

**IN THE HIGH COURT OF SINDH AT KARACHI****Criminal Jail Appeal No. 211 of 2014**

Appellant : Muhammad Ramzan  
through Mr. Muhammad Farooq, Advocate

Respondent : The State  
through Mr. Zahoor Shah, DPG

**JUDGMENT**

**Omar Sial, J:** On July 17, 2010 at about 9:30 p.m. an engagement ceremony of Syed Abid Ali Shah (the son of Dulara Parveen from her first husband) was underway when Muhammad Ramzan (the son of Dulara Parveen from her second husband) arrived at the place of the ceremony and on the pretext of wanting to give some money and a message from his father to Dulara Parveen, went and stabbed her to death. F.I.R. No. 75 of 2010 was registered for the murder of Dulara Parveen at 2130 hours on 18th July, 2010 by the brother of the deceased, a man named Syed Faisal Ali Shah.

2. Muhammad Ramzan pleaded not guilty to the charge under section 302 P.P.C. against him and as a consequence of his plea, a trial was held in the court of the 2nd Additional Sessions Judge at Thatta.

3. In order to prove its case the prosecution examined eight witnesses. These were, Syed Faisal Ali Shah (the complainant, brother of the deceased and an eye witness); Zubair Ali (another brother of the deceased and an eye witness); Muhammad Azeem (yet another relative of the complainant); Nabi Bux (a Tapedar, who prepared the site sketch); Ateeq-ur-Rehman (a witness to the arrest of Muhammad Ramzan, inspection of the place of the murder and recovery of the murder weapon); Dr. Rukhsana Ansari (the doctor who carried out the post mortem examination of the deceased); Gulzar Ahmed (who verified the signatures of A.S.I. Badaruddin, the investigating officer of the case, who had died during the proceedings) and Asif Suleman (a witness to the inspection of dead body).

4. After the conclusion of the prosecution evidence, Muhammad Ramzan recorded his statement under section 342 Cr.P.C. The gist of the statement was that he had been framed in the murder by the relatives of the deceased as she married his (Ramzan's) father for a second time.

5. On 10th February 2014, the trial court announced its judgment in the case and sentenced Ramzan to a life in prison as well as pay a fine of Rs. 200,000. In these proceedings, Ramzan has impugned the conviction and sentence awarded to him by the trial court.

6. I have heard the learned counsel for the appellant as well as the learned D.P.G and have also examined the record with their assistance. The complainant did not appear to assist the State inspite of several notices sent to him. My observations are as follows.

7. By the account given at trial by the complainant himself, Dulara had died at 9:45 p.m. on 17th July, 2010. According to him, he immediately went and informed the police of the death and the police had also inspected the dead body, the post mortem was conducted and the body handed over to the complainant. Yet, it was not until 9:30 p.m. the next day that the complainant went and registered the F.I.R. In the circumstances of this case, I find the 24 hour delay in the registration of the F.I.R. on the pretext that the complainant was busy with the burial ceremony rather unbelievable and leading to the creation of doubt as to the accuracy of the information provided by the complainant to the police. The first information of the murder was given to the police, according to the complainant himself, at 9:45 p.m on the same day of the murder, still the same was not reduced into writing and an F.I.R. recorded. Such conduct raises doubt that the F.I.R was recorded after deliberations and consultations.

8. Evidence was led to establish that there was a Rural Health Centre close to where the incident is said to have occurred. According to witness Zubair Ali it was "10 to 15 walk distance away" while according to witness Faisal Ali it was "half kilometer away". Faisal Ali also admitted that there were "6/7 doctors and women medical officers" in that Centre. Keeping in view the fact that Dulara was injured and bleeding, I find it unusual and unnatural that the complainant chose not to go to the Centre to have his sister provided medical aid rather chose to not even summon an ambulance and decided to take her to a hospital in Karachi, which was about 100 kilometers away, in his own car. It is pertinent to also note that witness Zubair recorded a 164 Cr.P.C. statement in which he had a different version to give. In that statement he recorded that Dulara was first taken to the Centre for first aid and then as she was in a serious condition she was being taken to Karachi. This is a material contradiction between the statements of the eye witness given earlier and then at trial.

9. There are two eye witnesses to the incident - Faisal Ali and Zubair Ali. Both were brothers of the deceased. Both said that they were present when the incident occurred. Yet, Faisal Ali testified that there were 200 guests present at the engagement ceremony

when the incident occurred whereas according to Zubair Ali there were about 50. Apart from the substantial disparity in the estimate of guests present, I find it odd that the police could not record the statement of even one other neutral guest who was present at the ceremony or from the neighborhood, which appears to be a densely populated and congested one and according to witness Zubair a "large mob" had gathered on the spot. Apart from the two witnesses, there was only one other witness, Mohammad Azeem, who testified that he saw Ramzan escaping from the scene. Azeem also was a cousin of the two eye witnesses.

