IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Jail Appeal No. S-04 of 2020

Criminal Jail Appeal No.S-05 of 2020

Appellant:	Maroof Ali s/o Wazir Ali Channa through Mr. Achar Khan Gabole, Advocate.
Respondent:	The State through Syed Sardar Ali Shah Additional P.G. Sindh.
Complainant(s):	Mehboob Ali [Criminal Jail Appeal No.S-05 of 2020] and SIP Hakimuddin [Criminal Jail Appeal No.S-04 of 2020].
Date of hearing:	10.02.2025 and 24.02.2025.
Date of Decision:	28.04.2025.

J U D G M E N T

Riazat Ali Sahar, J. Both the above-captioned Criminal Jail Appeals have been filed by appellant Maroof Ali Channa, wherein he has challenged two separate judgments. One pertains to the main offence in the murder case, while the other relates to an offshoot case arising from the main offence. Since both appeals stem from interconnected proceedings, they are being disposed of through this single judgment.

2. Through **Criminal Jail Appeal No. S-05 of 2020**, the appellant has challenged the **judgment dated 13.01.2017**, passed by the learned trial court/1st Additional Sessions Judge/MCTC, Naushahro Feroze, in S.C. No. 454/2017, arising out of Crime No. 192/2017, registered at Police Station Naushahro Feroze offence under **Section 302 PPC.** By the impugned judgment, the appellant was convicted and sentenced under Section 302(b) PPC to Rigorous Imprisonment for Life as Tazir and directed to pay compensation of Rs. 200,000/- (Rupees two hundred thousand only) to the legal heirs of the deceased. Additionally, he was fined Rs. 50,000/- (Rupees fifty thousand only), and in default of payment, he was to undergo Simple Imprisonment for six months. Similarly, through **Criminal Appeal No. S-04 of 2020**, the appellant has assailed **the judgment dated 13.01.2017**, passed by the learned trial court/1st Additional Sessions Judge/MCTC, Naushahro Feroze, in S.C. No. 455/2017, arising out of Crime No. 205/2017, registered at Police Station Naushahro Feroze offence under **Section 23(1)(a) of the Sindh Arms Act, 2013**. By the said judgment, the appellant was convicted and sentenced to Rigorous Imprisonment for ten years, along with a fine of Rs. 20,000/- (Rupees twenty thousand only), and in default of payment, he was to undergo Simple Imprisonment for six months. However, in both cases, the appellant was extended the benefit of Section 382-B Cr.P.C.

3. The brief facts of the case, as narrated in FIR No. 192 of 2017, lodged by the complainant Mehboob Ali Khoso at Police

Station Naushahro Feroze on 30.10.2016 at 1400 hours, are as follows: The complainant resides at the given address, where his nephew, Faheem Raza, son of Inayat Ali Khoso, aged about 24 years, also lived with him and used to run a "Kiryana" shop. Prior to the incident, Faheem Raza informed the complainant that Maroof son of Wazir Channa, a resident of Zardar Colony, Naushahro Feroze, owed him money for goods purchased from the shop. Despite repeated demands, Maroof Channa had failed to repay the outstanding amount. Faheem Raza further stated that whenever he approached Maroof Channa for payment, the latter would become aggressive and confrontational. In order to recover the outstanding amount, the complainant and his nephew went to meet Maroof Channa at the otaq of Luqman Channa, located in Zardar Colony. Upon their arrival, they found Maroof Channa consuming alcoholic wine. When Faheem Raza demanded his money, Maroof Channa became furious and threatened that he would not spare him. While uttering these words, he took out a pistol from the fold of his shalwar. Sensing imminent danger, Faheem Raza attempted to turn back, but in the meantime, Maroof Channa fired a direct shot from his pistol, hitting Faheem Raza at the back of his head. As a result of the gunshot injury, Faheem Raza fell to the ground. Upon hearing the gunshot and the complainant's cries, witnesses Dost Ali, son of Abdul Fattah Khoso, and Imam Ali, son of Muhammad Yousif Khoso, rushed to the scene. Upon seeing them approaching, the accused Maroof Channa fled the scene by jumping over the wall, still in possession of the pistol. The complainant and others found that Faheem Raza had

sustained a fatal firearm injury at the back of his head, which had exited through his forehead. He succumbed to his injuries on the spot. The complainant and others then transported the deceased's body to Civil Hospital, Naushahro Feroze, where the police arrived and, after completing legal formalities, including the postmortem examination, handed over the body to the legal heirs. After conducting the funeral ceremony, the complainant appeared at the police station and formally reported the incident.

