

*Judgment Sheet*  
**IN THE HIGH COURT OF SINDH, KARACHI**

**Cr. Appeal No.189 of 2023**  
 [Mst.Shabana Kausar v. The State]

Appellant	Through Mr. Zia Ahmed Awan Advocate
Complainant	Through Mr. Ahmed Shahmir, Advocate
The State	Through Syed Meeral Shah Bukhari, Addl. P.G.
Date of Hearing	26.03.2024

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**JUDGMENT**

**ARSHAD HUSSAIN KHAN, J.-** This Cr. Appeal is directed against the judgment dated 06.03.2023, passed by learned 2<sup>nd</sup> Additional Sessions Judge, Karachi, [Central] in Sessions case No.1777/2021 emanating from crime No.718/2021, registered under Sections 336/336-B PPC at Police Station New-Karachi, whereby trial court has convicted the appellant / accused as follows :

**“POINT NO.2.**

.....I hereby convict the accused u/s 265-H(ii) Cr.P.C. and sentence her to pay Arsh as 1 ½ [one half] of the Diyyet for committing offence u/s 336 PPC as provided in Section 337-R PPC. The accused is also convicted in offence u/s 336-B and sentence to suffer R.I. for 14 years and fine Rs.1,000,000/- [Rupees One Million], and in case of default in payment of fine, she shall undergo for further simple imprisonment for six months. Benefit of Section 382-B Cr.P.C. is also extended to the accused.”

2. Concisely, the facts of the prosecution case are that on 20.08.2021, HC Muhammad Ali of PS New Karachi recorded the statement under section 154 Cr.P.C. of complainant Muhammad Usman son of Muhammad Salam, at Burns Ward, Civil Hospital, Karachi, who stated therein that on 12.12.2019, his marriage was solemnized with Mst. Shabana Kausar and at the time of marriage, her sister and brother namely; Yasmeen and Hamid told him that prior to present marriage, two marriages of Mst. Shabana Kausar had already been solemnized. After marriage, it came into the knowledge of the complainant that Mst. Shabana Kausar used to meet with her ex-husband Atif, whereupon complainant divorced her on 22.10.2020, and he was residing at his parents’ house. After ¾ months of Tallaq, Mst. Shabana Kausar

contacted on phone and was repeatedly asking to re-marry with her, otherwise, she would commit suicide, therefore, upon insistence, the complainant arranged a rented house for her and usually going to meet her and assured that he would re-marry with her after convincing his parents. On 19.08.2021, at 03:30 pm the complainant went at the flat of Mst. Shabana Kausar, who during talk asked him whether he would stay there, he denied the same and thereafter Mst. Shabana Kausar brought water in a glass and suddenly threw the same on the complainant and due to throwing the substance in the glass, his both eyes, head and both hands burnt and he was feeling severe pain and then it came into his knowledge that there was acid in the glass. The complainant immediately came at hospital with his brother Shahid. Hence, the FIR was lodged on the basis of his 154 Cr.P.C. statement.

3. It appears from the record that after registration of the FIR, investigation was conducted and the above named appellant was arrested; after usual investigation she was challaned for the offence punishable under Sections 336/336-B PPC. During trial, the charge containing prosecutions' allegations against the accused was framed on 20.11.2021 at Exh. 2, to which she pleaded not guilty and claimed to be tried.

4. At the trial in order to establish accusation against the accused, prosecution had examined the following witnesses:

- (i) PW Muhammad Usman [the injured/complainant] as Exh.3.
- (ii) PW Muhammad Shahid as Exh.4.
- (iii) PW Shabir was given up by the prosecution through statement as Exh.5.
- (iv) PW Muhammad Asif was examined as Exh.6.
- (v) PW Muzamil Ali Khan as Exh.7.
- (vi) PW PC Sharafat was given up by the prosecution through the statement as Exh.8.
- (vii) MLO Dr. Muhammad Assad was examined as Exh.9
- (viii) HC Muhammad Ali as Exh.10.

