IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Appeal No.S-**163** of 2021
(***Loung and 02 others v. The State***)

Appellants:	**(1) Loung son of Usman Khaskheli (2) Ghulam Hussain alias Guloo son of Essa Khaskheli and (3) Baboo son of Allah Rakhio Khaskheli** through Mr. Ghulamullah Chang, Advocate.
Respondent:	**The State** through Mr. Nazar Muhammad Memon, Additional Prosecutor General.
Complainant(s):	**Muhammad Ramzan** through Mr. Shoukat Ali Pathan, Advocate.

Date of hearing: **05-05-2025**
Date of Decision: **04-07-2025**

J U D G M E N T

Riazat Ali Sahar, J.: The appellants above named have preferred this criminal appeal against the judgment dated 25.08.2021 passed by the learned 2nd Additional Sessions Judge, Badin in Sessions Case No. 34 of 2015 (FIR No.179 of 2014, P.S. Shaheed Fazil Rahu), whereby they were convicted and sentenced for offences under Sections 302, 459, 460, 337-H(ii), 337-L(ii), 504, 114 & 34 of the Pakistan Penal Code ("PPC"). By the impugned judgment, appellant Loung was convicted for murder under Section 302(b) read with Section 460 PPC and sentenced to imprisonment for life, while appellants Ghulam Hussain and Baboo were convicted under Section 114, 460/302 PPC respectively (premised on common intention and constructive liability) and likewise sentenced to imprisonment for life, along with payment of compensation to the legal heirs of the deceased (Muhammad Ibrahim) under Section 544-A Cr.P.C. All

three appellants were further convicted under Section 459 PPC (attempt to cause grievous hurt during house-breaking by night) and each sentenced to 7 years' rigorous imprisonment. For the injuries caused to the complainant (PW-1 Muhammad Ramzan) and his son (PW-2 Muhammad Ishaque), the appellants were additionally convicted under the applicable hurt provisions (including Section 337-F(v) PPC, as part of the *ijtima-e-saza*) and directed to pay Daman (compensatory damages) of Rs.35,000/- to injured Muhammad Ramzan. Lesser offences under Sections 337-L(ii), 337-H(ii) and 504 PPC also attracted minor concurrent sentences. All sentences were ordered to run concurrently, with benefit of Section 382-B Cr.P.C. extended. The appellants, being aggrieved, impugn the conviction and pray for acquittal.

2. The prosecution case, as unfolded in the promptly lodged FIR No. 179 of 2014 by complainant Muhammad Ramzan (PW-1), was that on the night of 09.11.2014 at about 12:30 a.m. (midnight), the complainant's household was subjected to a violent intrusion. A longstanding enmity over land existed between the complainant's family and appellant Loung Khaskheli, with litigation pending, which ostensibly fomented the motive for the attack. On the fateful night, the complainant's guest, PW-4 Muhammad Juman (a relative), was staying over; after dinner the family and guest all slept in the open courtyard of the house as per their routine. At around 12:30 a.m., the complainant woke to the sound of a vehicle on the nearby road and then perceived the presence of intruders inside the courtyard. By the illumination of a solar-powered light, he immediately identified four assailants: (1) appellant Loung (armed with a gun), (2) appellant Ghulam Hussain alias "Guloo" (armed with a pistol), (3) appellant Baboo (armed with a lathi stick), and (4) Liaquat (armed with a lathi). All family members present – the complainant, his sons Muhammad Ibrahim (deceased) and Muhammad Ishaque (PW-2), his nephew Muhammad Urs (PW-3 in FIR, though in evidence "Urs" did not testify, being perhaps given up), and PW-4 Juman (guest) – woke

up upon the commotion. The intruders hurled abuses and menacingly warned the family to stay still, declaring *"today you will die"*. In the same breath, appellant Ghulam Hussain instigated Loung by shouting *"kill Ibrahim!"*, upon which appellant Loung immediately raised his gun and fired a straight shot at Muhammad Ibrahim (the complainant's 30-year-old son) at point-blank range, hitting him in the head. Ibrahim let out a cry and collapsed to the ground, grievously wounded and unconscious, blood gushing from a head wound. In the melee, appellants Baboo and Liaquat set upon the complainant (Ramzan) and PW-2 Ishaque with their lathis, raining blows on their arms and bodies. After this swift but savage attack, the assailants fired shots in the air, issued further dire threats and curses, and fled in the same vehicle under the cover of darkness.

3. The aftermath was one of panic and despair. The complainant found his son Ibrahim lying severely injured with a head wound, unconscious and at the verge of death. Amidst cries of agony, the family hastily arranged a vehicle (a "Potohar" jeep of one Dawood Shah, a neighbour) to transport Ibrahim to the nearest hospital in Golarchi town. Unfortunately, Ibrahim succumbed to his injury on the way before reaching the hospital. Upon arrival at Taluka Hospital Shaheed Fazil Rahu (Golarchi), the medical staff could only confirm Ibrahim's death. However, the complainant and PW-2 Ishaque – both injured by lathi blows – still required medical attention. At around 2:00 a.m. the same night, the complainant reached Police Station S.F. Rahu (Golarchi) and reported the incident to the duty officer (SIP Muhammad Ismail, who later testified as PW-6). Recognizing the gravity, PW-6 recorded a quick diary (roznamcha) entry (No. 27 at 2:25 a.m.) and proceeded with the complainant to the hospital for necessary action. There, PW-6 examined and noted the injuries of Ramzan and Ishaque on a memo in presence of mashirs (witnesses) – PW-3 Khamoon Samejo and one Abdul Aziz – and referred the injured for formal medical treatment via a police letter. He also inspected the dead body of Ibrahim,

prepared the "mashirnama of dead body" (noting the head wound) with the same mashirs, and obtained a police letter for post-mortem from the duty officer. The body was then shifted to the mortuary for autopsy at about 5:00 a.m. on 09.11.2014, and after post-mortem, the corpse was handed over to the family for burial later that morning. Importantly, the complainant – busy with the hospital formalities, receiving the deceased's body and arranging the funeral – deferred lodging the formal FIR until after the burial. PW-6 (I.O) testified that he asked the complainant at the hospital to register the case at once, but the complainant responded that he would do so after laying his son to rest. The police officer found this request understandable under the traumatic circumstances and recorded a diary entry No. 30 on returning to the police station, noting the complainant's decision to file the FIR post-funeral. That same day, at about 3:00 p.m. (1500 hours) on 09.11.2014, the complainant formally appeared at P.S. Rahu and lodged the FIR in writing, nominating all four culprits by name with full details of the occurrence. The FIR (Ex.16-A) was promptly registered and its contents read over to the complainant, who affirmed their correctness.