4. As per the **facts of Crime No. 205/2017**, registered under Section 23(i)(A) of the Sindh Arms Act, 2013, at the same police station, the appellant was arrested on 16.11.2017 by SIP Hakimuddin Sahito of Police Station Naushahro Feroze. SIP Hakimuddin received telephonic information that the appellant had disembarked from a bus and was heading towards the town via 'Tagar Road'. Upon receiving this information, SIP Hakimuddin, accompanied by his subordinate staff, including HC Muhammad Haroon Rajput, HC Muhammad Nawaz Khushik, and PC Muhammad Uris Lund, departed from the police station at 1600 hours, as recorded in entry No. 17, in an official vehicle bearing No. SPC-571, driven by DPC Muhammad Budhal. The police party proceeded to the designated location and, at approximately 1620 hours, reached the Mango Garden watercourse bridge (Mori) on 'Tagar Road'. There, they spotted Maroof Ali Channa approaching the town. Upon seeing the police party, he attempted to flee but was immediately apprehended. During the inquiry, the arrested individual identified himself as Maroof Ali Channa, a resident of Zardar Colony, Naushahro Feroze

Town. Due to the unavailability of private witnesses, HC Muhammad Haroon Rajput and HC Muhammad Nawaz Khushik acted as mashirs. The accused was already wanted in Crime No. 192/2017, registered under Section 302 PPC at PS Naushahro Feroze. Upon conducting a personal search, the police recovered an unlicensed 30-bore pistol without a serial number, along with a magazine containing five live bullets, from the front fold of his shalwar. The accused further disclosed that this was the same weapon used in the murder of Faheem Raza Khoso. The weapon was sealed on the spot. Additionally, upon further search, the police recovered a wallet containing Rs. 270 in different denominations, a gold-coloured G-Five mobile phone, the original CNIC of the accused Maroof Ali, and a Jazz Cash Card. A mashirnama of arrest and recovery was prepared on the spot in the presence of HC Muhammad Haroon Rajput and HC Muhammad Nawaz Khushik. Thereafter, the accused, along with the recovered items, was taken in to the custody and brought at to the police station, where an FIR was lodged bearing Crime No. 205/2017 under Section 23(i)(A) of the Sindh Arms Act, 2013, on behalf of the State.

5. After completing all the requisite formalities, the charge was framed separately against the accused in both cases. During the trial of the main murder case (Crime No. 192/2017), the prosecution examined six witnesses, including:

- **PW-1 Mehboob Ali (Complainant):** Uncle of the deceased and an eye-witness of the alleged incident.
- **PW-2 Dost Ali Khoso (Eye-witness/Mashir):** Cousin of the deceased who arrived at the alleged scene upon hearing the shot, and later acted as a mashir (witness) for the site inspection.
- **PW-3 Dr. Syed Mukhtiar Ali Shah (Medical Officer):** Conducted the post-mortem of the deceased.
- **PW-4 Muhammad Jameel (Tapedar):** Prepared the sketch of the crime scene.
- **PW-5 SIP Hakimuddin Sahito (Investigating Officer):** Investigated the murder case, including scene inspection and subsequent arrest of the appellant.
- **PW-6 HC Muhammad Haroon (Mashir/Corps Bearer):** Witness to various recovery memos (such as the recovery of the dead body, blood-soaked earth, and spent casing at the scene) and handed over the corpse to the heirs.

They also produced all relevant documentary evidence in support of the prosecution's case. After completing the examination of witnesses, the learned Deputy District Public Prosecutor (DDPP) closed the prosecution's side.

In the offshoot case bearing Crime No. 205/2017, the prosecution examined only two witnesses, namely:

- **PW-1 SIP Hakimuddin Sahito (Complainant/IO):** The investigating officer who arrested the appellant and

recovered the pistol from him (he acted as complainant for the FIR in this arms case).

- **PW-2 HC Muhammad Haroon (Mashir):** The police official who witnessed the appellant's arrest and the weapon's recovery.

These witnesses produced the relevant documents as evidence in the case. The relevant recovery memo of the pistol and ammunition was produced, as was the forensic report matching the weapon with the crime casing. With this evidence, the prosecution in the arms case was also closed.

6. Trial court recorded statement of accused under section 342, Cr.P.C. wherein he pleaded his innocence and claimed his false implication in this case due to dispute over landed property. However, the appellant alleged that the offshoot case has been registered only to strengthen the main murder case.

7. Learned trial Judge after hearing the learned counsel for the parties and examining the evidence available on record convicted and sentenced the appellant as stated above through impugned judgment. Hence, the appellant has preferred instant Criminal Jail Appeals against the said judgment.

