

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Appeal No. S-95 of 2024

Appellant:	Raheem Bux Mazari Mr. Riaz Hussain Khoso, Advocate
Respondent:	The State Through, Mr. Nazir Ahmed Bhangwar Deputy Prosecutor General.
Date of hearing:	17-07-2025
Date of order:	23-07-2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J— The appeal, challenges the findings of the learned Additional Sessions Judge/GBV, Kashmore, embodied in the impugned judgment dated October 18, 2024. The appellant, Raheem Bux s/o Tagio Mazari, stands convicted of the offence of murder under Section 302(b) PPC, compounded with Section 311 PPC, and sentenced to rigorous imprisonment for life, alongside a punitive compensation of Rs. 1,000,000/- to the legal heirs of the deceased. The appellant, currently deprived of his liberty, seeks the benevolent intervention of this Court to scrutinize the correctness, legality, and propriety of the impugned judgment, praying for the setting aside of his conviction and consequential release.

2. The narrative of this unfortunate incident unfurls on January 22, 2024, when ASI Lal Muhammad Chachar (PW-1), serving at PS Miani Badani, embarked on a routine patrolling duty. It is asserted that while traversing the vicinity of Fouj Ali Mazari Bridge, he received a mobile phone call from one Muhammad Amin s/o Sodagar Mazari. This purported telephonic communication became the genesis of the entire prosecution's edifice, wherein Muhammad Amin allegedly conveyed that at about 11:00 pm on the preceding night, within village Fouj Ali Mazari, the appellant Raheem Bux, in concert with his son Imran Mazari and an unidentified accomplice, had

tragically taken the life of Mst. Shabiran Khatoon, the appellant's wife and Muhammad Amin's sister. The macabre motive ascribed was that of "honor killing" (Karap), stemming from a fictitious allegation concerning one Eidan s/o Ghous Bux, and the method employed was throttling with a dupatta. The informant allegedly further disclosed that the deceased's body lay within the appellant's residence.

3. Responding to this information, the police party swiftly proceeded to the designated location, reaching the appellant's house at about 12:10 PM on January 22, 2024. There, they reportedly discovered the lifeless body of Mst. Shabiran beneath a hut. The presence of some ladies and Muhammad Amin Mazari himself at the scene is documented, who, upon inquiry, allegedly corroborated the initial account, asserting that Mst. Shabiran had been murdered by her husband, the appellant Raheem Bux, along with his son Imran and an unknown individual, due to the "Karap" accusation, by strangulation. Marks consistent with throttling were observed around the deceased's neck. Following the completion of preliminary formalities, including the preparation of a mashirnama of inspection, danistnama/inquest, and lashchakas form, the body was dispatched for postmortem examination through PC Faiz Muhammad. Subsequently, the FIR was formally lodged by ASI Lal Muhammad Chachar on behalf of the State. The ensuing investigation culminated in the submission of a Challan, which depicted the appellant in custody while his co-accused, Imran Mazari, was shown as an absconder and subsequently declared a Proclaimed Offender. The appellant faced a formal charge under Sections 302, 311, read with Section 34 PPC, to which he pleaded not guilty and opted for a trial.

4. The prosecution, in its endeavor to bring home the guilt of the appellant, marshaled seven witnesses. These included PW-1 ASI Lal Muhammad Chachar, the complainant; PW-2 PC Faiz Muhammad, a member of the patrolling party and mashir; PW-3 SIP Ghulam Hyder,

the second Investigating Officer; PW-4 SIP Muhammad Iqbal, the first Investigating Officer; PW-5 Tapedar Qadeer Ahmed, who prepared the site plan; PW-6 Medical Officer Nisar Ahmed, who conducted the postmortem; and PW-7 Malkhana Incharge. Their testimonies and the documentary evidence produced (police entries, memos, postmortem report, sketch) formed the entirety of the prosecution's evidence.

5. Upon the conclusion of the prosecution's evidence, the appellant's statement under Section 342 Cr.P.C. was recorded, wherein he unequivocally denied the allegations. Opting not to take the oath himself, the appellant chose to present defense witnesses. In a significant turn, the defense produced DW-1 Sodagar Khan Mazari, the deceased's father, and DW-2 Muhammad Ameen Mazari, the deceased's brother and the original informant of the FIR. Both defense witnesses consistently asserted that Mst. Shabiran had been suffering from a mental illness and had committed suicide, thereby portraying the appellant as innocent.

