

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Jail Appeal No. S-26/2022

Appellant : Pathan @ Lalo son of Ali Muhammad Duhuo
Through M/s Zahid Hussain Thaheem &
Mehbob Ali Thaheem, advocates.

Complainant : Through Mr. Zafar Ali Malghani, advocate.

Respondent : Through Mr., Nazir Ahmed Banghwar, DPG

Date of hearing : 04.07.2025

Date of Judgment : 09.07.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J. – This Criminal Jail Appeal has been preferred by the appellant, Pathan @ Laloo son of Ali Muhammad Dhuo, against the judgment dated June 27, 2022, rendered by the learned 1st Additional Sessions Judge/Model Criminal Trial Court, Jacobabad, in Sessions Case No.13 of 2021. By virtue of the impugned judgment, the appellant stands convicted for offences punishable under Section 302(b) read with Section 149 of the Pakistan Penal Code (PPC), and has been sentenced to rigorous imprisonment for life as Tazir, coupled with a direction to pay compensation of Rs. 500,000/- to the legal heirs of the deceased. It is pertinent to note that the co-accused, Muhammad Malook, was acquitted by the learned trial court, having been extended the benefit of doubt. This appeal seeks to set aside the conviction and sentence passed against the appellant on grounds of misappreciation of evidence and legal infirmities in the prosecution's case.

2. The prosecution's narrative, as encapsulated in FIR No. 34/2020, lodged on October 12, 2020, at PS Garhi Hassan by complainant Mst. Shabiran Dhuo, sister of the deceased Mubarak Ali, alleges that the incident transpired on October 9, 2020, at about 4:00 a.m. The complainant, along with Shoukat Ali and Zamir Ali, was roused by cries emanating from the house. Illuminated by bulbs, they purportedly

witnessed and identified six armed individuals forcibly entering the room of Mubarak Ali. These individuals were identified as Ali Muhammad (allegedly armed with a large *Churri* /KAAT), Pathan @ Laloo (armed with a *Churri*), Shabir Ahmed (wielding a hatchet), Allah Rakhio (carrying a TT pistol), and two unidentified accused, reportedly armed with guns. The prosecution contended that Ali Muhammad inflicted KAAT blows to Mubarak Ali's neck, Shabir Ahmed delivered hatchet blows to his neck, and Pathan @ Laloo (appellant) caused *Churri* blows, resulting in the severance of the thumb and two fingers of Mubarak's left hand. The complainant party, being unarmed and intimidated by the presence of Allah Rakhio and the unidentified armed individuals, remained silent. Tragically, Mubarak Ali succumbed to his injuries on the spot. Subsequently, during the course of investigation, the complainant party disclosed to the police that one of the previously unidentified accused was Muhammad Malook, who was allegedly armed with a spade and caused injuries to the deceased's shoulders.

3. Following the completion of the investigation, a charge sheet was formally submitted against the appellant Pathan @ Laloo and Muhammad Malook. The remaining alleged culprits, Ali Muhammad, Shabir Ahmed, and Allah Rakhio, were recorded as absconders and subsequently declared proclaimed offenders. The learned trial court, on June 4, 2021, framed a formal charge against the appellant and Muhammad Malook under Sections 302, 148, and 149 PPC. Both accused, upon being called upon, pleaded not guilty to the charges and elected to face trial.

4. In its endeavor to establish the guilt of the accused, the prosecution presented a total of nine witnesses. These included PW1 Dr. Nasrullah Khoso (Medical Officer), who deposed on the post-mortem findings; PW2 Ghulam Mubshar Sarki (Tapedar), who prepared the sketch of the *wardhat*; PW3 Mst. Shabiran Dhuro (Complainant), the sister of the deceased and the first informant; PW4 Shoukat Ali (Eye Witness), a cousin of the deceased; PW5 Suhno Dhuro (Mashir), a witness to various police

