IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERBAD.

Criminal Jail Appeal No.S-275 of 2018

Appellant:	Mst. Razia through Mr. Syed Shafique Shah Advocate.
Respondent:	The State through Mr. Siraj Ahmed Bijarani Assistant P.G. Sindh.
Complainant:	Zeeshan Ahmed
Date of hearing:	12.05.2025
Date of Decision:	03.06.2025.

J U D G M E N T

RIAZAT ALI SAHAR, J. Appellant Mst. Razia has assailed the judgment dated 06.12.2018 rendered by the learned 4th Additional Sessions Judge, Shaheed Benazirabad, in Sessions Case No. 447 of 2016 (The State vs. Mst. Razia & another), arising out of Crime No.55/2016 registered at Police Station B-Section, Nawabshah under Sections 302 and 34 of the Pakistan Penal Code 1860 (PPC). By the impugned judgment, the appellant was convicted under Section 302(b) PPC, read with Section 34 PPC, for the murder of her step-daughter Baby Amna, and sentenced to rigorous imprisonment for life. She was further ordered to pay Rs.100,000/- as compensation to the legal heirs of the deceased under Section 544-A Cr.P.C., or in default, to suffer six months of simple imprisonment. (It may be noted that the co-accused, Agha Riaz Ahmed – the appellant's husband and father of the deceased – was ***acquitted*** during trial on the basis of a compromise with the legal heirs of the deceased under

Section 345(6) Cr.P.C. The appellant now challenges her conviction and sentence through this jail appeal.

2. Tersely, the prosecution's case as unfolded in the FIR and at trial is that the appellant Mst. Razia is the step-mother of the deceased child, Baby Amna (aged about 10 years). The complainant Agha Zeeshan Ahmed (PW-1) is the real elder brother of the deceased. His mother (the deceased's mother) had passed away about six years prior, after which their father (co-accused Agha Riaz Ahmed) contracted a second marriage with the appellant Mst. Razia. The complainant and his siblings – including the deceased Amna and a younger brother Waleed – initially lived with their father and step-mother in the same house. It is alleged that the appellant and co-accused had a cruel disposition towards the children, frequently mistreating and punishing them without cause. Owing to this hostile environment, PW-1 (the eldest son) left to reside with his maternal grandfather in Punjab about a year before the incident, leaving the minor deceased and her brother in the care of their father and step-mother.

3. Two days before the incident, the complainant's cousin, Agha Akbar (PW-3), informed him by phone that the appellant and co-accused were subjecting the minor children (Amna and Waleed) to severe cruelty, and implored him to return home. Consequently, on 01-06-2016, the complainant came back to Nawabshah and stayed at the house of his cousin Agha Akbar, which was adjacent to his father's house. On the fateful evening of 01-06-2016 at about 10:00 PM, the complainant and PW-3 Agha Akbar heard the cries of Baby

Amna emanating from the house of the appellant and co-accused. They immediately rushed towards the house, joined by a neighbour, PW-2 Ghulam Kadir (who ran a shop opposite the house of the accused). Upon entering the premises, they witnessed a horrifying scene: **both accused were actively beating the little girl**. The appellant Mst. Razia was wielding a heavy *danda* (wooden pestle used for grinding), while co-accused Agha Riaz held a stick wrapped with red tape. Both were shouting in enraged tones that the child had not washed the clothes or done the housework that day, and that *"they will not spare her and will kill her"*. In the course of this assault, Baby Amna, who had already sustained numerous injuries, collapsed to the ground. On seeing the witnesses approach and intervene, both accused fled the house, leaving the brutally injured child behind.

4. The complainant and the other witnesses found Baby Amna lying unconscious and badly hurt. Observing the severity of her injuries, they immediately arranged to transport her to the Peoples Medical College Hospital (PMCH), Nawabshah for emergency treatment. The child was brought to the hospital by about 10:30 PM, but **despite medical efforts she succumbed to her injuries shortly thereafter (around 10:30–10:45 PM).** One of the eyewitnesses, PW-3 Agha Akbar, promptly informed the police of the incident by telephone at around 11:00 PM. Police officials from P.S. B-Section arrived at the hospital soon after (approximately 11:30 PM) to initiate legal formalities. That night, the police, in presence of two mashirs (witnesses) from the community – Muhammad Kashif

and Agha Allah Rakha – conducted an **inquest** on the body of the deceased (preparing the *Mashirnama* of dead body) and completed necessary documents like the *Danistnama* (letter for autopsy). Photographs of the deceased's injuries were also taken at the hospital for the record. The dead body was then handed over to PW-3 Agha Akbar (being a close relative) for last rites, after completion of the post-mortem examination in the early hours of 02-06-2016.

