

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

**CRIMINAL JAIL APPEAL NO. D-23 OF 2016  
CONFIRMATION CASE NO. D-02 OF 2016**

**ALI HASSAN V/S THE STATE**

SINDH HIGH COURT CIRCUIT COURT HYDERABAD

**Composition of Bench**

HON'BLE MR. JUSTICE MOHAMMAD KARIM KHAN AGHA

HON'BLE MR. JUSTICE RASHEED AHMED SOOMRO

(D.B)

Date of last hearing (heard/reserved): 30-06-2020

Decided on: 02-07-2020

(a) Judgment approved for reporting YES ✓

**C E R T I F I C A T E**

Certificate that the Judgment/Order is based upon or enunciates a principle of law/decide a question of law which is of first impression/distinguishes over-rules/explains a previous decision.

Strike-out whichever is not applicable.

- NOTE: -
- (i) This slip is only to be used when some action is to be taken.
  - (ii) If the slip is used, the Reader must attach it to the top of the first page of the Judgment.
  - (iii) Court Associate must ask the Judge written the judgment whether the judgment is approved for reporting.
  - (iv) Those directions which are not to be used should be deleted.

SGP, Kar-L (iii) 773-2000-4-2003-III

IN THE HIGH COURT OF ANDHRA CIRCULAR COURT HYDERABAD.

Cr. J/Appeal No. B - 23 of 2016.

Ali Hassan S/o Gallan Chandio,

now confined in central prison

Hyderabad . . . . .

. . . Appellant.

Vs.

The State . . . . .

. . . Respondent.

CONTD.P.No. 2.

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Jail Appeal No.D-23 of 2016  
Confirmation Case No.02 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of case

30.06.2020

Mr. Ahsan Gul Dahri, Advocate for the appellant.

Ms. Safa Hisbani, Assistant P.G for the State.

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Learned Counsel for appellant has readout the entire evidence and has made his submissions. Learned Assistant Prosecutor General Sindh has also made her submissions. Reserved for judgment.

  
JUDGE

  
JUDGE

Ali Haider



## IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Before:Mr. Justice Mohammad Karim Khan Agha  
Mr. Justice Rasheed Ahmed SoomroCr. Jail Appeal No.D- 23 of 2016  
[Confirmation Case No.02 of 2016]

Ali Hassan

Versus

The State

Appellant : Ali Hassan	Through Mr. Ahsan Gul Dahri Advocate
Respondent : The State	Through Ms. Safa Hisbani, APG Sindh
Date of hearing	30.06.2020
Date of judgment	02.07.2020

JUDGMENT

**MOHAMMAD KARIM KHAN AGHA, J.**-This criminal jail appeal is directed against the judgment dated 09.03.2016, passed by the learned Judge, Anti-Terrorism Court Naushehro Feroze, in Special Case No.03 of 2015 (Re: The State V Ali Hassan), emanating from Crime No.380 of 2008, registered at Police Station A-Section Dadu, under sections 302, 324, 353, 147, 148, 149 PPC, r/w sections 6 / 7 Anti-Terrorism Act, 1997, whereby appellant Ali Hassan has been convicted u/s 302(b) PPC r/w section 7(a) of Anti-Terrorism Act, 1997 and sentenced to death subject to confirmation by this Court. He was also directed to pay compensation of Rs.100,000/- as contemplated under



section 544-A Cr.P.C. to the legal heirs of deceased HC Roshan Ali, and in default thereof he shall suffer R.I for one year more.

