

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Jail Appeal No.S-245 of 2019

[Ali Hassan vs. The State]

Appellant	Ali Hassan: Through Mr. Muhammad Saad Saeed Qureshi advocate
Complainant	Ahmed: Nemo
State	Through Mr. Khalid Hussain Lakho, Deputy Prosecutor General
Date of hearing	10.09.2025
Date of Judgment	10.10.2025

J U D G M E N T

TASNEEM SULTANA, J: Through captioned Criminal Jail Appeal Appellant-accused Ali Hassan has assailed the Judgment dated 01.08.2019, passed by the Sessions Judge/MCTC Tando Muhammad Khan (**Trial Court**) in Sessions Case No.01 of 2019, arising out of FIR No.15 of 2016 registered at P.S Moya under Section 302 PPC, whereby he has been sentenced as under:

accused Ali Hassan S/o Chibhar Mallah is convicted under section 265-H(2) Cr.PC for the offence punishable under section 302(b) PPC as Ta'zir and sentenced to imprisonment for life and to pay fine of Rs.100,000/- (One Lac Rupees Only) which on recovery shall be payable to the legal heirs of deceased Mst. Salma and in default whereof to further undergo R.I for six months. The benefit of Section 382-B Cr.P.C .

2. Facts of the prosecution case in nutshell are that complainant Ahmed appeared at police station on 16.05.2016 at lodged the subject FIR by alleged that his daughter Mst. Salma was married with Ali Hassan out of which there was one Issue (baby girl); that she used to complain against her husband; that on 14.05.2016 one Dilawar Mallah expired as such on 15.05.2016 he (complainant) alongwith his relative Muhammad Juman went to the house of accused Ali Hassan so as to take her daughter and participate in the condolence of deceased Dilawar Mallah, but accused Ali Hassan refused to leave Mst. Salma, on which Mst. Salma insisted on accompanying her father (complainant), due to which at about 12:00 noon accused Ali Hassan took spade lying just near to him and hit Mst. Salma on her neck and chin, which caused cut on the neck of Mst. Salma and she fell down; that he (complainant) and Muhammad Juman tried to save her but accused also threatened them to stay away; that they raised hue and cry and then accused left his house while throwing spade in the street and escaped away; that

then he (complainant) informed Qasim Mallah, who subsequently intimated the police and the police came and took the dead body to hospital, which after postmortem was handed over to the for burial.

3. After usual investigation, police submitted the charge-sheet under section 173, Cr.P.C against the Appellant in absentia under section 512 Cr.P.C. On 03-03-2019 appellant-accused was arrested and he was sent up for trial through supplementary challan dated 04.03.2019.

Having been supplied requisite documents as provided under section 265-C,Cr.P.C., the Trial Court framed formal charge against the appellant at Ex.2, to which he pleaded not guilty and claimed trial.

4. To prove its case, prosecution examined nine witnesses. **PW-1** Dr. Zareena Patoli at Ex.5, she produced police letter at Ex.5/A, inquest report at Ex.5/B, final postmortem report at Ex.5/C and dead body receipt at Ex5/D. **PW-2** Tapedar Abdul Jabbar at Ex.6, who produced sketch triplicate at Ex.6/A to 6/C respectively. **PW-3** ASI Qasim Deen Leghari at Ex.7, who produced attested copy of mashirnama at Ex7/A and attested copy of FIR No.13/2019 at Ex.7/B. **PW-4** complainant Ahmed at Ex.8, who produced subject FIR bearing No.15 of 2016 at Ex.8/A. **PW-5** Muhammad Juman at Ex.9. **PW-6** Ali Nawaz at Ex.10, who produced inquest report at Ex.10/A, memo of place of incident at Ex.10/B, photostate copy of CNIC of Moula Bakhsh at Ex.10/C, his photocopy of CNIC at Ex.10/D and memo of recovery at Ex.10/E. **PW-7** IO SIP Imtiaz Ali at Ex.11, who entry No.6 at Ex.11/A, entry No.7 at Ex.11/B, entry No.11 at Ex.11/C & 11/D, letter written to Mukhtiarkar at Ex.11/E, letter written to Chemical Examiner at Ex.11/F and report of Chemical Examiner at Ex.11/G.