5. The next day, after the burial of the deceased (which took place on 02-06-2016 at about 4:00 PM), the complainant (PW-1) proceeded to the police station at around 8:00 PM to formally lodge the First Information Report (FIR). **FIR No. 55/2016** was registered at P.S. B-Section on the complaint of Agha Zeeshan (PW-1) at 20:30 hrs on 02-06-2016, under Sections 302/34 PPC. In his statement (which became the basis of the FIR), the complainant narrated the above facts in detail, accusing his step-mother (appellant Mst. Razia) and his father (Agha Riaz) of mercilessly beating his sister Amna to death over a trivial household issue. After registration of the FIR, the investigation was entrusted to SIP Laiq Muhammad Zardari (PW-6, the Investigating Officer "IO") for further action.

6. During the course of investigation, on 03-06-2016 the complainant produced the last-worn clothes of the deceased (stained with blood) to the IO, which were seized and sealed as evidence in the presence of mashirs Muhammad Kashif and Agha Allah Rakha. The IO also visited the scene of crime (the house where the assault occurred) on the same morning (03-06-2016) on the pointation of the

complainant, and prepared a *mashirnama* of the place of incident, noting observations of the scene, again witnessed by the same two mashirs. Subsequently, on 04-06-2016, the IO arrested both accused (Mst. Razia and her husband Agha Riaz) near their house, and an arrest memo was prepared accordingly. The investigation further revealed that both accused were willing to recover the weapons used in the crime. On 10-06-2016, the IO interrogated the accused in custody, during which they ***voluntarily disclosed*** that they had hidden the weapons (the *danda* and the stick) on the roof of their house. The IO proceeded to recover these items on the same day: as per the recovery memo, the appellant Mst. Razia herself produced the wooden *danda* from the roof, and co-accused Agha Riaz produced a lathi (stick) wrapped with red tape, from the same location. Both weapons were taken into possession, sealed, and a recovery memo was drawn up in presence of mashirs. (It is noted that one of the mashirs, PW-8 Muhammad Kashif, later testified that a **rope** was also recovered along with the sticks, though this detail was not emphasized by the IO in his evidence. Regardless, the *danda* and taped stick were the primary weapons of offence identified by all eyewitnesses.) On 18-06-2016, during the investigation, the IO also produced the two eyewitnesses (PW-2 and PW-3) before a Magistrate for recording their statements under Section 164 Cr.P.C., to ensure their testimony was preserved. After completion of investigation, the police submitted a challan (final report) against both accused for trial.

7. The case was sent up to the Court of Sessions and was registered as Sessions Case No. 447/2016. The learned trial court completed all pre-trial formalities and on 24-01-2018 framed a formal charge against the accused at Ex.2 (with separate heads of charge for each) for the offence of Qatl-i-amd of Baby Amna in furtherance of their common intention (Sections 302/34 PPC). The accused pleaded not guilty and claimed trial, as recorded in their pleas at Ex.2/A and 2/B.

8. In order to prove its case, the prosecution examined nine witnesses in total. A brief overview of the witnesses and the documentary evidence produced is as follows:

- **PW-1 Agha Zeeshan Ahmed (Complainant)** – eldest brother of the deceased. He narrated the background of the family, the events leading up to the incident, and gave a first-hand account of witnessing the assault on his sister by the accused on 01-06-2016. He also proved the FIR (Ex.4/A) which he had lodged. In his testimony, he described that *"when we entered the house of the accused we saw accused Mst. Razia and Agha Riaz beating baby Amna… Accused Razia had a danda…and accused Agha Riaz a red stick…they said they will commit her murder"*. He further recounted how the child was rescued and taken to hospital where she expired, and confirmed the subsequent police formalities (seizure of clothes, etc.). In cross-examination, PW-1 firmly denied the defence's suggestions that he or his family bore any grudge against the appellant or that they had fabricated

the incident. He refuted insinuations that his sister's injuries were the result of an accidental fall from stairs, insisting that she *"was never met with such incident"* and had in fact been deliberately tortured by the accused. He also rejected the suggestion that the appellant had no role, or that only his father (co-accused) was responsible – he maintained that both accused jointly beat Amna and caused her death.

- **PW-2 Ghulam Kadir** – a neighbour who runs a shop in front of the accused's house. An independent eyewitness, he corroborated the complainant's account in all material particulars. He testified that on hearing the child's cries on 01-06-2016, he, along with PW-1 and PW-3, went to the house and *"saw accused Mst. Razia and Agha Riaz are beating baby Amna"*. He observed the accused using a stick and a grinding pestle (*danda*) to hit the girl, and heard them threatening to kill her for not doing house chores. PW-2 stated that on the accused fleeing, he helped take the victim to the hospital, where she died during treatment. He also confirmed the investigative steps, such as the recording of his statement under Section 161 Cr.P.C. on 03-06-2016, and later under Section 164 Cr.P.C. on 18-06-2016. In cross-examination, PW-2 admitted knowing the complainant's family for some years and that the relatives of the children were aware of the abuse, though no formal complaint had been made previously. He denied the defence's suggestion that he had **not actually witnessed the beating** – he

maintained it was *"incorrect to suggest that I never saw the accused while beating baby Amna."* He also refuted a defence theory that PW-3 Agha Akbar (the cousin) himself might have committed the murder and falsely implicated Mst. Razia; PW-2 termed this suggestion false and reiterated that he saw both accused beating the child.