proceedings; PW6 Mehar Shah (ASI/Duty Officer), the author of FIR; PW7 HC Shafi Muhammad Buriro, involved in the transportation of the dead body; PW8 SIP Muhammad Azam Domki (Investigating Officer), who conducted the initial investigation; and PW9 Inspector/SHO Ali Muhammad Odho, who took over the investigation. Furthermore, PW Zamir Ali Dhuo, the son of the deceased, was examined as a Court Witness (CW1) at the instance of the defense counsel. Statements of the accused were duly recorded under Section 342 Cr.P.C., wherein they categorically denied the allegations, asserting their innocence and claiming false implication. No evidence was led by the defense.

5. Upon conclusion of the trial proceedings and after hearing arguments from all sides, the learned trial court proceeded to deliver its judgment. Co-accused Muhammad Malook was acquitted, primarily on the finding of insufficient evidence against him, thereby extending him the benefit of doubt. However, the learned trial court found the prosecution to have successfully established its case against the appellant Pathan @ Laloo beyond reasonable doubt, relying predominantly on the ocular account and the evidence pertaining to the recovery of the crime weapon. While acknowledging the unproven motive and the cumulative effect of injuries as mitigating circumstances, the learned trial court opted for a life sentence as Tazir instead of capital punishment.

6. Learned counsel for the appellant, assailed the impugned judgment as being legally infirm and factually unsustainable, contending that it is predicated upon a profound misappreciation of the evidence adduced during the trial. He meticulously articulated that the prosecution's narrative is replete with material contradictions, dishonest improvements, and critical omissions, which collectively render the entire ocular account inherently unreliable and incapable of forming the basis for a conviction. Learned counsel underscored that the FIR in this case was lodged on October 12, 2020, a considerable three days after the alleged incident on October 9, 2020. He contended that such an inordinate delay, particularly in a heinous offence like murder, is not merely a procedural

lapse but strongly indicative of prior consultation, deliberation, and the concoction of a fabricated narrative. While the learned trial court dismissed this delay as natural due to shock and funeral arrangements, the learned counsel argued that this explanation loses its force when viewed in conjunction with other glaring inconsistencies in the prosecution's case. Reliance was placed on the dictum of the Honourable Supreme Court in *Mohammad Ishaq v. the State* (2007 SCMR 108), which holds that unexplained delay in FIR registration can be attributed to consultation and deliberation to fabricate the prosecution story. Furthermore, the principles regarding delayed recording of eyewitness statements, as articulated in *Mohammad Asif v. the State* (2017 SCMR 486), were invoked to highlight the adverse impact of such delays on the credibility of the prosecution's evidence. A central pillar of the appellant's argument rested on the demonstrably dishonest improvements made by the prosecution witnesses and the clear instance of false implication. It was strenuously argued that the complainant (PW3), Mst. Shabiran Dhuo, initially claimed in her examination-in-chief to have named Muhammad Malook at the time of lodging the FIR, but was compelled to admit in cross-examination that Muhammad Malook's name was conspicuously absent from the FIR. More critically, the Court Witness Zamir Ali (CW1), the deceased's own son and a crucial eye-witness, made a startling admission in cross-examination that he implicated Muhammad Malook due to dispute over murder of his mother. Learned counsel contended that this unequivocal admission of false implication against one co-accused, who was subsequently acquitted, severely taints the credibility of the entire ocular account, including the testimony against the appellant. He emphasized that if witnesses are willing to perjure themselves and falsely implicate one individual on a capital charge based on personal vendetta, their testimony against other accused, including the appellant, cannot be implicitly trusted or relied upon. This argument was buttressed by citing a catena of judgments from the superior courts, including *Mohammad Javed v. the State* (2019 YLR Notes 1), *Mohammad Mansha v. the State* (2018 SCMR 772), and *Mohammad Arif v. the State* (2019 SCMR 631), which consistently hold that dishonest improvements render a witness's credibility doubtful and