8. Learned counsel for the appellant has argued that there is an unexplained delay of three days in the lodgment of the FIR, which raises serious doubts about the veracity of the prosecution's case and indicates deliberation and fabrication. He contended that the appellant has been falsely implicated due to

an existing dispute over landed property. He further submitted that, as per the prosecution's own version, the complainant and the deceased went to the 'Otaq' of Luqman Channa, but Luqman himself was not present; instead, the appellant was allegedly drinking alone when both demanded money, at which point the appellant allegedly opened fire. He pointed out that only the complainant is claimed to be an eyewitness, whereas the other alleged witnesses, Imam Ali and Dost Ali, were not present at the scene. Moreover, PW Dost Ali materially improved his statement regarding the scene of the incident and admitted in cross-examination that his statement does not establish that on the relevant date, they entered the 'Otaq' of Luqman Channa and witnessed the accused firing at the deceased. The learned counsel also highlighted that the police were initially informed by one Imdad Ali, and not the complainant, as evidenced by Ex.04/A (Lash Chakas Form), which is a crucial document in the investigation. Additionally, he pointed out multiple contradictions in the evidence of the prosecution witnesses, particularly between the complainant and the Investigating Officer, regarding the production of the deceased's body, documentary evidence, and the manner and mode of events. Furthermore, he argued that the mashirnama of the crime scene was prepared three days after the incident, during which bloodstained earth was allegedly collected in a plastic jar, and an empty shell of a 30-bore pistol was recovered and sealed. However, despite the prosecution's claim that the appellant was drinking at the time of the incident, the investigators failed to

collect any drinking material from the scene, further casting serious doubts over the prosecution's case. Another significant contention raised by the learned counsel was that the incident occurred at 7:30 p.m. on 27.10.2017, but the prosecution failed to mention any source of identification at the crime scene, making it unclear how the accused was identified in the dark. He also pointed out that before the lodgment of the FIR, the crime number was already mentioned on crucial documents, including the mashirnama of collected clothes, bloodstained parcel, and the Lash Chakas Form, which suggests serious manipulation of the investigation. He further argued that the entire case is based on the testimony of interested witnesses, who are close relatives of the deceased, and that no independent witness has corroborated the prosecution's version. He emphasized that the alleged recovery of the weapon from the appellant is highly doubtful, as no independent witness was present at the time of the arrest and recovery, rendering the evidence inadmissible under the law. In light of these material discrepancies, contradictions, and the lack of cogent evidence, the learned counsel prayed for the benefit of the doubt in favour of the appellant and submitted that the impugned judgments are liable to be set aside. He further contended that the appellant may be acquitted of all charges. In support of his contentions, the learned counsel relied upon the reported cases of 2010 SCMR 97, 2010 SCMR 385, 2008 SCMR 707, 2018 SCMR 2118, 2017 YLR 1667, 2018 SCMR 344, and 2020 SCMR 1009.2018 SCMR 772, 2019 SCMR 631 and PLD 2019 Lahore 597.

9. Learned Additional Prosecutor for the State has supported the impugned judgments and contended that the prosecution has successfully established its case against the appellant through ocular, medical, and circumstantial evidence. He further argued that the complainant and eyewitnesses have consistently deposed against the appellant, and their testimony remained unshaken during cross-examination. He pointed out that the appellant was apprehended after the incident, and upon his arrest, an unlicensed pistol was recovered from his possession, which he admitted was used in the commission of the murder. He emphasized that the postmortem report corroborates the prosecution's version, as the firearm injury sustained by the deceased aligns with the manner in which the crime was committed. Additionally, he contended that the trial court rightly convicted the appellant based on credible evidence, and that minor discrepancies in the statements of witnesses do not affect the overall prosecution case. In light of the foregoing, he prayed that the conviction and sentence awarded to the appellant may be maintained and that the instant appeals may be dismissed.

10. I have given due consideration to the arguments advanced by the learned counsel for the parties and have meticulously examined the material available on record, including the case law cited.

11. Before delving into the analysis, it is useful to summarize the crucial aspects of the evidence as it emerged at trial:

The complainant (PW-1) gave a vivid eye-witness account of the shooting. He testified that the appellant, whom he and the deceased knew, lost his temper when asked to repay the debt, drew a pistol, and fired at the moment the deceased turned to leave, hitting him in the back of the head. He further stated that the incident occurred in an instant and that the appellant fled immediately after firing the shot. PW-2 Dost Ali corroborated the complainant's narrative in material particulars. Though not present at the exact moment of the first confrontation, Dost Ali stated he arrived almost immediately upon hearing cries and the gunshot, and witnessed the appellant brandishing a pistol at the scene and the deceased lying wounded. Together, these two witnesses placed the appellant at the crime scene being shooter. Both being relatives of the deceased, they were understandably present or in the vicinity at the relevant time (the complainant accompanied the deceased, and Dost Ali rushed over from nearby). Despite thorough cross-examination, their core testimony about the appellant's act was not shaken in any meaningful way.