4. The investigation was then set in motion in a methodical manner. On the same day (09.11.2014) at about 3:30 p.m., PW-6 (Investigating Officer "I.O" SIP Muhammad Ismail) along with the complainant proceeded to the crime scene (village Chak No. 46, the complainant's house) vide entry No. 14. The I.O inspected the scene of occurrence in presence of the mashirs (PW-3 Khamoon and Abdul Aziz), and recovered physical evidence: a spent cartridge casing (of 12-bore shotgun) and blood-stained earth from the courtyard where Ibrahim fell down. These were seized, sealed on the spot and a memo of site inspection/recovery (Ex.20-C) was prepared and duly attested by the mashirs. The IO also drew a rough sketch of the scene and recorded statements under Section 161 Cr.P.C. of the eyewitnesses (PW-2 Ishaque, PW-4 Juman, and one Urs) to capture their account of the incident.

5. The next phase involved pursuing the perpetrators. On 11.11.2014, acting on information, the I.O conducted a raid which led to the arrest of appellants Loung and Ghulam Hussain (appellant Baboo and co-accused Liaquat had gone into hiding at that time). The arrest was made around 4:00 p.m. near a canal regulator in Chak No. 57. Both appellants were found together. Appellant Loung was carrying a double-barrel 12-bore shotgun, which he attempted to discard upon seeing the police, but was swiftly apprehended. The I.O seized the unlicensed gun from Loung's hands, which upon inspection was found loaded. Additionally, the I.O recovered five live cartridges of 12-bore from Loung's pocket, as well as small amounts of cash from both Loung (Rs.100) and Ghulam (Rs.200). During interrogation at the spot, appellant Loung made a startling inculpatory admission that this was the same shotgun with which he shot Ibrahim during the incident (this extra-judicial confession was recorded only as a police statement, since not before the Magistrate). The I.O sealed the weapon and ammunition on the spot and prepared a mashirnama of arrest and recovery (Ex.20-D) witnessed by PW-3 Khamoon and Abdul Aziz. The arrested accused were then taken to the police station and separately booked in a cross-case (FIR No. 182/2014 under the Sindh Arms Act, for possession of the unlicensed firearm). Efforts to locate appellant Baboo and co-accused Liaquat continued; they were declared absconders during the initial investigation. It appears appellant Baboo was subsequently arrested months later and faced trial alongside Loung and Ghulam (whereas Liaquat remained a proclaimed offender and was tried in absentia once apprehended).

6. Forensic evidence was also collected to corroborate the ocular account. The post-mortem examination of deceased Ibrahim (conducted at 4:30–5:30 a.m. on 09.11.2014 by Dr. Abdul Raheem, Senior Medical Officer, THQ Hospital SF Rahu, who testified as PW-5) revealed a single but fatal gunshot injury to the head. The medico-legal officer (PW-5) found a lacerated entry wound measuring 9.4 cm x 7.3 cm on the right side of the skull

(parietal region), with blackened and singed margins, and brain matter protruding – indicative of a close-range shotgun blast. The wound was ante-mortem and caused massive trauma: on internal examination, the skull bones were in fragments, the cranial cavity was filled with blood, and three metal pellets were recovered from inside the brain. These pellets were sealed and handed over to the police for forensic analysis. The cause of death was opined to be *"cardio-respiratory arrest due to cessation of brain function as a result of the firearm injury to the skull"*, i.e. the head gunshot wound was instantly fatal. The time between injury and death was *"immediate"*, and death to post-mortem was estimated around 3-4 hours (consistent with the timeline of 12:30 a.m. injury and 5:30 a.m. autopsy). Moreover, PW-5 medically examined the surviving victims: the complainant had multiple contusions (swelling injuries) on his shoulder, chest and leg, caused by a hard blunt weapon (consistent with lathi blows), while PW-2 Ishaque had a laceration on the scalp and bruises on the arm and back (also from blunt impact). These injuries were fresh and their duration aligned with the incident time. Thus, medical evidence fully supported the ocular account as to the nature of weapons used (firearm vs. blunt) and the locales of injuries on the victims, leaving no discrepancy of any significance. In fact, the harmony between the eyewitness testimony and the medical findings bolstered the prosecution's case that Ibrahim was shot in the head at close range and the others were beaten with sticks, exactly as described. Even otherwise, it is a settled principle that where ocular evidence is found trustworthy and confidence-inspiring, it is given preference over medical evidence, and a conviction can be safely sustained on such ocular testimony alone. Here, fortunately, the medical evidence in material respects corroborated the ocular account as to *"the nature, time, locale and impact of the injuries*", so as to remove any iota of doubt on that score.

7. The seized firearm and crime-scene evidence were sent for forensic analysis. The Forensic Ballistics Report (Ex.23-J) later

confirmed that the empty 12-bore cartridge casing recovered from the scene matched the appellant Loung's seized shotgun – i.e. it had been fired from the same weapon (the striations on the cartridge and firing pin impression corresponded) – thus scientifically linking the appellant to the murder. (No contrary evidence was produced; thus, the Court treats this fact as established). The Chemical Examiner's report (Ex.23-I) verified the presence of human blood on the earth sample collected from the spot where Ibrahim fell. These forensic results provided further corroboration of the eyewitnesses' narrative, lending independent support to crucial elements of the prosecution case. It bears mentioning that the investigation did not recover any pistol shells (appellant Ghulam's pistol was not fired during the incident, per witnesses) and no lathi was recovered (not unusual, as such wooden sticks are common household items and were likely taken or hidden by the assailants).

8. After completion of investigation, a challan was submitted. The three appellants were sent up to face trial (with Liaquat shown as absconder accused). Charges were formally framed against them under Sections 302, 459, 460, 337-H(ii), 337-L(ii), 504, 114, and 34 PPC (pertaining to murder with common intention during house-trespass by night, causing hurt, criminal intimidation, and abetment). The appellants pleaded not guilty and claimed trial. During trial, the prosecution examined six witnesses (PW-1 to PW-6), after which the appellants were examined under Section 342 Cr.P.C. (they did not testify on oath under Section 340(2) nor produce defence witnesses). A brief overview of the evidence adduced is as follows:

> **PW-1 Muhammad Ramzan** – the complainant and father of the deceased – narrated the entire incident as an ocular eyewitness. In his examination-in-chief, he confirmed the longstanding land dispute with appellant Loung, and recounted in vivid detail how the appellants (Loung with a gun, Ghulam with a pistol, Baboo with a lathi, accompanied

by Liaquat with a lathi) intruded at midnight, how Ghulam instigated the shooting of Ibrahim, how Loung fired the fatal shot to Ibrahim's forehead, and how Baboo and Liaquat assaulted him (Ramzan) and his son Ishaque with lathis. He described the injuries, he suffered (on his shoulder, back, leg and head) and the entire res gestae of taking Ibrahim to hospital where he died, obtaining police letters, post-mortem, etc., essentially corroborating the FIR version in all salient particulars. He also identified in Court the case property (the blood-stained earth and empty cartridge) as the same recovered by police in his presence. In cross-examination, the defence challenged him on points of motive and possible malice, suggesting that because of the land dispute (in which, it was put to him, the land actually belonged to the accused's father – a claim PW-1 denied), he had falsely implicated the accused to settle scores. It was also insinuated that his son Ibrahim was *"a vagabond"* who mostly lived away from home, implying he might not even have been present – a suggestion PW-1 refuted vehemently. A series of questions insinuated that perhaps Ibrahim was killed elsewhere (at Jati, another town) and the body brought to the village, to falsely accuse these appellants; PW-1 categorically denied this fanciful story, maintaining that the murder happened in his presence at home. The defence highlighted that PW-4 Juman and one "Uris" (actually the nephew who was present) were not locals (Juman lives in Golarchi town, Urs in Jati) to cast doubt on their presence, but PW-1 explained that Juman was their guest that night and Urs, though residing in Jati, worked as a hari (sharecropper) for a local landlord and was staying over – thus both were naturally present. PW-1 admitted the accused party had also previously lodged a criminal case (FIR No. 66/2013 under Section 365-B PPC) against him and others (a kidnapping allegation) and that appellant Baboo had acted as a mashir

