

JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Jail Appeal No.S-40 of 2024

Ghulam Muhammad v The State

Appellant : Ghulam Muhammad son of Muhammad Soomar Solangi, through counsel for pauper appellant Ms. Mehrun Nisa Mughal, Advocate.

Respondent : The State, through Mr. Shahzad Saleem, Additional Prosecutor General, Sindh and Mr. Neel Parkash, Deputy Prosecutor General.

Amicus Curiae : Mr. Pervaiz Akhtar Talpur, assisted by Mr. Taimoor Ali Qureshi, Advocate.

Date of Hearing : 07.10.2026

Date of Judgment : 21.10.2026

JUDGMENT

Muhammad Humayon Khan, J.: Through this criminal jail appeal, the appellant Ghulam Muhammad son of Muhammad Soomar Solangi has challenged the judgment dated 24.05.2019 passed by the learned Additional Sessions Judge-I/Model Criminal Trial Court, Umerkot, in Sessions Case No. 99 of 2017. That case arose out of Crime No. 47 of 2017 of Police Station Kunri, registered under section 302 PPC. By the impugned judgment, the appellant was convicted under section 265-H(ii) Cr.P.C. for qatl-i-amd of his wife, Mst. Siyani, punishable under section 302(b) PPC. He was sentenced to rigorous imprisonment for life as ta'zir and to pay Rs. 100,000/-, or in default to suffer rigorous imprisonment for six months more. He was given the benefit of section 382-B Cr.P.C.

2. The appellant filed the appeal from jail and could not engage counsel, so Ms. Mehrun Nisa Mughal, Advocate, represented him as a pauper appellant. Mr. Pervaiz Akhtar Talpur, Advocate, assisted by Mr. Taimoor Ali Qureshi, Advocate, was appointed amicus curiae, and the Court records its appreciation for their assistance.

3. The FIR was lodged by Arbab Solangi, brother of the deceased, at Police Station Kunri on 14.05.2017 at 2300 hours. He stated that his sister, Mst.

Siyani, had been married to the appellant for eight or nine years and had two minor sons, and that the appellant used to maltreat her. When she complained to him on 13.05.2017, he went to the appellant's house in Sohrab Colony, Kunri, with his brother Muhammad Achar and a relative, Muhammad Usman. They reached the house at about 1900 hours and asked the appellant not to maltreat her, which annoyed him. They stayed the night. At about 0230 hours on 14.05.2017 they woke to a noise. By the light of a bulb, they saw the appellant take a hatchet from the kitchen and strike Mst. Siyani on the neck as she lay asleep, and she died on the spot. The appellant ran away with the hatchet. They called the neighbours, and Councillor Saleem informed the police.

4. The Investigating Officer, SIP Riaz Ahmed Laghari (PW-7), deposed as follows:

- At about 0330 hours on 14.05.2017, Councillor Saleem Baloch came to the police station and reported that the appellant had murdered his wife. Entry No. 17 was recorded at 0328 hours.
- He reached the house, where the complainant showed him the place of the incident.
- In the presence of mashirs Ali Muhammad and Sohrab, he prepared the memo of inspection of the place and the dead body, the lash chakas form and the danishnama, and secured blood-stained earth.
- He sent the body to hospital for post-mortem.
- He says the complainant told him he would lodge the FIR after the funeral, and the FIR was in fact lodged at 2300 hours.
- He says he arrested the appellant on 15.05.2017 at 0820 hours.
- On 17.05.2017 he secured the blood-stained clothes of the deceased.
- On 18.05.2017 he sent the clothes, the hatchet and the earth to the Chemical Examiner.
- He recorded the statements of the eye-witnesses under section 161 Cr.P.C. on 23.05.2017.

The memo of arrest and recovery (Ex. 10-D), however, records that the appellant was arrested at 2350 hours on 14.05.2017 behind his house, holding a blood-stained hatchet.

5. A charge under section 302 PPC was framed on 02.08.2018, to which the appellant pleaded not guilty. The prosecution examined seven witnesses:

- PW-1, the complainant Arbab;
- PW-2, Muhammad Achar;

- PW-3, Muhammad Usman;
- PW-4, the Woman Medical Officer;
- PW-5, Tapedar Din Muhammad;
- PW-6, mashir Ali Muhammad; and
- PW-7, the Investigating Officer.

The appellant denied the prosecution case in his statement under section 342 Cr.P.C. and claimed false implication. He neither gave evidence on oath nor led defence evidence.

