IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Jail Appeal No.S-21 of 2025

Date	Order with signature of Judge

Before;
Mr. Justice Muhammad Osman Ali Hadi

Appellant Abdul	:	Muhammad Ashraf @ Ashraf son of Majeed Golo, through Mr. Habibullah G. Ghouri, Advocate.
The State	:	Through Mr. Nazir Ahmed Bangwar, D.P.G.
Date of Hearing	:	***12.10.2026.***
Date of Judgment	:	***04.11.2026.***

J U D G M E N T

Muhammad Osman Ali Hadi, J.- The instant Criminal Jail Appeal has been filed against the Judgment dated 04.06.2025 (**"Impugned Judgment"**), whereby the Appellant was *inter alia* awarded life imprisonment for the charge of murder (Qatl-e-Amd) with common intention.

2. The Appellant was convicted of being involved in the murder of a deceased lady, namely Mst. Pervezan (**"the Deceased"**), by holding down her right arm, while his brother (co-accused / absconder) namely Muhammad Hanif strangulated the Deceased. It is relevant to mention Muhammad Hanif was the husband of the Deceased.

3. The main contention by the Counsel for the Appellant is that the Appellant was not stated to have any specific role in the crime, nor was there any independent witness present to corroborate the police authorities' version of events. He further urged that it was only at the behest of police officers through

which the Appellant was charged / convicted, and that there wasn't any private complainant or witness.

4. Counsel continued that the Appellant was not identified by anyone, except by some of the police personnel. He has referred to the Statement of two defence witnesses, i.e. the Mother & Brother of the Deceased[1] in which they both have respectively stated that the Appellant was innocent.

5. He next averred that no further examination of any witness was conducted by the Trial Court, nor were any statements under section 161 of the Criminal Procedure Code taken, and therefore this clearly shows weakness on part of the Prosecution, which was not considered in the Impugned Judgement.

6. Counsel then referred to the Impugned Judgment, which he stated was passed on surmises and conjectures, and was insufficient to create a guilty verdict.

7. He referred to Para Nos.14 and 15 of the Impugned Judgment, in which it was stated that the weapon used in the crime was a rope; but he submits that there was no link established between the Appellant and the alleged murder weapon.

[1]Available at pgs. 229 – 231 of the Paper Book

8. Counsel for the Appellant concluded by stating that the version of events as narrated by the prosecution and relied upon in the Impugned Judgment were filled with gaps, and there was not enough evidence to result in a conviction of the Appellant. He prayed the Appeal be allowed and the Impugned Judgement overturned.

9. The learned Deputy Prosecutor General Sindh next commenced his arguments by submitting that the role of the Appellant was not the main-role, and candidly stated that there were weaknesses in the Impugned Judgment. He further contended that the WMO (Woman Medical Officer) in her cross-examination stated that she did not notice swelling over the body of Deceased,[2] which as per Deputy Prosecutor General Sindh, creates further doubt to the role of the Appellant in the alleged crime.

10. I have heard the learned Counsels, and with their assistance have gone through relevant documents on record. The Impugned Judgment has based its findings against the Appellant predominantly on the basis of testimony of certain police personnel, who claim they had identified the Appellant at the scene of the crime.

11. However, the alleged crime was stated to be committed at 0400 hours, at which time the police personnel arrived at the

[2] Available at pg. 215 of the Paper Book

crime scene and submit they identified the Appellant. They have simply recorded that they recognized the Appellant as he was 'local'. There is no specific explanation as to what defines 'local' or whether or not they had any previous interaction with him?

12. The narration of event put forth by the prosecution version also does not show as to why at such time the police did not apprehend the Appellant, if (by their own testimony) they were close enough to identify him?

13. A perusal of the documents, particularly keeping in mind the Statements given by the mother and brother of the Deceased victim recorded before the Additional Sessions Judge/GBV Court– Kashmore, specifically exonerated the Appellant from commission in the crime, which is a factor to remain in consideration.

14. A perusal of the First Information Report (**"FIR"**)[3] has referred to the Appellant's role in the crime as that he was holding the Deceased's right arm down (whilst her husband Muhammad Haneef strangled her). It is relevant to note the incident is alleged to have occurred at 04:00 hours, but the Report was made at 20:30 hours, i.e. a delay of over twelve hours without explanation. The PW 1 Janib Ali (SIP) stated in his deposition that he saw the Appellant, but as mentioned *ibid.* has failed to specify as to how he knew who the Appellant was? In fact, in his Cross-

[3]True translation of the FIR available at pg. 71of the Paper Book

Examination, PW 1 admitted there was no 'visiting term' with the Appellant,[4] which would evidence unfamiliarity between him and the Appellant. Moreover, in his Examination-in-Chief, PW 1 states that they found the main accused person, namely Muhammad Haneef strangulating the Deceased, whilst the Appellant held her right arm down (as per his deposition). He has however failed to explain that at such time why they didn't immediately apprehend the suspected accused?

15. The said **PW 1** also stated in his cross examination that they (i.e. the Police officials present) followed the accused persons on foot for about 1.5 hours. However, **PW 2** namely policeman Lehaque (PC), who is also a witness, has made a statement in his cross-examination[5]that they chased the accused party for 'about 50/60' steps, which is significantly less than the 1.5 hours PW 1 alleges to have chased after the accused persons. This contradiction between the two policemen can also not be ignored.

