IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Appeal No. S-15 of 2026.
(Wali Muhammad and others vs The State).

Before:-
Mr. Justice Ali Haider 'Ada'.

Appellants	:	Wali Muhammad and others, *through* Mr. Shabbir Ali Bozdar, Advocate.
The State	:	Mr. Muhammad Raza Katohar, Deputy Prosecutor General.
Complainant	:	Mst. Asia *through* M/s Arz Muhammad Panhyar and Shah Nawaz Panhyar, Advocates.
Date of Hearing	:	13.04.2026.
Date of Short Order		13.04.2026.
Date of Reasons	:	20.04.2026.

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JUDGMENT

Ali Haider 'Ada' J;- Through this criminal appeal, the appellants have assailed the impugned judgment dated 18.02.2026, passed by the learned Additional Sessions Judge-III, Ghotki, (trial Court), in Sessions Case No. 298 of 2023, whereby they were convicted and sentenced under various provisions of the Pakistan Penal Code. Under Section 148 read with Section 149 PPC, they were directed to pay a fine of Rs. 70,000/- each, and in default whereof, to undergo simple imprisonment for six months. Under Section 452 read with Section 149 PPC, they were sentenced to rigorous imprisonment for seven years along with a fine of Rs. 70,000/- each, and in default thereof, to further undergo simple imprisonment for six months. Under Section 337-F(v) PPC read with Section 149 PPC, they were directed to pay Daman of Rs. 300,000/- in equal shares. Under Section 337-A(i) PPC read with Section 149 PPC, they were directed to pay Daman of Rs. 150,000/- to injured Mst. Asia and Rs. 150,000/-

to injured Attaullah, respectively, and in case of non-payment, to remain in custody until payment. Under Section 382 PPC read with Section 149 PPC, they were sentenced to rigorous imprisonment for ten years with a fine of Rs. 100,000/- each, and in default thereof, to undergo simple imprisonment for two years. Under Section 506(2) PPC read with Section 149 PPC, they were sentenced to rigorous imprisonment for seven years. The benefit of Section 382-B Cr.P.C. was extended to them and all sentences were ordered to run concurrently. Being aggrieved by such judgment, the appellants have preferred the instant appeal.

2. The prosecution case, in brief, is that on 10.03.2023, the appellants, in furtherance of their common object, allegedly trespassed into the house of the complainant due to annoyance over the complainant having taken their ladies to attend a social welfare programme without permission. It is alleged that they subjected the complainant and her husband to physical assault, resulting in injuries. The complainant sustained injuries on her right index finger, later opined to be a fracture. The accused persons allegedly fled from the scene upon the arrival of co-villagers. It appears from the record that a medical letter was obtained on the same day; however, the complainant subsequently filed an application under Sections 22-A and 22-B Cr.P.C. on 13.03.2023 for registration of the case. Pursuant to an order dated 21.03.2023 passed by the learned Justice of Peace, the FIR was ultimately lodged on 24.03.2023. Thereafter, usual investigation was carried out and the challan was submitted before the trial Court. The trial Court took cognizance of the offence, supplied copies of relevant documents to the accused, and framed charge against them on 09.08.2023, to which they pleaded not guilty and claimed trial. The prosecution was thereafter called upon to lead evidence.

3. During trial, the prosecution examined the complainant Mst. Asia, who reiterated the allegations and attributed specific roles to

the accused persons, including causing injuries with a *churri*, lathis, and by means of kicks and fists, as well as snatching of gold ornaments. The injured witness Attaullah also supported the prosecution version. The prosecution further examined the author of the FIR, mashir witnesses, the Investigating Officer, and medical officers, who produced relevant documentary evidence including medical certificates. Additionally, a prosecution witness was recalled to produce the roznamcha entry showing that the complainant had approached the police station on the day of the occurrence and obtained a medical letter. Thereafter, the prosecution closed its side.

4. The statements of the appellants were recorded under Section 342 Cr.P.C., wherein they denied the allegations and professed their innocence. However, they neither opted to examine themselves on oath nor produced any defence evidence. Upon hearing, the learned trial Court convicted and sentenced them as stated above, which has now been challenged through this appeal.

