed towards her room and saw that my daughter Qurat-ul-Ain was lying on floor with slit throat and blood was oozing. Her thumb of right hand was also cut and three middle fingers of left hand had also been cut. On our approach accused Muhammad Ali with his knife shaped tool cut his own throat and fell down. At 10:45 a.m. I informed police of P.S A-Section Nawabshah. Police official Fazal Mehmood and his staff arrived at our house and I pointed out dead body of Qurat-ul-Ain to police and also shown them injured Muhammad Ali. Police shifted dead body of my daughter and injured Muhammad Ali to hospital in mobile van. At emergency ward of hospital ASI Fazal Mehmood prepared mashirnama in presence of Ashique and Muhammad Nasir. At 11:15 a.m. dead body of my daughter was taken for postmortem which continued till 11:45 a.m. At about 02:00 p.m. police handed over me dead body of my deceased daughter and I signed such receipt. I produce receipt at Ex.7/A and say that it is same correct and bear my signatures. After burial of deceased I reached P.S A-Section Nawabshah at 08:00 p.m. where I lodged FIR of murder. ASI Juman registered FIR. I produce FIR as Ex.7/B and say that it is same correct and bear my signatures. Thereafter, I pointed out place of incident to police inside my house. I shown room of my deceased daughter to police where incident occurred and pointed out blood of my deceased daughter at place of incident. Police brought sand outside of my house and put the same on blood and secured the same in empty packet of cigarette and sealed the same in white cloth. Police also secured knife shaped tool from place of incident and sealed the same in white cloth. Thereafter, at 10:30 p.m. in the night on 24.02.2015 I produced blood stained clothes of my deceased daughter before ASI Juman who sealed the same.*”**

The complainant was cross examined at length by the defence counsel and denied the suggestion that he had not witnessed the incident. Complainant has also denied that he had not made efforts to rescue his daughter.

Akbar Ali (PW-02) has deposed that deceased was his sister. Appellant demanded her hand. On refusal, he declared that he would commit the murder of his sister and will commit suicide. On 24.02.2015 PW-Ali Akbar was present alongwith his father and uncle Boota at home, his sister was also available in her room. At about 10:30 a.m, accused Muhammad Ali entered into the house and he was armed with knife. Accused / appellant dragged Qurat-ul-Ain and cut her throat. During the incident deceased received injuries on other parts of the body also. PW Akbar Ali was cross examined at length and denied the suggestion that he was deposing falsely.

Ashiq Ali (PW-3)/mashir acted as mashir of the inspection of dead body, mashir of injuries of accused, of his arrest and stated that Investigation Officer visited the place of wardat in his presence at the house of the complainant and secured crime weapon like knife and blood stained earth from the house of complainant. He also deposed that mashirnama of recovery of clothes of deceased was prepared in his presence. He was also cross examined by the defence counsel and denied that he acted as mashir at the instance of complainant.

Dr. Kehaf (PW-4) deposed that on 24.02.2015 she received the dead body of Qurat-ul-Ain, the daughter of complainant, at about 11:30 a.m. The dead body was brought by ASI Fazal Mehmood. Doctor started postmortem examination at 11:45 a.m and completed at 01:45 p.m. On external examination of the body, Doctor found eight (08) injuries. On internal examination of dead body, she found that major vessels viz. Carotid, jugger and tranchea damaged, leading to bleeding and cardio vascular failure due to injury No.8. Doctor had also taken vaginal swabs, which were sent for chemical examination and the swabs were not found stained with semen. Probable time between injury and death was instantaneous. Probable time between death and postmortem about 02 hours. The injury No.8 was sufficient to cause death of the girl. Unnatural death of the deceased is not disputed by the defence counsel. In our considered view, finding of the trial court in this regard requires no interference by this court.

SIP Fazal Muhammad (PW-7) deposed that on 24.02.2015 at about 10-45 a.m. he received telephonic call of the complainant that accused Muhammad Ali has committed the murder of his daughter by some knife/

sharp cutting weapon. He went to the place of incident, shifted the dead body of deceased Quran-ul-Ain and injured Muhammad Ali to the hospital, sent the dead body for postmortem examination and report, prepared inquest report in presence of the mashirs. After postmortem by Doctor he handed over the dead body of deceased to complainant. In cross examination, he denied the suggestion that he has not discharged his duty properly.