5. Before the trial court aforesaid witnesses were cross-examined by learned counsel for the accused. Thereafter, learned DPP closed the prosecution side, vide statement at Exh.12. The statement of the accused

under section 342 Cr.P.C. was recorded at Exh.13, wherein she denied the commission of offence. She stated that the prosecution witnesses have deposed falsely against her as they are relatives of the complainant. Lastly, the accused prayed for her acquittal and justice. However, she has been examined herself on Oath under section 340(2) Cr.P.C. as Exh. 14, she produced photocopy of Nikahnama as Exh. 14/A, Mutul Divorce Deed as Exh.14/B and Agreement of Tenancy as Exh.14/C. Subsequently, trial court after hearing the parties counsel convicted and sentenced the accused Shabana Kausar as mentioned in the preceding para. Hence, instant appeal has been preferred against the impugned judgment.

6. Learned counsel for the accused contended that the accused is innocent and has falsely been implicated in this case due to malafide intention and ulterior motives. He has argued that there is an inordinate delay of more than 33 hours in lodgment of the FIR, which has not been explained and delay in reporting the matter to the police is always fatal to the prosecution case and requires further enquiry under section 497(2) Cr.P.C. He has further contended that there are contradictions and inconsistencies in the prosecution case due to which the whole case of the prosecution has become doubtful. He has argued that all the witnesses are relatives of the complainant and from the place of incident no witness statement was recorded under section 161 Cr.P.C., which is clear violation of the provisions of law. It is argued that there is no eye-witness of the alleged incident. He has further contended that the prosecution story is full of doubt and without any strong and corroborative evidence an innocent person cannot be convicted. He has argued that the trial court has seriously erred by not considering the material evidence brought on the record; that the trial court has failed to apply its judicial mind and passed the impugned judgment in hasty manner. He has further argued that the real fact is that the complainant himself brought the acid in the house with an intention to blackmail and pressurize the appellant-accused for want of his malafide intention and to pressurize the accused to ask her brother to lend money to the complainant. He has further urged that nothing has been recovered from the possession of the accused hence no prima facie case is made out against her. Learned counsel has also argued that according to medical

report, there is a loss of cornea with corneal opacities causing partial blindness, hence section 336 PPC has wrongly been tried by the trial court; the same has not been attracted in the present case as it speaks about complete disfigurement of the organ, which is not the case of the prosecution. It is also argued that the trial court has not considered the material facts available on the record and has convicted the accused beyond his discretion by awarding punishment under section 336-B. It is also contended that the trial court has also failed to consider the fact that in the case there is no final medical report and the impugned judgment is based on the provisional report. He has argued that the conviction of the accused is against the law, norms of justice and equity; the recovery is doubtful and private witnesses are not associated by the prosecution as such the conviction order seems to be bad under the law and liable to be set aside. He has urged that the prosecution has also failed to prove its case, therefore, the accused is entitled for acquittal.

7. Conversely, learned counsel for the complainant while seeking dismissal of the appeal has argued that the complainant and the PWs corroborated each other in all material aspects, which can safely be relied upon; that the medical evidence supports the prosecution case. In support of his contention he has relied upon the cases of *Zakir Khan and others v. The State* [1995 SCMR 1793], *Mushtaq Ahmad v. The State and another* [2020 SCMR 474], *Muhammad Nadeem alias Deemi v. The State* [2011 SCMR 872] and *Muhammad Sohail alias Kaloo Ali v. The State* [2024 YLR 470].

8. Additional Prosecutor General while supporting the impugned judgment has argued that the prosecution has proved its case against the accused. He has argued that the accused is very much nominated in the FIR with the alleged role; that the medical evidence supports the prosecution case and the prosecution has proved the same. Lastly, it is urged that the trial court has rightly appreciated the evidence, convicted and sentenced the accused in accordance with the law and as such the appeal may be dismissed.

9. Heard learned counsel for the appellant, complainant as well as learned Additional Prosecutor General and have gone through the entire

evidence available on the record and have also considered the relevant law including the case law cited at the bar.

10. In the instant case, admittedly the injured/complainant had acid/corrosive substance thrown, inter alia, on his face, which lead to loss of cornea with corneal opacities causing partial blindness, deep burn over the left side of face and temporal parietal area, which caused severe disfigurement of his face.