5. Learned counsel for the appellants contended that the FIR was lodged with mala fide intention and that there exists a material discrepancy between the ocular and medical evidence. It was further argued that no independent witnesses were examined and the entire case rests upon interested testimony. It was also contended that there is unexplained delay in the registration of the FIR and that the entire family, including four ladies, has been falsely implicated. On these grounds, acquittal was sought.

6. On the other hand, learned counsel for the complainant maintained that the prosecution has successfully established its case, particularly in view of the injuries sustained by the complainant, including a fracture, which lends strong corroboration to the ocular account. It was contended that there are no material contradictions and that the conviction is justified. The learned Deputy Prosecutor

General also supported the impugned judgment, submitting that the medical evidence fully corroborates the prosecution version and that the offence of robbery has also been proved. He argued that no interference is warranted.

7. Heard, learned counsel for the parties and carefully perused the material available on record.

8. Foremost, the case of the prosecution rests upon the allegation that the appellants caused injuries to the complainant by means of a sharp-edged weapon as well as by hard and blunt substance, while her husband, namely Attaullah, was also allegedly subjected to injuries through lathi blows. In such circumstances, it becomes imperative to carefully examine the medical evidence to determine whether the same is in consonance with the ocular account furnished by the prosecution witnesses. A close scrutiny of the record reveals material inconsistencies. The complainant deposed that she sustained injuries on both wrists; however, the medical officer, during examination, noted injuries on the forearms rather than specifically on the wrists. This discrepancy regarding the seat of injury is not a minor one but goes to the root of the prosecution case. Furthermore, although the complainant alleged that injuries were inflicted with a sharp-edged weapon (*churri*), the medical evidence does not support such assertion. The final medical certificate issued in respect of Mst. Asia does not reflect any injury caused by a sharp cutting weapon. Rather, the kind of weapon was initially kept reserved, and ultimately the injuries were opined to have been caused by a hard and blunt substance. At no point do the medical documents confirm the presence of any sharp-edged weapon injury. Thus, there exists a clear conflict between the ocular account and medical evidence both in respect of the seat of injuries and the nature of the weapon used. Additionally, it is significant to note that the FIR itself does not mention any injury to the right index finger of the complainant, which was later introduced during her

deposition. Such improvement further weakens the prosecution case. The complainant also alleged that some of the accused attempted strangulation; however, the medical evidence is conspicuously silent regarding any marks of violence on the neck. Apart from minor abrasions, there are no indications of finger marks or signs consistent with forcible strangulation, which would ordinarily be expected in such a scenario.

9. Another important aspect pertains to the claim of the complainant and the injured witness that they remained admitted in hospital for three days. This assertion finds no support from the medical record. There is no documentary evidence showing their hospitalization, nor did the medical officers depose to that effect. Even the lady doctor, who initially examined Mst. Asia, stated that she referred her to Sukkur Hospital, yet the complainant did not corroborate this aspect in her testimony. Such omissions and contradictions further dent the credibility of the prosecution case.

10. It is a settled principle of law that medical evidence serves to corroborate the ocular account with regard to the nature of injuries, the seat of injuries, and the kind of weapon used. However, where the medical evidence contradicts the ocular account on material particulars, the same creates serious doubt in the prosecution story. In this regard, reliance may be placed upon the case of ***Abdul Khaliq versus Sher Ali and others*** **(2021 YLR 1619),** wherein it was held that medical evidence, being corroboratory in nature, cannot by itself establish guilt and must align with the ocular account. Similar view has been taken in ***Ajdar versus Razimand and others*** **(2026 YLR 254).**

11. In the present case, the contradictions between the ocular account and the medical evidence go to the core of the prosecution case. Such discrepancies clearly indicate that the prosecution has failed to establish its case beyond reasonable doubt. Guidance in this

regard may also be sought from the pronouncements in cases of ***Muhammad Idrees v. The State*** **(2021 SCMR 612) and** ***Muhammad Hanif v. The State*** **(2023 SCMR 2016).**

