

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Criminal Jail Appeal No.S-233 of 2019

Criminal Jail Appeal No.S-235 of 2019

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Appellants : 1. Imdad Ali s/o Maroof Faqeer Bozdar.
2. Muhammad Nawaz s/o Soobo Bozdar.

Through : M/s Muhammad Iqbal Memon, Nusrat Hussain Memon and Mehfooz Ahmed Awan, advocates.

State through : Mr. Aftab Ahmed Shar, Additional P.G.

Date of hearing : **20-09-2021**
Date of decision : **-10-2021**

J U D G M E N T

Amjad Ali Sahito, J.- By this single judgment, I intend to dispose of the above Crl. Jail Appeals separately filed by the appellants Imdad Ali and Muhammad Nawaz both bycaste Bozdar through Senior Superintendent Central Prison and Correctional Facility Sukkur, whereby they have impugned one and same judgment dated 19-10-2019 passed by learned Ist Additional Sessions Judge (MCTC) Ghotki in Sessions Case No.23 of 2011 (Re. The State Vs. Ali Akbar Bozdar and others arising out of Crime No. 155/2010, offence u/s 302, 324, 504, 427, 147, 148, 149 PPC registered at police station Mirpur Mathelo, thereby they have been convicted and sentenced as under:-

- Accused Imdad and Muhammad Nawaz are convicted for offence punishable u/s 148, r/w Section 149 P.P.C and sentenced to undergo R.I for two years and to pay fine of Rs.10,000/- each and in case of non-payment of fine, they shall suffer S.I for one month more.
- Accused Imdad Ali and Muhammad Nawaz are also convicted for offence punishable u/s 302 (b) r/w Section 149 PPC and sentenced to suffer R.I for life as Tazir and to pay Rs.200,000/- (Rupees two lacs) each, to be paid to the legal heirs of the deceased as compensation as provide u/s 544-A, Cr.P.C, in case of non-payment of such compensation they shall suffer S.I for six months more.

- Accused Imdad Ali and Muhammad Nawaz are also convicted for offence punishable u/s 324, r/w Section 149 PPC and sentenced to undergo R.I for ten years and to pay fine amount of Rs. 50,000/-each and in case of non-payment of fine, they shall suffer S.I for three months more.
- Accused Imdad Ali and Muhammad Nawaz are also convicted for an offence punishable u/s 337A(i), r/w section 149 PPC for causing shajjah-i-Khafifah on the person of injured PWs Shahzado and Karim Bux, and sentenced to undergo R.O for two years as Tazir and also to pay Daman of Rs. 5000/- each to both the injured PWs and in case of non-payment thereof, they shall undergo S.I for one month more.
- Accused Imdad Ali and Muhammad Nawaz are convicted for offence punishable u/s 337F(iii) r/w section 149 PPC for causing Ghyre Jaifah Mutalahimah on the persons of injured PW Ali Muhammad and sentenced to undergo R.I for three years as Tazir and also to pay Daman of Rs. 10,000/- each to the injured PW, and in case of non-payment thereof, they shall undergo S.I for two months more.
- Accused Imdad Ali and Muhammad Nawaz are convicted for offence punishable u/s 337F(v) r/w section 149 PPC for causing Ghayr Jaifah Hashimah on the person of injured PW Munir Ahmed and sentenced to undergo for five years as Tazir and also to pay Daman of Rs. 10,000/- each to the injured PW and in case of non-payment thereof, they shall undergo S.I for two months more.
- Accused Imdad Ali and Muhammad Nawaz are convicted for offence punishable u/s 427 r/w section 149 PPC for causing mischief by way of damages to the car of the complainant and sentenced to undergo R.I for two years and to pay fine of Rs. 100,000/- and in case of failure to pay the same, they shall undergo S.I for three months more.

However, the benefit of section 382B Cr.P.C was also awarded to the appellants.