11. The stance taken by the appellant in the appeal is that the complainant had contracted remarriage with the appellant and was residing in the apartment- Flat No. B-4, first floor, RQM Centre, Sector 11-H, New Karachi. After remarriage the complainant used to scare the appellant to bring money from her brother. On 19.08.2022, the complaint himself brought some acid in the cup demonstrating to throw upon the appellant just to make her scare for fulfilling his demands to bring money from her brother, however, when in her defense she resisted, the acid poured out upon the complainant himself and during the resistance the appellant had also suffered acid injuries on her shoulder, hand and she has got acid sprinkled upon her back.

12. Before going into further discussion, for the sake of convenience, it would be appropriate to reproduce relevant excerpts of Depositions of the witnesses examined in the present case.

(i) Section 154 Cr.P.C. statement of the complainant/victim is set out below:

“..... On 19.08.2021 at 3.30 p.m., I went at the flat of Shabana Kausar who during talk asked me whether I would stay there, I denied and thereafter, Mst. Shabana Kausar brought water in a glass and suddenly threw the same on me, due to throwing of that substance in the glass, my face, eyes, head and both hands were burnt, I was in severe pain, I came to know that it was acid, I immediately reached at Civil Hospital with my brother Shahid. Now, I give statement that my complaint is against Shabana Kausar for throwing acid on my face, eyes, head and both hands which are burnt. My eye vision is also not clear. Action be taken.”

The complainant Muhammad Usman [PW-1] in his examination-in-chief while reiterating his 154 Cr.P.C. Statement has deposed as follow:

“.....I produce 154 Cr.P.C. Statement as Exh.3/A and FIR as Exh.3/B, which are the same, correct and bear my signature. Accused present in court is the same.”

(ii) PW-2 Muhammad Shahid [Exh.04], [brother of the victim/complainant] in his Deposition has stated as follows :

“.....As we entered inside the flat we found one T-Shirt of Pink colour was lying. We also found one burnt curtain. One bed was also lying in burnt condition and also acid was spread on the mattress. One side of the mattress was in burnt condition. One glass cup was also lying on the ground in broken condition of peach colour. We then went in kitchen and noted one green colour shopper was lying under the slab in which acid was lying. One lady tenant informed us that accused Shabana asked her to keep the said acid in her house in safe custody but she refused to keep the same. The said lady also informed me that accused Shabana also disclosed that she was going to hospital with the purpose of meeting with her husband..... I produce the memo of site inspection as Exh.4/A, seven photographs as Exh.4/B/1 to 4/B/7, memo of seizure of USB as Exh.4/C, which are same, correct and bear my signature.”

(iii) PW-3 Muhammad Asif [Exh.04] [cousin of the victim/complainant] in his Deposition has stated as follows :

On 19.08.2021 an incident took place with my cousin Muhammad Usman. I received information of such incident and went at Burns Ward at Civil Hospital. On 21.08.2021, my cousin Shahid received telephonic message from one police official for inspection of place of incident. On the same date, I along with Shahid and police official reached at place of incident i.e. Sector 11-H, North Karachi..... We reached outside the place of incident i.e. flat where police received spy information that Shabana is present inside flat. Police confirmed about Shabana we identified her to be same. Police arrested accused Shabana and prepared memo of arrest and obtained our signatures..... Then I recorded my 161 Cr.P.C. Statement. Accused present in Court is the same.....I produce the memo of arrested as Exh.6/A, which is same, correct and bears my signature.”

(iv) PW-4 Muzammil Ali Khan [Exh.7] [neighbor of the applicant] in his Deposition has stated as follows:

“On 19.08.2021, at 02:30 p.m. I was present at my flat bearing No. B-6, RQM Plaza, Sector 11-H, New Karachi, suddenly I heard shouting noise of Usman who is residing just adjacent to our flat, I opened the door and saw that he was shouting and appearing that he could not see. His shirt was wet and was pointing out towards accused Shabana that she threw acid on him and then Shabana went to her flat. Usman could not see however he went down from building where some mohallah persons put

water on him. I. O. recorded my 161 Cr.P.C. statement. Accused present in court is same.”

