

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

**CRIMINAL APPEAL NO. D-405 OF 2011
CONFIRMATION CASE NO. D-28 OF 2011**

JANAN ALIAS JANU AND ALJAZ 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): 25-06-2020

Decided on: 02-07-2020

(a) Judgment approved for reporting

YES ✓

Khy

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.

8252
28/12/2011

PRESENTED ON

28/12/2011

Additional Registrar

28/12/2011

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Appeal No: D. 405 of 2011

Crif. Case no. D. 28 of 2011

1) Janan alias Janu son of Kouro.

2) Aijaz son of Janan alias Janu.

Both by caste Chandio, Muslims, Adults,
Resident of village Dano Chandio, Taluka
and District dadu.

Now confined with Central Prison,
Hyderabad.

-----Appellants.

Versus

The State

-----Opponent

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

Criminal Appeal No.D-405 of 2011
Confirmation Case No.28 of 2011

| DATE | ORDER WITH SIGNATURE OF JUDGE |
|------|-------------------------------|
|------|-------------------------------|

25-06-2020

Mr. Abdul Rasool Abbasi and Mr. Shahnawaz Brohi advocates for appellants.

Ms. Rameshan Oad Assistant Prosecutor General, Sindh.

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Learned counsel for appellants has read out the entire evidence and has made his submissions. Learned Assistant Prosecutor General has also made her submissions. Reserved for judgment.


JUDGE


JUDGE

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Before:Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Rasheed Ahmed SoomroCr. Appeal No.D- 405 of 2011
[Confirmation Case No.28 of 2011]

Janan alias Janu and Aijaz

Versus

The State

| | |
|---|--|
| Appellants : Janan alias Janu and Aijaz | Through Mr. Abdul Rasool Abbasi Advocate |
| Respondent : The State | Through Ms. Rameshan Oad, APG Sindh. |
| Date of hearing | 25.06.2020 |
| Date of judgment | 02.07.2020 |

JUDGMENT

MOHAMMAD KARIM KHAN AGHA, J.-This criminal appeal is directed against the judgment dated 24.12.2011, passed by learned Judge, Anti-Terrorism Court Hyderabad @ Hyderabad, in ATC Case No.308 of 2008 (Re: The State V Janan @ Janu and others), emanating from Crime No.380 of 2008, registered at Police Station Dadu, under sections 302, 324, 353, 147, 148, 149 PPC, 6 / 7 Anti-Terrorism Act, 1997, whereby both appellants (Janan @ Janu and Aijaz) have been convicted u/s 302/149 PPC r/w section 6(2)(a) punishable under section 7(a) of Anti-Terrorism Act, 1997 and sentenced to death subject to confirmation by this Court. They have also been directed to pay fine of Rs.100,000/- each which is to be paid to the legal heirs of deceased

HC Roshan Ali as compensation, and in default thereof they shall suffer S.I for one year.

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 Dadu on 12.08.2008 at 0730 hours are that, on the fateful day complainant was posted as SHO at P.S Dadu. On that day, HC Roshan Ali and PC Abdul Hakeem 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 area 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 son of Ali Nawaz 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 Aijaz and rest 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 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 and such information was conveyed to the higher 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. Police arrested the accused / appellants and after usual investigation, submitted the challan before the concerned court. After completing necessary formalities, learned trial court framed charge against accused / appellants, to which they pleaded not guilty and claimed trial.

4. At trial, the prosecution in order to prove its case examined 11 PWs and exhibited numerous documents and other items. The statements of the accused were recorded under section 342 Cr.P.C whereby they claimed false implication. They did not examine themselves on oath or call any witness in support of their defence case.

5. Learned trial court after hearing the learned counsel for the parties and assessing the evidence available on record convicted and sentenced the appellants as stated above.

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 appellants has contended that the appellants are innocent and have 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 subordinates of the complainant and as such their evidence cannot be safely relied upon, that the only independent witness who was called being PW 7 Shaffi did not support the prosecution case and was declared hostile, that the evidence of the prosecution witnesses contain major contradictions which makes their evidence doubtful, that the police official who was murdered was not in uniform at the time of the incident and that he was murdered by other people who had enmity with him, that the weapons were foisted on the appellants and that for any of the above reasons the appellants should be acquitted of the charge by extending to them the benefit of the doubt. In

support of his contentions learned counsel for appellants placed reliance on the cases of **Ghulam Mustafa V The State** (2009 S C M R 916), **Liaquat Ali V The State** (2008 S C M R 95), **Mehmood Ahmad and 3 others V The State and another** (1995 S C M R 127) and **Tariq Pervez V The State** (1995 S C M R 1345).

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 the murder weapons (pistol and KK) were recovered on the pointation of the appellants, that the empties recovered from the scene led to a positive FSL report when matched with the above weapons and as such the prosecution had proved its case beyond a reasonable doubt against the appellants and their appeals be dismissed and confirmation reference answered in the affirmative. In support of her contentions she has placed reliance on **Ansar Mehmood V Abdul Khaliq and another** (2011 S C M R 713), **Muhammed Ilyas V State** (SCMR 2011) and **Ahsan Shahzad and another V The State and others** (2019 S C M R 1165).