The post-mortem conducted by PW-3 Dr. Syed Mukhtiar Ali Shah confirmed a firearm entry wound on the back of the skull and a corresponding large exit wound on the frontal region. The medical officer opined that the death was caused by a gunshot injury to the head – a vital organ – and that the injury was ante-mortem and immediately fatal. This medical

evidence fully *corroborates* the ocular account so far as the nature, locale, and impact of the injury are concerned. Notably, the vertical trajectory (entry from the back of head, exit from front) is consistent with the description that the victim was turning away when shot from behind. No discrepancies emerged between the medical evidence and the witnesses' description of the incident. Minor details such as the absence of sooty deposits (blackening) were noted by the doctor, but he conceded that he did not record observations of blackening or charring in his report – a point that does not undermine his conclusion about cause of death. In sum, the medical evidence strengthened the prosecution's version of events.

The investigating officer (PW-5 SIP Hakimuddin) and mashir (PW-6 HC Haroon) testified regarding the collection of forensic evidence and the subsequent arrest. On 28.10.2017 (the day after the murder), the IO visited the 'Otaq' and recovered a spent 30-bore pistol casing from the scene, as well as blood-stained earth, which were sealed as evidence. Later, upon the appellant's arrest on 16.11.2017, the unlicensed 30-bore pistol (along with bullets) was seized from his possession. The forensic ballistics report was produced, which stated that the crime-scene casing was fired from the very pistol recovered from the appellant. This scientific matching of the weapon to the bullet casing provides strong corroboration to the prosecution's case,

linking the appellant to the crime through physical evidence. The IO explained that no private person was available or willing to act as a witness (mashir) during the arrest, so the police officials themselves served as mashirs for the recovery memo. Both the IO and mashir consistently maintained the chain of custody of the recovered items. Despite defence suggestions of some discrepancies in the documentation (such as a number noted on the casing or a minor variation in the weapon's description), no substantive break in the chain of evidence or tampering was demonstrated. The chemical examination report further confirmed that the earth collected was stained with human blood, supporting that the incident took place at the indicated spot.

The prosecution suggested a motive of a monetary dispute – that the appellant owed the deceased some shop dues which led to the altercation. The complainant testified about this outstanding amount, though he did not specify the exact sum in his examination. While the motive as presented was relatively minor (a debt arising from shop purchases) and not documented by any written IOU, it was a plausible trigger for the quarrel. Even if one were to consider the motive weak or not conclusively established, it is a settled principle that motive is not a ***sine qua non*** for conviction when direct evidence (ocular and forensic) proves the offense. People have been known to commit murder over trivial matters; hence, lack of a powerful motive or the prosecution's inability

to quantify the debt does not override the compelling direct evidence on record. In any event, the trial court noted that the motive was not the linchpin of the case – the conviction rests on the eye-witness and other evidence, and rightly so.

The appellant's defence was a general denial coupled with an allegation of being framed due to a property dispute. However, this claim remained entirely unsubstantiated. The appellant neither identified the specifics of this purported enmity (nature of the land dispute, parties involved, etc.) nor brought any evidence of prior ill-will on part of the complainant that could plausibly spur a false accusation of such a grave crime. Under cross-examination, the prosecution witnesses denied any personal enmity beyond the incident itself. The defence counsel was unable to elicit any admission or indication that the complainant party had a motive to falsely implicate the appellant.

The appellant's claim of being framed appears to be a desperate assertion rather than a credible defence. Moreover, the appellant absconded after the incident and was apprehended only after a chase; flight is generally considered conduct that infers guilt. In the present case, while the period of abscondence was not very long, the fact remains that he did not surrender or cooperate with the investigation, which **"is also a corroboratory piece of evidence against him".**

12. Having outlined the evidence, the Court now proceeds to evaluate the points of contention and the arguments raised, in light of the law and precedents. The various discrepancies and objections raised by the defence have been examined in detail, and for reasons explained below, none of them cast any significant doubt on the prosecution's case.

13. The defence highlighted that FIR No.192/2017 was lodged on 30.10.2017, three days after the incident (27.10.2017), and argued that this unexplained delay indicates fabrication and afterthought. It is true that prompt lodging of an FIR lends credibility to a prosecution story, and an inordinate or unexplained delay can give rise to suspicion. However, in the present case the delay has been adequately explained by the circumstances. The occurrence took place in the late evening of 27.10.2017; the immediate reaction of the complainant (a police official by profession, incidentally) and others was to tend to the fatally injured victim and take him to the hospital. After the deceased was pronounced dead and necessary formalities were done that night, the family became occupied with funeral and burial rites. The complainant has stated that only after laying his nephew to rest and observing the initial condolence gathering did he approach the police to formally lodge the FIR. Such conduct is neither unusual nor inexplicable – in our societal context, it is common for bereaved families to prioritize the last rites of the deceased over immediate legal formalities. The law does recognize that a delay in lodging the FIR, if satisfactorily explained, is not fatal to the prosecution.