The trial Court accepted the ocular, medical and recovery evidence and convicted the appellant. It awarded imprisonment for life rather than death, because, in its own words, the motive was shrouded in mystery.

6. PW-1, the complainant Arbab, repeated the account in the FIR. In cross-examination he said that he lives in Bustan, that his brother Muhammad Achar lives with him, and that Muhammad Usman lives about half a kilometer from the appellant's house. He said Usman came to his house in Bustan at about 1800 hours and the three of them left at 1815 hours, reaching the appellant's house at 1900 hours. He also said the following:

- The police arrived at about 0400 hours and shifted the body to hospital.
- The body was handed back to the family at about 0700 hours, and after the burial they sat for condolence.
- The police kept visiting his house and insisted that he lodge the FIR, which he eventually did at 2300 hours.
- The deceased had only one injury on her neck.

He denied a suggestion that the deceased had been killed by her own family and the appellant falsely implicated.

7. PW-2, Muhammad Achar, supported the complainant's account of the occurrence. In his examination-in-chief he stated that the police recorded his statement under section 161 Cr.P.C. on 23.05.2017. In cross-examination he said that Muhammad Usman lives across the street from the appellant's house, and that the police insisted three or four times that they lodge the FIR.

8. PW-3, Muhammad Usman, also supported the occurrence, but differed on how the witnesses came together and on later events:

- He said the complainant came to his house at about 1900 hours, and they reached the appellant's house at 1900 hours.
- In his examination-in-chief he said the body was handed back to them in the evening after the post-mortem.
- In cross-examination he said that they went to the police station after the burial "in the next morning".
- He said the police recorded his statement on the day after the FIR was registered.

9. PW-4, the Woman Medical Officer, conducted the post-mortem examination between 0500 and 0720 hours on 14.05.2017. She found incised wounds on the front of the neck, including a cut throat. She opined that death was caused by hemorrhagic shock from injuries Nos. 1 and 2, that the time between injury and death was within thirty minutes, and that the injuries were caused by a sharp-cutting weapon such as a hatchet. PW-5, the Tapedar, prepared a sketch of the place on oral instructions from the Investigating Officer, without having received a letter from the Mukhtiarkar.

10. PW-6, Ali Muhammad, the mashir, deposed that the appellant was arrested at 2350 hours on 14.05.2017 from behind his house with a blood-stained hatchet in his hands. He also said he had accompanied the complainant to the police station when the FIR was lodged at 2300 hours that night.

11. PW-7, the Investigating Officer, deposed that the arrest was made at 0820 hours on 15.05.2017. In cross-examination he admitted three things: that there is no chemical report matching the blood on the hatchet or the earth with the blood group of the deceased; that he did not take the appellant's fingerprints for comparison with any prints on the hatchet; and that he did not examine Councilor Saleem. He also said the blood-stained articles were sent to the Chemical Examiner on 18.05.2017 and that, as he recalled it, the report found human blood. No chemical report was produced in evidence.

12. Ms. Mehrun Nisa Mughal, learned counsel for the pauper appellant, contended that the prosecution case is full of doubts. She pointed out that the FIR was lodged twenty hours after the incident, at the insistence of the police, by a complainant who had been present with the police at the spot from 0400 hours. The councilor who first reported the incident was never examined, and the eye-witnesses are close relatives of the deceased who live elsewhere and are therefore chance witnesses. Their accounts of how they came to be at the house conflict, and their statements under section 161 Cr.P.C. were recorded nine days late. She argued that

the arrest and recovery are contradictory, that no chemical report was produced, and that the trial Court itself found the motive unproved. Relying on *Muhammad Akram v. The State* (2009 SCMR 230), she submitted that the appellant is entitled to the benefit of every reasonable doubt.

13. Mr. Pervaiz Akhtar Talpur, learned amicus curiae, assisted by Mr. Taimoor Ali Qureshi, placed before the Court the law on the effect of an unexplained delay in recording the statements of witnesses under section 161 Cr.P.C. He relied in particular on *Mohammad Asif v. The State* (2017 SCMR 486). In fairness, he also cited the principle that a conviction for murder may rest on the evidence of a single witness if that witness is wholly reliable, relying on the judgment reported as 2023 SCMR 117. He further referred to the judgments reported as 2008 SCMR 1064 and 2024 SCMR 51.