2. The facts of the prosecution case as stated in the F.I.R, registered by complainant Inspector / SHO Haji Ghulam Muhammad Memon at Police Station A-Section Dadu on 12.08.2008 at 0730 hours are that, on the fateful day complainant was posted as SHO. On that day, HC Roshan Ali and PC Abdul Hakeem on his direction left police station vide roznamcha entry No.38, at 05.00 a.m in Dadu city to collect the information of absconder accused, while he himself along with his subordinate staff at about 0500 hours proceeded for patrolling in the city on police mobile. He remained in contact with H.C. Roshan Ali on mobile phone, who informed him that Janan alias Janu and other armed persons were seen by him on motorcycle in the surroundings of Mallah Chowk. On receipt of such information, he (SHO) along with his subordinate staff proceeded towards the pointed place and also asked ASI Ghulam Sarwar to reach there. It was about 0630 hours, they reached near hotel of Shafo Mallah and, on the head light of mobile saw HC Roshan Ali was standing there and was talking on mobile phone. In the meantime, three motorcycles arrived near him on which accused Janan alias Janu armed with Kalashnikov, 2) Aijaz armed with pistol, 3) Waris, 4) Ali Hassan son of Sultan, 5) **Ali Hassan (appellant) duly armed with Kalashnikovs**, 6) Wazir armed with pistol and two unidentified persons armed with pistols were riding, they de-boarded from the motorcycles, accused Janan alias Janu fired three shots upon HC Roshan Ali which hit him on his chest, **accused Ali Hassan and rest of the accused also fired upon him, who on sustaining fire arm injuries fell down.** In the meantime, ASI Ghulam Sarwar Soomro along with his subordinate staff also reached there on police mobile. On fire shot reports people of the Mohalla gathered and accused ran away towards eastern side on their motorcycles by making indiscriminate firing in order to spread terrorism. The complainant, along with PC Abdul Hakeem and Shafi Muhammad, who was available in the hotel, went towards Roshan Ali and found him having fire arm injuries on his chest, back, arms and legs and was bleeding and within their sight died. Such information was conveyed to the high ups through wireless. Thereafter, police party arranged Naka-bandi at protective bund but culprits could not be



apprehended. Then complainant after leaving Police Constable Abdul Hakeem on the dead body of HC Roshan Ali went to chase the culprits, but they vanished. The post mortem of the dead body of deceased was conducted in Civil Hospital Dadu. Consequently complainant appeared at Police Station and lodged F.I.R. on behalf of the State as stated above.

3. Initially police arrested two accused namely Janan @ Janu and Aijaz and after usual investigation, submitted the challan against them before the concerned court while showing **present accused / appellant as absconder**. Thereafter, both aforementioned accused were tried by the learned Judge, Anti-Terrorism Court Hyderabad @ Hyderabad in ATC Case No.308 of 2008 and vide judgment dated 24.12.2011 were both sentenced to death. Thereafter, on 16.01.2015 police arrested the present accused / appellant and submitted challan against him before the concerned court. After completing necessary formalities, learned trial court framed charge against accused / appellant, to which he pleaded not guilty and claimed trial.

4. At trial, the prosecution in order to prove its case examined 09 PWs and exhibited numerous documents and other items. The statement of the accused was recorded under section 342 Cr.P.C whereby he claimed false implication. He examined himself on oath and called three DW's in support of his defense case.

5. Learned trial court after hearing the learned counsel for the parties and assessing the evidence available on record convicted and sentenced the appellant as stated earlier in this judgment.

6. Learned trial court in the impugned judgment has already discussed the evidence in detail and there is no need to repeat the same here, so as to avoid duplication and unnecessary repetition

7. Learned counsel for the appellant has contended that the appellant is innocent and has been falsely implicated in this case by the police, that the eye witnesses are planted witnesses and were not present at the time of the incident, that all the prosecution witnesses are police officials and as such their evidence cannot be safely relied upon, that there was no independent eye witness that supported the prosecution case despite it being a crowded



area at the time of the incident, that the evidence of the prosecution witnesses contain major contradictions which makes their evidence doubtful, that the number of injuries as per eye witness evidence is contradicted by the medical evidence, that the police official who was murdered was not in uniform at the time of the incident and his bloodied clothes were not sent to the chemical examiner, that the deceased was murdered by other people who had enmity with him and not the appellant, that the DW's who are independent and natural witnesses support the defense case and that the offense does not fall within the purview of the ATA and that for any of the above reasons the appellant should be acquitted of the charge by extending to him the benefit of the doubt. In support of his contentions learned counsel for appellant placed reliance on the cases of **Muhammad Asif V The State** (2017 SCMR 486), **Dad Muhammad V The State** (2020 SCMR 128), **Nawab Siraj Ali and others V The State through P.G. Sindh and A.G. Sindh** (2020 SCMR 119), **Farooq Ahmed V The State and another** (2020 SCMR 78), **Muhammad Farooq and another V The State** (2006 SCMR 1707) and **Muhammad Khan and another V The State** (1999 SCMR 1220).

8. On the other hand learned Assistant Prosecutor General Sindh on behalf of the State, after going through the entire evidence of the prosecution witnesses as well as other record of the case has fully supported the impugned judgment. In particular she has contended that the evidence of the police eye witnesses are reliable and cannot be discarded simply because they are police officials, that the medical evidence supports the prosecution case, that empties were recovered from the scene, that a positive chemical report regarding the blood stained earth recovered at the scene was available and as such the prosecution had proved its case beyond a reasonable doubt against the appellant and as such his appeal be dismissed and confirmation reference answered in the affirmative. In support of her contentions she has placed reliance on the case of **Ashique Hussain V State** (2017 SCMR 188)

9. We have heard the arguments of the learned counsel for the parties, gone through the entire evidence which has been read out by learned counsel for the appellant and the impugned judgment with their able assistance and have considered the relevant law including that cited at the bar.