Indeed, the Supreme Court in Gulu Khan v.Daraz Khan (1195 SCMR 1765) has noted that where the parties are well-known to each other and there is no question of mistaken identity of the culprit, even a considerable delay in registration of the FIR will not by itself render the prosecution case doubtful, so long as the delay is plausibly accounted for. Here, the appellant was named from the very inception – the record reveals that even on the night of the incident an entry was made in the station diary (Roznamcha) about the murder accusation against the appellant, on information provided by a relative of the deceased. Thus, the investigation was set into motion on 27.10.2017 itself. The formal FIR on 30.10.2017 essentially documented the already-known details once the complainant became available to do so. There is no indication that in the interim the story was embellished or a fictitious culprit was nominated; the core allegation against the appellant remained consistent. Therefore, the three-day delay in FIR lodgment, in the specific facts of this case, does not sow any reasonable doubt about the prosecution's veracity. It has been satisfactorily explained and does not prejudice the appellant.

14. The appellant's counsel attacked the credibility of the eye-witnesses (PW-1 and PW-2), terming them "interested" on account of their relationship with the deceased, and pointed to certain inconsistencies between their accounts (such as who arrived at the scene when, the description of the otaq's wall and door, and who received the body at the hospital). Admitedely, both eye-witnesses are close relatives of the deceased. However, merely

being related to the victim does not automatically disqualify a witness or taint their testimony. The law in Pakistan is well settled that a **related witness is not necessarily an interested witness** if his presence at the scene is natural and he is telling the truth. As the Honourable Supreme Court has articulated, if the presence of related witnesses at the time of occurrence is natural and their evidence is straightforward and confidence-inspiring, it can be safely relied upon to sustain a conviction. In such cases, the testimony of a related witness must be scrutinized with caution, but it **cannot be discarded solely due to relationship**. Here, the complainant (uncle of deceased) was undeniably a natural witness – he was with the deceased from the outset as part of the plan to demand repayment. Dost Ali (cousin) also became a natural witness by virtue of being in the vicinity and rushing over upon hearing the shot; he had no choice in the matter of witnessing a crime concerning his own relative. Both witnesses underwent lengthy cross-examination, yet their accounts on all material particulars – *identity of the assailant, the weapon used, the site of injury, and the fact that the shot was fired during a confrontation over money* – remained consistent and unshaken. Similarly, there was a slight variance in who exactly arrived first after the shooting (Imam Ali or Dost Ali). These are **minor contradictions that do not go to the root of the case**. Such trivial inconsistencies can occur due to differences in observation, perspective or memory, and in fact underscore that the witnesses were not rehearsed. The Supreme Court in Jail Petition No. 553 of 2017 (Supreme Court; Aqil v. The State) has held that where discrepancies are of a minor

character and do not shake the salient features of the prosecution's version, they are to be ignored. The test is whether the core of the prosecution case is intact and free of contradictions on material points. In this case, the core narrative – that the appellant shot the deceased in the stated manner and fled – is consistently affirmed by the eye-witnesses. There is no contradiction on the *identity of the accused* or the *factum of the shooting*. All supposed discrepancies highlighted by the defence (wall height, exact sequence of arrivals, etc.) are collateral details that do not negate the eye-witnesses' reliability regarding the crucial facts. Moreover, the complainant and PW-2 are corroborated by the medical evidence on the crucial point of how the incident occurred (shot from behind head while turning away). **Their evidence has a ring of truth and was rightly found reliable by the trial court.** It bears emphasis that in criminal cases, it is the *quality* of evidence, not the quantity, that matters; even the testimony of a single credible eye-witness can be sufficient to convict if it inspires confidence. Here we have two eye-witnesses, and the Court finds their testimony to be not only plausible but also supported by other evidence. There is also no element of any of these witnesses having reason to falsely implicate the appellant specifically – the defence could not point out any animus or grudge (apart from the incident itself) that would render their evidence suspect. It was also argued that the incident happened in darkness (evening/night) and no source of light was described, implying a doubt in identification. This argument is mis-placed. Firstly, the complainant and the appellant were already acquainted with each other; in fact, the

entire purpose of going to the otaq was to confront the appellant by name. There was verbal interaction between them before the shooting. Thus, identification of the appellant was never in question – this is not a case of an unknown assailant in the dark. Secondly, the setting was an inhabited area (a colony) and an otaq likely to have some lighting (the presence of a bottle of wine suggests the appellant was sitting there drinking, presumably not in pitch darkness). Even if no witness explicitly mentioned the bulb or lantern, it is evident they could see and recognize the appellant during the altercation at close quarters. In sum, the circumstances leave no room for mistaken identity. Both eye-witnesses consistently named *Maroof Ali Channa* as the sole culprit from the very start and never wavered on this point.