12. The complainant, Mst. Asia, deposed that she, along with the injured witness Attaullah, proceeded to the hospital immediately for treatment. However, the medical evidence presents a different sequence of events. The lady doctor stated in her deposition that she examined Mst. Asia at about 03:00 p.m. on the day of the incident, whereas the male doctor deposed that injured Attaullah appeared before him at about 04:00 p.m. This variation in timing, assumes importance when assessed in conjunction with other discrepancies on record. Furthermore, the lady doctor categorically deposed that on the same day, i.e., 10.03.2023, she referred Mst. Asia to Sukkur Hospital for X-ray examination and further opinion. However, the documentary record relating to the X-ray reveals that the same was conducted on 11.03.2023. Such inconsistency weakens the evidentiary value of the medical record. It is a settled principle of law that mere presence of injuries on the person of an injured witness does not *ipso facto* establish that such witness is speaking the whole truth. The testimony of an injured witness is undoubtedly entitled to due weight; however, the same must be evaluated in the light of surrounding circumstances and tested against the consistency of the overall evidence. In this regard, reliance may be placed upon the cases of ***Said Ahmad v. Zammured Hussain and others*** **(1981 SCMR 795),** ***Muhammad Pervez v. The State and others*** **(2007 SCMR 670),** ***Naveed Sadiq v. The State*** **(2023 YLR 2562), and** ***Muhammad Atif Naveed and another v. The State*** **(2024 PCr.LJ 1421).**

13. Moreover, where there exists a medico-ocular conflict on material aspects, such as the number, nature, or timing of injuries, the same may prove fatal to the prosecution case. In the present matter, the inconsistencies between the medical and ocular accounts

further deepen the doubt already created by earlier discrepancies. Guidance in this respect may be drawn from ***Chetan v. The State*** **(2025 SCMR 944),** ***Usman alias Kaloo v. The State*** **(2017 SCMR 622),** ***Muhammad Ali v. The State*** **(2015 SCMR 137), and** ***Muhammad Shafi alias Kuddoo v. The State*** **(2019 SCMR 1045).**

14. According to the prosecution, the beginning of the occurrence lies in the alleged motive that the complainant, being a social worker, had taken the ladies of the accused party to attend a social welfare programme, which annoyed the male members of the accused party and led to the commission of the alleged offence. In such circumstances, it was incumbent upon the prosecution to substantiate this motive through independent and reliable evidence. The most natural and material witnesses in this regard were the other ladies of the village, who allegedly attended the said programme. However, not a single such witness was produced before the trial Court. It is noteworthy that the prosecution itself asserted that women from the village had attended the social welfare programme, yet no effort was made to bring any of them into the witness box. Even the Investigating Officer failed to record their statements during the course of investigation to verify whether any such programme was in fact held or attended prior to the occurrence. The date of the alleged programme was stated to be 08.03.2023, but no documentary or oral evidence has been brought on record to establish the holding of such an event. The independent source, which could have lent support to the prosecution version, is thus completely silent on this material aspect, despite the claim that such persons were available and present. The withholding of this important piece of evidence, without any plausible explanation, renders the prosecution case doubtful. In such a situation, an adverse inference can legitimately be drawn against the prosecution under **Article 129(g) of the Qanun-e-Shahadat Order, 1984**, that had such evidence been produced, it would have been unfavourable to

the prosecution. Guidance in this respect may be sought from ***Azhar Iqbal and others v. The State*** **(2026 SCMR 182)**.

15. Moreover, since the prosecution has itself set up a specific motive for the occurrence, it was under a legal obligation to prove the same. Failure to establish the alleged motive further weakens the prosecution case. It is now a settled principle that where the prosecution alleges a motive but fails to prove it, the same circumstance operates against it. In the present case, the alleged motive remains unsubstantiated and appears to be merely conjectural. In this regard, reliance may be placed upon ***Fazal Mehmood v. The State*** **(2026 SCMR 350),** ***Usman Mehboob v. The State*** **(2026 SCMR 365),** ***Bashir-ud-Din v. The State*** **(2025 SCMR 1380), and** ***Muhammad Bilal v. The State*** **(2025 SCMR 1580).** Further elaboration is available in ***Tajamal Hussain Shah v. The State*** **(2022 SCMR 1567)**.