5. Statement of the Appellant-accused under section 342, Cr.P.C was recorded at Ex.13 wherein he denied the allegations leveled against him and claimed to be innocent. They deposed that they had falsely been implicated in this case and he has no knowledge of the case and all the witnesses are managed. However, neither he examined himself on oath to disprove the prosecution's allegations nor did he produce any witness in his defence. The Trial Court after hearing the learned counsel for the appellant as well as ADPP for the State vide judgment dated 01.08.219 convicted and sentenced the appellant as reproduced above.

6. Learned counsel for the appellant contended that appellant-accused is innocent and has been falsely implicated in this case by the complainant; that all the witnesses are close relatives and set up witnesses; that there are major contractions in the evidence of prosecution witnesses; that ocular evidence is not

supported by the medical evidence; that there is inordinate delay in registration of FIR without plausible explanation; that prosecution witnesses have miserably failed to prove the charge against the appellant, hence the appellant is not liable to be convicted on shaky evidence. He prayed for acquittal of the appellant.

7. Despite intimation notice no one effected appearance on behalf of the complainant. Whereas the learned DPG supported the impugned judgment and contended that appellant-accused is nominated in FIR with specific role; that there is no contradiction in the evidence of prosecution witnesses and all the PWs have fully supported the complainant's version; that ocular account is fully supported by the medical evidence; that appellant-accused has failed to show any malafide on part of the complainant; that eye-witnesses have fully implicated the appellant-accused with the commission of offence, therefore, he is not entitled for any leniency.

8. I have heard the learned counsel for the parties as well as learned DPG and scanned the material available on record.

9. On reassessment of the evidence of the prosecution witnesses (PWs), it convincingly emerges that the appellant-accused was the husband of the deceased Mst. Salma and the son-in-law of the complainant. The evidence further reveals that the deceased frequently complained to her father regarding the ill-treatment and maltreatment meted out to her by the appellant. On the day of occurrence, i.e., 14.05.2016, the complainant, along with PW Muhammad Juman, went to the house of the appellant to take his daughter Mst. Salma so that she could attend the condolence of one Dilawar Mallah. The appellant, however, refused to let her accompany them, and upon her insistence, he became infuriated, picked up a spade, and inflicted blows on her neck and chin, causing severe cut injuries that proved fatal on the spot. The ocular account furnished by the complainant and eyewitness Muhammad Juman is direct, confidence-inspiring, and free from any material contradiction. Their testimony has remained unshaken despite lengthy cross-examination and finds complete support from the medical evidence furnished by the MLO, Dr. Zareena Patoil, who confirmed that the injuries were caused by a sharp-cutting weapon and were sufficient to cause death in the ordinary course of nature. The prosecution evidence is further fortified by the statement of PW Ali Nawaz, who arrived soon after the occurrence and found the dead body of Mst. Salma lying in the room with visible incised injuries on her neck and chin. The natural conduct of the witnesses, their presence at the scene, and the consistency of their depositions lend strong corroboration to the prosecution case. No material contradiction or inconsistency has been brought on record to shake their credibility. Their evidence is natural, straightforward, and

fully consistent with the medical and circumstantial evidence on record. Hence, the ocular testimony, supported by corroborative evidence, leads to the irresistible conclusion that it was none other than the appellant who caused the death of his wife Mst. Salma in a brutal manner inside his house.

10. On careful scrutiny of the ocular account, it is observed that the evidence of the complainant and other prosecution witnesses is consistent, natural, and confidence-inspiring. Despite being subjected to lengthy and searching cross-examination, their testimony remained firm on all material particulars. The defence could not elicit any major contradiction, omission, or improvement that could shake their credibility. Minor discrepancies regarding time or sequence are but natural in human testimony and do not undermine the substance of the prosecution case. The overall chain of evidence, supported by medical and recovery corroboration, stands unbroken and firmly establishes the guilt of the accused. It is a well-settled principle that such minor inconsistencies, not touching the root of the matter, are to be ignored. In this regard, guidance may be taken from the recent pronouncement of the Honourable Supreme Court in **Muhammad Bashir vs. The State (2023 SCMR 190)**, wherein it has been observed as under:

“.....Minor discrepancies on trivial matters not affecting the material considerations of the prosecution case ought not to prompt the Courts to reject evidence in its entirety. Such minor discrepancies which do not shake the salient features of the prosecution case should be ignored.”