2. Briefly, the facts of the prosecution case are that complainant Amir Bux Bozdar lodged the FIR on 17-07-2010 alleging therein that there was matrimonial dispute between him, accused Akbar Bozdar and others, whereupon they were annoyed and used to express that they will not spare them. On the same day, the

complainant along with his brother Karim Bux, nephews Munir Ahmed, Shahzado and niece Shakeelan were going from their village towards Mirpur Mathelo in their Mehran Car for treatment and complainant was driving the Car. When they reached Lund Miner situated at link road Garhi Chakar to Jhangan at about 8-00 am, where they saw and identified accused Ali Akbar, 2. Ali Asghar armed with Kalashnikovs 3. Muhammad Nawaz, 4. Rabnawaz with guns, 5. Qamaruddin with pistol, 6. Imdad with gun, who were standing on left side of the road and two motorcycles were parked near them. Accused Ali Akbar challenged and declared that complainant party had survived much, today they will not spare and would be killed them. Complainant then accelerated the car, but the accused had made straight fires upon them with intention to commit their murder. Complainant raised cries, to which all the accused decamped on motorcycle towards east. After departure of the accused persons, the complainant noticed that his niece Mst. Shakeelan had sustained one firearm injury on back side of her head, which was through and through, brain matter was out and blood was oozing out and within their sight, she had died. PW Munir Ahmed had sustained one firearm injury on left upper arm and one firearm injury on testicles, blood was oozing from his wounds. PW Karim Bux had sustained one injury on back side of his head. PW Shahzado had sustained injury on back side of his head and blood was oozing. Thereafter, the complainant alighted from the car and found that one passerby boy namely Ali Muhammad Bozdar had also received injuries on his both knees and blood was oozing from his wounds and was in semi unconscious. The complainant also noticed that damages were caused to car due to firing of accused persons. Then the complainant brought dead body of deceased Mst. Shakeelan and injured PWs towards DHQ Hospital Mirpur Mathelo, obtained letter from the police and got injured referred to Rahimyar Khan for better treatment. After postmortem of deceased Mst. Shakeelan, completed the funeral and burial ceremonies, ultimately he came at police station and lodged the above said FIR.

3. After usual investigation, I/O ad submitted the challan u/s 173 Cr.P.C against the accused named above, by showing them as absconders. After codal formalities, they were declared as proclaimed offenders and proceedings u/s 87/88 Cr.P.C were initiated against them. Thereafter accused Imdad Ali was arrested and brought before the Court having jurisdiction to face the trial. After supplying the case papers, the charge against him was framed at Ex. 7, to which he pleaded not guilty and claimed for trial vide his plea recorded at Ex. 8. Subsequently the R & Ps of the case were received by the Court of learned Ist Additional Sessions Judge/(MCTC) Ghotki by way of transfer from the Court of learned Sessions Judge Ghotki on 10-01-2014 for its disposal according to law. After that accused Muhammad Nawaz was also arrested and after supplying the case papers to him, the amended charge was framed against accused Imdad and Muhammad Nawaz.

4. In order to establish the charge against the accused persons, the prosecution examined PW/1 Dr. Kawita at Ex. 19, she produced postmortem report of deceased Mst. Shakeelan at Ex. 19/A. PW/2 Complainant Amir Bux Bozdar at Ex. 20, who produced receipt of receiving the dead body of deceased Mst. Shakeelan at Ex. 20/A, FIR at Ex. 20/B. PW/3 injured Karim Bux at Ex. 21, who produced his statement u/s 164 Cr.P.C at Ex. 21/A. PW/3 injured Munir Ahmed at Ex. 22, PW/5 injured Shahzado at Ex. 23, who produced his statement u/s 164 Cr.P.C at Ex. 23/A. PW/6 ASI Khan Muhammad at Ex. 24, who is author of the FIR and verified the contents of FIR. PW/7 injured Ali Muhammad at Ex. 25, PW/8 Dr. Shabbir Ahmed Dayo at Ex. 26, who produced MLCs of injured PWs namely Ali Muhammad, Munir Ahmed, Karim Bux and Shahzado at Ex. 26/A to 26/D respectively. PW/9 Tapedar Ghulam Murtaza at Ex. 27, who produced the sketch of wardhat at Ex. 27/A, PW/10 corpse bear PC Ghulam Rasool at Ex. 28, PW/11 I/O ASI Abdul Qadir at Ex. 29, who produced mashirnama of injuries of injured PWs at Ex. 29/A, PW/12 Mashir Abdul Hameed at Ex. 30, who produced mashirnama of inspection of dead body at Ex. 30/A, mashirnama of recovery of clothes of deceased at Ex. 30/B, mashirnama of place of wardhat and

recovery of bloodstained earth and empty shells at Ex. 30/C, mashirnama of inspection of car at Ex. 30/D. PW/13 I.O ASI Sukhio Khan Shar at Ex. 31, who also verified all the documents, which he had prepared during his investigation. PW/14 I.O Inspector Zulfiqar Ali at Ex. 32, who produced chemical examiner report at Ex. 32/A, PW/15 ASI Pir Bux at Ex. 33, who produced mashirnama of arrest of accused Muhammad Nawaz at Ex. 33/A, PW/16 SIP Abdul Hameed at Ex. 34, who produced attested copy of mashrinama of arrest of accused Imdad Ali at Ex. 34/A. Thereafter, learned DDPP for the State closed the side of prosecution vide his statement at Ex. 35.