Muhammad Juman (PW-5) conducted the investigation of the case. He lodged FIR against accused on 24.02.2015 vide crime No.43/2015 u/s 302 PPC, arrested the accused in injured condition in hospital in presence of the mashirs, prepared such mashirnama. Inspected the place of incident, situated in the house of complainant, secured blood stained earth and knife shaped weapon lying at the place of incident, sealed the same in presence of the mashirs. I.O recorded statements of PWs, dispatched blood stained earth, dagger shaped weapon to the chemical examiner for analysis, received positive reports. On the conclusion of investigation, submitted challan against the accused. I.O was also cross examined. He denied the suggestion that all mashirnamas were prepared at police station. However, he admitted that he had received chemical examiner report on 09.03.2015.

Prosecution has also examined Tapedar Asif Ali (PW-6) who had prepared the sketch of place of wardat situated in the house of complainant, shown to him by the complainant and it was produced before the trial court.

12. It will not be out of place to mention here that appellant was separately tried for an offence u/s 325 PPC by learned Civil Judge & Judicial Magistrate-I, Nawabshah, who vide its` judgment dated 12.01.2016 convicted the appellant u/s 325 PPC. Appellant preferred appeal before the learned Sessions Judge, Shaheed Benazirabad, the same was dismissed vide judgment dated 31.07.2017. These facts have been mentioned by the trial court in the impugned judgment.

13. We have carefully heard the learned advocates for parties and perused the evidence minutely. Evidence of PWs 1 and 2 is corroborated by medical evidence and positive report of crime weapon. At the cost of repetition, relevant portion of the evidence of complainant is reproduced hereunder:-

***“I have four sons and four daughters and one of my daughter has died. My daughter who died was Qurat-ul-Ain. Muhammad Ali Jat had sought hand of my daughter Qurat-ul-Ain for purpose of marriage but I refused. Due to my refusal***

***Muhammad Ali Jat had stated that he would commit murder of my daughter Qurat-ul-Ain and also commit suicide. On 24.02.2015 I was available in room of my house alongwith my brother Muhammad Boota, my son Akbar Ali. My daughter Qurat-ul-Ain was available in her room. At about 10:30 a.m. in the morning accused Muhammad Ali Jat entered into my house and drawn knife shaped tool from fold of his Shalwar. He pushed down my daughter Qurat-ul-Ain and slit her throat with knife. On hearing screams of my daughter I rushed towards her room and saw that my daughter Qurat-ul-Ain was lying on floor with slit throat and blood was oozing. Her thumb of right hand was also cut and three middle fingers of left hand had also been cut. On our approach accused Muhammad Ali with his knife shaped tool cut his own throat and fell down. At 10:45 a.m. I informed police of P.S A-Section Nawabshah.***

Akbar Ali (PW-2), the son of the complainant was also eye witness of the incident, he has also fully supported the case of prosecution. Lady doctor Kehaf (PW-4) who carried out the postmortem examination of Qurat-ul-Ain, deposed that deceased had sustained in all 08 inside wounds by means of sharp cutting object. Evidence of the complainant Abdul Ghafoor and PW-2 Akbar Ali is quite reliable and corroborated by medical evidence. Evidence of both the eye witnesses is consistent on material particulars of the case. Incident occurred on 24.02.2015 at 10:30 a.m in the house of complainant and within 15 minutes complainant narrated incident to police on Phone. Mere close relationship of eye witnesses with deceased is no ground to reject their testimony, particularly, when PWs had no motive to falsely implicate the appellant in this case. **It is a settled principle of law that mere relationship between the witnesses and the deceased is not enough to discard their evidence. It is duty and obligation of the court for requiring corroboration of interested witnesses then it must first ascertain whether he saw the occurrence and was in a position to identify the accused and whether he should be believed without corroboration.** Eye witnesses were present in the house and had witnessed the episode. However, there are some minor contradictions in the evidence of prosecution witnesses. We consider these minor contradictions, not material so as to effect the prosecution case. Reliance is placed upon the case of **Zakir Khan and others vs. The State (1995 SCMR 1793)**. Undoubtedly, it is for the prosecution to prove its case against accused beyond a reasonable doubt. Prosecution has succeeded to prove its` case. Appellant failed to explain his presence in injured condition alongwith dead body of Ms. Qurat-ul-Ain in the house of complainant. Defence plea that appellant had love with the deceased which caused annoyance to the complainant appears to be after thought and appellant failed to substantiate his defence theory and the trial court