- **PW-3 Agha Akbar Khan** – a first cousin of the complainant (nephew of co-accused Agha Riaz), who was residing next door to the accused. He too is an eyewitness and largely corroborated the prior testimonies. PW-3 provided family history, confirming that after the death of the first wife (his aunt), the appellant's attitude toward her step-children was cruel, leading to multiple family interventions (even a local mediation or *faisla* was convened to restrain her, which proved ineffectual). He stated that due to continued cruelty, he finally alerted PW-1 to return home just days before the incident. Describing the incident night, PW-3 testified that at about 10 PM on 01-06-2016, while he and PW-1 were at his house, they heard Amna's screams. He initially went to his rooftop and *saw* the accused beating the child in the adjacent courtyard, and then rushed over with PW-1 and PW-2 to intervene. He vividly recounted that *"we saw my uncle (Agha Riaz) and my aunt (appellant Mst. Razia) beating Baby Amna. Accused Razia was delivering blows with a danda and accused Riaz with a stick wrapped in red tape, saying she hadn't done the chores and thus would be murdered"*. PW-3

helped pick up the injured child; with the assistance of the others they took her to the hospital in a rickshaw, but she succumbed to her injuries during treatment. He also identified the appellant in court and confirmed that the recovered weapons (the danda and taped stick) were the same ones used in the offence. In cross-examination, PW-3's credibility was tested at length. He conceded that he had complained against the appellant's mistreatment of the children in the past (even resulting in her brief arrest by the Women's Police Cell), and that he had no documented proof of the earlier f*aisla* or complaints. The defence highlighted that PW-3 was related to the complainant and had cordial terms with the family, suggesting he might be biased; however, he denied any ulterior motive, asserting that his involvement was only to protect the children from abuse. He admitted that other neighbours also came on hearing the commotion, though none were named as witnesses. Importantly, PW-3 was confronted with the suggestion that it was in fact **co-accused Agha Riaz alone** who killed the child and that the appellant was falsely implicated due to being a step-mother. He rejected this outright, affirming that both accused were simultaneously assaulting the victim and that he has *"not deposed falsely at the instance of the complainant."*. Minor inconsistencies in his testimony (such as whether he first saw the beating from the roof or upon entering the house, or the exact positions of people) were brought out, but nothing

emerged to shake his core account of the appellant's active role in the fatal assault.

- **PW-4 Dr. Sanjida Aftab (WMO)** – the Woman Medical Officer who conducted the autopsy of the deceased at PMCH. She testified that she received the body of Baby Amna (aged about 10 years) at 2:00 AM on 02-06-2016, accompanied by the requisite police papers (lash chakas form, etc.). Post-mortem examination was started at 2:30 AM and completed by 4:00 AM. The doctor's **external examination** revealed a harrowing array of injuries on the child's body: at least **15 distinct wounds** were noted, including multiple bruises, swellings, and abrasions on the arms, shoulder, chest, hands, face, right eye, and legs. Notably, there was a confluent bruise 13×3 cm on the back of the right shoulder, swelling of the left elbow and left hand, contusion in the left lung area, subconjunctival hemorrhage in the eye, bleeding from the right ear, and an **old** lacerated wound (3×1 cm) on the left shin, indicating prior injury. On **internal examination**, there was extravasation of blood in the shoulder and chest tissues, contusion of the left lung, and overall pallor of organs due to blood loss. PW-4 deposed that the cause of death was reserved until histopathology and chemical analysis reports were obtained. Later, after receiving those reports, she issued a final opinion (dated 09-08-2016), concluding that ***"deceased Amna… appears to have died due to repeated assault on her body resulting in severe anaemia due to***

acute and chronic blood loss in the tissues." In simpler terms, the child died from the cumulative trauma of being brutally beaten, which caused both immediate and long-term internal bleeding leading to fatal anemia (shock). The doctor proved the post-mortem report (Ex.7/B) and final opinion (Ex.7/E), as well as ancillary reports (Ex.7/C, 7/D). Her evidence went unchallenged on material points – significantly, the defence did **not dispute the nature or cause of injuries**. In cross-exam, PW-4 only clarified minor details (e.g. that the body was cold on arrival, and how long the external exam took). There was no suggestion that the injuries could have been accidental; rather, her testimony decisively characterized them as resulting from assault and torture.