15. The defence stressed that no independent/private witness was produced, either for the murder scene or the weapon recovery, contending that the case rests only on related or official witnesses. It is true that all the prosecution witnesses are either relatives of the deceased or police officials. Ideally, associating an independent witness (a neutral bystander or member of public) lends greater credence to recoveries and other proceedings. However, the **absence of independent witnesses is not fatal** when the evidence on record is otherwise convincing and coherent. The law does not require any specific number of witnesses for proof of a fact – *"Evidence has to be weighed, not counted."* In the present matter, the crime took place in a private 'Otaq' where the only people present or immediately responding

were the relations of the victim. It is not surprising that no outsider from the locality was a direct witness to the shooting. Efforts were made by the IO to involve the owner of the 'Otaq' (Luqman Channa) in the investigation, but he was not available (his house was found locked). The other residents who came after the fact (if any) were not identified. In rural settings, it is not uncommon for community members to be reluctant in coming forward to testify in a murder, out of fear or avoiding enmity. What is crucial is that the witnesses who have testified are credible and their presence is explainable. As already discussed, PW-1 and PW-2 were natural witnesses and their evidence has been found trustworthy. No adverse inference can be drawn merely from the fact that they happen to be related to the deceased. Their relationship in fact provided them the occasion to be present; it does not by itself render their testimony false. The suggestion that they falsely implicated the appellant due to some prior feud is unsupported by evidence. Regarding the recovery of the pistol, it was carried out by the police themselves without associating a private person as mashir. The IO explained that the arrest was effected based on a sudden tip-off on a road, and no members of public were at hand. In any event, the testimony of official witnesses (police officials) is legally admissible and can be relied upon, so long as the court is satisfied of their truthfulness. Here, there is nothing on record to suggest that the police witnesses fabricated the recovery. They had no personal enmity against the appellant; the appellant's claim of a "planted" weapon was a bald allegation. The sequence of events (appellant trying to flee, being chased and caught with a weapon

in his possession) was consistently narrated. The recovered pistol was promptly sealed and sent for ballistic expert, which turned out to corroborate the prosecution case. Thus, the recovery of the crime weapon stands proved to a reasonable degree. Even if one were to be skeptical due to lack of independent corroboration, the fact remains that **forensic science spoke volumes** – the matching of the bullet casing to the appellant's pistol is impartial evidence that cannot be easily explained away. In the face of such objective evidence, technical objections about the *mashirnama* having only police witnesses lose force. It may also be noted that the **rule of prudence** which once inclined courts to outright distrust related or official witnesses has evolved. The superior courts now emphasize evaluating the substance of evidence rather than its source in isolation. A police witness is as much a competent witness as any other, and his statement cannot be discarded only because of police personal. In the instant case, the Court has scrutinized the testimony of each police official (the IO and mashir) and finds it consistent and convincing. The defence could not identify any internal inconsistency or inherent improbability in their version of the recovery. Minor administrative lapses, such as the crime number being written on a memo prepared shortly after the incident (possibly updated after formal FIR) or a discrepancy in noting an exhibit number, do not by themselves create a reasonable doubt. Such lapses, though regrettable, do not affect the core evidence when the overall chain linking the accused to the offense is intact.

16. The cumulative effect of the prosecution evidence – ocular accounts supported by medical findings, contemporaneous documentation (FIR and memos), and scientific confirmation through forensics – is that a coherent story emerges, pointing unequivocally to the appellant's guilt. On the other side, the defence has been unable to put forth any coherent alternative narrative. The allegation of a prior *zimni* dispute over land remains nebulous and unproved. The appellant did not even venture into the witness box to testify to any facts in support of his plea on oath; nor did he produce any independent testimony (for instance, from Luqman Channa or anyone privy to the supposed property dispute) that could lend weight to his claim. When given the chance under Section 342 Cr.P.C to explain the incriminating evidence, he mostly stuck to a blanket denial. The trial court was therefore right in disbelieving the unsubstantiated defence theory. Our own independent evaluation finds no substance in it. There is no *plausible reason* why the complainant's family would involve the appellant if he were not the real culprit – no tangible personal benefit or aversion was demonstrated that could motivate a false implication. **The principle that "men may lie, but circumstances do not" aptly applies here: the circumstances (death by gunshot, appellant's immediate flight, recovery of matching weapon from him) speak for themselves, and align with the testimonial evidence. Nothing in the circumstances suggests that the crime was committed by someone else or that the appellant was roped in out of malice.** Finally, it is important to underscore that this