16. In addition, according to the prosecution, the incident allegedly took place on 10.03.2023. It is an admitted position that on the very same day, both injured persons approached the concerned police station and obtained a letter for medical treatment. Their presence at the police station was also recorded in Roznamcha Entry No. 12 dated 10.03.2023. However, a careful perusal of the said entry reveals that not a single word has been mentioned regarding the occurrence, the involvement of the accused persons, or even the basic facts of the incident. This omission assumes significance, particularly when both the complainant and the injured witness deposed before the trial Court that they had disclosed the names of the accused to the police at that very time. The record, however, does not support such assertion, thereby creating a serious dent in the prosecution story. Subsequently, the complainant approached the learned Justice of Peace after a delay of three days by filing an application under Sections 22-A and 22-B Cr.P.C. on 13.03.2023. She succeeded in obtaining an order on 21.03.2023, and as per her own

admission during cross-examination; she received a copy of the said order on 22.03.2023. Despite this, the FIR was not registered immediately and was ultimately lodged on 24.03.2023, after a further delay of two days. This sequence of events reflects an inordinate and unexplained delay in setting the criminal law into motion. Such delay, coupled with the earlier omission in the roznamcha entry, casts serious doubt on the veracity of the prosecution version. It is well-settled that where the complainant had the opportunity to promptly disclose the occurrence and the identity of the accused but failed to do so without plausible explanation, the case becomes doubtful. The unexplained delay provides sufficient room for deliberation, consultation, and possible false implication. In this regard, reliance may be placed upon ***Maqsood Ali v. The State*** **(2026 SCMR 393),** ***Altaf Hussain v. The State*** **(2019 SCMR 274),** ***Abdul Ghafoor v. The State*** **(2022 SCMR 1527),** ***Pervaiz Khan v. The State*** **(2022 SCMR 393),** ***Amir Muhammad Khan v. The State*** **(2023 SCMR 566),** ***Muhammad Hassan v. The State*** **(2024 SCMR 1427), and** ***Muhammad Nawaz v. The State*** **(2024 SCMR 1731)**, wherein the Honourable Supreme Court has consistently held that unexplained delay in lodging the FIR is fatal to the prosecution case. A similar view has also been expressed in ***Mst. Nazia Anwar v. The State*** **(2018 SCMR 911) and** ***Muhammad Nawaz v. The State*** **(2024 SCMR 1741),** reiterating that delay in registration of FIR, if not satisfactorily explained, creates doubt regarding the truthfulness of the prosecution story. Furthermore, this Court in ***Bashir alias Bashoo v. The State*** **(2025 YLR 1601)** observed that where the complainant approached the police on the same day, obtained a medical letter, and appeared before the Medical Officer, yet failed to disclose the occurrence or the names of the accused persons to the police, such conduct creates serious doubt in the prosecution case

17. Furthermore, no weapon of offence was recovered from the possession of any of the appellants during the course of investigation. This omission assumes significance in the present

case, particularly when the prosecution has alleged the use of specific weapons, including a sharp-edged instrument and lathis. The failure of the investigating agency to secure such incriminating articles further weakens the prosecution case and deprives it of an important piece of corroborative evidence. It is a well-settled principle of criminal jurisprudence that even a single circumstance creating reasonable doubt in the prosecution case is sufficient to entitle the accused to acquittal as a matter of right. In the present matter, the absence of recovery of the alleged weapons, when viewed in conjunction with the other discrepancies and contradictions already discussed, reinforces the doubt surrounding the prosecution version. In this regard, reliance may be placed upon ***Laiq Shah v. The State*** **(2026 SCMR 257).**

18. For the foregoing reasons, it is considered that the prosecution has failed to establish its case against the appellants beyond reasonable doubt. Consequently, the benefit of doubt is extended to the appellants. Accordingly, this criminal appeal is allowed. The impugned judgment dated 18.02.2026, passed by the learned trial Court, whereby the appellants were convicted and sentenced, is hereby set aside, and the appellants are acquitted of the charges. These are the detailed reasons in support of the short order dated 13.04.2026.

JUDGE