5. After conclusion of trial, the statements u/s 342 Cr.P.C of accused were recorded by learned trial at Ex. 36 & 37, to which the accused had denied the allegations and pleaded their innocence. Accused Imdad Ali has produced certified true copy of FIR bearing Crime No. 219/2009 PS Mirpur Mathelo at Ex. 36/A, certified true copy of challan sheet u/s 173 Cr.P.C of same Crime at Ex. 36/B, certified PS true copy of FIR bearing Crime No. 222/2010 PS Mirpur Mathelo at Ex. 36/C, certified true copy of challan of same crime No. 222/2019 at Ex. 36/D, PS copy of an application moved by his brother Muhammad Hassan at Ex. 36/E, letter at Ex. 36/F, reinvestigation report at Ex. 36/G. Accused Muhammad Nawaz has also produced with his statement certain documents viz. PS copy of FIR No. 219 of PS Mirpur Mathelo at Ex. 37/A, PS copy of challan at Ex. 37/B, PS copy of FIR No. 222/2010 of PS Mirpur Mathelo at Ex. 37/C, vehicle details at Ex. 37/D. They did not opt to examine themselves on oath but intended to lead the evidence in their defence. Both the accused examined DW/1 Muhammad Hassan, DW/2 Nabi Bux, DW/3 Qaim Khan, DW/4 Naib Ali at Ex. 38 to 41 respectively. They also took the plea that they had falsely been involved in this case due to previous murderous enmity with Rabnawaz and others. Per record, on DW SIP Fateh Ali Bhanbhro of Crime Branch Sukkur had expired, such statement of process server inspector/incharge process Cell MCTC Ghotki was recorded at Ex. 42, however ASI Mir Muhammad of Crime branch Sukkur was examined being well conversant with the signature of late SIP

Fateh Ali at Ex. 44, who verified the enquiry report, which was already produced at Ex. 36/G and bears signature of late SIP. Thereafter, the learned advocate for accused closed the side of accused Imdad Ali vide his statement at Ex. 45. Accused Muhammad Nawaz examined DW No.6 Hussain Bux at Ex. 46, who produced attested PS copy of letter and attested PS copy of vehicle registration details of vehicle Suzuki Saloon bearing registration No.8-3286 at Ex. 46/A & 46/B and attested PS copy of vehicle registration of details of Suzuki Saloon bearing registration No.S-7091 at Ex. 46/C. Thereafter learned counsel for the accused Muhammad Nawaz, closed his side vide Ex. 47.

6. After hearing the learned counsel for parties and on assessment of the evidence, learned trial Court convicted and sentenced the appellants as mentioned above vide judgment dated 19-10-2019, which is impugned by the appellants by way of filing instant Crl. Jail Appeals.

7. Learned counsel for the appellants argued that the impugned judgment is against the law and facts of the case; that the appellants are innocent and have been falsely implicated in the case by the complainant due to previous enmity, which complainant himself has admitted in the FIR; that there is inordinate delay of 13 hours in lodging the FIR, who shows consultation and deliberation on the part of complainant and the statement u/s 161 Cr.P.C PWs were also recorded after one day of the registration of FIR; that all the PWs cited in the FIR and examined by the prosecution are close relatives of the complainant, hence they being interested witnesses have deposed against the appellants/accused; that there are material contradictions and improvements in the ocular, circumstantial and medical evidence; that all the accused nominated in the FIR belongs to one and same family and complainant had falsely implicated them; that the appellants have produced sufficient documentary proof regarding their innocence, but the same was not considered by learned trial Court while passing the judgment. In support of their contention they have relied upon cases reported as *Muhammad Mansha Vs.*

The State (2018 SCMR 772), Muhammad Ilyas Vs. The State (1997 SCMR 25) and certified copy of judgment passed by this Court in Cr. Jail Appeal No.D-36 of 2013 (Re. Muhammad Aslam Vs. The State).