6. After considering the arguments put forth by both sides, the learned Trial Judge, by the impugned judgment dated October 18, 2024, found the appellant guilty as charged, leading to the present appeal.

7. The learned Advocate for the Appellant assiduously advanced a multi-pronged attack on the impugned judgment, highlighting its legal and factual infirmities. Firstly, it was strenuously argued that the very foundation of the prosecution's case is inherently flawed as it rests entirely on hearsay evidence. The complainant, ASI Lal Muhammad Chachar (PW-1), candidly admitted in his cross-examination that he was not an eyewitness to the incident. His knowledge was derived solely from a mobile phone call from Muhammad Ameen Mazari. This fact, it was contended, assumes critical importance when contrasted with the subsequent turn of events. Secondly, the learned counsel pointed towards a fatal

contradiction that strikes at the very heart of the prosecution's narrative: Muhammad Ameen Mazari, the alleged informant of the FIR, appeared as DW-2 for the defense and categorically recanted his initial stance. He testified under oath that his sister, Mst. Shabiran, suffered from a mental illness and had committed suicide, thereby directly undermining the entire murder theory and the FIR he supposedly initiated. This, it was submitted, creates an unassailable doubt, making the conviction untenable as per the principle that the original source of information cannot be relied upon if it is retracted in court, as per the spirit of *different settled principles of law*. Thirdly, significant omissions and commissions on the part of the investigating agency were underscored. It was highlighted that despite having ample opportunity, the police failed to associate any independent private witnesses during the initial proceedings at the scene of the crime, relying solely on official witnesses who, being subordinates, are naturally inclined to support the departmental version. Furthermore, the statements of female members present at the spot, who allegedly provided verbal information, were never formally recorded under Section 161 Cr.P.C., with the weak and unacceptable excuse that they belonged to the Baloch community and would not disclose their identity. This amounted to a deliberate omission to collect vital evidence. Further, the learned counsel drew attention to the lack of material recoveries and forensic support. It was argued that the dupatta purportedly used for throttling, though recovered, was never sent for expert opinion or forensic analysis, thereby failing to establish any conclusive link between the alleged weapon, the deceased, and the appellant. No other incriminating articles were recovered from the exclusive possession of the appellant. It is also emphasized the inherent unreliability of the police witnesses in the face of the aforementioned contradictions and omissions. It was contended that relying solely on official witnesses, whose evidence is riddled with

inconsistencies and lacking independent corroboration, especially when the crucial informant turns hostile, is unsafe for conviction. Furthermore, the learned counsel forcefully presented the defense plea of suicide, supported by the testimonies of DW-1 Sodagar Khan (the deceased's father) and DW-2 Muhammad Ameen Mazari (the deceased's brother). Both consistently maintained that Mst. Shabiran had a history of mental illness and had taken her own life. It was submitted that while the medical evidence confirmed death by throttling, it does not exclusively rule out suicide, and in the presence of such a plausible alternative, the benefit of doubt must accrue to the appellant. The absence of an alleged "Karap" penalty also undermines the stated motive.

8. In response, the learned Addl. Prosecutor General for the State vehemently sought to uphold the conviction, asserting that the prosecution had successfully established the guilt of the appellant beyond reasonable doubt. He argued that the initial information received by ASI Lal Muhammad Chachar was credible and formed a valid basis for lodging the FIR, especially given the prevalence of honor killings in the region where family members often abstain from reporting such incidents or deposing against the accused. He submitted that the consistent testimonies of the police officials, who had no personal enmity or motive to falsely implicate the appellant, corroborated the prosecution story. The learned Addl. P.G contended that the medical evidence, particularly the postmortem report by Dr. Nisar Ahmed (PW-6), conclusively established the cause of death as throttling and highlighted the severe nature of injuries, including fractured vertebrae, which unmistakably pointed towards a homicidal act rather than suicide. He argued that the mark of ligature around the neck, combined with internal findings, strongly supported the prosecution's stance. Regarding the turning hostile of Muhammad Ameen, the learned Addl. P.G contended that this is a common

occurrence in honor killing cases where family members, under pressure or tribal customs, retract their initial statements to protect the accused. He urged the Court to disregard the defense testimonies of the father and brother as they were "interested witnesses" attempting to shield the appellant due to familial ties, especially after the recent amendment to Section 311 PPC, which mandates life imprisonment even if a murder committed in the name of honor is pardoned by the Wali. He stressed that the circumstantial evidence, including the deceased's custody with the accused, the recovery of the dead body from his house, and the apparent flight of the accused, sufficiently formed a chain of circumstances leading to the appellant's guilt.