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 appellants 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 it was the appellants who were a part of the group of assailants who fired at HC Roshan Ali (the deceased) and injured him with their 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 appellants (Janan @ Janu and Aijaz) for murdering the deceased by firearm beyond a reasonable doubt and hereby uphold the convictions and sentences in the impugned judgment against the appellants for the following reasons;

(a) The FIR was registered with promptitude within an hour of the incident in which the appellants have been named and given specific roles 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 police against the appellants and thus the complainant and the police had no reason to implicate the appellants in a false case.

(b) The key witnesses in this case in our view are eye witnesses PW 1 Ghulam Muhammed who is also the complainant, PW 4 Buxhal Khan, PW 5 Ghulam Sarwar and PW 6 Abdul Hakeem. We shall consider the evidence of these eye witnesses in turn below;

(i) **Eye witness PW 1 Ghulam Muhammed** is also the complainant in this case. According to his evidence on 12.08.2008 he sent the deceased and PW 6 Abdul Hakeem for getting information about culprits whilst he went out on a separate patrol. According to his evidence he received a call from the deceased that 6 persons holding KK's and pistols were roaming on motor bikes in the Mallah Chowk area with intent to commit robbery. He disclosed one of the culprits as appellant Janan. He then went to the pointed place and told PW 5 Ghulam Sarwar who as on patrol in a separate mobile to reach there. When he reached the scene of the incident both the deceased and PW 5 Ghulam Sarwar were present. **He saw 6 persons who had got off their motor bikes fire at the deceased with KK's and pistols out of whom he saw appellant Janan fire 3 shots which hit the deceased on his chest and appellant Aijaz also fired one shot which hit the deceased on his chest.** 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 motorbike. 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. **He knew the appellants as they were wanted criminals who were also recognized by PW 5 Ghulam Sarwar and other police officers on the spot. It was a day light incident at 6.30am in August and there were additionally the**

lights of the police mobiles 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 in 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.

On 17.08.2008 whilst on patrol with PW 4 Buxhal Khan he came across the appellants riding a motor cycle who he arrested and recovered the motorcycle from. He was a natural witness and **not a chance witness** because he was the SHO who had sent the deceased out to gather information about criminals and on receipt of such information concerning a number of heavily armed criminals who it appeared intended to commit a crime he went to the scene of the incident to support his colleague who had provided him the information. 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 appellants and had no reason to falsely implicate them in this case. He was not shattered despite lengthy cross examination and remained consistent in his evidence. His evidence accords with his FIR which was lodged almost immediately after the incident in which he nominated both the appellants with a specific role. **His evidence is also corroborated in all material respects by eye witnesses PW 4 Buxhal Khan, PW 5 Ghulam Sarwar and PW 6 Abdul Hakeem.** 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 appellants as two of the persons who murdered the deceased by

firearm.

(ii) **Eye witness PW 4 Buxhal 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 6 Abdul Hakeem at 0500am were sent for seeking information about absconding accused while he and eye witness PW 1 Ghulam Muhammed went on patrol. During their patrol they kept in constant radio contact with the deceased who informed them that the appellant Janan along with others were roaming at Mallah Chowk with intent to commit a crime. PW 5 Ghulam Sarwar over wireless was told to reach Mallah Chowk and they also proceeded there in their mobile. He saw the deceased and 3 motor cycles at the scene with 8 riders who got off their motorbikes. **He saw appellant Janan with a KK who made 3 straight fires on the deceased which hit him. He also saw appellant Aijaz with a pistol who also fired at the deceased and hit him on the chest.** 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 5 Ghulam Sarwar at the scene of the murder. 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. On 17.08.2008 he along with PW 1 SHO Ghulam Muhammed was on patrol when they saw the appellants on a motor bike. They arrested the appellants and recovered the motorbike. He identified the appellants in court. Through his evidence he corroborates the evidence of **eye witnesses PW 1 Ghulam Muhammed in all material respects.** The same considerations apply to him as for PW 1 Ghulam Muhammed as mentioned above.

(iii) **Eye witness PW 5 Ghulam Sarwar** was posted as ASI at PS Dadu on 12.08.2008 when the incident occurred. According to his evidence on 12.08.2008 the deceased and PW 6 Abdul Hakeem were sent by SHO PW 1 Ghulam Muhammed to collect information about criminals and absconders. Thereafter PW 1 Ghulam Muhammed, PW 4 Buxhal Khan and other police officers left for patrolling. He left for patrolling in a separate mobile during which time he remained in contact with the deceased and SHO PW 1 Ghulam Muhammed. SHO PW 1 Ghulam Muhammed directed him to proceed to Mallah chowk where appellant Janan was committing a crime. When he reached the scene he saw the deceased standing along with 3 motorcycles from which 7 persons had alighted. **He saw appellant Janan with a KK make three straight fires on the deceased which hit him on the chest. He also saw appellant Aijaz make straight fire at the deceased with a pistol which fire hit the deceased.** He also saw other named persons fire at and hit the deceased with their fire. The culprits escaped by speeding away on their motor bikes whilst making aerial firing. He did not take part in the arrest of the appellants but apart from this aspect of his evidence he corroborates eye

witnesses PW 1 Ghulam Muhammed and PW 4 Buxhal Khan in all material respects. The same considerations apply to him as for PW 1 Ghulam Muhammed as mentioned above.

