

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

Criminal Jail Appeal No.S-252 of 2017

Appellant: Behadur through Mr. Muhammad Rehman Shaikh, Advocate.

Respondent: The State through Mr. Nazar Muhammad Memon, A.P.G. Sindh.

Date of hearing: 04.05.2026.

Date of Decision: 04.05.2026.

Date of Reasons: 25.05.2026.

J U D G M E N T

RIAZAT ALI SAHAR, J.- Through the captioned Criminal Jail Appeal, the appellant has challenged the judgment dated 14.09.2017 passed by the learned 2nd Additional Sessions Judge, Badin in Sessions Case No.178 of 2015 (Crime No.74 of 2015, Police Station Tando Bago), whereby the appellant/accused Bahadur son of Manthar Sami was convicted under Section 302 (b) PPC and sentenced to imprisonment for life along with payment of compensation of Rs.100,000/- to the legal heirs of the deceased and in default thereof to suffer simple imprisonment for six months, with benefit of Section 382-B Cr.P.C. The appellant, being aggrieved of his conviction and sentence, has assailed the impugned judgment through the instant appeal.

2. Briefly, the prosecution case as set out in the FIR lodged by complainant Hakim son of Gul Fakeer is that on 11.06.2015 at about 08:00 p.m., a quarrel erupted between the accused Bahadur and deceased Sardar over a minor issue relating to children. Upon hearing the commotion, the complainant along with P.W. Shafi and others rushed to the spot where they witnessed the accused inflicting hatchet blows on the head, forehead and neck of Sardar with intention to kill. As a result of these injuries, Sardar fell to the ground in a critical

condition. The accused fled from the scene with the weapon. The injured was immediately shifted to hospital but succumbed to injuries on the way. FIR was promptly lodged at 02:30 hours on 12.06.2015.

3. After investigation, challan was submitted. During trial, the prosecution examined ocular witnesses, medical officer, mashirs and Investigating Officer. The medical evidence confirmed that the death was caused by sharp weapon injuries leading to hemorrhage and shock.

4. The appellant/accused denied the allegations in his statement under Section 342 Cr.P.C and claimed false implication but did not lead any defence evidence. The trial court, upon evaluation of the evidence, convicted the appellant/accused as stated above.

5. Learned counsel for the appellant contended that the impugned judgment is contrary to law and facts and based on misreading and non-reading of evidence. He contended that the prosecution failed to prove its case beyond reasonable doubt, as the entire case rests upon interested and related witnesses without independent corroboration. He further contended that the alleged occurrence took place at night, yet no reliable source of identification was established, making the presence of eyewitnesses doubtful. The learned counsel pointed out that material contradictions and inconsistencies exist in the statements of prosecution witnesses which were ignored by the trial court. He further contended that no independent witness from the locality was examined despite availability, which casts serious doubt on the prosecution story. According to learned counsel, the recovery of the alleged weapon is doubtful and foisted and motive was also not proved independently. He lastly contended that by extending benefit of doubt to the appellant, the conviction may be set aside and appellant be acquitted of the charge.

6. Conversely, learned Additional Prosecutor General supported the impugned judgment and contended that the prosecution has successfully proved its case beyond reasonable doubt through reliable and confidence-inspiring evidence. He contended that the ocular account furnished by the complainant and P.W. Shafi is consistent, natural and corroborated by medical evidence. The prompt lodging of FIR excludes the possibility of false implication. The recovery of the hatchet stained with human blood further strengthens the prosecution case. He also contended that mere relationship of witnesses with the deceased does not render their testimony unreliable when it inspires confidence. He contended that no material contradiction has been pointed out and the trial court has rightly appreciated the evidence. He prayed for dismissal of the appeal.

7. Heard and perused the record.

8. It is an admitted and undisputed position that the death of deceased Sardar was unnatural and homicidal in nature. The medical evidence produced by the Medical Officer unequivocally establishes that the deceased sustained multiple incised injuries on the vital parts of his body, particularly the head and neck, which proved fatal in the ordinary course of nature. The cause of death, as opined by the Medical Officer, was hemorrhage, shock, and brain damage resulting from sharp-edged weapon injuries, which fully corroborates and lends strong assurance to the prosecution's ocular account. Significantly, the defence has not challenged or disputed the medical evidence in any material manner; therefore, the same stands proved beyond any shadow of doubt.