(witness) for the accused side in that case. He further conceded that his injured son Ishaque had even held a press conference after the incident (presumably to protest the attack), but denied the defence's suggestion that Ishaque omitted Baboo's name in that press briefing. The defence put to him that he had consulted with PW-4 Juman and others to concoct a false case (pointing to the FIR's 14-15 hour delay as time for plotting) – PW-1 rejected this, asserting that the delay was only due to tending to the dead and injured, not for any fabrication. He maintained steadfastly that he had identified the accused at the scene and that they were the ones who killed his son. Despite lengthy cross-examination, nothing material emerged to shatter PW-1's version; he remained consistent and firm.

PW-2 Muhammad Ishaque – the surviving injured son of the complainant (and younger brother of deceased Ibrahim) – corroborated the occurrence in all major aspects. He too recounted that around 12:30 a.m. his father's cries awoke him, and he saw, in the solar light, the accused persons in their courtyard: Loung with a gun, Ghulam with a pistol, Baboo and Liaquat with lathis. He heard Ghulam instigated Loung to kill Ibrahim, and then watched in horror as Loung fired straight at his brother Ibrahim's head, felling him. He stated that Baboo and Liaquat then beat him (Ishaque) and his father with lathis, causing injuries on his right arm and lower back (spinal area). The assailants fled after firing in the air and abusing them. PW-2 then described helping to arrange a vehicle through their landlord (zamindar) and taking Ibrahim towards hospital, only for Ibrahim to perish en route. He confirmed that his father went to the police station for the post-mortem request while he and others took the body to the hospital, where police and doctors completed formalities, after which they buried Ibrahim and then lodged the FIR. He identified all three appellants in Court as the

perpetrators. The cross-examination of PW-2 was along similar lines to PW-1: it was suggested that due to the land dispute, the family concocted the case; PW-2 dismissed this, affirming the truth of his testimony. He too was questioned about the locations of residences – he admitted Juman lives in Golarchi and Urs in Jati (about 30 km away) – but explained these were close relatives who happened to be present. He refuted the idea that Ibrahim was killed elsewhere or that they falsely implicated the accused after consultation. Notably, PW-2 confirmed in cross that the family's house has no brick wall enclosure, only a straw fence around it (this openness perhaps enabled the intruders' easy entry and their vehicle's lights to be seen). He acknowledged the prior enmity (land dispute and case) with the accused but denied that this prompted any false implication. The defence also probed a press conference he gave: PW-2 admitted holding one at Golarchi and acknowledged that appellant Baboo is a government servant and a "Nekmard" (elder) of their community, but he denied omitting Baboo's name therein or implicating Baboo at someone's behest. Minor discrepancies aside, PW-2's evidence remained unshaken on core particulars and it fully reinforced PW-1's testimony.

PW-4 Muhammad Juman – the guest who was an eyewitness – also testified (his statement is numbered as PW-4 in the record; it appears PW-3 "Urs" might not have been examined, possibly given up as redundant or hostile). PW-4 Juman is the complainant's nephew (son of complainant's wife's sister), aged 33, by occupation a mason. He confirmed that on 08.11.2014 he went to visit the complainant as a guest, stayed the night, and after dinner slept in the complainant's courtyard along with the family. At about 12:30 a.m., he woke upon hearing Ramzan's cries and witnessed the entire incident in the bright solar light. He identified all four assailants by name

and role: Loung (gun), Ghulam (pistol), Baboo (lathi), Liaquat (lathi). He corroborated that the accused threatened them to keep quiet, that Ghulam instigated Loung to shoot, upon which Loung fired at Ibrahim who fell down, and that Baboo and Liaquat struck Ramzan and Ishaque with lathis. The assailants then fled after issuing threats and abuses. PW-4 helped the injured and described that they obtained a vehicle and took Ibrahim toward Golarchi hospital, but Ibrahim expired on the way. His evidence aligns seamlessly with the accounts of PW-1 and PW-2, making him a third ocular witness to the crime. In cross-examination, PW-4's relationship was highlighted (he candidly admitted Ramzan is his maternal aunt's husband), and it was suggested he might be an "interested" witness. However, being a relative does not automatically render a witness unreliable or "interested" in the legal sense; if a crime occurs within the family's sight, related witnesses are deemed natural witnesses and their testimony can be as good as any other, provided it stands to reason and is free of malice. Our superior Courts have expounded that a related witness is only "interested" if there is evidence of rancor or intent to falsely implicate; otherwise, relationship per se is no disqualification. Here, PW-4's presence was natural (he was a bona fide guest), and no ulterior motive was shown for him to lie. He withstood suggestions that he was called later for consultation – he denied any post-event consultation or fabrication. He admitted there was no fence or wall around the house (consistent with PW-2's version), and that a civil case over land was pending between Loung and the complainant at the time. He refuted the defence's theory that someone else killed Ibrahim and the complainant's party then capitalized on it to frame the appellants. He was firm that he saw Loung fire the shot. Minor omissions in his testimony (e.g. he initially didn't mention the presence

of womenfolk who woke up – which he clarified upon a question, stating that the women and children had also awoken during the incident) do not dent his credibility; such discrepancies of a non-material nature do not go to the root of the prosecution's story and may be ignored. PW-4's account, in tandem with those of PW-1 and PW-2, completes a compelling triad of ocular evidence. All three eye-witnesses corroborate each other on all material points – the identity of the culprits, the role of each, the weapons used, and the sequence of events – with only trivial variations expected of independent recollections.

