IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Revision Application No.264 of 2026

Applicant	:	1. Jumo son of Khamiso, 2. Ghaffar son of Jumo, 3. Ali Hassan son of Khamiso, *Through* Mr. Ghulamullah Chang, Advocate.
Respondents	:	The State *Through* Mr. Muhammad Mohsin Mangi, Assistant Prosecutor General Sindh.
Date of hearing	:	12.11.2026
Date of order	:	12.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. **-** Applicants Jumo and others invoke revisional jurisdiction of this court, assailing the order dated 15.10.2026, passed by the learned Sessions Judge, Sujawal, in Sessions Case No.34 of 2026, arising out of Crime No.59 of 2025, registered at Police Station Bannu, District Sujawal, under Sections 302, 311 and 34 PPC, whereby their application under Section 227 Cr.P.C., seeking deletion of Section 311 PPC from the charge, was declined.

2. The prosecution case, briefly stated, is that on 12.12.2025, SIP Muhammad Anwar Panhwar, while on patrol duty, received information that applicant Jumo Magsi, in concert with his sons Ghaffar and Nadir Magsi, had murdered his unmarried daughter, Mst. Jadu Magsi, aged about 18/19 years, by inflicting hatchet blows after declaring her *Kari*. Upon reaching the pointed-out place, the police found her dead body bearing multiple injuries inside the premises of applicant Ali Hassan Magsi. The necessary proceedings were undertaken and, as no relative allegedly came forward to report the occurrence, the FIR was registered on 13.12.2025 on behalf of the State. During investigation, Ali Hassan Magsi was also implicated and two hatchets were allegedly recovered at the instance of Jumo and Ghaffar Magsi. Upon submission of the police report, the learned trial Court framed charge on 26.03.2026 under Section 302 read with Section 34 PPC, besides a separate head invoking Section 311 PPC on the allegation of murder committed on the pretext of honour.

3. Mr. Ghulamullah Chang, learned counsel for the applicants, contended that the impugned order suffers from patent misreading and non-reading of material evidence, particularly the categorical admissions of the

complainant and Investigating Officer that no evidence concerning *Karo-Kari* or the applicability of Section 311 PPC was available or collected during investigation. He argued that the learned trial Court erroneously relied upon the discovery of the dead body and alleged recovery of hatchets, although neither circumstance established the motive of honour killing. He further questioned the belated registration of the FIR, subsequent implication of Ali Hassan Magsi, non-examination of material relatives and continuation of investigation notwithstanding the judicial direction for its examination by an officer of DSP rank. Reliance was placed upon 2026 SCMR 1494[1], 2011 SCMR 1145[2] and other authorities governing alteration of charge and appreciation of evidence. Learned counsel further stated that the prosecution had closed its side, statements of the accused under Section 342 Cr.P.C. had already been recorded, and the matter was awaiting defence evidence.

4. Mr. Muhammad Mohsin, learned Additional Prosecutor General, Sindh, vehemently opposed the revision, arguing that the belated attempt to secure deletion of Section 311 PPC reflected consciousness of guilt. He submitted that in cases of *Siyahkari*, relatives of deceased persons frequently resile from their earlier versions owing to familial and social considerations, resulting in acquittals on the benefit of doubt. He maintained that the prosecution case must be examined in its entirety and that the circumstances surrounding discovery of the body, relationship between the parties, nature of injuries and alleged recoveries furnished sufficient justification for retention of the charge. He, therefore, supported the impugned order.