8. Learned Additional Prosecutor General, while rebutting the above contentions argued that the appellants are nominated in the FIR with specific role that they have committed the murder of Mst. Shakeelan and caused firearm injuries to the injured witnesses; that the ocular evidence is supported by the circumstantial evidence, therefore he supported the impugned judgment and opposed for the acquittal of the appellants.

9. I have heard the learned counsel for the parties and have gone through the evidence as well as the impugned judgment with their assistance.

10. On careful perusal of the material brought on record, it appears that the prosecution case solely depends upon the ocular evidence adduced in shape of evidence of complainant and injured/eyewitnesses and supported by the medical as well as circumstantial evidence. It has brought on record that on the eventful day at about 7-00 am as narrated by the (PW/2) complainant that he along with his brother Karim Bux, nephews Munir Ahmed, Shahzado and niece Shakeelan were going from their village towards Mirpur Mathelo for treatment of Karim Bux in their Mehran Car, driven by the complainant. When they reached Lund Miner situated at link road Garhi Chakar to Jhangan at about 8-00 am, where they saw six accused persons, who were identified as accused Ali Akbar and Ali Asghar armed with Kalashnikovs, Muhammad Nawaz, Rabnawaz and Imdad with guns, Qamaruddin with pistol, who were standing on left side of the road and two motorcycles were parked near to them. When they reached closed to the accused, then accused Ali Akbar raised "Hakal" and said to them that today he will kill them and they should not be spared. In the meanwhile, complainant had tried to accelerate the speed of car, but all the accused from their respective weapons directly fired upon them, to which, they raised cries, thereafter, all the accused by boarding on two motorcycles

succeeded in fleeing away. After their departure, they notice that niece baby Shakeelan had received on fire arm injury on her back side of her. Such fire was through and through and blood was oozing from her wounds and other injured PWs had also sustained firearm injuries on different parts of their body. It is important to note here that one passerby boy aged about six years also sustained firearm injuries of left as well as rights side of his knees. The dead body of deceased Mst. Shakeelan shifted to Hospital for postmortem and injured also referred for treatment. Ultimately, the complainant lodged the above said FIR. During course of investigation, the police has secured bloodstained earth of deceased, six empty cartridges of 12 bore gun, six empty shells of Kalashnikov and two empty shells of 30 bore from the place of incident and same were sealed. In cross examined the complainant has admitted that accused Akbar Ali was the first person who firstly fired upon them, which was hit to Mst. Shakeelan, but subsequently he recognized that all the accused fires upon them, as such he cannot say that fire of which accused hit to Mst. Shakeelan as he has accelerated the speed of car and fires were made from back side of the car. To strengthen the version of the complainant, the prosecution has examined (PW/3) Karim Bux, (PW/4) Munir Ahmed and (PW/5) Shahazado, they all are the injured eyewitnesses of the incident and supported the version of the complainant by stating that on the day of incident they were present in the Car and after receiving the bullet injuries, they were shifted to The Civil Hospital Mirpur Mathelo and first aid was provided to them and then they were referred to Rahimyar Khan for their better treatment. In the cross examined, PW Karim Bux admitted that till today his daughter Mst. Amina has not been permitted to meet with them and denied a suggestion that whole were made in the car with drill machine. All the witnesses were cross-examined by the defence counsel at length, wherein multiple questions were asked to shatter their confidence and also presence at the scene of occurrence but could not extract anything from their mouth and they remained consistent on material points.

11. In the instant case, PW/7 Ali Muhammad is independent

witness, who deposed that at the time of incident he was going to School by foot and when reached near Lund Wah, where he had received firearm injuries in his both the legs from the back side and then he became unconscious. He further deposed that at the time of incident he was aged about 6/7 years, therefore he had not seen the accused, hence he cannot say accused present in Court are same or not, therefore the question of identity of accused does not arise here. All other eyewitnesses of the incident who are also injured witnesses have specifically explained the date, time and place of occurrence as well as each and every event of the occurrence. The parties are known to each other, which is evidence from their evidence and it is the day time incident, so there was no chance of mistaken identification of the appellants. I would not hesitate that where the witnesses fall within the category of natural witnesses and detail the manner of the incident in a confidence-inspiring manner then only escape available to the accused/appellants is that to satisfactorily establish that witnesses, in fact, are not the witnesses of truth, but “**interested**” witnesses. An interested witness is not the one who is relative or friend but is the one who has a motive to falsely implicate an accused. No substance has been brought on record by the appellants to justify their false implication in this case at the hands of complainant party on account of the previous enmity. In this context, the reliance can safely be placed on the case of **Lal Khan v. State 2006SCMR 1846** wherein at Rel. P-1854 it is held as :

... The mere fact that a witness is closely related to the accused or deceased or he is not related to either party, is not a sole criteria to judge his independence or to accept or reject his testimony rather the true test is whether the evidence of a witness is probable and consistent with the circumstances of the case or not.