PW-3 Khamoon Samejo (mistakenly marked as PW-3 in deposition, though he was the mashir not an eyewitness) and Mr. Abdul Aziz (not formally examined, but cited as co-mashir) – These were witnesses to the police proceedings (mashirs for the memos). PW-3 Khamoon, aged 45, is a relative of the complainant (a fellow Samejo by caste) who resides in the same village Chak No.46. He testified that on 09.11.2014, he saw Ramzan and Ishaque's injuries at the police station and the I.O prepared a memo of injuries in his presence and that of Abdul Aziz (Ex.20-A). He was also present at the hospital when the memo of the dead body was prepared at 7:00 a.m. on 09.11.2014 (Ex.20-B). Later that day, he accompanied the I.O to the crime scene, where a blood-stained soil sample and an empty cartridge were recovered and sealed, and a memo of site inspection (Ex.20-C) was made with his attestation. PW-3 further attested the arrest and recovery on 11.11.2014: he stated that he and Aziz were taken by the I.O to join the raid on that day, and they witnessed the arrest of Loung and Ghulam, the recovery of the double-barrel gun (with number rubbed off) and five red cartridges, and the seizure of Rs.200 from Ghulam and Rs.100 from Loung, all of which were noted in a memo (Ex.20-D) carrying his thumb impression. He identified the case property (gun, cartridges) in Court. In

cross, the defence grilled him on not being a local of the precise place of recovery: he conceded his original village (and Abdul Aziz's) were some 30–50 km away (Jati and Kadhan, respectively). He admitted the I.O came to fetch him from home to act as a mashir, and that by the time he arrived, Abdul Aziz (the other mashir) was already with the I.O. The defence implied they were stock witnesses or brought in collusively. PW-3 stated that memos were written by the I.O in his own handwriting, and that all mashirnama thumb impressions were obtained at the police station (not at the spot). While this indicates a procedural lapse – ideally, mashirs should sign on the spot – it does not in itself negate the fact of recovery, especially since the substance of his testimony about what was recovered remained unrebutted. Minor irregularities in investigation, such as documentation timing, do not automatically vitiate the evidence; the law is well-settled that a defective investigation per se cannot be a ground for acquittal if the overall prosecution evidence is strong and free of doubt. The defence failed to show that PW-3 had any enmity or motive to lie; his being a relation of the complainant can raise a cautionary flag, but cannot by itself discredit his testimony about objective happenings (like recovery of physical evidence). In fact, PW-3's account of the recovery was internally consistent and dovetailed with PW-6's account. Therefore, I find his evidence credible in affirming the chain of custody of material exhibits.

PW-5 Dr. Abdul Raheem (Senior Medical Officer) – conducted the autopsy of the deceased and examined the injured, as already detailed in paragraph 6 above. He confirmed the injury reports and the post-mortem findings (Ex.22-A through Ex.22-H). The cause of death and injury descriptions given by him solidly support the prosecution case: a close-range firearm head injury causing instant death, and blunt weapon injuries on PWs which, though

painful, were non-fatal. In cross-examination, the defence hardly challenged PW-5; in fact, counsel for Loung and Ghulam/Baboo opted not to put any major questions on the medical aspects (record shows "Nil chance given" for one counsel and only a suggestion by the other). The only suggestion extracted was PW-5's opinion that "one of the minor injuries can be self-suffered", a rather vague concession likely referring to the possibility that a bruise could be accidental or self-inflicted. However, this stray theoretical possibility does not undercut the consistent ocular evidence of how those injuries were actually caused. The medical evidence as a whole remained uncontroverted and is in consonance with the eye-witnesses. No divergence exists that would cast doubt (e.g. number or location of wounds all match the testimony). Where medical evidence "meets the ocular account on salient points", it lends sufficient reassurance that the eye-witnesses spoke the truth. I conclude the medical evidence here is a strong corroborative piece for the prosecution.

PW-6 SIP Muhammad Ismail Jat (Investigating Officer) – He was the officer who received the initial information and carried out the bulk of the investigation. He narrated the chronological steps taken: recording the complainant's report at 2:25 a.m., going to the hospital, making the injury memo and dead body memo, sending the injured for treatment and deceased for post-mortem, persuading the complainant to lodge FIR (which happened at 3:00 p.m.), then proceeding to the scene, recovering the empty cartridge and blood-earth, conducting raids, arresting Loung and Ghulam on 11.11.2014, recovering the shotgun and cartridges, and later sending exhibits to experts, etc. He produced in evidence the relevant police diary entries and mashirnamas (Ex.23-A through 23-J) to substantiate each step. His testimony essentially stitched together the entire investigative story. In cross, the defence attempted

to find flaws: PW-6 was quizzed on whether mashirs were locals – he maintained that they were from the vicinity (though later it emerged they lived some distance away, he denied they were arranged by the complainant). He conceded that he did not produce in Court the station diary entry of depositing items in the malkhana (police storehouse), but volunteered that he had indeed made such entry (its absence in evidence is a minor lapse, not uncommon in our trials). He admitted that one of the mashirs (Khamoon) was originally from Jati. He denied the defence's bold suggestion that he had collusively planted the gun on Loung (the suggestion being that the complainant provided a weapon to foist on the accused); he called it incorrect. He also acknowledged that the sealed parcel of the gun did not bear mashirs' thumbprints or crime number due to labels being erased (perhaps in transit) – again, a procedural lapse but not one that negates the recovery; importantly, the chain of custody remained intact as per his account. PW-6 affirmed he had no personal knowledge of the land dispute (no application under Section 145 Cr.P.C. etc., indicating he approached the case neutrally). He denied arresting the accused from their homes or otherwise deviating from the recorded version. In sum, while the defence highlighted a few investigative irregularities (like non-production of certain entries, using non-local mashirs, documentation technicalities), nothing was elicited to suggest the I.O fabricated evidence or framed innocents. The general rule is that defects in investigation, such as procedural lapses, do not necessarily vitiate the case of prosecution unless they have caused prejudice or created reasonable doubt about the prosecution's case. Here, the core evidence (eye-witness and medical) was so cogent that these investigative lapses pale in significance. I therefore find PW-6's evidence to substantially support the prosecution on the recovery of

the weapon and the timely collection of evidence, with no indication of malafide on his part.

9. After the prosecution evidence, the appellants were examined under Section 342 Cr.P.C. Each of them denied the allegations and professed innocence. They claimed that due to the land dispute and prior enmity, they were falsely implicated. Appellant Loung stated that the complainant had animosity over land and that he (Loung) was actually in possession of the disputed land, suggesting the complainant wanted to oust him by framing a murder case. Appellant Ghulam Hussain similarly said that because he had earlier lodged a kidnapping FIR against the complainant's side (and even filed a Constitutional Petition in the High Court in that regard), they bore him ill-will and dragged him into this case out of vendetta. Appellant Baboo's stance was that he was a government servant and a respectable person (Nekmard) in the community, and that he had been roped in perhaps because he acted as a witness in the prior FIR against the complainant; he insisted he was not present at the scene at all. All appellants alleged that the delay in lodging the FIR was used by the complainant for deliberation and consultation to falsely implicate them, and that independent witnesses were not examined by police due to the case's falsehood. None of the appellants volunteered to depose on oath, nor produced any defence evidence (which was their right not to, and no adverse inference can be drawn from that choice).