10. In our view after our reassessment of the evidence based on the evidence of the PW eye witnesses, PW MLO and post mortem report, PW police witnesses and IO, recovery of empties from the spot and positive chemical report of earth recovered from the spot we are satisfied that the prosecution has proved beyond a reasonable doubt that on 12.08.2008 at 6.30am near hotel of Shafo Mallah HC Roshan Ali whilst on official police duty was shot numerous times by numerous assailants by firearm and was thereby murdered.

11. The only issue therefore, in our view, left before us is whether the appellant was a part of the group of assailants who fired at HC Roshan Ali (the deceased) and injured him with his firearm shots which lead to his murder by firearm.

12. In our view after our reassessment of the evidence we find that the prosecution has proved its case against the appellant (Ali Hasan Chandio) for murdering the deceased by firearm beyond a reasonable doubt and hereby uphold the convictions and sentences in the impugned judgment against the appellant for the following reasons;

(a) The FIR was registered with promptitude within an hour of the incident in which the appellant has been named and given a specific role and as such there was no time for the police to consult and concoct a false case. Furthermore no enmity existed between either the complainant or the appellant and thus the complainant had no reason to implicate the appellant in a false case. Admittedly the complainant has now died but his signatures on the FIR, Roznamcha entries and mashirnama of arrest and recovery have been identified and proved by PW 2 Ghulam Sarwar.

(b) The key witnesses in this case in our view are eye witnesses PW 2 Ghulam Sawar, PW 3 Bakhshal Khan and PW 4 Abdul Hakeem. We shall consider the evidence of these eye witnesses in turn below;

(i) **Eye witness PW 2 Ghulam Sarwar.** On 12.08.2008 he was posted at PS Dadu when this incident occurred. According to his evidence on 12.08.2004 the deceased and PW 4 Abdul Hakeem were deputed by the complainant SHO Ghulam Muhammed (now deceased) to collect information about criminals and absconding accused. The SHO (complainant) left with his police party in a mobile for patrolling whilst he left in a different mobile for patrolling with other police officers. Whilst on patrol the SHO contacted him and directed him to reach Mallah Chowk as criminal Janan was there along with his companions on three motor cycles for committing a



crime. He reached Mallah Chowk and saw the deceased standing outside the hotel. He also saw three motorcycles parked their and 7 armed persons who had come down from the motor cycles. **They were identified as Janan, Aijaz and the appellant.** Janan and the appellant had KK's whilst Aijaz had a pistol. He also named the other armed persons present in his evidence (all of who were named in the FIR which was lodged promptly by the SHO complainant now deceased with specific roles). He saw Janan make three straight fires at the deceased which hit him in the chest. He saw Aijaz with a pistol also make straight fire at the deceased which hit him in the area of the nipple. **He saw the appellant fire on the deceased which hit the lower part of his abdomen.** He also saw other named persons fire at the deceased whose fire shots hit the deceased who all then escaped by speeding away on their motorbikes. According to his evidence the police were unable to return fire as the area was crowded with members of the public who may have been injured by such firing. The police attempted to chase and capture the culprits but were unable to do so as the streets were narrow and again they could not fire due to presence of the public. **He knew the appellants as they were wanted criminals who he recognized along with other police officers on the spot.** It was a day light incident at 6.30am in August and the eye witness was standing relatively close to the appellants being only 30 paces away and as such he would have been able to get a good look at them as their faces were not muffled and as such he could easily identify them which he did in court and as such there was no need for an identification parade. In this respect reliance is placed on **Muhammed Siddique and others V State** dated 02-01-2020 (unreported) in Crim. Jail Appeal No's 24,69,215,486 of 2016 and 682 of 2017 which held as under at Para 5 which is set out below;

"5. Castigating severely the evidence of test identification parade, the learned counsel relied upon the guidelines laid down in the case of Kanwar Anwar Ali (PLD 2019 Supreme Court 488) to urge exclusion thereof. The supra case indeed a fine piece of juridical literature, nonetheless, does **not** extend much help to the convicts; it mainly addressed laconic approach adopted by a Magistrate in holding the test identification parade in the said case while highlighting general principles of law on the subject.