Court, being a court of appeal, has nonetheless given due deference to the findings of the trial judge who had the opportunity to observe the demeanor of the witnesses first-hand. The trial court found the prosecution witnesses credible and the defence contentions flimsy. We concur with that assessment. We also keep in view the contemporary guidance of the superior judiciary aimed at ensuring justice through truthful evidence. The Honourable Supreme Court has re-affirmed the doctrine *falsus in uno, falsus in omnibus* (false in one thing, false in everything) as an integral part of our criminal jurisprudence. This means that if a witness is found to have **deliberately lied** about any material aspect, the court may discard their entire testimony as unreliable, and the witness could even face perjury charges. In the present case, after subjecting the prosecution evidence to careful scrutiny, I do not find any instance of deliberate falsehood on a material point. The witnesses may have minor lapses in memory, but there is no indication that they attempted to mislead the court on any crucial fact. Therefore, the **falsus in uno rule does not operate** against the prosecution here – on the contrary, its implication is that since the witnesses have remained truthful on material particulars, their testimony is worthy of credence in its entirety. The Court is mindful not to extend undue *benefit of doubt* to the accused in a situation where no reasonable doubt actually exists. The law certainly mandates that if a reasonable doubt arises, it must enure to the benefit of the accused as of right. But conjectures or remote possibilities cannot be elevated to the level of reasonable doubt. In this case, the so-called doubts raised by the defence (delay in FIR, interested

witnesses, lack of independent corroboration, etc.) have all been satisfactorily answered by the prosecution evidence and prevailing legal principles. No significant loophole or contradiction has been left in the prosecution's case that would warrant a benefit of doubt to the appellant. The evidence, when examined holistically, meets the standard of proof required for criminal conviction.

17. Given the discussion above, the conviction in the **connected arms case (Crime No.205/2017)** also stands justified. The recovery of the unlicensed pistol from the appellant's possession has been proven through the straightforward evidence of the IO and Mashir. The forensic evidence linking that pistol to the murder provides further confirmation that it is indeed the same weapon used unlawfully by the appellant. The defence's objections to the recovery (chiefly the lack of independent witnesses) have already been addressed and found to be without merit. It is settled law that recovery evidence is corroborative in nature in this instance it not only corroborates the murder charge but also independently establishes the offense of possessing an illicit weapon. The trial court's sentence of 10 years R.I. for the arms offense is in line with the statutory punishment and reflects the gravity of using an illegal weapon to take a life. This Court finds no mitigating circumstance to interfere with that sentence.

18. The decision to uphold the convictions is fortified by the following well-established legal principles laid down by the superior courts of Pakistan, which find full application in this case:

- **Related Witnesses** – The mere fact that a witness is a relative of the victim does not render him **partisan or untrustworthy**, especially if his presence at the scene is natural. The Supreme Court has explicitly held that a related witness can be a truthful and *"natural witness"*; such testimony cannot be discarded absent evidence of animus. Only if the witness's evidence is tainted by malice or ill-will would he be considered *"interested."* In **Jail Petition No. 206 of 2019 (Supreme Court; Muhammad Ijaz v. the State)**, it was observed: *"A related witness cannot be termed as an interested witness under all circumstances... If an offence is committed in the presence of family members then they assume the position of natural witnesses. In case their evidence is reliable, cogent and clear, the prosecution case cannot be doubted."* In the same case, the Court further noted that the defence could not show any reason why the complainant would falsely implicate the accused and let the real culprit go, emphasising that **substitution of an innocent person for the real offender is a rare occurrence** in such cases Likewise, in **Criminal Appeal No. 446 of 2020 (Supreme Court; Abdul Wahid v. The State)**, the Court reiterated that *"if the presence of related witnesses at the time of occurrence is natural and their evidence is straightforward and confidence inspiring then the same can be safely relied upon to sustain the conviction of an accused."* In short, the law looks at **quality, credibility,**

and coherence of a witness's testimony, not at his relationship with the victim alone.

- **Minor Discrepancies** – It is virtually impossible in any trial for different witnesses to remember every detail identically. Minor inconsistencies or discrepancies in peripheral details do not shake the prosecution's case, so long as the witnesses are consistent on the major aspects. The Supreme Court has held that immaterial contradictions which do not go to the root of the case should be ignored. In **Jail Petition No. 206 of 2019**, it was noted that the defence was unable to point out any major contradiction that could affect the case, and that *"where discrepancies are of minor character and do not go to the root of the prosecution story... they need not be given much importance."* A similar view was taken in **Criminal Appeal No. 446 of 2020**, where the Court found the eye-witnesses had remained consistent on every material point, and no contradiction was highlighted that could *"shatter the case of the prosecution in its entirety."* Thus, courts separate the wheat from the chaff – **trivial inconsistencies are overlooked**, whereas material contradictions, if any, are examined for their effect on the overall proof. In the present case, as discussed, the so-called contradictions were minor in nature and had no impact on the core prosecution story.
- **Ocular vs. Medical Evidence** – It is a settled principle that when ocular (eye-witness) evidence is found trustworthy and corroborated on salient points, it is given precedence.