10. The learned counsel for the appellants (at trial and in this appeal) vociferously argued on essentially four fronts: (i) Motive of Enmity and Interested Witnesses – It was urged that the admitted enmity over land and previous litigation provided a motive for the complainant to falsely implicate the appellants. All the eyewitnesses were close relatives of the deceased (family members or related guest), hence "interested" witnesses; no independent or neutral person from the village was produced. Counsel stressed that in such circumstances, corroboration from

independent evidence was necessary, and they pointed to alleged improvements or minor contradictions in witnesses' statements to label them untrustworthy. They invoked, by reference, the old adage ***"falsus in uno, falsus in omnibus***" (false in one thing, false in everything), suggesting that if any part of a witness's testimony appeared doubtful (for example, if PW-4 initially omitted mention of women waking up, or PW-1 said he didn't see Ghulam fire his pistol), then all of that witness's testimony should be discarded. (I shall address later the current status of this maxim in our law, but suffice to say the defence sought to benefit from any discrepancy, no matter how trivial). (ii) Delay in FIR – The learned counsel highlighted that the FIR was lodged at 3:00 p.m., nearly 14½ hours after the incident, and contended that this unexplained delay was fatal to the prosecution. They argued that this interval gave the complainant ample time to concoct a story in collusion with others, naming old rivals as accused, and that the delay reflects lack of spontaneity and casts doubt on whether the occurrence even happened as alleged. (iii) Alleged Investigation Flaws – It was argued that the investigation was tainted: the recovery mashirs were "set-up" witnesses (both being connected to the complainant and not from the immediate locality), the recovery memos were prepared at the police station rather than on spot (as admitted by PW-3), and that the ballistic evidence was not reliable (pointing out that the gun's identification markers on the seal were erased and that no clear chain of custody of the pellets was established). The defence questioned why no pistol or lathis were recovered if the story were true. They also noted that one accused (Liaquat) was not tried with them, implying that possibly the real culprits (including Liaquat) remained at large and the present appellants were substituted. (iv) Failure to Produce All Eyewitnesses – The counsel noted that one eyewitness (the nephew Urs) who was named in the FIR did not testify, arguing that an adverse inference should be drawn (they speculated he might not have supported the prosecution, hence dropped). They claimed this

showed prosecution's lack of confidence in its own story. On the basis of these points, the defence submitted that reasonable doubt was arising in the case, and per the well-known principle "***in dubio pro reo***" (when in doubt, favor the accused), the appellants should be given benefit of doubt and acquitted. They cited precedent that even a single doubt entitles an accused to acquittal as of right, not as a concession.

11. Conversely, the learned Deputy Prosecutor General supported the conviction and argued that the prosecution had proved its case beyond reasonable doubt with ocular account supported by medical and forensic evidence. He contended that the appellants were caught red-handed shortly after the incident (at least Loung and Ghulam were arrested within two days with the murder weapon in possession), and that the ballistic report confirmed the linkage between that weapon and the crime. The DPG submitted that the witnesses, though related, were natural witnesses given the time, place, and manner of occurrence – it was past midnight inside the victims' home, so naturally the family members present would be the only eyewitnesses, and expecting unrelated outsiders at that hour is unreasonable. He maintained that their testimony remained consistent on material points through searching cross-examination. Minor discrepancies were termed as normal and even a sign of truth (since exact verbatim replication by multiple witnesses might indicate tutoring). The delay in FIR, he argued, was satisfactorily explained by the prosecution – the priority was to save the injured and deal with the deceased's post-mortem and burial, which are valid and cogent explanations; hence no adverse inference should be drawn. The learned DPG emphasized that an enmity motive cuts both ways: while the defence says enmity could lead to false implication, the same enmity is actually a strong motive for the appellants to commit the murderous assault (given the land dispute and prior case, the appellants had a score to settle). Thus, far from undermining the case, the motive here corroborates the prosecution by providing a rationale for the

crime. He cited case law that enmity is a double-edged sword: it may prompt a crime or spur a false charge, but if the evidence is otherwise credible, the existence of enmity only strengthens the prosecution's case as it provides cause for the offence. He submitted that in this case, the enmity was openly acknowledged and indeed explains why the appellants would perpetrate such a brazen attack, so it in fact fortifies the prosecution story rather than weakens it. Lastly, the DPG argued that the trial Court had rightly applied the law and that no material illegality or misappreciation of evidence could be pointed out by the defence – therefore, the appeal merited dismissal.

12. I have given my anxious consideration to the submissions of both sides and have carefully **reappraised the entire evidence** on record, keeping in mind that this is a capital case (involving life sentences) and thus requires a thorough and cautious scrutiny. The trial Court's detailed judgment has also been perused. My findings and reasoning are set forth below.

13. This case rests heavily on ocular evidence, and rightly so, as three occurrence witnesses (PW-1, PW-2, PW-4) directly saw the crime unfolding. If their testimony is found credible and coherent, it can be sufficient for conviction without necessitating independent corroboration, as long as the Court is satisfied beyond reasonable doubt. There is no legal requirement that crimes, especially those committed in privacy or darkness, be witnessed by a crowd of independent bystanders. Our law values the quality of evidence over quantity – even a single, solitary witness of truth can sustain a conviction, rather than multiple but unreliable witnesses. Here I have not one but three eyewitnesses, each of whom survived the rigorous test of cross-examination with their core accounts intact. They were consistent about the identities of the assailants and the roles played by each. Minor discrepancies exist (as they will in any truthful narrative), but nothing of substance that could indicate a deliberate lie or material inconsistency.

14. The learned defence counsel's attempt to invoke *"falsus in uno, falsus in omnibus"* requires careful examination. Historically, this Latin maxim – meaning "false in one thing, false in everything" – was not formally part of our jurisprudence; Courts used to prefer a piecemeal approach of sifting truth from falsehood in witness testimony rather than rejecting it entirely for some minor lies. However, in recent years the Supreme Court has revisited this doctrine, decrying the rampant perjury in criminal cases. In the landmark case ***Notice to Police Constable Khizar Hayat (*PLD 2019 SC 527*)***, the Apex Court directed that falsus in uno should become an integral rule in evaluating evidence, meaning that if a witness is found to have deliberately lied on a material point, the Court should not accept any other part of his testimony without strong corroboration. The Supreme Court mandated that witnesses committing intentional falsehood must face consequences (such as perjury proceedings). This change aims to restore honesty in testimony. That said, the rule is not intended to be applied mechanically to trivial or innocent inconsistencies. It targets deliberate lies on material facts. Our High Courts, following the Supreme Court's guidance, have clarified that falsus in uno does not mean any minor error by a witness renders his entire evidence void; human memory and perception are not infallible, and small contradictions or omissions can occur without an intent to deceive. The maxim is a guideline to be used with discretion, to weed out testimony that is tainted with conscious falsehood. In the present case, I do not find that the witnesses made any wilful false statements on material particulars. For instance, the defence harped on PW-4 Juman not mentioning the presence of women initially. This is a trivial omission – his focus was naturally on describing the assailants and the attack, not enumerating every person who woke up. It does not amount to a material falsehood but rather a minor lapse, which he clarified when asked. Similarly, PW-1 said he did not see Ghulam fire a shot – that is because Ghulam did not fire (he only instigated and carried a pistol as a show). This is

not a contradiction at all; it aligns with the prosecution case that only Loung fired the fatal shot and the rest did not discharge firearms. Thus, there was no "lie" by PW-1 – he spoke the truth that he hadn't seen Ghulam shoot, because Ghulam in fact didn't shoot. Such arguments by the defence are entirely misconceived. I find no indication that any PW tried to fabricate evidence or mislead the Court on any key element. Hence, the doctrine of falsus in uno is not triggered against their testimony in any meaningful way. On the contrary, the witnesses remained truthful and consistent on the major facts, therefore their evidence can safely be relied upon in its entirety.