16. A second issue arising with the Impugned Judgement is that the Trial Court has based motive of the murder being an honour-killing. However, in cross-examination, **PW 4**, namely policeman Khawand Bux,[6] states that he was the investigating officer (**"IO"**) of the case, and that there was no evidence of the motive for murder (including no motive showing that it was an

[4] At pg. 203 & 205 of the Paper Book
[5] At pg. 207 – 208 of the Paper Book
[6] At pg. 211 – 212 of the Paper Book

honour killing). Therefore, such an assumption of motive made by the Trial Court in the Impugned Judgement does not seem to be supported by the evidence available.

17. **PW 6**, namely Hamida Attaullah, was the Medical Officer (**"WMO"**) overseeing the medico-legal formalities and stated in her cross-examination that the *"probable time between injury and death was 05/07 minutes"*.[7] If the WMO's evidence is contrasted with that of the other police officers present at the scene of the crime, who claim they saw the crime being committed, it raises further curiosity as to why they said police officers did not apprehend the Appellant at such time? Keeping in mind the WMO's finding that there would have been some time (albeit a short amount but nevertheless) between the injury being inflicted and death, during which the police could've attempted to apprehend the Appellant, but failed to do so nor have they provided a plausible explanation for the same. This at the very least creates doubt, which has not been considered in the Impugned Judgement.

18. Under our criminal law system, the threshold for a conviction must only be if the evidence is established by the prosecution <u>*beyond all reasonable doubt*</u>.[8] In the case of *Iftikhar Ahmed v The State*[9] the Supreme Court held:

[7] Her testimony is available at pg. 215 – 216 of the Paper Book
[8] *Reference can be made to Muhd. Nadeem v The State* 2026 SCMR 1323
[9] 2026 SCM 1010

> *"It is also by now well settled that standard of proof required to establish a defence plea is lighter as compared to the prosecution because the prosecution has to prove its case beyond the shadow of any doubt, whereas the accused has only to create a reasonable doubt in the prosecution case through some attending circumstance(s) or some tangible evidence".*

19. The Impugned Judgment has premised its findings (and the Appellant's conviction) on the fact that the (alleged) murder was carried out on the basis of an honour killing. At Para Nos. 17-A & 18 it has been acknowledged that the only material witness are the police officials. However, testimony of the police officials has not established honour killing as the motive behind the murder.

20. While accepting that the concept of honour killing is an abhorrent plague on certain segments of society which needs to be eliminated; but at the same time it cannot be forgotten that when convicting a person of any such heinous crime, the same must be done in accordance with law and based upon available evidence. A conviction cannot be based on a mere ideology.

21. In the instant matter, there appear several discrepancies with the prosecution's narration of events, as already highlighted *supra*. A summary of the above deliberations are:

(i) There was no proper explanation provided as to how the police were able to identify the Appellant, considering in their own testimony they have stated they did not have any relationship with him;[10]

(ii) No plausible justification was given as to why the police did not immediately apprehend the Appellant when he was allegedly caught in the act by them? keeping in view that even if the Appellant had decided to run away (as alleged by the prosecution) the police would have had a vehicle and been armed, meaning they would have been in a strong position to apprehend him;

(iii) The Impugned Judgement has not properly addressed the fact that apart from certain police officials, there was no other witness to place the Appellant at the scene of crime; nor was a proper reason provided for delay in lodging of the FIR itself;

(iv) The Statement(s) filed by the Mother and Brother of the Deceased respectively have absolved the Appellant of any wrong doing, which Statements have simply been discarded in the Impugned Judgement, without proper rationale;

(v) The Impugned Judgement has premised the motive of the murder as an *honour killing*, but it has failed to provide a reason for reaching such conclusion, particularly keeping in mind testimony of the IO i.e.

[10] Reference is made to the testimony of the Complainant PW1 (IO) mentioned earlier. FIR translation is at pg. 71 of the Paper Book

PW 4, namely policeman Khawand Buxin which he refuted honour killing as the motive by stating in cross-examination: *"There is no evidence of in this case pertaining to the motive of the killing which was honor-killing";*[11]

(vi) The gaping holes in the prosecution's version of events have not been properly overcome, but the Impugned Judgement has supplied its own *explanations* through conjectures and surmises, which of course is not the role of the Trial Court. A court is duty bound to pass judgement based on the facts and evidence before it, and it cannot fill lacunas with its own beliefs and assumptions, as has been done in the Impugned Judgement;

(vii) There is no cavil that unfortunately a murderous act appears to have been committed; but based on the evidence placed before me and the serious discrepancies highlighted in the Impugned Judgement, there remain doubts in the prosecution's case insofar as the role (if any) of the Appellant was;

(viii) Our law provides that where doubt exists, the same would go in favour of the accused. In the case of *Munir Ahmad v The State*[12] the Supreme Court held:

> *13. ".....It is settled law that while giving the benefit of doubt to an accused, it is not necessary that multiple circumstances*

[11] At pg. 211 – 212 of the Paper Book
[12] 2026 SCMR 1498; which view was also taken in the case of *Imran v The State* 2026 SCMR 47

creating doubt must exist. If a single circumstance raises a reasonable doubt in the mind of a prudent person regarding the guilt of the accused, the accused is entitled to such benefit, not as a matter of grace or concession, but as a matter of right".

22. In light of the aforementioned, I find there is doubt in the Appellant's involvement in the crime, and the Impugned Judgement is accordingly hereby set-aside.

23. This Appeal is allowed and the Appellant is directed to be released forthwith, unless otherwise legally confined in any other case. It is however clarified that this Judgment shall not have any effect on the case of any other person (s) who may be charged in connection with the said crime.

Appeal Allowed

JUDGE

Irshad Ali M/Steno