their testimony unreliable, particularly in cases involving capital charges. The fundamental principle of "Falsus in uno, falsus in omnibus" (false in one thing, false in everything) was forcefully invoked, as expounded by the Honourable Supreme Court asserting that a witness who lies about any material fact must be disbelieved as to all facts. Learned counsel meticulously pointed out the inherent contradictions and exaggerations within the ocular account. He highlighted PW4 Shoukat Ali's absurd claim of identifying the accused from an impossible distance of "one K.M." This, he argued, is a blatant and unbelievable exaggeration that severely damages his credibility as an eye-witness, especially concerning identification during a night-time incident. Such exaggerated claims, as noted render subsequent identification of accused without legal importance. Furthermore, the defense alluded to the possibility of a prior contradictory statement by the complainant (PW3) to DSP Mirza Bilal Hussain regarding her actual presence at the scene, which, if established, would further undermine the very foundation of the prosecution's primary evidence. The evidence pertaining to the recovery of the alleged crime *Churri* from the appellant was subjected to rigorous scrutiny and vehemently challenged as being highly questionable and potentially fabricated. Learned counsel articulated the following critical infirmities: It was highlighted that the Investigating Officer (PW8) admitted that despite the presence of numerous individuals at the *wardhat*, independent mashirs were not obtained, and instead, relatives of the deceased were utilized. Mashir Suhno (PW5) himself gave contradictory statements regarding the presence of other private persons and the police's efforts to enlist them, thereby gravely compromising the impartiality and credibility of the recovery proceedings. It remained undisputed that no male family member of the appellant was present during the recovery of the weapon from his house. This, learned counsel argued, constitutes a significant procedural lapse, particularly when read in light of cases where recoveries from houses without search warrants or in suspicious circumstances are viewed with caution. The I.O. and mashir both conceded that the sealing material (cloth and thread) was already present in the police mobile's investigation bag. This fact, learned counsel contended, creates a strong

suspicion that the recovery was not spontaneous but rather a managed affair, thereby casting serious doubt on the integrity of the recovered evidence. The I.O. admitted that the recovered *Churri* was neither properly described nor measured in the recovery memo. Furthermore, the crucial admission by the I.O. that no straw was found stuck to the *Churri* despite its purported recovery from a heap of paddy straws defies natural circumstances and strongly suggests that the weapon was not genuinely hidden there, pointing towards fabrication. Such a lack of proper identification and suspicious circumstances surrounding the recovery renders the evidence unreliable. Learned counsel emphasized the most critical omission in the investigation: the I.O.'s admission that the blood-stained *Churri*, blood-stained earth, and the deceased's blood were never sent for matching purposes (e.g., DNA or blood group comparison). The chemical report merely confirmed the presence of human blood, which, in isolation, is utterly insufficient to definitively link the weapon to the deceased's murder. This fundamental failure to establish a direct forensic link between the weapon and the victim renders the recovery evidence unreliable and insufficient for corroboration. He relied upon the different case laws, which unequivocally emphasize that delay in sending crime weapons and empties to FSL can destroy their evidentiary value, and that dispatching empties after an accused's arrest is a practice consistently discarded by superior courts. The investigation conducted by the I.O. was severely criticized for its numerous and significant omissions, which collectively undermine the prosecution's case. Failure to secure the blood-stained cot, a crucial piece of physical evidence from the crime scene. Failure to prepare any interrogation memo for the accused, impacting the voluntariness and authenticity of the pointation for recovery. This is particularly relevant as confessions before police are inadmissible under Articles 37 and 38 of Qanun-e-Shahadat, unless they lead to a discovery not previously known to the police (Article 40), which was not the case here. The I.O. did not lodge an FIR on the very day of the incident, nor did the initial informants, further highlighting the initial delay in formalizing the complaint. The I.O. failed to account for the "dog trackers" mentioned by the eye-witnesses, who allegedly led to the appellant's house, creating