15. The appellants contended that all eye-witnesses were related to the deceased, suggesting they are "interested" and thus unreliable. It is true that PW-1 is the father, PW-2 the brother, and PW-4 a close relative of the victim. But as the DPG correctly argued, given the scenario – an attack inside the family's own home in the dead of night – who else would be expected to witness the crime? Strangers or neutral observers are not present in one's courtyard at 12:30 a.m.; naturally only family and perhaps a visiting guest (who in this case is also a relative) would be on the scene. These witnesses are, therefore, most natural and their presence is inherently probable. They withstood lengthy interrogation and there is nothing inherently contradictory or absurd in their narratives. Our jurisprudence recognizes that a related witness cannot be branded as untrustworthy solely due to relationship; if the occurrence took place in their presence, they are as good as any other witness. Our Supreme Court has observed: "A related witness can also be a natural witness. If an offence is committed in the presence of family members, then they assume the position of natural witnesses. So long as their evidence is reliable, cogent and clear, the prosecution case cannot be doubted on that score." **(Muhammad Ijaz v. The State Jail petition No. 206 of 2019)** . The Court went on to caution that a related witness's evidence should be scrutinized closely, but if it inspires confidence, it may be safely accepted. The only caveat is

that one must ensure the related witness is not acting out of malice or rancor to falsely implicate – in which case, he would indeed be "interested" in the outcome beyond just seeking justice. Applying these principles, I find the evidence of PW-1, 2, and 4 highly convincing and natural. Yes, they had an animus against the accused stemming from prior disputes, but equally the accused had an animus against them – enmity was two-sided. Enmity is often a double-edged weapon: it provides a reason to commit the crime and a reason to implicate falsely. Here, given the strength of the direct evidence, the existence of enmity in fact bolsters the prosecution case by providing a logical motive for the appellants to have committed such a daring offence. It is far more plausible that the appellants, nursing a grudge, executed this attack to eliminate their rival (the complainant's son) and terrorize the family, than the notion that the complainant would murder his own son or let someone else do it just to frame the appellants. The defence's theory of false implication requires us to believe that a father would let his own beloved son be killed (or would lie about who killed him) merely to settle a land dispute – an absurd suggestion with no supporting evidence. On the contrary, the natural inference (**res ipsa loquitur**) from the facts speaks volumes: a midnight armed incursion and targeted shooting in an environment of a prior feud points strongly towards the accused's guilt rather than their innocence. Indeed, the thing speaks for itself. The brutal manner of execution – a point-blank headshot – bespeaks the assailants' clear intent and motive; it is not a happening that could be accidental or done by some unrelated third party. Thus, the ocular testimony of the related PWs, far from being suspect, appears to be the straightforward truth about a vendetta-driven crime.

16. Furthermore, the consistency among the eyewitnesses on all material particulars gives their testimony a ring of truth. All of them named the same four individuals and attributed to them the same actions. They consistently said Ghulam instigated, Loung fired the gun, Baboo and Liaquat wielded lathis. Such

concordance is hard to achieve through concoction without slipping into obvious contradiction. The fact that they stood firm under cross, and their material assertions found corroboration from medical and forensic evidence (discussed shortly), leads this Court to hold that the ocular account is truthful and reliable. It is settled law that where eye-witnesses are found credible, their testimony alone can suffice for conviction, even if they are relatives, especially when their presence is natural. In the present case I find no reason to disbelieve them. The learned trial Judge rightly found these PWs to be "straight forward and trustful" (to quote the trial judgment's assessment). I concur with that assessment.

17. As summarized earlier, the medical evidence fully supports the prosecution. The location and nature of Ibrahim's fatal injury (right side of head, massive firearm wound with blackening) corresponds exactly with the witnesses' claim that Loung shot him at close range in the head. Minor variation in wording (PW-1 said *"forehead"* whereas the wound was on the right parietal region) is not significant – in the heat of the moment, a lay witness may describe a head injury imprecisely, but the crux is it was a head shot, and that matches. In any event, the harmony between the medical evidence and ocular account is remarkable, which "further substantiates the claim of the complainant". The injuries on PW-1 and PW-2 (blunt weapon trauma on shoulder, arm, back) perfectly align with their testimony of being beaten with sticks. No injury inconsistent with their story was found. There is thus no conflict between ocular and medical evidence; rather, they are in complete consonance. I may recall the principle reiterated in a plethora of cases*: "Where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence, and the same alone is sufficient to sustain conviction".* Here I did not even need to choose one over the other since the medical evidence corroborates, rather than contradicts, the ocular version. The defence did not bring any medical contradiction to my notice (for there was none). At most,

they tried to misuse the doctor's comment that a minor bruise could be self-inflicted – but that was a hypothetical answer to a general question and does not undermine the concrete medical finding that the injuries were fresh and caused by blunt force in the relevant timeframe. I, therefore, hold that the medical evidence reinforces the eye-witness testimony in establishing what happened and how it happened.

18. The forensic (ballistic and chemical) evidence provides additional corroboration. The empty shell recovered from the courtyard was proved to have been fired from appellant Loung's seized shotgun (as per Ballistics Expert report) – a damning piece of evidence directly connecting the murder weapon to the crime scene and to Loung. The recovery of pellet fragments from the deceased's skull also scientifically establishes that a shotgun was used at close range (the presence of multiple pellets and charring is characteristic of a shotgun blast), matching the type of weapon recovered from Loung. The Chemical Examiner confirmed the presence of human blood on the soil taken from the spot where Ibrahim fell, which is entirely expected and consistent. These objective findings negate any suggestion of an "unseen assassin" or that the scene was staged. The defence harped on minor issues like the mashirs not being locals or the parcel label not bearing thumbprints, but these do not cast doubt on the fact of recovery. The recovery memos were proven through PW-3 and PW-6. Both identified the weapon in Court. There is not even a claim that the appellants had a licensed gun or any lawful reason to possess that shotgun; in fact, a separate Arms Act case was registered for it, implying it was illicitly held. The appellants did not claim the gun was planted beyond a vague suggestion denied by the I.O. I find no substance in that theory – it would stretch coincidence beyond breaking to believe that police somehow had a similar gun and five cartridges and staged an arrest of Loung and Ghulam at a random place, and that that gun by chance matched the crime scene shell. The logical conclusion is that the recovery was genuine and provides persuasive corroborative evidence of

guilt. True, not every case requires corroboration if direct evidence is strong, but here I have it in abundance. It is well to note that evidentiary corroboration can come from various sources – medical, forensic, circumstantial – and in this case all these sources uniformly point towards the appellants' culpability. The convergence of evidence (ocular, medical, and forensic) forms a tight weave that is difficult to disentangle.