(vi) PW-5 Dr. Muhammad Asad [Exh.9] (MLO) in his examination-in-chief has deposed as follows:

“On 19.08.2021, I was posted as MLO Civil Hospital. On the same date at about 05:48 p.m, injured Usman s/o Salam, aged 28 years, was brought at hospital with the history of acid burn as alleged. As per ER Slip received from CHK and burns ward, Civil Hospital, Karachi. Chart show following injuries: Head 7 percent burned. Neck 1 percent burnt. Anterior trunk 1 person and left arm 4 percent burnt. Nature of injury reserved. During of injuries was fresh and weapon acid burn as alleged. I issued final supplementary medical certificate on behalf of discharge card received form burns center CHK, MR NO .01201081936833 showed acid burn on face, BSA percent, full thickness burn over the lower eyelid (left Side), Loss of cornea with corneal opacities causing partial blindness. Deep burn over the left side of face and temporal parietal area. The Patient require multiple surgeries including cornea transplant in order to improve the functional and disfigurement of the face, hence provisional report shows Itlaf-i-Salahiyat-i-Udw. I produce emergency slip (3 pages) as Exh .9/A, MLC 4446/21 as Exh .9/B, discharge sheet as Exh .9/C and final supplementary report as Exh .9/D which are same, correct and bear my signatures.”

(vii) Pw-6 Muhammad Ali,[Exh.10] in his examination-in-chief has stated as follows :

“On 19.08.2021, I was posted as HC at PS New Karachi with duty hours from 1850 hours to 07:00 a.m. On the same date, I received ML entry from Civil Hospital Krachi. I went at Civil Hospital, vide entry No.16 where I met with doctor and also met with complainant but he could not record his statement due to not feeling well. On the next date, I again went at Civil Hospital vide entry No.41 and recorded 154 Cr.P.C. Statement of complainant Muhammad Usman and returned back at PS where I lodged FIR vide entry No.44. I.O recorded my 161 Cr.P.C. Statement..... I see 154 Cr.P.C. Statement as Exh.3/A, FIR Exh. 3/B which are same correct and bears my signatures.”

(viii) PW-07, Amir Shah [Exh. 11] (Investigating Officer) in his Deposition has deposed as follows :-

“On 21.08.2021, I was posted as SIP at PS New Karachi in Investigation Branch. On that date vide entry No.33, I received FIR, 154 Cr.P.C. Statement and entry of Qaimi for investigation. On the same date, vide entry No.42, I along with brother of accused namely Shahid, his cousin Asif and other police officials left PS for inspection of place of incident. We took photographs of place of incident, secured 3 bottles of acid, pieces of cup, one lady’s shirt, prepared memo of inspection, obtained signatures of witnesses and then returned back at PS vide entry No.52, where I

recorded 161 Cr.P.C. Statement of Shahid and Asif and deposited the case property at Malkhana and made entry in Register No.19, vide entry No.166. Thereafter on 22.08.2021, vide entry No.54 along with lady Inspector Zainab Bano and other police officials left PS for search of accused. During search, I received information that accused had come at her house for some work. I contacted the brother of complainant, thereafter brother of complainant and his cousin came at place of incident, where the brother of complainant identified the accused. So Inspector Zainab arrested her, conducted her personal search. She then prepared memo of arrest, obtained signatures of witnesses and then returned back at PS vide entry No.57 and recorded 161 Cr.P.C. Statements of witnesses.....I moved application for supplementary report and after completing investigation, submitted challan before the court. I see 154 Cr.P.C Statement at Exh.3/A, FIR at Exh.3/B, memo of inspection as Exh.4/A, photos of place of incident from Exh.4/B/1 to 4/B/7, Memo of USB as Exh.4/C, Memo of arrest as Exh.6/A and supplementary report as Exh.9/D, which are same correct and bear my signatures..... I produce Report [from Incharge Industrial Analytical Centre, University of Karachi,] as Exh.11/L..... Accused present in court is same.”