- **PW-5 ASI Mian Bux** – a police officer who was the Duty Officer at P.S B-Section on the night of 01-06-2016. He was the first police responder to the incident. He stated that at about 11:30 PM on 01-06-2016, he received information from PW-3 Agha Akbar about a child's murder and her body being at the hospital. He immediately proceeded to PMCH, where he observed the deceased's body and prepared the *Mashirnama* of her dead body and the injury report (inquest) in the presence of two mashirs, Muhammad Kashif and Agha Allah Rakha. He identified the mashirnama (Ex.8/A) and *Danistnama* (death report form, Ex.8/B) bearing his signature. He also recognized the *lash chakas* form (Ex.7/A)

which he had signed while sending the body for autopsy. PW-5 further testified that he took **photographs** of the deceased (marked as Article P-1 to P-4) to document the injuries. After the post-mortem, the body was handed over to PW-3 Agha Akbar for burial. PW-5 then deposed that on 02-06-2016 at about 8:00 PM, the complainant (PW-1) came to the police station and reported the facts of the cognizable offence (the incident) to him. He thus formally registered the FIR **(Crime No.55/2016)** under **Sections 302/34 PPC,** recording the statement of the complainant verbatim. He affirmed that the FIR (Ex.4/A) was the same and bore his signature as the registering officer. After lodging the FIR, further investigation was assigned to SIP Laiq Muhammad (PW-6). In cross-examination, PW-5 described the promptness of his actions: he left the station as soon as he got the call, reaching the hospital in 15 minutes, where the complainant's party was already present**.** He explained that he wrote the inquest report on a clipboard at the hospital, finishing the proceedings (including the Danistnama) by about 11:45 PM. The defence suggested to him that perhaps these documents were actually prepared later at the police station (implying manipulation), which he denied, maintaining that all paperwork was done on the spot in the hospital in the mashirs' presence**.** His evidence established that the incident was brought to official notice within an hour or two and that

the formal FIR, though registered the next evening, was essentially a continuation of the same narrative already in motion through the inquest.

- **PW-6 SIP Laiq Muhammad Zardari (Investigating Officer)** – he took over the investigation after FIR registration. He recounted in detail the steps he took (many of which have been summarized in paragraph 6 above). He confirmed the **seizure of the deceased's bloodstained clothes** on 03-06-2016, preparing a memo (Ex.9/A) signed by mashirs. He described visiting the crime scene (the house) the same day and preparing the site inspection memo (Ex.9/B) with a rough sketch, noting that the house had an iron gate, a room and courtyard where the incident took place, etc.. He testified to the **arrest of both accused on 04.06.2016**, through a memo (Ex.9/C). The IO's most significant testimony was about the recovery of the weapons. He stated that on 10.06.2016, during interrogation, *"accused voluntarily prepared to produce the danda and lathi used in the offence",* so he took them in custody to the house. At the roof, *"accused Mst. Razia produced the Danda, and accused Agha Riaz produced one lathi wrapped with red tape",* which were seized and sealed, and a recovery memo was made (Ex.9/D). PW-6 also corroborated that the eyewitnesses' statements under 164 Cr.P.C. were recorded on 18.06.2016 before a Magistrate. He identified the case property in court – the last-worn clothes of the deceased, the *danda* and the

lathi – as the same ones recovered during investigation. The appellant present in court was identified as the same accused he had arrested and interrogated. In cross-examination, the defence mainly probed possible investigative lapses or bias. PW-6 admitted that the private mashirs (Kashif and Allah Rakha) for the various memos were close relatives of the complainant. (Indeed, PW-8 Kashif later turned out to be a cousin of PW-1, confirming this relationship.) He also could not recall certain measurements or whether he prepared a formal sketch of the weapons. The defence highlighted that the recovery memo did not explicitly mention the red tape on the stick (an omission), and suggested that the recovery was foisted (planted) on the accused, which PW-6 firmly denied. He also conceded that no forensic examination (like fingerprint analysis) was conducted on the recovered items. However, despite these minor flaws, PW-6 maintained that the evidence collected was genuine and the witnesses volunteered their statements without coercion. The core of his testimony regarding recovery and the sequence of investigation remained unshaken.

- **PW-7 Mehar Ali – a Tapedar (revenue official/draftsman).** He prepared a **scaled site sketch of the crime scene** (the house of occurrence). He produced the site plan (Ex.10/A) in evidence. (His role was formal and technical; since no controversy was raised about the location or layout of the scene, his cross-examination was nil or not

material. The site plan essentially corroborated the location of various rooms, the courtyard, and where the victim was found, consistent with the eyewitness descriptions.)