Test identification parade is a method of proof contemplated by Article 22 of the Qanun-i-Shahadat Order, 1984, reproduced below for the convenience of reference:-

*"Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of anything or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the*



*relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose".*

The above framework provides enough space to admit evidence in prosecution of offenders previously unacquainted with the victims or the witnesses; appraisal of such evidence is subject to same principles as are universally applicable to any piece of evidence, under consideration in a criminal trial; there are no additional barricades as is evident from the plain reading of the Article *ibid*; without prejudice to the safeguards available to an accused at each stage of trial, essentially fair as guaranteed under the Constitution, nonetheless, it does not cast an artificially heavier onus on the prosecution to meet standards of proof beyond human capacity. Each criminal case is to be decided having regard to its own peculiar facts and circumstances. A test to be essentially applied is one case may absolutely be irrelevant in another, as the crimes are seldom committed in identical situations; there may be cases wherein prosecution must assign distinct roles played during the occurrence by the culprits for determination of their guilt as well as consequences thereof, however, there are cases in which totality of transaction may not warrant reparability for such determination, like the one in hand. Cases involving abductions, dacoities and sudden assaults, more often than not, constitute episodes wherein different roles played by the culprits merge into integral totality of the crime, thus, it would be too harsh as well as unrealistic to demand exact reenactment of roles by the witnesses. Capacities even intellectually most sharp dwindle drastically in calamitous situations, therefore, the administration of criminal justice, in such peculiar situations, has to be dynamically balanced upon fair trial without prejudice to the accused as well as due weightage to the prosecution evidence without being swayed by illusory notions, subjectively structured upon hypothetical beliefs

Having found the witnesses with no axe to grind, in a comfortable unison on all the salient features of the prosecution case as well as events collateral therewith, we do not feel persuaded by the arguments, **couched on hyper technical premise. Petitions fail. Dismissed.**" (bold added)

The case which we are currently deciding attracts the above dicta as it is a case of sudden assault.

He was a natural witness and not a chance witness because he was a police officer who had been sent on a patrol as per roznamcha entry by the SHO who had gone on a separate patrol



whilst the SHO had sent the deceased along with PW 4 Abdul Hakeem to look for criminals/ absconders. On receipt of a wireless message from the SHO he was directed to reach the place on the incident which he did and witnessed the murder of the deceased by the appellant and others. We do not consider it relevant that the deceased was not in uniform based on the particular facts and circumstances of this case as he had been in effect sent on an under cover mission to identify wanted criminals and as such he needed to blend in with the general public and not stand out. He had no enmity or ill will with the appellant and had no reason to falsely implicate them in this case although the appellant has alleged enmity but without any proof and merely by a bald allegation. For example not a single document being a complainant, NC or FIR has been produced to support this contention. He was not shattered despite lengthy cross examination and remained consistent in his evidence. His evidence accords with the FIR which was lodged by the now deceased complainant /SHO almost immediately after the incident in which he nominated the appellant with a specific role. **His evidence is also corroborated in all material respects by eye witnesses PW 3 Bakhsal Khan and PW 4 Abdul Hakeem (except that PW 4 does not name the appellant as one of the persons who shot at the deceased).** We find no reason to disbelieve his evidence which we find reliable, trust worthy and confidence inspiring and find that he has correctly identified the appellant as one of the persons who murdered the deceased by firearm.

(ii) **Eye witness PW 3 Bakhshal Khan** was posted as ASI PS Dadu at the time of the incident. According to his evidence on 12.08.2008 the deceased and PW 4 Abdul Hakeem at 0500am were sent for seeking information about absconding accused while he and complainant SHO Ghulam Muhammed (now deceased) went on patrol with other police officers. During their patrol they kept in constant radio contact with the deceased who informed them that the appellant Janan along with others were available at Mallah Chowk with intent to commit a crime. **PW 2 Ghulam Sarwar over wireless was told to reach Mallah Chowk and they also proceeded there in their mobile and reached at 6.30 am in the morning.** He saw the deceased and 3 motor cycles at the scene with 8 armed riders who got off their motorbikes. He identified the riders. He saw Janan with a KK who made 3 straight fires on the deceased which hit him in the chest. He saw Aijaz with a pistol who also fired at the deceased and hit him on the nipple area. **He saw the appellant fire at the deceased which hit him in the lower part of his abdomen.** He also saw other named persons who also fired on and hit the deceased on various parts of his body. The deceased fell down on account of the fire shots which hit him. **He also saw PW 2 Ghulam Sarwar at the scene of the murder who also identified the appellant and the other persons who had made fire on the deceased.** They (the police) could not return fire as the area was crowded with



members of the public. The culprits escaped on their motor bikes by making aerial firing. He identified the appellants in court. Through his evidence he corroborates the evidence of **eye witness PW 2 Ghulam Sarwar in all material respects**. The same considerations apply to him as for **PW 2 Ghulam Sarwar** mentioned above **except** that no enmity is suggested against him