12. Thus, mere relationship of these eye-witnesses with the deceased alone is not enough to discard the testimony of complainant and his witnesses. In matters of capital punishments, the accused would not stand absolved by making a mere allegation of dispute/enmity but would require to bring on record that there

had been such a dispute/enmity which could be believed to have motivated the “**natural witnesses**” in involving the innocent at the cost of escape of “**real culprits**”.

13. The direct evidence also finds corroboration from the medical evidence with regard to cause of death of deceased Mst. Shakeelan and time of the incident and weapon used in commission of offence. It is established from the evidence of Women Medical Officer Dr. Kavita, who deposed that on 17-07-2010 she was posted as WMO at Civil Hospital DHQ Mirpur Mathelo. On the same day, she received dead body of deceased Mst. Shakeelan through PC Ghulam Rasool of PS Mirpur Mathelo for postmortem and report. She started the postmortem examined at 09-10 am and finished at 10-10 am, on the same date. On external examination she found following injuries on the body of the deceased Mst. Shakeela.

INJURIES.

One firearm injury over occipital region to upper part of forehead upper scalp born was not present brain matter was out of scalp.

On interim examination of the dead boy, she found the following damages.

Scalp, skull, vertebrae, brain, spinal cord and membrane were damaged and blood vessels were damaged at the site of injuries, whereas all other organs were healthy and intact.

Opinion.

From the external as well as internal examination of the dead body of the deceased Mst. Shakeela, she had formed her opinion that the death had occurred due to shock and inters carnal hemorrhage. Injury was caused by discharge from fire arm. Injury was sufficient to cause death in ordinary course of life. Duration between injury and death was instantaneously and between death and postmortem was about 2/3 hours. In cross examination, she admitted that “*occipital region means back side of head. Cranium was totally burst Since the brain was totally burst therefore, she could not assess the entry wound or exit wound. The total brain was burst*”.

14. The prosecution also examined PW/8 Dr. Shabbir Ahmed Dayo, who was incharge DHO, Civil Hospital Sukkur, who in his evidence has deposed that on 17-07-2010 he was posted as MO at Civil Hospital DHQ Mirpur Mthelo. On the same day at about 8-30 am, he had received injured Ali Muhammad, Karim Bux, Munir Ahmed and Shahzado through HC Jarwar PS Mirpur Mathelo for medical treatment, examination and certificate.

Firstly he examined the injured Ali Muhammad and found following injuries on his person.

INJURIES.

1. One lacerated punctured wound measuring 1 ½ cm x 1 ½ cm x muscle deep over the right lower leg, below the knee joint anterioplaterly wound of entry.
2. One groove type wound measuring 2 cm x 1 cm muscle deep over the left lower leg, below the knee joint anterioplaterly.

NOTE: X-ray right knee joint with lower leg, AP ad laterally view shows one metallic shadow of bullet seen. No bony injury or lesion seen. X-ray of left lower leg AP and laterally view dated 17.7.2010 shows no traumatic bony injury or lesion seen.

As per his opinion both the aforesaid injuries were caused by discharge from fire arm and declared the injuries as Ghayr Jaifah Mutalahimah. Probable duration of injuries was fresh. He had prepared such medical certificate, which he produced at Exh.26-A and recognized that it is same, correct and bears his signature.

Secondly I had examined the injured Munir Ahmed son of Karim Bux by caste Bozdar, and found following injuries on his person.

INJURIES.

1. One lacerated punctured wound measuring 5 cm x 5 cm with inverted margin over the upper arm left side above elbow join (wound of entry).
2. One lacerated wound 6 cm x 6 cm over the left upper arm anterior medially with averted margins (wound of exit). Injuries No.1 and 2 are communicated with each other and clinically fracture left humerus.

NOTE: X-ray of left upper arm AP and lateral view shows fracture of left humerus in shaft.

As per his opinion both the injuries were caused by discharge from fire arm and declared the same as Ghayr Jaifah Hashimah. Probable duration of injuries was fresh. He had prepared such medical certificate, which he produced at Exh.26-B and recognized that it is same, correct and bears his signature.

Thirdly I had examined the injured Karim Bux son of Peer Bux by caste Bozdar and found following injury on his person.