5. Heard and perused the record. The controversy essentially concerns whether the admissions of prosecution witnesses regarding absence of evidence of an honour-related motive rendered the second head of charge so legally unsustainable as to necessitate its deletion under Section 227 Cr.P.C. The provision empowers a criminal Court to alter or add to any charge at any time before pronouncement of judgment. The power is undoubtedly extensive, but its exercise remains judicial and must be guided by the material available on record, the ingredients of the accusation and the imperative of a fair trial. In 2011 SCMR 1145, the Supreme Court recognized the competence of a trial Court to amend the charge whenever the circumstances so justify, without treating prior recording of evidence as an indispensable condition. Likewise, *Abid*

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[1] *Abid Rehman v. Farooq Umar Bhoja and others*
[2] *Muhammad Jameel Azeem v. Ghulam Shabbir and others*

Rehman (2026 SCMR 1494) emphasizes that the nature of the charge must correspond with the offence prima facie disclosed by the material and that revisional interference is warranted where the impugned determination suffers from illegality, perversity or jurisdictional error. The jurisdiction under Sections 435 and 439 Cr.P.C., however, is supervisory and cannot be converted into a premature appellate reassessment of the entire prosecution case.

6. The evidence relied upon by the applicants certainly merits attention. PW-02 SIP Anwar Ali Panhwar admitted during cross-examination, *"It is correct to suggest that at the time of registration of FIR I had no evidence about the Karo Kari of the incident."* More significantly, PW-06 Inspector Imran Hafeez Ghanbhir, the Investigating Officer, categorically admitted: *"I did not collect the evidence in respect of Karo Kari.It is correct to suggest that the evidence in respect of Karo Kari is not available on the record in this case.It is correct to suggest that I did not collect evidence in respect of section 311 PPC."* These admissions cannot be treated as inconsequential. They substantially undermine the assertion that the investigating agency had independently established an honour-related motive and shall necessarily receive due consideration at the final adjudicatory stage. Nevertheless, an Investigating Officer's failure to collect evidence of a particular motive, however serious, cannot invariably be equated with a judicial determination that no admissible circumstance bearing upon that question exists. The evidentiary effect of such admissions must be assessed in conjunction with the entire prosecution record.

7. The prosecution evidence also requires distinction between the factum of homicidal death and the motive attributed to its commission. PW-01 Dr. Wardah Fatima Soho described multiple incised injuries, including a grievous injury to the temporal region resulting in fracture of the skull and exposure of brain tissue. PW-03 ASI Khuda Bux Solangi referred during cross-examination to information allegedly furnished by persons present at the spot concerning *Karo-Kari*, whereas PW-08 Manzoor Ali Soomro referred to information received during patrol regarding an honour-related killing. Such statements, insofar as they merely reproduce information attributed to unidentified persons, cannot automatically constitute substantive proof of motive. Likewise, the alleged recovery of hatchets and discovery of the dead body within premises attributed to an accused, though potentially relevant to the substantive accusation, do not by themselves establish that the homicide was committed on the pretext of

honour. The learned trial Court must, therefore, distinguish admissible proof from suspicion, hearsay and conjecture.

8. There is, however, a further legal dimension which the applicants' argument overlooks. Section 311 PPC does not create an autonomous substantive offence of homicide independently of *qatl-i-amd*. It regulates punishment by way of *ta'zir* in the circumstances specified therein, particularly in relation to waiver or compounding of *qisas* and the doctrine of *fasad-fil-arz*. The statutory expression *fasad-fil-arz*, as defined in Section 299(ee) PPC, is not restricted exclusively to *Karo-Kari*; it also encompasses other specified considerations, including the brutal or shocking manner of commission of an offence which is outrageous to public conscience. Consequently, absence of independent evidence of an honour-related motive does not necessarily foreclose every circumstance contemplated by the statutory definition. Equally, the mere brutality of an alleged homicide cannot, without satisfaction of the statutory requirements, justify an automatic finding under Section 311 PPC. Its operation remains contingent upon the circumstances prescribed by law, which must be judicially established rather than presumed.

9. The charge framed on 26.03.2026 contains a substantive accusation of *qatl-i-amd* under Section 302 read with Section 34 PPC and a further head alleging commission of that homicide on the pretext of honour, thereby invoking Section 311 PPC. No waiver or compounding of *qisas* has presently been shown. The separate reference to Section 311 PPC must, therefore, be understood as notice of the alleged aggravating circumstances and their possible statutory consequences, not as an independent finding of guilt or an advance determination that *fasad-fil-arz* stands established. Whether the provision ultimately becomes operative is a question to be decided strictly in accordance with its statutory preconditions.