a significant discrepancy in the investigative narrative. Learned counsel pointed out that the prosecution failed to establish the motive behind the occurrence. While motive is not always indispensable for conviction, its absence, especially when coupled with a weak ocular account and flawed corroborative evidence, significantly adds to the benefit of doubt. In conclusion, learned counsel for the appellant placed strong reliance on the principles enunciated in various judgments of the Honourable Supreme Court, including 2025 SCMR 383, 2012 SCMR 327, 2011 SCMR 1190, 2017 SCMR 142, 2020 SCMR 192, 2018 SCMR 326, 2015 SCMR 315, and 1995 SCMR 1345, emphasizing the paramount importance of consistent and credible evidence, independent corroboration, adherence to proper recovery procedures, and the mandatory extension of the benefit of doubt in cases where the prosecution fails to prove its case beyond reasonable doubt.

7. Conversely, the learned Deputy Prosecutor General, ably supported by the learned counsel for the complainant, staunchly defended the impugned judgment, asserting that it was well-reasoned and correctly led to the conviction of the appellant. They contended that the ocular account provided by the complainant (PW3) and eye-witnesses (PW4, CW1) is consistent in its material particulars and directly implicates the appellant with a specific role in the commission of the offence. They argued that conviction can be safely recorded on the testimony of a single witness if such testimony is found to be reliable and confidence-inspiring. The learned DPG and complainant's counsel submitted that any apparent contradictions or discrepancies in the prosecution evidence are merely minor in nature, inherent in human observation and memory, and often occur due to the passage of time. They argued that such minor inconsistencies should not be made a ground for acquittal when the core of the prosecution story remains intact and credible. They maintained that the medical evidence, as presented by PW-1 Dr. Nasrullah Khoso, fully corroborates the ocular version regarding the nature of injuries sustained by the deceased and the cause of death. They highlighted that the principles for appreciation of evidence in cases depending on

circumstantial evidence were met, and that the cause of death can be proved even in the absence of a post-mortem report if other strong evidence exists. It was argued that the recovery of the blood-stained *Churri* from the appellant, which was subsequently found stained with human blood, provides strong corroboration to the ocular account. They countered the defense's arguments regarding joint *mashirnama* by asserting that it is not fatal if it clearly identifies each recovery with the accused concerned. They argued that delay in sending articles to FSL is a mere irregularity unless malice on the part of the police is established. The learned DPG and complainant's counsel submitted that the delay in lodging the FIR was adequately explained by the complainant, who was naturally occupied with the shock of the incident and funeral arrangements. They concluded by asserting that the learned trial court rightly appreciated the evidence and correctly convicted the appellant, while prudently extending the benefit of doubt to the co-accused Muhammad Malook due to specific weaknesses in his implication, demonstrating a balanced approach to justice.

8. I have meticulously and exhaustively examined the entire record of the case, including the impugned judgment, the formal charge framed against the appellant, the detailed depositions of all prosecution witnesses, and the comprehensive arguments presented by the learned counsel for the appellant, the learned DPG and the learned counsel for the complainant.

9. My thorough and dispassionate assessment of the evidence reveals several critical and fundamental flaws in the prosecution's case against the appellant Pathan @ Laloo, which cumulatively and unequivocally engender a reasonable doubt as to his guilt. The very foundation of the prosecution's case rests upon the ocular account furnished by the alleged eye-witnesses namely Mst. Shabiran Dhuo (PW-3), Shoukat Ali (PW-4), and Zamir Ali (CW-1). However, a close scrutiny of their testimonies exposes profound infirmities that cannot be lightly dismissed as mere minor contradictions or human fallibility. As per the

record, alleged incident was taken place on 09-10-2020, while the FIR is lodged on 12-10-2020, wherein the co-accused Malook not named, however in evidence his role was defined to cause spade at back shoulder of deceased. The name of appellant appears with role of cutting thumb and two fingers of deceased. FIR was lodged with 03 days delay and no explanation thereof was furnished. FIR is silent regarding the pointation by sniffer dogs, however, in cross examination it was admitted by the eye witness that the FIR was lodged on the basis of pointation after sniffer dogs and the FIR is also silent regarding sniffer dogs.