9. This Court has given anxious consideration to the arguments advanced by both sides, meticulously re-examined the entire evidence on record, and weighed the findings of the learned Trial Court in light of established legal principles. The cardinal principle guiding criminal jurisprudence is that the prosecution must prove the guilt of the accused beyond a reasonable doubt. This burden never shifts, and any doubt, however slight, must accrue to the benefit of the accused.

10. Upon a thorough analysis, this Court finds that the prosecution's case is riddled with fundamental weaknesses, contradictions, and omissions that cumulatively cast a grave and unassailable doubt on the appellant's culpability. The most significant infirmity lies in the testimony of Muhammad Ameen Mazari (DW-2). He was the pivotal figure who, according to the prosecution, initiated the entire murder investigation. Yet, he appeared as a defense witness and completely contradicted his purported initial information, asserting that his sister committed suicide due to mental illness. This direct negation by the very source of the FIR shatters the credibility of the prosecution's genesis. The prosecution's decision to "give up" this

crucial witness signifies their awareness of his contradictory stance, yet the Trial Court failed to adequately appreciate the profound impact of this development. Furthermore, the prosecution's case, devoid of any eyewitness, rests entirely on hearsay evidence originating from this now-contradicted source. The admissions by PW-1 and PW-2 that they were not eyewitnesses confirm this critical reliance on second-hand information.

11. The investigation suffers from significant omissions and commissions. The consistent failure to associate independent private witnesses at the scene, despite ample opportunity, raises questions about transparency. The inexplicable failure to record statements of female members present at the scene under Section 161 Cr.P.C., with a flimsy excuse, amounts to a failure to secure vital direct evidence. Moreover, the alleged weapon (dupatta) was not subjected to forensic analysis, nor was the alleged confession of the accused judicially recorded under Section 164 Cr.P.C. The crucial motive of "Karap" remained unsubstantiated, with no evidence presented to prove the alleged illicit relations, and even the deceased's father denying the customary penalty.

12. While the medical evidence confirms death by strangulation, which is consistent with the injuries found, it does not, in itself, conclusively rule out the possibility of suicide, especially when the defense, supported by the deceased's immediate family, consistently pleads it. The prosecution had the burden to exclude any other reasonable hypothesis. The reliance solely on official witnesses, whose testimony becomes questionable in the face of such profound contradictions, particularly from the very foundation of the case, cannot sustain a conviction. The minor discrepancies in timing and the absence of struggle marks further contribute to the overall doubt. The cumulative effect of these material contradictions, glaring omissions, and the fundamental shift in the key informant's testimony creates an

unresolvable doubt that must inevitably benefit the appellant. The chain of circumstantial evidence, as presented by the prosecution, is not so complete as to lead exclusively to the inference of guilt and to the exclusion of any other reasonable hypothesis, particularly that of suicide, as put forth by the defense.

13. Therefore, this Court finds that the prosecution has abjectly failed to prove the guilt of the appellant Raheem Bux s/o Tagio Mazari beyond a reasonable doubt. The impugned judgment is, thus, based on manifestly unsatisfactory evidence and is not sustainable in law.

14. For the foregoing reasons, this Criminal Appeal is hereby allowed. The impugned Judgment dated October 18, 2024, passed by the Learned Additional Sessions Judge/GBV Kashmore, convicting the appellant, is consequently set aside. The appellant, Raheem Bux s/o Tagio Mazari, is hereby acquitted of the charge under Section 302(b) PPC read with Section 311 PPC. He shall be released from custody forthwith, unless his detention is required in connection with any other case. Any compensation amount, if already paid by the appellant, shall be refunded to him without delay. The case against the proclaimed offender, Imran s/o Rahim Bux Mazari, shall remain on the dormant file until his arrest or surrender in accordance with law.

J U D G E