- **PW-8 Muhammad Kashif** – one of the private *mashirs* who witnessed the post-mortem inquest, site inspection, arrests, and recovery. He is also a cousin of the complainant's family. In his examination-in-chief, PW-8 confirmed that on receiving news of the incident on 01-06-2016 around 11:30 PM, he went to the hospital, where he saw the child's dead body with multiple visible injuries on her elbows, hands and feet. He stated that ASI Mian Bux prepared the dead body *mashirnama* in his presence and that he (PW-8) along with ***Agha Allah Rakha*** signed it as witnesses. He likewise attested that the *Danistnama* (death report) was prepared and signed by them. PW-8 further corroborated that on 03-06-2016, he was present when PW-1 handed over Baby Amna's bloodied clothes to the IO, which were a white and pink shirt and a light-pink shalwar; the IO seized these and he (PW-8) and the other mashir signed the memo. He accompanied the IO to the **place of incident** that morning and described the house layout (iron gate, a room with a corridor, another room with a kitchen near the stairs, etc.) – noting that PW-3 Agha Akbar's house was on the southern side and PW-2 Ghulam Kadir's shop on the eastern side of the accused's house. The IO prepared the site *mashirnama* which PW-8 signed. PW-8 also witnessed the **arrest of both**

accused on 04-06-2016 at 4:00 PM – he testified that the police called him, and he accompanied them to the pointed place where both Agha Riaz and Mst. Razia were arrested; their personal search yielded nothing incriminating, and a memo was signed by him and the other mashir. Regarding the recovery on 10-06-2016, PW-8 stated that the accused led the police to their house where *"accused produced one danda, one stick and a rope"* which the police took into possession, sealed, and he and the co-mashir signed the recovery memo. He identified all the mashirnamas (Ex.8/A, 8/B, 9/A, 9/B, 9/C, 9/D) during his testimony, confirming each bore his signature. He also identified the physical case property exhibited in court: the clothes (Article P-1), the lathi (Article P-2), and even a rope (Article P-3) – all as the same items recovered in his presence. PW-8's cross-examination revealed his relationship to the complainant (cousin) and that his house was situated just behind the accused's house. The defence implied that being a relative, he was an **"interested"** witness, which he denied having any motive to falsely implicate. He admitted that **all** the proceedings (inquest, site, recovery etc.) were carried out in his presence as a mashir. Minor questions were asked about the scene (e.g., number of steps in the stairs – which he could not recall) and the duration the police stayed at the site. He confirmed that the stick recovered did indeed have red tape on it, and that no fingerprints were lifted from the recovered

items in his presence. PW-8 refuted the defence's suggestion that he was testifying falsely due to being the complainant's cousin; he maintained that the accused Razia was rightly implicated and that co-accused Riaz was not solely responsible.

- **PW-9 Mr. Roshan Ali (Judicial Magistrate)** – the Judicial Magistrate who recorded the statements under Section 164 Cr.P.C. of the two private eyewitnesses during investigation. He deposed that on 18-06-2016, being then posted as JM, he recorded the 164 statements of PW-2 Ghulam Kadir and PW-3 Agha Akbar, who were produced before him by the IO in Crime No.55/2016 (u/s 302/34 PPC). He confirmed that both witnesses, in their 164 statements, stated substantially the same facts: that on hearing the cries of Baby Amna, they rushed to the house of accused Agha Riaz and Mst. Razia and found both accused beating Baby Amna, who fell to the ground, after which the witnesses rescued her and the accused fled; the child was taken to hospital where she died. PW-9 certified that he had given the statutory warnings and an opportunity for the witnesses to reconsider before recording their statements, and that the contents were read over to them and accepted as correct, and each witness signed their statement. He identified the police request letter for recording statements (Ex.12/A), and the 164 statements of Agha Akbar (Ex.6/B) and Ghulam Kadir (Ex.5/A), confirming that they bore his signatures and were the same documents

he prepared. In cross-examination, the defence only asked a perfunctory question – PW-9 stated that no case property (e.g. weapons) was produced before him at the time of recording 164 statements. There was no challenge to the regularity or truthfulness of the 164 statements. His evidence essentially corroborated the consistency of the PWs' version from an early stage.

9. After the prosecution side was finished, the statement of the appellant (accused Mst. Razia) was recorded under Section 342 Cr.P.C. In her statement, she **denied** all the incriminating evidence and professed innocence. She claimed that the witnesses had falsely implicated her due to enmity and the fact that she was a step-mother not accepted by the family. The appellant suggested that her co-accused (the child's father) or others might be responsible, and that she had no role in the incident. However, she did not opt to depose on oath in her own defence under Section 340(2) Cr.P.C., nor did she produce any defence witnesses or evidence in rebuttal.