10. The court, in its meticulous examination of the testimonies presented in the case, has uncovered a series of perplexing discrepancies and crucial omissions that cast a considerable shadow upon the veracity and coherence of the prosecution's narrative. From the very outset, the procedural handling of the case, as revealed through the statements of the witnesses, raises serious questions. As stated above, one of the most glaring issues confronting the prosecution is the inexplicable delay in lodging the FIR. Mst. Shabiran (PW3), the complainant, unequivocally states that she lodged the FIR on October 12, 2020, a full three days after the alleged incident on October 9, 2020. This assertion is corroborated by ASI Mehar Shah (PW6), the duty officer, who confirmed the FIR's registration on the same date. However, the investigating officer, SIP Muhammad Azam (PW8), paints a different picture of the immediate aftermath. He claims that Muhammad Ali, a relative, informed the police of the murder at a remarkably early hour 6:30 a.m. on the very day of the incident, October 9, 2020 and that he, the SIP, proceeded to the crime scene within minutes, while such star witness was not examined by the Court which gave a fatal blow to the case of prosecution. Moreover, if the police were at the scene so swiftly, witnessing the deceased and the complainant, why was no State FIR immediately registered? And why did the concerned individuals, including Muhammad Ali and Suhno (PW5), who were present and even assisted with the body, not lodge an FIR then and there? The three-day hiatus, devoid of any compelling explanation,

inherently raises the specter of afterthought or deliberate fabrication, a critical point for judicial consideration.

11. Further inconsistencies emerge when piecing together the events surrounding the police's arrival and the initial handling of the crime scene. While the eye-witnesses, Mst. Shabiran (PW3) and Shoukat Ali (PW4), offer a somewhat consistent timeline of informing the police and their subsequent arrival around 7:00 a.m., SIP Muhammad Azam's (PW8) account of reaching the scene just 10 minutes after being informed on October 9, 2020, stands out. This swift response makes the absence of an immediate FIR even more confounding. More concerning is the SIP's admission that while the cot on which the deceased lay was stained with blood, it was *not* secured as evidence. This oversight is a significant lapse in the preservation of crucial forensic material.

12. The testimonies diverge sharply concerning the collection of other vital evidence. SIP Muhammad Azam (PW8) stated that he did not secure the quilt and cover of the plow from the crime scene on October 9, 2020. Yet, he later claimed that these blood-stained items were produced by the complainant at the police station four days later, on October 13, 2020. This temporal and locational shift in the collection of potentially critical evidence is perplexing. Perhaps the most startling contradiction lies in the matter of footprints and the use of sniffer dogs. SIP Muhammad Azam (PW8) explicitly stated that no visible footprints were found, thus negating the need for a foot tracker. This directly clashes with the sworn statements of Shoukat Ali (PW4) and the Court Witness Zamir Ali (CW1), who vividly described sniffer dogs being called, tracking footprints, and ultimately leading them to the accused's house. Such a fundamental disagreement on a key investigative step profoundly impacts the credibility of either the police's account or the witnesses' observations. Even among the purported eye-witnesses, subtle yet significant inconsistencies emerge regarding their vantage point during the attack. While Mst. Shabiran (PW3), Shoukat Ali (PW4), and Zamir Ali (CW1) all claimed to have woken up due to noises and witnessed the murder, their exact locations are at

odds. Mst. Shabiran initially suggested four accused were inside the room and two outside, while Shoukat Ali contradicted himself within his own testimony, first claiming they went "inside the room" and then clarifying they were "standing outside the room" while two armed individuals "aimed their weapons upon us." Similarly, Zamir Ali (CW1) first stated they "had gone into the room" but immediately thereafter described being "overpowered" by accused outside the door. These internal contradictions undermine the precision of their recollection of such a traumatic event.