14. Mr. Shahzad Saleem, the learned Additional Prosecutor General, and Mr. Neel Parkash, the learned Deputy Prosecutor General, supported the impugned judgment. They argued that the eye-witnesses had a natural reason to be present, being the deceased's brothers and a relative who had come to settle a domestic dispute. They contended that the witnesses were consistent on the manner of the occurrence, which the medical evidence corroborates, and that the early report by the councilor named the appellant. They added that the hatchet was recovered from him and that relationship alone is no ground to discard the evidence.

15. I have heard learned counsel for the appellant, the learned amicus curiae and the learned law officers, and have examined the record. That Mst. Siyani died an unnatural death from sharp-edged injuries to her neck is not in dispute. The question is whether the prosecution proved, beyond reasonable doubt, that the appellant caused them.

16. I take first the delay in the FIR and the fate of the first information. The incident is said to have occurred at about 0230 hours. The police learned of it at 0328 hours, when Councilor Saleem Baloch made a report that was entered in the daily diary. They were at the spot by 0400 hours, and the complainant himself met them there and showed them the place. Yet no FIR was recorded then. It was lodged only at 2300 hours, some twenty hours later, after the post-mortem, the burial and the condolence, and, on the complainant's own admission and that of PW-2, only after the police had visited and insisted three or four times that it be lodged.

17. An eye-witness who has just seen his sister killed, and who is standing with the police at the scene, would be expected to name the killer at once.

The explanation offered, that the family was in mourning, does not account for a delay in which the complainant was in repeated contact with the police. The person who made the earliest report, Councilor Saleem, was not produced. His report is recorded only in a daily diary entry spoken to by the Investigating Officer, and it is no substitute for his own evidence of how he came to know who the assailant was. The Supreme Court has repeatedly held that an unexplained delay in lodging the FIR, particularly one that allows for consultation and deliberation, undermines the prosecution case: *Muhammad Asif v The State* 2008 SCMR 1001. The Supreme Court has also stressed the importance of recording the FIR promptly: *Imran Ashraf v. The State* 2001 SCMR 424.

18. The presence of the three eye-witnesses at the house that night is not established beyond doubt. None of them lived there. The complainant and PW-2 live in Bustan, and they are the brothers of the deceased; PW-3 is a relative. Their reason for being in the house at 0230 hours depends on the story of a visit to remonstrate with the appellant and a stay for the night. A relative who reasonably explains his presence is not to be discarded merely as a chance witness, but his account of how he came to be present must itself be credible.

Here, the accounts are mutually inconsistent:

- According to the complainant, PW-3 came to his house in Bustan at 1800 hours and the three of them left together at 1815 hours, reaching the appellant's house at 1900 hours.
- According to PW-3, the complainant came to his house at about 1900 hours, and they reached the appellant's house at 1900 hours.
- The complainant placed PW-3's house half a kilometer from the appellant's, whereas PW-2 said PW-3 lives across the street from it.
- PW-2 said the body was returned to them at about 0700 hours, PW-3 that it was returned in the evening.
- PW-3 also said they went to the police station "in the next morning" after the burial, whereas the FIR was recorded at 2300 hours on the day of the incident.

These are not discrepancies of detail, given years after the event. They go to the central question of whether, and how, these witnesses were in the house at all.

19. The statements of the eye-witnesses under section 161 Cr.P.C. were recorded late, and the delay was not explained. The Investigating Officer stated that he recorded them on 23.05.2017, nine days after the occurrence, and PW-2 confirmed this date. PW-3 claimed his statement was recorded the day after the FIR,

so the witnesses are not even agreed on when they were examined. The Investigating Officer met the complainant at the spot at 0400 hours on 14.05.2017 and arrested the appellant, on his own account, the next morning. He offered no reason why he did not examine the eye-witnesses for nine days.

20. It is settled that the late recording of a statement under section 161 Cr.P.C. reduces its value to nil unless the delay is plausibly explained: *Abdul Khaliq v The State* 1996 SCMR 1553. The Supreme Court reaffirmed this in *Mohammad Asif v The State* 2017 SCMR 486, on which the learned amicus rightly relied, and in *Noor Muhammad v. The State* 2020 SCMR 1049 and *Muhammad Khan v The State* 2022 SCMR 986. An unexplained delay of this length, in a case where the witnesses were available to the police from the first hour, leaves room for the inference that their accounts were settled after consultation.