9. The case primarily rests upon the ocular testimony of the complainant Hakim and P.W. Shafi, who are natural witnesses of the occurrence. Both witnesses have consistently deposed that they saw the accused inflicting hatchet blows upon the deceased. PW Hakim in his deposition has deposed that "*I was present in my house. On the commotion, I along with Shafi*

Muhammad, Saleem, Malhar went there in order to save them. We saw accused Bahadue caused sharp side hatchet blow on the forehead and neck of Sardar, who fell down.” While PW Shafi deposed in his deposition that “.....we heard cries from the house of deceased Sardar, on which we saw accused Bahadur while causing sharp side hatchet blows to deceased on his head, forehead and neck... the injured Sardar succumbed injuries on the way.” Their presence at the scene is natural as the incident occurred within the same residential vicinity. Despite lengthy cross-examination, no material contradiction or inconsistency has been elicited which could shatter their credibility. Their statements are straightforward, confidence-inspiring and free from embellishment. Furthermore, mashirnama of injuries [Ex:7/A] also supports the prosecution version. It is relevant to mention that the incriminating article i.e. hatchet was recovered on the pointation of accused on 21.06.2015 [Ex:7/B], which was analyzed and found to be stained with human blood by the Chemical Examiner [Ex:12/D].

10. The objection raised by the defence with regard to the prosecution witnesses being related to the deceased is wholly misconceived and devoid of substance. It is by now a well-settled principle of criminal jurisprudence that mere relationship with the deceased does not, by itself, render a witness interested, unreliable, or unworthy of credence, particularly when the testimony furnished by such witness is confidence-inspiring, natural, and consistent with the attending circumstances of the case. The true test is not the relationship of the witness with the victim, but the intrinsic worth, consistency, and reliability of the evidence so produced. I place my reliance upon following precedents:

NASIR IQBAL @ NASRA and another V. The STATE (2016 S C M R 2152):

“In the above circumstances, we found that the ocular evidence furnished by the eye-witnesses to be credit worthy and confidence inspiring and we have not been able to observe any defect or material lacunas in their evidence; their presence at the spot had

been established beyond any shadow of doubt; both the eye-witnesses were of course closely related to the deceased but fact of the matter remains that their mere relationship would not render them to be interested or partisan witnesses when the same has been corroborated with the medical evidence as well as the recoveries of crime weapon and the motive has fully been proved as such in our view no interference is required in conviction of the appellants."

Abid Ali & 2 others v. The State (2011 SCMR 208), Hon'ble Supreme Court of Pakistan has held 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 to hold that a particular witness was present on the scene of crime and that he is making true statement. A person who is reported 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."

Lal Khan v. State (2006 SCMR 1846), Hon'ble Supreme Court has held as under:-

"... The mere fact that a witness is closely related to the accused or deceased or he is not related to either party, is not a sole criteria to judge his independence or to accept or reject his testimony rather the true test is whether the evidence of a witness is probable and consistent with the circumstances of the case or not."

Zulfiqar Ahmed & another V. State(2011SCMR 492), Hon'ble Supreme Court has held as under:-

"...It is well settled by now that merely on the ground of inter se relationship the statement of a witness cannot be brushed aside. The concept of 'interested witness' was discussed elaborately in case titled Iqbal alias Bala v. The State (1994 SCMR-01) and it was held that 'friendship or relationship with the deceased will not be sufficient to discredit a witness particularly when there is no motive to falsely involve the accused.'"

11. In the present case, the defence has failed to establish any previous enmity, ulterior motive, or circumstance which could reasonably suggest that the prosecution witnesses would falsely implicate the accused while allowing the actual culprit to escape unpunished. On the contrary, human conduct and ordinary prudence suggest that close relatives of a deceased

would ordinarily be interested in ensuring that the real offender is brought to justice rather than substituting an innocent person in his place. The evidence of the prosecution witnesses remained consistent on all material particulars and no material contradiction, omission, or improvement could be elicited during cross-examination so as to shake their credibility.

12. Equally without force is the objection regarding non-association of independent witnesses. It is settled law that conviction can safely be based even on the testimony of a single witness if the same is found trustworthy and confidence-inspiring, for in criminal law it is the quality of evidence, and not the quantity thereof, which carries decisive importance. In the instant matter, the ocular account furnished by the prosecution witnesses is fully corroborated by the medical evidence and other surrounding circumstances, thereby leaving no room for doubt regarding the complicity of the accused.