13. Furthermore, a significant revelation from CW1 Zamir Ali is that accused Malook is his maternal grandfather. He conceded that Malook's name was implicated in his police statement due to a prior dispute over the murder of his own mother (the deceased Mubarak Ali having murdered his wife, Malook's daughter). This admission introduces a powerful motive for false implication against accused Malook, a critical consideration for the court. The process of arrest and the recovery of alleged crime weapons are also fraught with irregularities. While Mashir Suhno (PW5) and SIP Muhammad Azam (PW8) largely agree on the arrest of the accused on October 24, 2020, on pointing of the mashirs, the recovery of weapons two days later on October 26, 2020, presents a tangled web of inconsistencies. PW5 Suhno stated that accused Pathan Laloo produced a knife from a heap of paddy straws, while accused Muhammad Malook produced a spade from the *roof of a shed*. However, SIP Muhammad Azam (PW8) maintained that both the knife and the spade were recovered from "heap of paddy straws." The SIP further confused the matter by stating the heap was "in front of his house" and then correcting himself to say it was "inside the house." The SIP's admission that the recovered Churri's description was not recorded, that it wasn't measured, and that no straw was stuck to it despite being recovered from a straw heap, further weakens the credibility of the recovery memo. Most critically, SIP Muhammad Azam (PW8) admitted a profound investigative failure: he "had not sent the stained Churri, blood stained earth and blood obtained Lak as well as of blood of deceased for matching purpose." This omission of vital forensic matching is a severe deficiency, as it foregoes the

opportunity to scientifically link the alleged crime weapons and recovered evidence to the deceased. Finally, the integrity of the entire investigation is called into question by the pervasive presence of relatives as mashirs (independent witnesses) throughout the police proceedings. Both SIP Muhammad Azam (PW8) and Mashir Suhno (PW5) openly admitted that Suhno and Muhammad Ali, both relatives of the deceased and the complainant, served as mashirs for every crucial step: the initial wardhat memo, the inspection of the dead body, the production of articles, the arrests, and the recovery of weapons. The SIP's explanation that others refused due to being relatives only highlights the lack of genuinely independent witnesses, thereby raising significant concerns about bias and the objective collection of evidence. In sum, the cumulative effect of these contradictions, omissions, and procedural irregularities demands a rigorous and cautious approach to the evidence presented, as they collectively undermine the reliability and persuasive power of the prosecution's case.

14. The other most egregious and fatal flaw in the ocular account emanates from the admitted dishonest improvements and the startling admission of false implication. The complainant, PW-3 Mst. Shabiran Dhuo, initially asserted in her examination-in-chief that she had named Muhammad Malook at the time of lodging the FIR. Yet, under cross-examination, she was compelled to concede that Muhammad Malook's name was, in fact, conspicuously absent from the FIR. This is a material contradiction that undermines her veracity. More critically, CW-1 Zamir Ali, the deceased's own son and a pivotal eye-witness, made a direct and unequivocal admission during cross-examination that he implicated Muhammad Malook due to dispute over murder of his mother. This is not a trivial inconsistency but a dishonest improvement that strikes at the very heart of the prosecution's case. The principle of *Falsus in uno, falsus in omnibus* (false in one thing, false in everything) is a time-honored maxim of criminal jurisprudence. As authoritatively held by the Honourable Supreme Court in PLD 2019 SC 527 (Notice to Police Constable Khizar Hayat) and reiterated in Muhammad v. State (2022 YLR 967), if a witness is

found to have lied on one material fact, their entire testimony becomes suspect and cannot be implicitly trusted. The admitted false implication of a co-accused on a capital charge by a primary eye-witness unequivocally renders their testimony against other accused, including the appellant, highly unreliable and unsafe to rely upon. The very fabric of their truthfulness is torn by this admission.