has rightly disbelieved it. Even otherwise, demand / proposal of the appellant for deceased girl without acceptance of other side had no value at all. In these circumstances, it is quite obvious to us that the motive asserted by the prosecution had remained proved at trial. Prosecution evidence is firm leaving no margin for the hypothesis of innocence of the appellant. The occurrence in this case as per prosecution case took place on 24.02.2015 at 10-30 a.m in the house of the complainant. Presence of eye witnesses in the house at the time of incident has been established. The contention of the defence counsel that PWs did not rescue the deceased, makes the prosecution case doubtful is without any substance for the reasons that appellant was desperate; he had no dignity of human being. He had killed an unmarried girl and attempted for suicide. Eye witnesses had also life threats at the time of incident. We find that attack of the appellant upon deceased on rejection of the proposal which led to death of Ms. Qurat-ul-Ain was brutal and barbaric, causing 08 incised wounds on various parts of her body. In this respect, evidence of Lady Dr. Kehaf (PW-04) is reproduced below for ease of reference:-

- “1. Incised wound 2 cm x 1x ½ cm on right thumb anteriorly, muscle deep tendon visible.**
- 2. Incised wound 2 cm x 2 cm x 1 cm on left index finger with cut on terminal phanax.**
- 3. Incised wound 1 cm x 1 cm x ½ cm at the base of first phanax of left index finger.**
- 4. Incised wound on terminal phanax chopping out of terminal phanax of middle finger of left hand.**
- 5. Incised wound 1 cm x 1 cm x ½ cm in between middle and terminal phanax of left hand muscle visible.**
- 6 Incised wound 1 cm x 1 cm x ½ cm left ring finger terminal phanax.**
- 7. Incised wound 4 cm x 2 cm x ½ cm on left cheek extending from pinna of left ear near to angle of mouth muscle deep.**
- 8. Incised wound 14 cm x 4 cm x 3 cm extending from right sternocleidomastoid muscle cutting the major vessels (Carotid, jugger) and trachea.”**

14. Now, the question in this case only is to consider as to whether appellant deserves the sentence of death on the charge of qatl-e-amd of daughter of the complainant Ms. Qurat-ul-Ain. In the case of **Tariq Iqbal alias Tariq vs. State (2017 SCMR 594)**, murder was committed by the appellant in furtherance of a robbery and a young lady in her prime had been butchered by the appellant inside her house by giving as many as 10 churri blows on different parts of her body. Such conduct displayed by



appellant clearly showed that appellant was a cruel desperate person who deserved no sympathy in the matter of his sentence. Sentence of the appellant to death was maintained. Relevant portion of the judgment is reproduced as under:

“3. Leave to appeal had been granted in this case only to consider as to whether the appellant deserved the sentence of death on the charge of murder or not and at the stage of granting leave to appeal the merits of the appellant's case had not been pressed before this Court. This shows that the question of the appellant's guilt as well as all the factual allegations leveled by the prosecution against the appellant now conclusively stand settled and accepted. The appellant had trespassed into the complainant's house, had killed the complainant's wife and had robbed different articles available in the complainant's house which articles had later on been recovered from the appellant's custody. The appellant had made an extra-judicial confession before two witnesses and had also made a judicial confession before a Magistrate. The murder in issue had been committed by the appellant in furtherance of a robbery and a young lady in her prime had been butchered by the appellant inside her house by giving as many as 10 chhurri blows on different parts of her body. Such conduct displayed by the appellant clearly shows that the appellant is a cruel and desperate person who deserves no sympathy in the matter of his sentence. This appeal is, therefore, dismissed.”

15. We have not been able to find out even a smallest space to entertain any hypothesis other than appellant's guilt; he had committed murder of innocent unmarried girl by causing her multiple knife blows on different parts of her body on refusal to marry with appellant. We have tried to find any mitigating circumstance in favour of the appellant for lesser punishment but have found none. Such conduct displayed by appellant clearly shows that appellant is a cruel and desperate who committed the murder of a girl in her house in presence of the father and brother. Appellant deserved no sympathy in the matter of his sentence.

16. For the above stated reasons, this appeal is, therefore, **dismissed**, impugned judgment is upheld, Confirmation Reference is answered in “**AFFIRMATIVE**”.

JUDGE

JUDGE