13. Moreover, it is significant to observe that during cross-examination no specific suggestion was put to the prosecution witnesses disputing the presence of the accused at the place of occurrence. Failure to challenge a material aspect of the prosecution case during cross-examination amounts to an implied admission thereof, and such omission on the part of the defence further strengthens the prosecution case regarding the presence and participation of the accused in the commission of the offence.

14. The prompt lodging of FIR further strengthens the prosecution case. The FIR was registered within a few hours of the occurrence, leaving no room for deliberation, consultation, or fabrication. The details mentioned in the FIR are consistent with the statements of witnesses and medical evidence.

15. The appellant was specifically charged with having committed the murder of the deceased by inflicting repeated hatchet blows upon him. During the course of investigation, the blood-stained hatchet allegedly used in the commission of the

offence was recovered at the pointation of the appellant, and the report of the Chemical Examiner confirmed the presence of human blood upon the said weapon. Such recovery constitutes a strong incriminating circumstance and provides material corroboration to the ocular account furnished by the complainant and other prosecution witnesses. The recovery proceedings were duly proved through the testimony of the mashir and the Investigating Officer, both of whom remained consistent and steadfast during cross-examination, and no material contradiction or infirmity could be elicited so as to render the recovery doubtful or fabricated. medical evidence corroborated the ocular testimony.

16. Even when there are minor differences, **Nasir Ahmed** (2023 SCMR 478) and **Muhammad Riaz** (PLD 2005 SC 484) hold that trustworthy ocular testimony prevails over medical opinion.

17. The testimony of the complainant remained natural, confidence-inspiring, trustworthy, and consistent on all material particulars. Despite lengthy cross-examination, the defence failed to point out any material contradiction, improvement, or inconsistency which could shake the veracity of the prosecution case. No plausible explanation has been advanced as to why the complainant, being closely related to the deceased, would falsely implicate the appellant in a charge involving capital punishment while allowing the real offender to go scot-free. Such conduct runs contrary to ordinary human behaviour and probabilities.

18. In these circumstances, the ocular account, being reliable and confidence-inspiring, required no further independent corroboration, though the same otherwise stands corroborated by the medical evidence as well as the recovery of the weapon of offence.

19. As regards the question of motive, according to prosecution story, on the day of the incident, the deceased Sardar and the appellant/convict exchanged hot words over a dispute between their children. Thereafter, under sudden

provocation, the appellant attacked the deceased with repeated hatchet blows on the vital parts of his body with the intimation to kill him. Thus, the alleged motive behind the occurrence was a trivial quarrel arising out of a dispute between their children. Nevertheless, it is by now a settled proposition of law that failure to prove motive is not fatal to the prosecution case where direct evidence of unimpeachable character is available on record. Motive merely acts as an additional link in the chain of circumstances and its absence loses significance where the prosecution succeeds in proving the occurrence through cogent, trustworthy, and confidence-inspiring ocular evidence.

20. In the present case, the prosecution has successfully established the guilt of the appellant through direct, reliable, and legally admissible evidence which inspires confidence and remains wholly sufficient to sustain the conviction recorded by the learned trial Court.

21. The defence plea of false implication due to matrimonial enmity is vague and unsupported by any evidence. The appellant neither examined himself on oath nor produced any witness in defence to substantiate his plea. Thus, the defence version remains a mere assertion without proof.

22. It is important to note that the learned trial court has thoroughly appreciated the evidence in accordance with settled principles of criminal jurisprudence. No misreading or non-reading of evidence has been pointed out which could justify interference by this Court. The findings recorded by the trial court are based on sound reasoning and supported by the evidence on record. The sentence awarded to the accused is also justified. The trial court has already taken a lenient view by awarding life imprisonment instead of capital punishment, considering the circumstances of the case and absence of premeditation.

23. For what has been discussed above, I am of the considered view that the prosecution has successfully proved its

case against the appellant beyond reasonable doubt. The impugned judgment is well-reasoned and does not suffer from any illegality or infirmity. Consequently, the Criminal Jail Appeal filed by the appellant Bahadur son of Manthar Sami is hereby **dismissed**. The conviction and sentence awarded by the learned trial court vide judgment dated 14.09.2017 are maintained. The appellant shall serve out the remaining sentence in accordance with law.

24. Above are reasons for my short order dated 04.05.2026.

Sd/- RIAZAT ALI SAHAR.

JUDGE. 25/05/2026.

Approved for reporting

Abdullah Channa/P.S