10. After hearing the learned counsel for the parties and appraising the evidence, the learned trial court, via judgment dated 06-12-2018, found the charge against Mst. Razia proved beyond reasonable doubt. The trial court's determination was structured under three points for determination: **Point No.1** regarding the fact of the deceased's death by unnatural causes, was answered in the **affirmative**; **Point No.2**, regarding the appellant's culpability for causing those injuries with common intention, was also answered in

the **affirmative**; and **Point No.3,** on the offence committed, was resolved by holding the appellant guilty of the offence of murder under Section 302(b) PPC (as ***Qatl-i-amd***), committed in furtherance of common intention (Section 34). Consequently, the court convicted Mst. Razia and awarded her a life imprisonment sentence along with fine/compensation as mentioned earlier. In its judgment, the trial court noted the overwhelming ocular evidence supported by medical findings, and discounted the defence's theory of false implication. The court also explicitly took into account the compromise that had taken place with co-accused Agha Riaz (the father) – observing that the legal heirs of the deceased had received half the ***Diyat*** amount from him – as a mitigating circumstance not to impose capital punishment on the appellant. The appellant's present appeal is directed against this conviction and sentence.

11. Mr. Syed Shafique Shah, learned Counsel for the Appellant contended that the conviction is against the weight of evidence and suffers from legal and factual misapprehensions. He assailed the credibility of the eyewitnesses, arguing that all the main witnesses (PW-1, 2, and 3) are closely related or associated with each other and the deceased, hence "interested" in securing the appellant's conviction. According to him, their testimony required independent corroboration, which is missing. He pointed out that no truly **independent witness** (such as a neutral neighbour or passer-by) was produced despite the incident happening in a residential area and some locals gathering at the scene. He further highlighted various alleged inconsistencies and contradictions in the prosecution

evidence: for instance, differences in the witnesses' accounts of how they observed the incident (one witness seeing from the rooftop vs. others entering directly), the exact words used by the accused, and an apparent discrepancy about a "rope" being recovered (mentioned by PW-8 but not by the IO). The learned counsel also underscored that there was a delay of almost 22 hours in lodging the FIR (the incident occurred at 10 PM on 01-06-2016, but FIR was registered at 8 PM the next day), which casts doubt on the prosecution's story and suggests that it was deliberated and concocted after consultations. He argued that such delay is fatal, especially since the intervening time was sufficient to fabricate evidence and introduce improvements.

12. The defence counsel further submitted that the medical evidence does not conclusively support the prosecution. He argued that while the doctor noted multiple injuries, she did not opine on the exact weapon or specific assailant responsible for each injury. According to the counsel, the possibility that the co-accused (father of the deceased) alone inflicted the fatal blows cannot be ruled out, and that the appellant's presence and role in the assault, as alleged, is not proven beyond doubt. The learned counsel suggested an alternate theory that the child might have been injured by an accidental fall (down stairs, as hinted in cross-examination), or at worst, that it was a spur-of-the-moment act solely by the enraged father, with the step-mother (appellant) having no common intention to kill. He maintained that the prosecution failed to establish the requisite

mens rea (intention) on part of Mst. Razia for the offence of pre-meditated murder.

13. It was also contended that the investigation was tainted and incomplete. The learned counsel pointed to the fact that all the recovery mashirs were relatives of the complainant, thus not independent. Important forensic steps, like fingerprint analysis of the recovered weapons, were not done, and the recovery memos lacked detail (for example, the memo did not mention the red tape on the stick). These omissions, counsel argued, undermine the reliability of the physical evidence. He characterized the weapon recovery as a "planted" piece of evidence to bolster a weak case. Moreover, the learned counsel emphasized that the co-accused (father) had been let off via a compromise, insinuating that perhaps the entirety of blame has been unfairly shifted onto the appellant due to family dynamics (the step-children harboring resentment towards their step-mother). He submitted that this circumstance (co-accused's acquittal) at least creates reasonable doubt as to the appellant's involvement, because if the principal accused was pardoned, the story of common intention becomes suspect.

14. On these premises, the defence counsel prayed that the appellant be given the benefit of doubt and acquitted of the charge. In the alternative, he meekly suggested that the case against the appellant, if proved at all, falls short of intentional murder and perhaps could be viewed as some lesser offence, given the domestic context and lack of clear premeditation.

15. Conversely, Mr. Siraj Ahmed Bijarani the learned Assistant Prosecutor General (APG) for the State vigorously opposed the appeal and supported the conviction. He argued that the prosecution had fully established its case through cogent and confidence-inspiring evidence. He pointed out that three ocular witnesses (PW-1, PW-2, PW-3) gave a consistent account of the incident, all of whom directly saw the appellant participating in the merciless beating of the child. Their testimonies were in natural harmony on all major points and were strongly corroborated by the medical evidence of the doctor (PW-4), which detailed the extensive injuries corresponding to a sustained assault. The DPG submitted that there is no material contradiction that could shake the prosecution's version; any minor discrepancies in peripheral details are trivial and only underscore the truthful nature of the witnesses (as no testimony is expected to be a mirrored replica of another in every detail).