11. It further transpires from the record that while recording his statement under Section 342 Cr.P.C., the appellant-accused merely denied the prosecution allegations and failed to furnish any plausible explanation regarding the unnatural death of his wife, which occurred within the confines of his own house. When specifically questioned about the cause of death of Mst. Salma, he replied that he had “no knowledge” of the incident. Similarly, when asked about his abscondence for an extended period following the occurrence, he again feigned ignorance and asserted false implication.

Such evasive replies are wholly unsatisfactory. Where the death occurs within the exclusive domain of an accused, his silence or failure to explain the circumstances entitles the Court to draw an adverse inference under Article 121 of the Qanun-e-Shahadat Order, 1984. The deceased, being the wife of the appellant, died within his house on 15.05.2016, yet he remained absconding until 03.03.2019. His prolonged abscondence, coupled with his silence, is a strong incriminating circumstance establishing his guilt.

12. In addition to the ocular account, the recovery of the blood-stained earth and the spade from the place of incident, duly witnessed by the recovery witnesses, provides further corroboration to the prosecution case and firmly connects the appellant with the commission of the offence. The trustworthy and unshaken evidence of the prosecution cannot be brushed aside merely on the ground that some witnesses are related to the deceased. It is now a settled principle that the evidence of a related witness is not to be discarded solely on account of relationship, provided it inspires confidence and is supported by other evidence. Reliance in this regard can be placed on the case of **Abid Ali & 2 others v. The State (2011 SCMR 208)**, wherein the Honourable Supreme Court of Pakistan has observed as under:

“21. To believe or disbelieve a witness all depends upon intrinsic value of the statement made by him. Even otherwise, there cannot be a universal principle that in every case interested witness shall be disbelieved or disinterested witness shall be believed. It all depends upon the rule of prudence and reasonableness who hold that particular witness was present on the scene of crime and that he is making true statement. A person who appears otherwise to be very honest, above board and very respectable in society if gives a statement which is illogical and unbelievable, no prudent man despite his nobility would accept such statement.”

13. The plea of false implication raised by the appellant-accused does not find any support from the record and stands wholly devoid of merit. The evidence clearly establishes that the deceased Mst. Salma was the legally wedded wife of the appellant, while the complainant was his real father-in-law. The appellant has failed to point out any prior enmity, ill-will, or motive that could have compelled the complainant or his witnesses to falsely implicate him in the murder of his own daughter. It is against human nature and ordinary course of conduct that a father would falsely accuse his son-in-law of killing his real daughter merely to satisfy any imaginary grievance or vendetta. Such a suggestion is inherently improbable and contrary to common sense.

14. The law is well-settled that in cases of close family relationship between the complainant and the accused, the possibility of false implication is greatly diminished unless some strong motive of hostility is shown to exist, which in the present case is conspicuously absent. The prosecution witnesses are natural and independent in the circumstances, having no reason to substitute the real offender

with an innocent person. Their evidence, which stands corroborated by medical and recovery evidence, cannot be discarded on the mere assertion of false implication. Reliance can be placed on the case of **Zahoor Ahmed v. The State [2007 SCMR 1519]**, wherein the Honourable Supreme Court of Pakistan has observed as under:

“6. The petitioner is a maternal-cousin of the deceased, so also the first cousin of the deceased through parental line of relationship and thus, in the light of the entire evidence it has correctly been concluded by the learned High Court that such close relation would not spare the real culprit and instead would involve an innocent person in the case. Further it has rightly been observed that it was not...”

15. The learned trial Court while rendering the impugned judgment discussed and appreciated each and every point/aspect of the case. Therefore the impugned judgment is well-reasoned and does not call for any interference by this Court. Accordingly, captioned appeal is dismissed being meritless and in result whereof the impugned judgment dated 01.08.2019 penned down by the trial Court in Sessions Case No.01 of 2019, arising out of FIR No.15 of 2016 registered at P.S Moya under Section 302 PPC is maintained.

J U D G E

Sajjad Ali Jessar