Even if there is some divergence between medical evidence and ocular testimony, the eye-witness account may be preferred provided it is confidence-inspiring, since medical evidence is primarily opinionative and confirmatory. In our case, there was *no conflict* between the two; rather, the medical evidence solidly supported the eye-witnesses. The rule, therefore, fully applies that **straightforward ocular testimony, if believed, is sufficient for conviction** . The Court in ***Muhammad Iqbal v. The State*** **(1996 SCMR 908)** and other cases has affirmed that *even one credible witness* can secure a conviction, and medical or forensic evidence serves as corroboration. Here we had more than one ocular witness, plus medical and forensic support – a prosecution case on such a strong footing meets the highest standard of proof.

- **Single Witness Sufficiency** – our jurisprudence does not require a plurality of witnesses for proving a crime. The testimony of a single competent witness, if found reliable by the Court, can sustain a conviction on its own. In **Niaz-ud-Din v. The State (2011 SCMR 725)**, it was held that *"conviction in a murder case can be based on the testimony of a single witness, if the Court is satisfied that he is reliable; it is the quality of evidence and not the number of witnesses that is material."* This principle has been consistently upheld, including in recent judgments (e.g., **2023 SCMR 117; Qasim Shahzad v. The State**). In the present case, as noted, we effectively have two witnesses

to the crime, both of whom the Court finds to be reliable. Even had there been only one eye-witness (say, the complainant alone), that could have sufficed given the trustworthiness of his testimony, corroborated by other evidence. Thus, the requirement of independent corroboration is a rule of prudence, not law, and the evidence of a solitary witness, if cogent, carries the day.

- **Recovery Evidence and Forensic Corroboration** – The recovery of crime articles (weapon, empties, etc.) and their forensic analysis serve to provide additional assurance of guilt. Although a conviction may not solely rest on recovery evidence (since recovery is considered corroborative in nature), a positive forensic match between a recovered weapon and a crime-scene projectile can significantly bolster the prosecution. In the instant case, the forensic ballistics result leaves no room for doubt that the appellant's pistol was the murder weapon. The chain of custody was maintained from seizure to forensic examination. Courts have held that where scientific evidence dovetails with ocular testimony, the case against the accused becomes clinching. The absence of independent witnesses to the recovery does not negate this evidence, especially when police officials involved have no axe to grind and their depositions remain unchallenged on material particulars. Superior courts discourage the outright rejection of police testimony merely due to official status; instead, they call for careful scrutiny. Here, that scrutiny reveals no infirmity.

Therefore, the recovery of the pistol and its match with the casing stand as a lawful and incriminating piece of evidence against the appellant.

- **Motive** – While proving motive is not a legal prerequisite, it can lend weight to the prosecution case if established. Conversely, if the alleged motive is not proved or is weak, it is **not a ground for acquittal** as long as the direct evidence is strong. The Supreme Court in multiple cases has observed that when there is reliable ocular evidence, the question of motive pales into insignificance. For instance, in **Criminal Appeal No. 446 of 2020**, even though the High Court had found the motive to be vague, the apex Court noted that this *"ultimately does not imprint any impression regarding the final fate of adjudication of the lis,"* because the conviction was based on unimpeachable ocular evidence. In our case, the motive of a monetary dispute, albeit minor, fits within the factual matrix and was spoken to by the complainant. Even if one considers it uncorroborated by documentation, the direct evidence of the appellant's actions is so compelling that lack of a proven motive does not introduce any reasonable doubt.

The above legal principles, drawn from recent and authoritative judgments of the superior courts, align squarely with the findings of the trial court in this case. The trial court's decision is consistent with these settled principles – it placed reliance on the trustworthy eye-witness account, found that minor inconsistencies did not dent

the prosecution story, and took support from the medical and forensic evidence. The defence's emphasis on technicalities (like delay in FIR and absence of independent witnesses) was rightly downplayed in view of the satisfactory explanations and the robust direct evidence.

19. n view of the foregoing analysis and discussion, this Court is of the considered opinion that the prosecution successfully established the appellant's guilt in both the murder charge and the allied firearms charge. The evidence on record was properly appraised by the learned trial judge, and the convictions are well mer d. The grounds urged in appeal on behalf of the appellant do no nspire confidence; on the contrary, the appellant's counsel f ıed to point out any legal or factual error that would vitiate the onvictions. All essential elements of the offenses stand proved beyond reasonable doubt. The **eye-witness testimonies**, reinforced by **medical evidence** and **forensic confirmation**, form an unbroken chain that squarely implicates the appellant. No significant doubt arises in the case warranting the appellant to be given benefit of the doubt.

20. Accordingly, both Criminal Jail Appeal No. S-05 of 2020 (re: Crime No.192/2017 under Section 302 PPC) and Criminal Jail Appeal No. S-04 of 2020 (re: Crime No.205/2017 under the Sindh Arms Act) are hereby **dismissed**. The convictions and sentences awarded to appellant Maroof Ali Channa by the trial court are **maintained** in full. The appellant shall serve out the

remainder of his sentences as imposed, with the benefit of Section 382-B Cr.P.C. already accorded by the trial court.

JUDGE

Dictated by me

28/4/25