13. On the other hand, statement of accused Shabana Kausar under section 342 Cr.P.C [Exh.13], was recorded by the trial court on 22.10.2022, in which she denied the prosecution story and wanted to examine on Oath. Thereafter, statement of the accused under section 340(2) Cr.P.C. [Exh.14] was recorded; the relevant portion of the same reads as follows :

“...Usman was also aware about my residence at the above flat, so he used to come there and pressurized me to develop husband and wife relationship but I had already refused him. On 19.08.2021, I was present at my flat and sitting on a plastic in my room, suddenly Usman entered in my flat and demanded to develop relation as husband and wife, he had a cup in his hand and told that this cup is filled with acid and in case I would not fulfill his demand, he will throw acid upon me, whereof I become scared and pulled up my hands and hit the cup due to which acid fell on him and also on my back and shoulder and Usman went away. I called 15 police help line and then went at PS along with 15 officials and made complaint, I demanded receiving of my complaint, but they told that they will give me lateron. On 21.08.2021, at 09:00 p.m police called me at PS on my cell phone to get the copy of my complaint, I went there and they got me sit there. Thereafter, on the next date I came to know that I have been arrested. I narrate the incident to I.O. the whole incident. I further say that I am innocent, I am victim of circumstances as this is a false case against me and I pray that I may be acquitted from this case. I produce photocopy of Nikahnama as Exh.14/A, Mutual Divorce Deed as Exh. 14/B and Agreement of Tenancy as Exh.15/C”.



14. From the record, it appears that the appellant was residing independently in the apartment being tenant where the incident took place and in this regard the appellant herself produced tenancy agreement [Exh.14/C]. Record also reflects that the complainant used to visit the appellant in the said apartment but there is nothing available on the record, which could show that the appellant ever resisted such visitation. There is also nothing available on the record, which could show that on the fateful day when the complainant visited the appellant he had brought something in his hand, which subsequently was to be proved an acid. The appellant in her statement under section 340 (2) Cr.P.C [Exh. 14] had stated that on 19.08.2022 she was present at her flat suddenly the complainant entered into the flat with a cup in his hand, which was filled with the acid and demanded to develop relationship of husband and wife, and upon her refusal to do so, the complainant tried to scare the appellant by intending to throw the acid on her, however, upon resistance, the acid poured out upon the complainant himself. First of all, the stance taken by the appellant in her statement and in the present appeal contradicts each other. For instance in the statement she has stated that the complainant demanded to develop husband and wife relationship whereas in the appeal stance of the appellant is that the complainant demanded to bring money from her brother. Further in the statement she did not state about her re-marriage whereas in the appeal it has been stated that she contracted re-marriage with the complainant without providing any proof in respect thereof. The appellant though made a statement on Oath, however, she did not produce any witness in her defence. Insofar as her statement that the complainant suddenly enters the house with a cup filled with the acid with the intention to throw the same upon the appellant and at a time he demands the relationship of husband and wife the same does not appeal to a prudent mind and it seems very illogical. Moreover, the nature of injuries received by the complainant also does not show that the same was on account of some resistance as had it been so then both the parties should have got injuries and their hands could have been injured whereas in the present case it is only the complainant who had received the injuries that too of severe in nature, which lead to the loss of his eye sight and the severe disfigurement of his face and the loss of cornea, deep burn over the left side of the face and temporoparietal area.

15. Indeed, it is for the prosecution to prove its case against the accused beyond a reasonable doubt but I have also considered the defence case to see whether it can cast any doubt on the prosecution case or not but I found that the defence case is simply one of false implication without assigning any plausible reason. As per the appellant she was arrested from the police station where she had gone to get the copy of her complaint but she did not call any witness to support her case. Whereas, perusal of the evidence of the prosecution witnesses shows that the version of the complainant has been supported by all the prosecution witnesses who are also consistent in their evidence and during their cross-examination no any contradiction has been brought on the record and on the other hand, the accused though examined herself on Oath under Section 340(2) Cr.P.C but did not disclose any thing and could not produce any evidence, which could prove her story. Moreover, during her statement under section 342 Cr.P.C. when she was asked *Do you want to lead evidence in your defence*, She replied “No”. Hence, based on my reassessment of the evidence of all the PWs especially the medical evidence, I find that the prosecution has proved its case beyond reasonable doubt that the complainant had acid / corrosive substance thrown on his face, which lead to the loss of his eye sight and the severe disfigurement of his face and the loss of cornea, deep burn over the left side of face and temporoparietal area and due to these severe injuries he has been advised multiple surgeries including cornea transplant in order to improve the disfigurement of the face, vide Exh.9/C & 9/D.