(iii) **Eye witness PW 4 Abdul Hakeem left the PS on patrol with the deceased and was with the deceased when he was murdered.** At the time of the incident he was posted at PS Dadu. According to his evidence on 12.08.2008 he along with the deceased left the PS on patrol. When they reached Mallah Chowk Shafan Mallah hotel he saw 7 persons come on three motor cycles. The deceased informed SHO Ghulam Muhammed (now deceased complainant). He recognized 3 out of the 7 riders but did not recognize the appellant and only names the three he identified as firing on the deceased which does not include the appellant. He, however, confirms the presence of SHO complainant Ghulam Muhammed (now deceased) who registered the FIR and **PW2 Sarwar and other PC's at the scene.** Otherwise he corroborates eye witnesses **PW 2 Ghulam Sarwar and PW 3 Bakhsal Khan in all material respects including the fact that he was left behind with the body of the deceased whilst the other police attempted to give chase to the culprits.** The same considerations apply to him as for **PW 2 Ghulam Sarwar** mentioned above **except** that no enmity is suggested against him..

(c) It is settled law that we can convict if we find the direct oral evidence of one eye witness to be reliable, trust worthy and confidence inspiring. In this respect reliance is placed on **Muhammad Ehsan V The State** (2006 SCMR 1857). Furthermore, the supreme court in the case of **Niaz-Ud-Din V The State** (2011 SCMR 725) held as under in respect of the ability of the court to uphold a conviction for murder even based on the evidence of **one eye witness** provided that it was reliable and confidence inspiring and was substantiated from the circumstances and other evidence since it is the quality and not the quantity of evidence which matters at P.734 Para 11 as under;

*"11. The statement of Israeel (P.W.9) the eye-witness of the occurrence is confidence inspiring, which stands substantiated from the circumstances and other evidence. There is apt observations appearing in Allah Bakhsh v. Shammi and others (PLD 1980 SC 225) that "even in a murder case conviction can be based on the testimony of a single witness, if the Court is satisfied that he is reliable." The reason being that it is the quality of evidence and not the quantity which matter. Therefore, we are left with no doubt whatsoever that conviction of Niaz-ud-Din was fully justified and has rightly been maintained by the High Court." (bold added)*

In this case we find the evidence of the 2 eye witnesses mentioned above to be fully corroborative and reliable, trust worthy and



confidence inspiring especially in terms of **correctly identifying** the appellant as one of the persons who committed the murder of the deceased by shooting him with his KK. The other eye witness fully corroborates the other two eye witnesses as to the incident. **Never the less by way of abundant caution we will consider below whether any corroborative /supportive evidence is available in respect of the direct oral eye witness evidence.**

(d) It is well settled by now that police witnesses are as reliable as any other witness unless any ill will or enmity has been attributed to them which has not been done in this case except of PW 2 Sarwar and even then no evidence of such enmity has been brought on record apart from a bald allegation although under oath the appellant does not state that the police had any enmity with him and the enmity if any seems to be primarily between the **deceased** and the chandio's which in fact would give the appellant the motive to kill the deceased. In this respect reliance is placed on **Zafar V State** (2008 SCMR 1254), **Riaz Ahmed V State** (2004 SCMR 988) and **Muhammed Hanif V State** (SCMR 2003 1237). In any event according to the evidence independent witnesses were asked to act as mashirs but all refused.

(e) The medical evidence fully supports the eye witness version of events. PW 1 Dr. Mukhtiar Ahmed who carried out the post mortem of the deceased gave evidence that the deceased received 7 firearm injuries of two different types indicating the use of two different firearms being a pistol and a KK and at least 2 or 3 firearm injuries were at the chest region (**this is close to the abdomen which both the PW eye witnesses state is the place where the appellant shot the deceased**) and 3 such injuries had burning and charring (which corroborates the evidence of PW 6 Barkat Ali who was the tapedar whose evidence shows that the point where the fire was made by the accused on the deceased was at a close distance with PW 1 Dr. Mukhtiar Ahmed himself opining that the charring and blackening could have been caused by firing at a distance of 3 to 6 feet.) and the cause of death of the deceased was by firearm injury.