15. Moving ahead, the ocular account further suffers from improbable exaggerations. PW-4 Shoukat Ali's claim of identifying the accused from a distance of one K.M. is an absurd and unbelievable assertion, particularly given that the incident occurred at 4:00 a.m, a time when visibility would be severely limited. Such a blatant exaggeration severely damages his credibility as an eye-witness, especially concerning the crucial aspect of identification. As held in *Muhammad Tasawar and another v. The State* (2004 P.Cr.L.J 230) and *Abid @ Rana v. The State* (2016 SCMR 1515), identification under such doubtful conditions (e.g., dark hours, unclear features) cannot be safely relied upon. The absence of a formal identification parade, particularly when the accused were allegedly known to the complainant party, further adds to the uncertainty surrounding their identification. While court identification can suffice in certain circumstances as per *Rafaq Ali and others v. the State* (2016 SCMR 1766), the overall dubious nature of the ocular account in this case makes it unsafe to place implicit reliance on such identification.

16. The evidence pertaining to the recovery of the Churri from the appellant, intended as a crucial piece of corroborative evidence, is riddled with serious doubts and procedural infirmities, thereby rendering its evidentiary value negligible. As per the principles laid down in *Syed Ali Raza Shah Vs. The State* (2015 P.Cr.L.J 1074) and *Fayyaz Ahmed Vs. The State* (2017 SCMR 2026), circumstantial evidence must form an unbroken chain, where one link touches the dead body and the other the neck of the accused. In the present case, several critical links in this chain are demonstrably broken. Both PW5 Suhno Dhuo (Mashir) and PW8 SIP Muhammad Azam Domki (I.O.) presented contradictory statements

regarding the selection of mashirs. The I.O. claimed that numerous private individuals were present but refused to act as mashirs, forcing them to rely on relatives of the deceased. However, Suhno's testimony implied that other private persons were not even actively sought. The reliance on relatives of the deceased as mashirs, especially when impartial witnesses were allegedly available, fundamentally compromises the objectivity and impartiality of the recovery proceedings. It remains undisputed that no male family member of the appellant was present during the recovery of the weapon from his house. This constitutes a significant procedural lapse that raises legitimate questions about the transparency and legality of the recovery, particularly when read in conjunction with the principles surrounding recoveries from private premises. Both the I.O. and the mashir conceded that the sealing material (cloth and thread) was already present in the police mobile's "investigation bag." This fact strongly suggests that the recovery was not a spontaneous discovery but rather a managed affair, thereby casting serious doubt on the integrity and authenticity of the recovered evidence. The I.O. admitted that the recovered *Churri* was neither properly described nor measured in the recovery memo. Furthermore, the crucial admission by the I.O. that no straw was found stuck to the *Churri* despite its purported recovery from a heap of paddy straws defies natural circumstances and strongly suggests that the weapon was not genuinely hidden there, pointing towards fabrication. Such a lack of proper identification and suspicious circumstances surrounding the recovery renders the evidence unreliable.

17. The most critical and unpardonable omission in the investigation is the I.O.'s admission that the blood-stained *Churri*, blood-stained earth, and the deceased's blood were never sent for matching purposes (e.g., DNA or blood group comparison). The chemical report merely confirmed the presence of human blood, which, in isolation, is utterly insufficient to definitively link the weapon to the deceased's murder. This fundamental failure to establish a direct forensic link between the weapon and the victim renders the recovery evidence unreliable and insufficient for corroboration. As held in *Ali Sher v. The*

State (2008 SCMR-707) and Khuda-A-Dad v. the State (2017 SCMR 701), such a delay in sending crime weapons and empties to FSL can destroy their evidentiary value, and the practice of dispatching empties after an accused's arrest is consistently discarded by superior courts.