16. As far as the contention of learned counsel that section 336 PPC has wrongly been tried by the trial court and the same has not been attracted in the present case as it speaks about complete disfigurement of the organ is concerned, perusal of the Final Supplementary Report [Exh.9/D] shows that the MLO Dr. Muhammad Asad [PW-5 at Exh.9] in his cross-examination, conducted by learned counsel for the appellant before the trial court, has specifically stated “*It is incorrect to suggest that according to my report and medical examination of complainant the vision was partially damaged.*” The Medical Report further reveals that “*the patient requires multiple surgeries including cornea transplant in order to improve the functional and disfigurement of the face, hence the report shows Itlaf-e-Salahiyat-i-Udw.* It is observed that in the human

body the transplantation of the organ is needed only in the cases when the original one is lost or damaged and / or dysfunctional. The Medical Report, in the present case, suggests the transplant of the cornea, it means the original one has been lost completely. Furthermore, the Supreme Court of Pakistan in the case of *Muhammad Sarfaraz v. the State and others* [2017 SCMR 364] has also observed as follows :

“For causing an injury on the left eye of one Zafar Iqbal with an iron rod the appellant namely Muhammad Sarfraz had inter alia been convicted by the trial court for an offence under section 336, P.P.C. and the said conviction and sentence had subsequently been upheld by the High Court. Leave to appeal had been granted in this case in order to consider whether in the facts and circumstances of the case the provisions of section 336, P.P.C. stood attracted to the allegation leveled against the appellant or not. With the assistance of the learned counsel for the appellant and the learned Additional Prosecutor-General, Punjab appearing for the State we have gone through the record of the case with particular emphasis on the medical evidence available on the record and have found that through the statement of Dr. Muhammad Aslam (PW1), the Medico-legal Certificate issued by that doctor, the opinion rendered by a Medical Board as well as the opinion furnished by an Ophthalmologist it had been established that there was a partial loss of vision of the right eye of the victim namely Zafar Iqbal which partial loss of vision was to stay permanently and could not be cured even through a surgery. In view of availability of such medical evidence we have entertained no manner of doubt that the injury caused by the appellant to the victim did attract the provisions of section 335, P.P.C. and, thus, the conviction and sentence of the appellant recorded by the trial court for an offence under section 335, P.P.C. read with section 336, P.P.C. were not open to any legitimate exception. This appeal is, therefore, dismissed.”

[emphasis supplied]

In view of the statement and the report of the MLO as well as the observations of the Supreme Court of Pakistan in the case cited supra, contention of learned counsel regarding non-attraction to section 336, P.P.C. against the appellant has no weight at all.

17. Insofar as the contention of learned counsel regarding delay of about 33 hours in lodgment of the FIR is concerned, it is an established principle of law and practice that in criminal cases the delay by itself in lodging of the FIR is not material as the factors to be considered by the courts are firstly, that such delay stands reasonably explained and secondly, that the prosecution has not derived any undue advantage through the delay involved. If it is seen in the light of the attending

circumstances of the case, the delay stands explained as PW-6, Muhammad Ali, in his Deposition, has stated that *I went to Civil Hospital, vide entry No.16, where I met with the Doctor and also met with complainant but he could not record his statement due to not feeling well. On the next date, I again went to Civil Hospital, vide entry No.41 and recorded 154 Cr.P.C. statement of the complainant.* Secondly, regarding such a little delay in the FIR, which too has been explained, it has not been indicated as to what benefit the prosecution has derived by such delay<sup>1</sup>.