INJURY.

1. One linear incised wound measuring 2 cm x $\frac{1}{4}$ x $\frac{1}{4}$ cm deep over left parietal region of skull.

As per my opinion the injury was caused by sharp cutting substance, which was declared as Shajjah-i-khafifah. Probable duration of injury was fresh. I had prepared such medical certificate, which I produce at Exh.26-C and say that it is same, correct and bears my signature.

Lastly he had examined the injured Shahzado son of Karim Bux by caste Bozdar and found following injury on his person.

INJURY.

One linear incised wound measuring 2 cm x $\frac{1}{4}$ x $\frac{1}{4}$ cm deep over the occipital region of skull.

As per his opinion the injury was caused by sharp cutting substance, which was declared as Shajjah-i-Khafifah. Probable duration of injury was fresh. He had prepared such medical certificate, which he produced at Exh.26-D and say that it is same, correct and bears his signature.

15. The investigating officer of the case dispatched the bloodstained earth to the chemical Laboratory Rohri and received positive chemical report that the earth material sustained human blood. He produced such report at Ex. 32/A. In rebuttal of the above contention, the statements u/s 342 Cr.P.C of the accused Imdad was recorded, in which he has denied the allegations leveled against him and stated that he is innocent and taken the specific plea that on 13-07-2019 the real nephews of the complainant namely Mashooq, Mumtaz and Manzoor had committed the murder

of Ali Muhammad Bozdar. One Khan Muhammad had lodged one FIR in which he was mashir, hence the complainant has falsely implicated him in this case. In support of his contention, he has produced the certain documents, however he himself was not examined on oath. The statement u/s 342 Cr.P.C of appellant Muhammad Nawaz was also recorded, in which he has also taken the same plea. The ocular account in this case consists of complainant Amir Bux (PW-02), and injured witnesses namely Karim Bux (PW/3), Munir Ahmed (PW/4), Shahazado (PW/5) and Ali Muhammad (PW/6). They gave the specific reasons of their presence at the place of occurrence as, according to them, they alongwith the deceased were going for medical treatment of PW Karim Bux/injured. Although they are related to the deceased but they have no previous enmity or ill-will against the appellants and they cannot be termed as interested witnesses in the absence of any previous enmity. They remained consistent on each and every material point. The reliance is placed upon case of **Zahoor Ahmed Vs. the State** (2017 SCMR-1662),

16. The minor discrepancies pointed out by the learned counsel are not helpful to the defense because with the passage of time such discrepancies are bound to occur. The occurrence took place in broad day light and both parties knew each other so there was no mistaken identity and in absence of any previous enmity there could be no substitution by letting off the real culprit specially when the appellants alone was responsible for the murder of the deceased. The evidence of eye witnesses/injured was consistent, truthful and confidence inspiring. The investigating officer also recovered the empties and bloodstained earth from the place of incident, which is supported by the medical evidence, hence the above piece of evidence corroborated the ocular testimony of the complainant and his injured witnesses.

17. It is not a discrepancy or discrepancies which could be pressed for an acquittal but the defence has to bring on record the contradictions which too should be of a nature to cut at root of the prosecution towards their presence and manner of incident. It is

settled principle that the variations in the statements of witnesses which are neither material nor serious enough to affect the case of the prosecution adversely, are to be ignored by the Court. It is also a settled principle that statements of the witnesses have to be read as a whole and the Court should not pick up a sentence in isolation from the entire statement and ignoring its proper reference, use the same against or in favour of a party the contradictions must be material and substantial so as to adversely affect the case of prosecution. The motive setup in this incident was that there was enmity between the complainant and accused party over the matrimonial affairs. In cross examination, the complainant has admitted that the dispute had arisen over Mst. Amna daughter of Karim Bux, whose marriage was solemnized about 5 years prior to this incident with son of accused Muhammad Nawaz namely Khan Muhammad.

18. The upshot of above discussion is that the prosecution has successfully established its case against the appellants through ocular account furnished by eye-witnesses, which is corroborated by the medical evidence coupled with circumstantial evidence. Learned counsel for the appellants has failed to point out any material illegality or serious infirmity committed by learned trial Court while passing the impugned judgment, which in my humble view is based on appreciation of the evidence and the same does not call for any interference by this Court. Thus, the conviction awarded to the present appellants by learned trial Court is hereby maintained and the instant appeals filed by the appellants merits no consideration, which are dismissed accordingly.

JUDGE