16. The learned APG further contended that the motive for the crime, though not a necessary ingredient when direct evidence is available, was apparent from the circumstances: the appellant had shown hatred and cruel behavior towards her step-children over a period of time, and on that day, she lost all restraint over a trivial household issue (chores not done) and joined her husband in inflicting fatal punishment. The utterances of the accused at the time ("we will kill her") were cited as clear indication of their intent to cause death, negating any notion of accident or mere mistake. The

State's counsel submitted that the presence of the appellant at the scene and her active participation is proven not only by the witnesses' words but also by the recovery of the very implements used (the *danda* produced by her from the roof, as per the IO). He argued that there was no misidentification or false implication – indeed the crime took place inside the accused's own house at their hands, and the witnesses are mostly close relatives who would have no interest in shielding the real culprit and falsely accusing an innocent step-parent.

17. Addressing the points raised by defence, the APG responded that the delay in FIR was well-explained by the record: the occurrence happened late night, and the priority was to save the child (who unfortunately died), followed by her burial on the next day – the complainant lodged the FIR immediately after the funeral, which is a reasonable course in the circumstances. Moreover, he stressed that a prompt oral report had already been made to police on the night of incident (leading to the inquest at 11:45 PM), so there was no real lodging of FIR inordinate delay that could be exploited; the substance of the incident was in police knowledge within an hour of its happening. Thus, any technical delay did not prejudice the case or indicate fabrication.

18. The learned APG also argued that the investigative lapses pointed out (such as not lifting fingerprints or the mashirs being related) do not corrode the core prosecution case. He submitted that where direct evidence of guilt is strong, the case cannot be

thrown out merely because the investigating officer did not perform every conceivable forensic test. He cited the principle that irregularities or negligence on the part of investigators cannot benefit the accused if there is otherwise reliable evidence of their guilt. In the present case, the IO's evidence and the mashirs' testimony established recovery and other steps, and there is nothing to suggest these were fabricated – indeed, the defence could not produce any evidence of enmity or motive for the police or mashirs to falsely implicate the appellant. The learned APG maintained that the rule of common intention (Section 34 PPC) was rightly invoked, as both the appellant and her husband had clearly acted in tandem, with unity of purpose, during the entire episode of beating the child. Even if one or the other delivered a particular fatal blow, both are equally liable in law, since the beating was a joint enterprise in furtherance of their shared intent to chastise (and, by their own words, to kill) the child. Lastly, the State's counsel submitted that the trial court had been quite lenient in awarding life imprisonment given the gruesome facts – he noted that the only reason the death penalty was not imposed was the compromise with the co-accused leading to part payment of ***Diyat,*** which was treated as a mitigating factor for the appellant. He urged that the conviction is well-founded on evidence and the sentence is already proportionate, therefore the appeal should be dismissed.

19. I have given my anxious consideration to the rival submissions and have minutely reappraised the entire evidence on

record in light of the applicable law. This Court, being the court of appellate jurisdiction in a serious criminal matter, has a duty to conduct a thorough **re-assessment/reappraisal of the evidence** and to arrive at an independent finding on the points for determination. The points that require determination in the present appeal can be delineated as follows:

Point No.1. Whether Baby Amna died an unnatural (homicidal) death as a result of the injuries sustained on 01-06-2016 ?

Point No.2. Whether the appellant Mst. Razia, acting in furtherance of common intention with her co-accused, inflicted or participated in inflicting those injuries which caused the death of Baby Amna ?

Point No.3. If Points 1 and 2 are proved, what is the legal effect: i.e., what offence has been made out and does the conviction and sentence handed down to the appellant merit confirmation or any interference ?

I proceed to discuss each point in detail.

20. The fact that the deceased child, Baby Amna, **died an unnatural death due to the violence perpetrated on her,** is practically incontrovertible. The ocular and medical evidence conclusively establish this aspect. PW-4 Dr. Sanjida's testimony, as summarized above, leaves no room for doubt that the little girl's body

was riddled with traumatic injuries – bruises, swellings, abrasions – from head to toe. It is pertinent to note that several injuries (such as on the head/face and chest) were of a nature that could individually be dangerous, but taken together they resulted in shock through internal hemorrhage. The **doctor's final medical opinion** explicitly states that the deceased *"appears to have died due to repeated assault on her body resulting in severe anaemia due to acute and chronic blood loss in the tissues."* This unambiguously characterizes the death as a **homicidal killing**, caused by a sustained beating and torture. The presence of an **old wound** on the deceased's leg (noted as injury No.15 by the lady doctor) corroborates the prosecution claims of prior maltreatment, but more importantly, all the fresh injuries observed were consistent with blunt force trauma. They could not plausibly be self-inflicted or caused by a simple fall down stairs (as half-heartedly suggested by the defence) – for instance, the distribution of injuries (on both arms, shoulder, chest, face, eye, and legs) and their varying orientations strongly indicate **multiple blows** rather than one tumble. A single accidental fall could not produce such a plethora of wounds, especially not the kind of patterned injury like a long bruise on the back or a contusion in the lung. In fact, the defence did not seriously pursue the *"fall from stairs"* theory beyond putting the suggestion in cross, which was refuted by the witnesses. There is also no evidence of any condition or illness that could have caused her death; a 10-year-old child would not die of "anaemia" unless it is due to acute blood loss from trauma, as found here.