18. The three-day delay in lodging the FIR, confirmed by PW6 ASI Mehar Shah, cannot be lightly brushed aside as merely natural or inconsequential. While initial shock may indeed cause some delay, a three-day gap, especially when viewed in conjunction with the admitted dishonest improvements by witnesses and the numerous procedural flaws, becomes highly suspicious. As held in Mohammad Ishaq v. the State (2007 SCMR 108), such delay can be attributed to consultation and deliberation to concoct the prosecution story. The I.O.'s admission that neither he nor the initial informants (Muhammad Ali and Suhno) lodged an FIR on the very day of the incident further compounds this doubt, highlighting a significant initial lapse in formalizing the complaint. Furthermore, the I.O.'s failure to secure the blood-stained cot, a crucial piece of physical evidence from the crime scene, is another significant omission, reflecting a pervasive lack of thoroughness in the investigation. While Tariq Mehmood v. the State (PLD 2009 SC 39) suggests minor lapses are not fatal, the cumulative effect of these significant and fundamental lapses in the present case points towards a flawed and unreliable investigation that cannot be trusted to establish guilt beyond reasonable doubt.

19. The learned trial court itself, in its impugned judgment, explicitly found that the prosecution failed to prove the motive behind the occurrence. While motive is not always an indispensable component for conviction, its absence, when coupled with a weak and tainted ocular account and fundamentally flawed corroborative evidence, significantly adds to the benefit of doubt for the accused, as observed in Mohammad Akram @ Amrai v. the State (2019 SCMR 610).

20. The cumulative effect of the aforementioned contradictions, omissions, dishonest improvements, and pervasive procedural irregularities in the investigation and evidence collection creates an

insurmountable and reasonable doubt regarding the appellant's involvement in the crime. It is a well-settled and sacrosanct principle of criminal jurisprudence that the prosecution bears the onerous burden of proving its case against the accused beyond reasonable doubt. Any doubt, however slight, must invariably go to the benefit of the accused. As authoritatively held in *Raja Munir Ahmed v. the State* (2019 P Cr L J Note 40) and *Ayub Masih v. The State* (PLD 2002 SC 1048), the rule of benefit of doubt is a fundamental rule of prudence, deeply rooted in the maxim "it is better that ten guilty persons be acquitted rather than one innocent person be convicted." The evidence adduced against the appellant, particularly the ocular account and the evidence of recovery, utterly fails to inspire confidence due to the inherent contradictions, dishonest improvements, and profound procedural infirmities highlighted herein. Consequently, the prosecution has failed to discharge its burden of proof to the requisite standard.

21. For the comprehensive reasons articulated above, I am constrained to conclude that the prosecution has miserably failed to prove its case against the appellant Pathan @ Laloo, beyond any semblance of reasonable doubt. The ocular account is severely tainted by dishonest improvements and fundamental contradictions, most notably the admitted false implication of a co-accused, which renders the entire testimony unreliable. The evidence of recovery of the crime weapon, intended as corroboration, is deeply flawed by flagrant procedural irregularities and, crucially, the absence of specific blood matching to the deceased, thereby fundamentally breaking the chain of circumstantial evidence as legally required by *Syed Ali Raza Shah Vs. The State* (2015 P.Cr.L.J 1074). The inordinate delay in the FIR and the pervasive investigative lapses further weaken the prosecution's narrative to an irreparable extent. The benefit of doubt must, therefore, be befittingly extended to the appellant.

22. In light of the foregoing findings and conclusions, this Criminal Jail Appeal is hereby allowed. The impugned judgment dated June

27, 2022, passed by the learned 1st Additional Sessions Judge/Model Criminal Trial Court, Jacobabad, convicting the appellant Pathan @ Laloo son of Ali Muhammad Dhuro, is accordingly set aside. The appellant, Pathan @ Laloo son of Ali Muhammad Dhuro, is acquitted of the charge. He shall be released from custody forthwith, if not required in any other case. Let the office transmit a copy of this judgment to the learned trial court for necessary compliance.

J U D G E

Asghar Altaf/P.A