(f) The KK being the murder weapon used by appellant was not recovered from the appellant however this is not surprising as the appellant had been **absconding for 7 years** and would have had plenty of time in which to dispose of the murder weapon. He was arrested whilst in custody in another case.

(g) That some of the empties which were recovered from the scene of the incident were of KK which was the murder weapon used by the appellant.

(h) Positive chemical reports showed that the blood gathered at the scene was human blood and the eye witnesses have given evidence that the deceased's clothes which he was wearing at the time of the incident were bloodied with bullet holes in them.

(i) That all the PW's are consistent in their evidence and even if there are some contradictions in their evidence we consider these



contradictions as minor in nature such as PW's saying 11 shots were fired and the MLO finding 7 bullet wounds keeping in view that their evidence was recorded **over 7 years after the incident** and the terror and chaos which was then unfolding at the scene of the incident and not material and certainly not of such materiality so as to effect the prosecution case and the conviction of the appellant. In this respect reliance is placed on **Zakir Khan V State** (1995 SCMR 1793) and **Muhammed Ilyas V State** (SCMR 2011). The evidence of the PW's provides a believable corroborated unbroken chain of events from the time the deceased and PW 4 Abdul Hakeem left to search for criminals/absconders, to the deceased call for assistance, to the arrival of the police eye witnesses, to the murder of the deceased by the appellant and others and up to the arrest of the appellant in custody in another case.

(j) It is for the prosecution to prove its case beyond a reasonable doubt against the appellant which we find that it has done in this case however we have considered the defense case before reaching this conclusion. The appellant has taken the dual defense plea that in effect the incident did not take place where it was stated to have taken place and that the deceased was murdered elsewhere and in the alternate that even if the incident did take place as alleged the appellant was not present and he has been falsely implicated by the police on account of enmity. We have noted that no evidence of any enmity against any member of the police party has been placed on record by way of complaint, FIR or otherwise. Under Oath the appellant simply states that he has no knowledge about the incident and that the police had enmity with appellant Janan and not him or any one else named in the FIR. DW 1 is Muhammed Shafi who did not come forward at the time of the incident in order to record his S.161 Cr.PC statements and now 7 years later out of the blue he appears for the defense and seems to fully remember the incident. He confirms the incident took place at the date, time and place where it was alleged to have taken place but only claims to have seen 2 riders shoot the deceased and he hide so he could not recognize them. In our view this witness is completely unreliable and appears to have been won over by the defense and we disbelieve his evidence especially as he appears to have gone back on his S.161 Cr.PC statement which he gave 7 years later. DW 2 Ali Gull's evidence is similar to DW 1's Seth Muhammed. During cross examination he admitted being directed by Seth Muhammed to give his evidence and having not even received a summons to appear before the court. He did not record any S.161 Cr.PC statement. DW 3 Meer Muhammed gives similar evidence to DW 2. None of these DW's came forward at the time of the incident and have only now after 7 long years come out of the wood work. We find that they are put up witness who the appellant had arranged over the 7 years since the incident and disbelieve their evidence. Thus, we disbelieve the defense case which we see as a belated effort to save the skin of the appellant especially in light of the overwhelming prosecution evidence against the appellant.

13. Thus, based on the above discussion especially in the face of reliable,



trust worthy and confidence inspiring eye witness evidence and other corroborative/supportive evidence mentioned above we have no doubt that the prosecution has proved its case against the appellant beyond a reasonable doubt.

14. With regard to sentencing we note that the appellant murdered an unarmed police officer in cold blood in broad day light in front of the public in a particularly brutal manner whereby he received at least 7 fire arm injuries which murder was designed and intended to intimidate and terrorize the public who were so intimidated and so terrorized by such a barbaric public act which amounts to the offense of terrorism under the ATA and as such no leniency is justified in terms of sentencing for the appellant Ali Hassan son of Ghulam Chandio but rather a deterrent sentence is the appropriate one in order to deter such cold bloodied brutal murders of policemen.

15. Thus, for the reasons discussed above the appeal against conviction of Ali Hassan s/o Ghulam Chandio is dismissed, the impugned judgment and its sentences imposed therein are upheld and the confirmation reference is answered in the affirmative.

16. The appeals and confirmation reference are disposed of in the above terms.