21. The learned amicus fairly placed before the Court the principle, reflected in the judgment reported as 2023 SCMR 117, that a conviction for murder may be based on the evidence of a single witness if that witness is wholly reliable. I accept that principle without reservation: the law looks to the quality of evidence, not its quantity. But the principle cuts both ways. Three related witnesses whose presence is doubtful, whose statements were recorded nine days late without explanation, and whose accounts conflict on the circumstances of their presence and on later events are no stronger than one witness of the same character. None of them, in my view, is of the quality on which a conviction carrying imprisonment for life can safely rest without independent corroboration.

22. The medical evidence establishes the cause of death and that the injuries were caused by a sharp-edged weapon. It corroborates the fact and manner of death, but it does not identify the assailant. It also sits uneasily with the complainant's assertion that the deceased had only one injury on her neck, since the Medical Officer described more than one. The light in which the witnesses claim to have identified the assailant was a bulb. The bulb was not secured, and nothing beyond the witnesses' own word shows that the bulb was on at 0230 hours.

23. The evidence of arrest and recovery is contradictory and cannot provide corroboration. The mashir, PW-6, said the appellant was arrested at 2350 hours on 14.05.2017 from behind his own house with the blood-stained hatchet in his hands, and that the memo Ex. 10-D was prepared then. The Investigating Officer said the arrest was made at 0820 hours on 15.05.2017. The two accounts differ in date and time. The mashir's version also requires the Court to believe that a man who had

fled with the weapon some twenty-one hours earlier was found standing behind his own house still holding it, blood-stained, in his hands. That is inherently improbable. The same mashir claimed to have been at the police station when the FIR was lodged at 2300 hours.

24. The articles were sent to the Chemical Examiner only on 18.05.2017, and no report was produced to show that the blood on the hatchet was human, let alone that it matched the blood group of the deceased. Safe custody and transmission of recovered articles to the expert must be proved: *Kamal Din alias Kamala v The State* 2018 SCMR 577. In any event, recovery of a weapon is only corroborative evidence and cannot by itself sustain a conviction where the direct evidence is unreliable, as the trial Court itself recognized in relying on *Muhammad Nadeem alias Deemi v The State* 2011 SCMR 872.

25. The prosecution's case on motive, namely that the appellant was annoyed because his wife had complained of maltreatment to her brothers, was found by the trial Court itself to be "shrouded in mystery". The trial Court reduced the sentence on that ground. Absence of motive does not by itself defeat a case resting on reliable direct evidence. Where, however, the direct evidence is as doubtful as here, the absence of any proved motive leaves the prosecution with nothing to fill the gap.

26. The learned trial Court dealt with each of these defects in isolation. It found the delay in the FIR explained by the daily diary entry, the delay in recording the section 161 statements immaterial, the relationship of the witnesses irrelevant, and the contradictions minor. It did not consider their cumulative effect, and it did not address the conflicting evidence of arrest and recovery. That is a misappraisal of the evidence.

27. The principles governing the benefit of doubt are settled. A single circumstance that creates reasonable doubt in a prudent mind about the guilt of the accused entitles him to its benefit, not as a matter of grace or concession but as of right. The Supreme Court laid this down in *Tariq Pervez v. The State* (1995 SCMR 1345) and has applied it in *Ghulam Qadir v The State* 2008 SCMR 1221, *Muhammad Akram v The State* 2009 SCMR 230, *Muhammad Zaman v The State* 2014 SCMR 749, *Muhammad Mansha v The State* 2018 SCMR 772 and *Mst. Asia Bibi v The State* PLD 2019 SC 64. In *Abdul Jabbar v The State* 2019 SCMR 129, the Supreme Court held that once a single loophole is found in the prosecution case, its

benefit must go to the accused. Here there is not one doubt but several, and together they go to the root of the case.

28. For the foregoing reasons, the prosecution has failed to prove its case against the appellant beyond reasonable doubt. Criminal Jail Appeal No.S-40 of 2024 is allowed. The conviction and sentence awarded to the appellant Ghulam Muhammad son of Muhammad Soomar Solangi by the judgment dated 24.05.2019 passed by the learned Additional Sessions Judge-I/Model Criminal Trial Court, Umerkot, in Sessions Case No. 99 of 2017 are set aside, and he is acquitted of the charge by extending him the benefit of doubt. He shall be released forthwith if not required in any other case. The case property shall be dealt with in accordance with law.

29. The Court again records its appreciation for the assistance rendered by learned counsel for the pauper appellant and by the learned amicus curiae.

JUDGE