(iv) Eye witness PW 6 Abdul Hakeem is probably the most important eye witness as he 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 PW 1 Ghulam Muhammed fearing that there might be an incident of dacoity (which corroborates the evidence of PW 1 Ghulam Muhammed). **He saw appellants Janan and Aijaz alight from their motorcycles and fire at the deceased which hit the deceased on the chest.** He names the other 5 culprits who were present. He confirms the presence of SHO PW 1 Ghulam Muhammed and PW 5 Sarwar and other PC's at the scene. He was close to the appellants when they fired and would have no difficulty in identifying them as it was day light. There closeness of 2-3 feet is also corroborated by some of the medical evidence which found some of the fire arm injuries on the deceased as having burning and charring which indicates that such fires were made from less than 3 feet away. He was not a part of the patrol which arrested the appellants but apart from this aspect of his evidence he corroborates **eye witnesses PW 1 Ghulam Muhammed, PW 4 Buxhal Khan and PW 5 Ghulam Sarwar in all material respects.** The same considerations apply to him as for PW 1 Ghulam Muhammed as mentioned above.

(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."

In this case we find the evidence of the 4 eye witnesses mentioned above to be fully corroborative and reliable, trust worthy and confidence inspiring especially in terms of correctly identifying the appellants as some of the persons who committed the murder of the deceased by shooting him with their KK and pistol respectively. **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. 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). Like wise it is well settled that simply because a witness is related does not make him an interested witness and unreliable unless he has reason to falsely implicate the accused, or he is biased, partisan or inimical to the accused which there is no evidence of in this case. In this respect reliance is placed on **Ijaz Ahmad V The State** (2009 SCMR 99).

(e) The medical evidence fully supports the eye witness version of events. PW 8 Dr. Mukhtiar 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 and 3 such injuries had burning and charring and the cause of death of the deceased was by firearm injury all caused by bullets.

(f) The KK being the murder weapon used by appellant Janan was recovered on Janan's pointation hidden in a grave yard which only he and not the police could have known about and as such there is no question of the KK being foisted on Janan. Likewise the recovery of the pistol which was used by Aijaz to murder the deceased was recovered on the pointation of appellant Aijaz in the same hidden secret place.

(g) That some of the empties which were recovered from the scene of the incident when compared with the KK and pistol which were recovered from the appellants respectively matched as per a positive FSL report.

(h) Positive chemical reports showed that the blood gathered at the scene was human blood.

(i) The motor bike used in the crime was recovered from the appellants at the time of their arrest.

(j) All the most relevant and significant police entries were exhibited at trial in support of the prosecution version of events.

(k) 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 typo's and the number of culprits at the scene being 6, 7 or 8 keeping in view the terror and chaos

which was then unfolding) and not material and certainly not of such materiality so as to effect the prosecution case and the conviction of the appellants. In this respect reliance is placed on **Zakir Khan V State** (1995 SCMR 1793) and **Muhammed Ilyas** (Supra). The evidence of the PW's provides a believable corroborated unbroken chain of events from the time the deceased and PW 6 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 appellants and others, up to the arrest of the appellants and the recovery of the murder weapons on their pointation.

(l) We do not find it particularly relevant based on the particular facts and circumstances of the case that PW 7 Shafi who was an independent witness did not support the prosecution case and was declared hostile because at the time of giving his evidence only 2 out of the potential 6 to 8 murderers had been caught and thus he was probably afraid for his life and that of his family especially as he was a local person and the other killers were still at large and having already killed a policemen would have not hesitated to either intimidate or even kill him.

(m) Of course it is for the prosecution to prove its case beyond a reasonable doubt against the appellants which we find that it has done in this case however we have considered the defense case before reaching this conclusion. The appellants have taken the defense plea of false implication. Namely, they were at home when the police falsely implicated them in this case. However they have not given evidence under oath or called any defense witness in support of their defense case nor during cross examination have they suggested to any police PW that he had any enmity with them and therefore a reason to falsely implicate them in this case and as such we disbelieve the defense case of false implication which we consider to be a mere after thought in order to save the skin of the appellants especially in light of the overwhelming prosecution evidence against the appellants.

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 appellants beyond a reasonable doubt.

14. With regard to sentencing we note that the appellants murdered a 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 appellants Janan and Aijaz but rather a deterrent sentence is the appropriate one in order to deter such cold bloodied brutal murders of policemen who represent the symbol of the State and any attack on whom can be regarded as an attack on the State.

15. Thus, for the reasons discussed above the appeals against conviction are 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.