18. Insofar as the contention of learned counsel with regard to non-association of independent witnesses in the case is concerned, the record shows that Muzzamil Ali Khan [PW-4] who is one of the neighbours of the appellant was examined in the case, as such, the contention of learned counsel appears to be misconceived. Even otherwise, it is now well settled proposition of law that non-examination of independent witnesses is not fatal to the case of the prosecution when other prosecution witnesses are found to be trustworthy and reliable. Moreover, since there was no ill-will or enmity between the police and accused/appellant, as such, police evidence can also safely be relied upon as they had no reason to falsely implicate the appellant/accused.<sup>2</sup>

19. Insofar as the contention of learned counsel with the regard to non-submission of Final Medical Report in the case is concerned, the record reflects that MLO, Civil Hospital [PW-05 at Exh.9], in his examination-in-chief has produced the Final Supplementary Medical Certificate as Exh.9/D relevant portion of the evidence states as “*I issued final supplementary medical certificate on behalf of discharge card received from burns centre CHK, MR No.0120181936833 showed the acid burn on face, BSA 5 percent, full thickness burn over the lower eyelid (left side), loss of cornea with corneal opacities causing partial blindness..... I produce emergency slip (3 pages) as Exh. 9/A, MLC 4446/21 as Exh .9/B, discharge sheet as Exh. 9/C and final supplementary report as Exh. 9/D which are same, correct and bear my*

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<sup>1</sup> *Muhammad Nadeem alias Deemi v. The State* [2011 SCMR 872] and *Muhammad Sohail alias Kaloo alias Fahad vs. the State* [ 2024 YLR 470].

<sup>2</sup> *Muhammad Sohail alias Kaloo alias Fahad vs. the State* [ 2024 YLR 470].

*signatures*” and in his cross-examination he stated as *‘It is incorrect to suggest that I did not produce the final medial report.’* In view of the above, the contention of learned counsel is nothing but frivolous and misconceived in the eye of law.

20. Insofar as the contention of learned counsel that there are contradictions and inconsistencies in the prosecution case due to which the whole case of the prosecution has become doubtful is concerned, it is observed that upon reappraisal of the evidence there found no contradiction and/or any inconsistency in the evidence of the prosecution witness rather, they support each other and fully corroborate the case of the prosecution. For the sake of argument, even if there is any contradiction in the evidence of the prosecution witnesses, it is to be considered as minor in nature and not material and certainly not of such materiality so as to effect the prosecution case and the conviction of the accused.<sup>3</sup>

21. Moreover, it is also observed that in the cases concerning heinous crimes such as throwing acid / corrosive substances on the people, which leads to permanent disfigurement and completely ruination of their lives, there is a need to take a dynamic approach in order to curb these heinous crimes as the people are losing faith in the dispensation of criminal justice by the ordinary criminal courts for the reason that they either acquit the accused persons on technicalities or take a lenient view in awarding sentence. It is high time that the courts should realize that they owe duty to the legal heirs / relations of the victims and also to the Society. Sentences awarded should be such, which should act as deterrent to the commission of heinous crimes. Reliance in this respect can be placed on the case of *Muhammad Sohail alias Kaloo v. The State* [supra].

22. The close analysis of the whole prosecution evidence i.e. the happening of the occurrence, recovery of incriminating material, inter alia, the cup which was used to throw the acid on the complainant from the accused’s apartment, sending them to the Chemical Examiner,

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<sup>3</sup> *Zakir Khan v. the State* [1995 SCMR 1793] and *Khadim Hussain v. the State* [PLD 2010 SC 669].

positive report of the Chemical Examiner and the statements of the prosecution witnesses when evaluated conjointly leaves no room to come to a different conclusion than what has been arrived at by the trial court. In the circumstances, I am of the view that the appellant / accused Shabana Kausar was rightly held guilty by the trial court. Consequently, the impugned judgment dated 06.03.2023 is maintained and there being no merit in the instant appeal, which is hereby dismissed.

JUDGE

Karachi;  
Dated 09.05.2024

*Jamil\*\*\**