10. An important piece of evidence to corroborate the testimony of the two eye witnesses would have been the prayer mat on which Dulara is said to have been stabbed and which according to the witnesses was also blood soaked. This prayer mat was not seized by the police and hence not produced in evidence during trial. In fact there is no mention of the said prayer mat in the memo of inspection of the place of incident prepared by the police on 19-7-2010. I find it unusual that not only was the mat not found or seized but that the police while inspecting the place of incident did not also observe any blood marks on the floor of the house.

11. The complainant Faisal Ali on his testimony said that the F.I.R. bears his signature and thumb impression. Yet, the F.I.R. that was exhibited at trial does not appear to show any signature of his. Doubt is raised whether Faisal was honest at trial that the F.I.R. was written at his dictation.

12. Another aspect of the case is the delay in the recording of the statements of the eye witnesses. One of the eye witnesses, Zubair Ali, testified that the police recorded his statement "after two days" of the incident whereas a similar time frame was given by the other witness Mohammad Azeem (who claimed to have seen the appellant flee after murdering Dulara). This unexplained delay coupled with the delay in lodging the F.I.R. casts a shadow of doubt on the accuracy and authenticity of the statements of these witnesses.

13. I have also looked at the credibility of Mohammad Azeem with suspicion. As mentioned above, he was a close relative of the complainant and alleged that he saw Ramzan running away from the house. In addition to his section 161 Cr.P.C. statement, Azeem, for reasons best known to him also deemed it necessary to record a section 164 Cr.P.C. statement. In his section 164 Cr.P.C statement Azeem recorded that the engagement party in which the murder happened had been arranged inside his house whereas at trial he testified that the party was not in his house but in the house of one Shamshad Ali.

14. What I also find unusual and unnatural is that Ramzan after committing the murder made no attempt to go in hiding but instead went to his own house from where the police arrested him on the 19th of July, 2010. The police knocked on his door and he came out along with his children. Also unusual is that while the police arrested Ramzan from his house they did not bother to search the premises but instead claimed that the murder weapon was found two days later on the pointing out of Ramzan from outside his house.

15. Ateeq-ur Rehman, who was the witness to the arrest of Ramzan as also to the inspection of the place of incident and the recovery of the murder weapon was not only not a resident of the area where the murder occurred but also not a resident of the same city. The murder happened in Thatta while Ateeq admitted that he lived in Karachi and offered no explanation as to what he was doing in Thatta. Further, in his testimony Ateeq said that on the day of arrest of Ramzan i.e. 19th July, he had first gone to the police station at "7:30 p.m.". This is rather strange and appears to be a misstatement as the memo of arrest prepared by the police shows the time of arrest as 8:10 a.m. on the 19th of July. Similarly, in his testimony at trial, Ateeq said that he visited the place of incident with the police at "9:20 p.m." but the memo of inspection records that it was the morning time when the memo was prepared. Ateeq in his testimony said that the police seized the blood stained clothes of the deceased from the place of incident when it went to inspect it. The memo prepared has no mention of such a seizure but to the contrary records that nothing related with the offence was found on the scene. The fact that Ateeq was the brother of the deceased and admitted that the knife produced as evidence at trial was a kitchen knife and was easily available in the market, adds towards casting grave doubt towards his credibility.

16. There is obvious over writing in the time of death and examination of the body on the Body Examination Form prepared by the police. There also appear to be amendments to the date of the murder as well as the post mortem. These obvious amendments are material and create a dent in the entire prosecution case. To make matters worse for the prosecution, one of its witnesses, Asif Suleman, testified contrary to the prosecution case. This witness though declared hostile by the prosecution was not confronted with any statement that he had made previously that would show that he was not telling the truth at trial. Also detrimental to the prosecution case was that the investigation officer of the case died before he could record his evidence.

17. The motive attributed to the murder by the complainant was ill will between Ramzan (one of the children of Abdullah from his first marriage) and Dulara. Dulara had

been married to Abdullah “three years prior to the incident” (as testified by the complainant Faisal Ali). Prosecution witness Zubair Ali and Mohammad Azeem testified that the children of Abdullah (from his first marriage, which also included Ramzan) would often visit Dulara and that the children were on visiting terms at even the house of the complainant. No independent and neutral evidence was collected to corroborate the motive as claimed by the complainant. In the back drop of the foregoing, I find it odd that Ramzan chose to wait three years and then further opted to go murder his step mother in front of so many people, without the occurrence of any event which could said to be a catalyst for the murder. The motive attributed remained unproved.

18. For the above reasons I am of the view that there are plenty of contradictions and unexplained developments which cast a doubt on the credibility of the witnesses. In my view the prosecution was unable to prove its case beyond reasonable doubt. According to well settled principles, the benefit of even a single doubt should have gone to the accused. I therefore allow this appeal and acquit the appellant of the charge. He may be released forthwith if not wanted in any other custody case.

JUDGE