19. A considerable argument was made regarding the delay of around 14 hours in lodging the FIR. In many cases, a significant unexplained delay in registering the FIR can indeed be viewed with suspicion, as it may indicate afterthought or deliberation. However, the emphasis is on "unexplained." Where the prosecution furnishes a plausible explanation for the delay, and the overall evidence is trustworthy, the delay loses much of its sting. Each case turns on its facts. In the present matter, the sequence of events clearly explains the delay: the priority in the early hours of 09.11.2014 was to rush the injured to the hospital and deal with the immediate medical and legal formalities (getting treatment for the injured, obtaining a post-mortem for the deceased, etc.). The complainant did reach the police station at 2:20 a.m. – which shows promptitude – and he did inform the police of the essentials (that Khaskhelis had attacked, his son was dead, etc.), prompting the police to go into action even before formal FIR. Thus, the matter was in police knowledge in the very early hours (this was documented via station diary entries produced). The complainant's decision to formally record the FIR after the burial of his son is quite understandable and humane. One can hardly imagine the state of a father who has just lost a son to brutal violence; attending the last rites is an emotionally charged and time-sensitive obligation in our culture. The law does not demand that in such moments a person must immediately pen an FIR while his son's body lies awaiting burial. By around 3 p.m., once the funeral was over, the complainant came and lodged the report. I consider this timeline to be adequately explained by the prosecution, reflecting no sinister

motive but rather the natural human and practical constraints of the situation. Jurisprudence acknowledges that when the delay is accounted for by circumstances such as tending to the injured or deceased, it is not fatal to the case. For instance, in one precedent, an 8-hour delay was held immaterial where the complainant and others were themselves injured and busy obtaining medical care. Here too, the complainant and his son were injured and seeking treatment that night, and a funeral had to be arranged by morning; these are valid justifications. Moreover, the fact that the police had already started the investigation (visited hospital, etc.) prior to FIR cuts against the notion of fabrication – if the complainant wanted to falsely implicate, he would likely have promptly named the foes to police; the delay, in a way, indicates an absence of contrivance because the initial focus was on genuine concerns rather than plotting. I am satisfied that the delay in FIR lodgment has been satisfactorily explained and has not caused any miscarriage of justice. It certainly did not hamper the investigation – evidence was collected timely (within hours) and the delay did not result in loss of any crucial trail. Hence, no adverse inference arises. I would reiterate the oft-cited principle: delay is no ground to doubt the prosecution when it is convincingly explained. Conversely, if there had been no explanation, a 14-hour delay might have raised eyebrows, but that is not the case here. In this context, one might recall another Latin maxim: "***res ipsa loquitur***" – here the circumstances speak for themselves to justify the timing of the FIR; the complainant's conduct was consistent with that of a bereaved father, not an opportunist schemer.

20. The backdrop of motive in this case is the admitted enmity over land and previous litigation (including a criminal case) between the complainant's side and the accused's side. The defence leans on this to argue false implication, whereas the prosecution leans on it to demonstrate a reason for the appellants to commit the crime. I find the latter view more compelling. While it is true that enmity is a double-edged sword, one edge in

this scenario is far sharper against the accused. They had a serious dispute pending; by all accounts, feelings were bitter. The appellants (particularly Loung and Ghulam) had even taken legal action against the complainant's family (a kidnapping FIR and a High Court petition, as elicited in cross). Thus, it is entirely plausible that the appellants, nursing a grudge, decided to exact revenge in blood. On the flip side, could the complainant have falsely implicated them due to this enmity? Possibly – but only if the crime had been committed by someone unknown, leaving room to cast blame. Here, however, the crime took place in the presence of the victims. There is direct evidence. This is not a blind murder where one might wrongfully nominate enemies. The complainant saw the culprits; so did two others. If there was previous enmity, it increases the likelihood that the complainant recognized his adversaries and that those adversaries dared to commit this offence. The Supreme Court has succinctly put it: "Motive/enmity is a double-edged weapon. An offence may be perpetrated because of the motive, and the same motive can also be basis for false charge… The Courts must carefully weigh such evidence." ***Allah Bakhsh v. the State*** **(PLD 1978 SC 171)**. In Allah Bakhsh's case, the Court noted that if motive could be the reason to murder, it equally could be reason to charge falsely. So what breaks the tie? The answer lies in the independent strength of the evidence. If the evidence of guilt is strong (as I find it here), then motive supports it; if the evidence were shaky, then motive might incline us to doubt (thinking perhaps the enemies were roped in). In this case, given the strong direct evidence, the motive of enmity fortifies the prosecution rather than creating doubt. The trial Judge aptly observed that ***"enmity is a double-edged sword***" but concluded that here it furnished the accused with a motive to commit the offence, and I agree. I also note that the trial Court did not give much weight to the prosecution's reference to a motive of "honour" (an allegation that the accused suspected some misbehavior by the complainant's side leading to the kidnapping FIR) – that part was vague and unproved, and

rightly ignored. The real operative motive was the land feud and resultant hostility. That motive stands proven by admission from both sides. I, therefore, find that the existence of enmity does not dent the prosecution case; rather it explains the occurrence in a logical manner.

21. The defence pointed out certain perceived flaws in the police investigation – use of non-local mashirs, documentation issues, non-recovery of some items, etc. I have addressed these in passing but will sum up here. It is well-settled that not every defect or lapse by the investigating officer will corrode the evidentiary value of proven facts. Courts are concerned with the substance of proof, not the perfection of investigative procedures. The superior Courts have repeatedly held that a poor or faulty investigation cannot by itself exonerate an accused if there is otherwise credible evidence of his guilt. The rationale is simple: the accused cannot be allowed to walk free just because the I.O omitted some formality, when the crime stands proved through other reliable evidence. In ***Muhammad Ashraf v. State*** **(2012 SCMR 419)**, it was observed that irregularities or omissions on the part of the investigating agency are not sufficient to create doubt in the prosecution case, unless they are of such magnitude that they undermine the case's foundation. Here, the so-called lapses are not of that magnitude. Yes, the I.O called upon two mashirs who were somewhat connected to the complainant (one relative, one perhaps acquaintance). Ideally, he should involve truly neutral locals. But in a village feuding environment, neutrals often shy away. Even so, the mashirs' testimony (through PW-3) has not been shown false – there is no allegation that those items were not recovered or were planted. The defence could not rebut that a blood-stained earth and shell were found at the scene. The mere fact mashirs were from 30 km away does not negate the recovery; it only goes to the weight of evidence, which I have considered. Similarly, the memos being written later at the police station – while not praiseworthy – does not falsify their contents. It was transparently admitted by PW-3, so there was no

sneakiness; likely the I.O collected signatures later for convenience or due to exigencies of night, which is technically irregular but does not change what was recovered, when and where. The absence of pistol and lathi recoveries is unsurprising: the assailants fled with those in hand; only Loung's gun was taken by police when he was caught. Failure to recover every weapon does not cast doubt on recovery of the main weapon actually used. The ballistic lab's noting that the gun's parcel lacked certain markings (because labels were erased) is a minor clerical issue; importantly, the chain was maintained (police delivered it sealed and lab tested it). No suggestion of tampering was raised beyond speculation. Therefore, none of these investigative imperfections create any reasonable doubt about the appellants' involvement. At most, they indicate less-than-ideal police work, which regrettably is not uncommon. But Courts have long held that prosecution evidence is to be appraised as a whole, and lapses of I.O do not necessarily damage a case supported by credible ocular and medical evidence. In ***Azeem Khan & another. v. Mujahid Khan*** (**2016 SCMR 274**), the Supreme Court admonished Courts not to acquit merely due to investigative negligence if the core of the prosecution case is proved. I am mindful of this guidance.