10. The applicants' remaining objections concerning delay in registration of the FIR, implication of Ali Hassan Magsi despite his presence at the hospital, non-examination of the deceased's relatives, alleged recovery of weapons, inconsistencies relating to the place of occurrence and the asserted disregard of directions concerning investigation are undoubtedly matters bearing upon the credibility of the prosecution case. Their legal effect, however, substantially overlaps with the determination of the substantive charge under Section 302 read with Section 34 PPC. A conclusive appraisal of these matters in revision against an interlocutory

order would amount to prejudging issues awaiting determination upon conclusion of trial.

11. Admittedly, the prosecution evidence stands closed, statements of the accused under Section 342 Cr.P.C. have been recorded and the trial awaits defence evidence. Although Section 227 Cr.P.C. permits alteration of charge until pronouncement of judgment, the advanced stage of the proceedings is relevant to the necessity and consequences of the proposed exercise. The trial Court is now positioned to examine the entire controversy upon completion of defence evidence. The admissions relied upon by the applicants, while material, do not compel the conclusion that retention of the impugned head of charge is itself a jurisdictional illegality requiring immediate revisional correction. Nor does the impugned order purport to determine conclusively the existence of an honour-related motive; it merely declines to delete the allegation before final adjudication.

12. The authorities cited by learned counsel do not advance the applicants' case beyond the proposition that alteration of charge is permissible where justified by the material and that no accused should be tried or convicted upon an accusation unsupported by law. That proposition admits of no exception. Nevertheless, the existence of power to alter a charge is distinguishable from an obligation to exercise it in every case where the prosecution evidence is disputed. The ultimate sufficiency of evidence is a question distinct from the procedural propriety of retaining an accusation for adjudication. The judgments relied upon, therefore, do not establish any inflexible rule requiring deletion of Section 311 PPC merely upon the admissions referred to above.

13. The learned Sessions Judge has considered the rival submissions, recognized the power conferred by Section 227 Cr.P.C. and declined alteration upon the view that the circumstances and evidence require cumulative appraisal. Such exercise of discretion, notwithstanding the qualifications recorded hereinabove, does not disclose patent illegality, material irregularity, perversity or jurisdictional defect warranting interference under Sections 435 and 439 Cr.P.C. The impugned order, however, cannot be construed as an affirmation that the alleged honour-related motive has been proved, nor can the alleged recoveries or discovery of the dead body be treated as conclusive proof thereof.

14. Before parting, it is clarified that the learned trial Court shall independently determine whether the prosecution has established the substantive offence under Section 302 read with Section 34 PPC against each

accused and whether the statutory requirements for application of Section 311 PPC arise at all. In doing so, it shall specifically address the admissions of PW-02 and PW-06 concerning absence of evidence of *Karo-Kari*, examine the legal admissibility and probative value of information attributed to unidentified persons, and consider the cumulative effect of material contradictions and investigative deficiencies. Neither the mere inclusion of Section 311 PPC in the charge nor any observation contained in the impugned order shall prejudice the applicants. No adverse inference shall be drawn from their having invoked a lawful remedy, and the prosecution shall remain bound to prove its case in accordance with law.

15. For the foregoing reasons, no case for interference in revisional jurisdiction is made out. The criminal revision application is accordingly dismissed, subject to the observations and legal clarifications recorded hereinabove. Since the prosecution has closed its evidence and statements under Section 342 Cr.P.C. have already been recorded, the learned trial Court shall proceed expeditiously with the defence evidence, if any, and thereafter decide the case on its own merits through a reasoned judgment, uninfluenced by any tentative observation contained herein. Nothing stated in this order shall be construed as an expression of opinion regarding the guilt or innocence of the applicants.

J U D G E