22. It is on record that appellant Baboo (as well as co-accused Liaquat) remained absconding for a considerable period after the FIR. Baboo was declared a proclaimed offender initially and later arrested (how much later is not clear, but certainly he did not surrender promptly). Liaquat is still at large (or was tried separately). Abscondence by an accused, if proved, can be a corroborative circumstance indicating guilt, as fleeing from the law tends to show a guilty mind (unless explained otherwise). In this case, Baboo's abscondence for a significant time is another link in the chain against him. He did not offer any explanation as to where he was or why he absconded despite being, as he claims, innocent. This conduct is inconsistent with innocence; a falsely accused person would ordinarily not hide for years – especially a

government servant like Baboo would be expected to clear his name rather than abscond (which could cost him his job). I am cautious not to place undue weight on this factor alone, but in the totality of circumstances, Baboo's prolonged abscondence does buttress the prosecution case somewhat. As for Loung and Ghulam, they were arrested swiftly, so this factor doesn't apply to them in the same way (though one could argue their attempt to flee when the police raiding party arrived suggests consciousness of guilt – but since they were caught on the spot, I do not rely heavily on that aspect).

23. I have combed through the evidence for any material contradictions and found none. The defence pointed to what they term "improvements" in witness statements, but did not substantiate with specifics. No major discrepancy between FIR, 161 statements, and Court depositions was highlighted that could impair credibility. On peripheral details, yes, there were slight variances (e.g. PW-1 said he didn't see if Ghulam fired; PW-4 said Ghulam had a pistol but did not say he used it – both essentially align that Ghulam did not shoot). Another trivial discrepancy: the FIR (as reproduced in judgment) mentions one of the sons as "Muhammad Sulleman" woke up, whereas evidence speaks of Muhammad Ishaque. This appears to be a clerical or transliteration error – likely "Muhammad Ishaque" was intended (since Sulleman was never mentioned by any witness). I am satisfied this is not an actual discrepancy in testimony, but a mistake in writing the FIR or in copying it. In any case, it does not relate to the accused or the actus reus, just a name confusion. The gist is, discrepancies noted are of minor character – **"minor discrepancies which do not shake the salient features of the prosecution version need not be given much importance"**. Human testimony is rarely a mirror image; what matters is that all key elements (identity of accused, act done, weapon used, place, time) are consistently stated. Here, consistency reigns on those points. There was mention that one eyewitness (nephew Urs) was not examined. That is true, but it is

the prerogative of the prosecution to decide how many witnesses to present. They already gave three eye-witnesses; producing a fourth, who might be repetitive, is not legally necessary. It could have even been counter-productive through overkill. The concept of "failure to produce material witness" applies when a very vital witness is withheld for no reason, giving rise to an inference he would have not supported the case. In this scenario, I already had more than enough direct evidence. No adverse inference can fairly be drawn from not examining Urs. It may be that he was not available or the prosecution felt his evidence would be cumulative. This Court does not view it as damaging, given the strength of what was presented.

24. To conclude the evidentiary appraisal: the prosecution has succeeded in proving, through reliable ocular evidence buttressed by medical, forensic and circumstantial evidence, that it was indeed the appellants who committed the offences they were convicted of. The chain of events is clear and free from any reasonable doubt. The minor inconsistencies or investigation lapses highlighted by defence do not dent the overall confidence I have in the truth of the prosecution story. I find that the learned trial Judge carefully analyzed the evidence and addressed the defence arguments in a well-reasoned judgment. He cited relevant case-law on all major points (including the approach to related witnesses, import of motive, and treatment of discrepancies) and I find myself in agreement with his conclusions. The trial Court was right to hold that the ocular account was ***"straightforward, confidence inspiring and substantially corroborated by medical evidence and recoveries"*** (quoting from the judgment). The Court also noted the absence of any animus for false implication other than the general enmity, which as discussed actually augured against the accused in the circumstances. I see no misreading or non-reading of evidence on its part. The defence has not been able to persuade me of any oversight or legal infirmity in the judgment under appeal. On the contrary, the judgment reflects a correct

appreciation of evidence and proper application of the law. Before finalizing, I address the last proverbial principle pressed by the defence – "***in dubio pro reo***", meaning "when in doubt, for the accused". Indeed, it is a cornerstone of criminal justice that if a reasonable doubt arises from the evidence, the accused gets its benefit as of right. However, this principle applies only where a doubt arises. In the case at hand, after scrutinizing all angles, I am left with no reasonable doubt. The evidence points in one direction: the guilt of the appellants. Therefore, the rule of "***in dubio pro reo***" does not come into play here, because there is, in truth, no dubium (doubt) to resolve in the accused's favor.

25. In view of the foregoing analysis, I am convinced that the prosecution has proven its case against all three appellants beyond reasonable doubt. The eye-witness testimony, supported by medical and forensic evidence, has a high degree of trustworthiness. The complainant's delay in lodging the FIR was satisfactorily explained and does not affect the credibility of the prosecution story. The prior enmity, rather than casting suspicion, provided a cogent motive which aligns with the proven facts. No material contradictions have been found in the evidence that could shake the prosecution's version. The defence has failed to point out any significant misappreciation of evidence by the trial Court.

26. Consequently, the conviction of appellants Loung, Ghulam Hussain alias Guloo, and Baboo recorded by the learned trial Court for offences under Sections 302, 459, 460, 337F(v), 337-H(ii), 337-L(ii), 504, 114, and 34 PPC (with the sentences detailed in para-1 above) is **maintained** and the instant Crl. Appeal is **dismissed**. The impugned judgment is upheld in toto. The appellants shall serve out their sentences as awarded. The absconding co-accused (Liaquat) shall remain subject to the process of law whenever apprehended, and nothing in this judgment shall influence his case on merits, which shall be decided on its own evidence.

27. Before parting, I must note my appreciation for the learned trial Judge's painstaking effort in writing a comprehensive judgment that covered all aspects of the case in a cogent manner. I have essentially reached the same conclusions. The prosecution has successfully met the burden of proof (affirmanti incumbit probatio – the burden rests on the one who affirms) and the defence has failed to create any doubt sufficient to invoke in *dubio pro reo*. Justice thus leans clearly in favor of upholding the convictions. Let the appellants face the consequences of their gruesome act, and may this judgment serve the cause of justice – *fiat justitia ruat caelum* (let justice be done though the heavens fall).

28. The instant Crl. Appeal No. S-**163** of 2021 stands **dismissed** in the above terms.

J U D G E

Ahmad