21. All three eyewitnesses testified that by the time the victim was taken to hospital she was in a dire state – **"unconscious"** and covered in injuries – and that she expired during treatment shortly after arrival. The prompt post-mortem further documented the injuries in a scientific manner. There is no discrepancy between the **ocular account and the medical findings**; on the contrary, they are in perfect harmony, lending mutual corroboration. The witnesses described that the child was beaten with a stick and a pestle (danda) – implements which typically cause blunt trauma. The doctor found exactly such blunt-force injuries (bruises, swelling, etc., with no sharp weapon or firearm injury). The intensity of the beating as narrated (the child's small frame being struck repeatedly by two adults) is reflected in the grave damage to her internal organs noted at autopsy (contused lung, widespread hemorrhaging in tissue, etc.). In short, the **cause of death was fully established** to be the result of the beating. It was neither natural nor accidental.

22. The learned trial court was therefore correct in answering Point No.1 in the affirmative. Before this Court, the finding on this point was not even seriously disputed by the appellant's counsel – and rightly so. Baby Amna's death was plainly a case of Qatl (homicide). The only question is, who is responsible for it? That brings us to the core issue of identification and culpability of the appellant, addressed under Point No.2.

23. This point constitutes the crux of the appeal: whether the prosecution proved beyond reasonable doubt that the appellant actively participated in the murderous assault on the deceased with the requisite intention (in concert with her co-accused). Having scrutinized the entire evidence, I find that the prosecution's evidence on this issue is strong, coherent, and convincing. The trial court's conclusion holding the appellant responsible is well-founded.

24. I have the direct evidence of three ocular witnesses (PWs 1, 2, and 3) who were all present at the scene and witnessed the assault on the victim. All three consistently implicated the appellant. The complainant (PW-1), who is the victim's real brother, gave a detailed eye-witness account: he categorically stated that upon entering the house, he saw Mst. Razia (the appellant) wielding a grinding pestle (danda) and hitting Baby Amna, while his father (co-accused) was hitting with a taped stick, both angrily proclaiming they would kill the child for not doing housework. This statement was powerfully corroborated by PW-2 (an independent neighbour) and PW-3 (the cousin). There were minor variations in their narratives – for instance, PW-3 mentioned observing the incident from the roof briefly, and PW-2 described the location of the beating as "near the kitchen" – but such differences are natural reflections of their vantage points and do not detract from the core truth they all assert: that both the appellant and her husband jointly beat the victim mercilessly at that time and place. All three witnesses were consistent that the appellant was not a passive bystander but an active perpetrator. Immediately after the incident, in fact, PW-2 and

PW-3 gave statements under Section 164 Cr.P.C. (about two weeks later) before a magistrate, which aligned with their trial testimony on all salient points. This contemporaneity adds an extra layer of credibility to their accounts, as any thought of after-the-fact concoction is negated – their version has remained unchanged from day one.

25. The defence has attacked these witnesses as "interested" on account of relationship. It is true that PW-1 and PW-3 are relatives of the deceased (brother and cousin respectively), and PW-2 was a friend/neighbour of the family. However, it is well-settled by jurisprudence that mere relationship with the victim or complainant is not enough to discard a witness's testimony, unless a specific motive for false implication is proved. In the instant case, there is no suggestion of any enmity or ill-will between these witnesses and the appellant except the general notion that the children "did not accept" their step-mother. The appellant's counsel theorized that the step-children might be biased against her. But let us consider: would a brother and other relatives truly frame an innocent woman for the murder of a beloved 10-year-old child, while letting the true murderer go free? This hypothesis rings hollow – especially when the "true murderer" according to the defence would be the children's own father (co-accused Agha Riaz). If anything, one would expect blood relatives to be more inclined to shield the parent and shift blame to a step-parent; yet, in this case both were accused from the outset. Indeed, **both were prosecuted until one (the father) obtained pardon through compromise under section 345 Cr.P.C. before**

trail Court. The evidence on record actually shows that these witnesses had tried to protect the children from the appellant in the past (PW-3 had even involved community elders and police to resolve issues of the appellant's cruelty). In fact, if the appellant was truly innocent and only the father responsible, it is implausible that PW-1 (her own stepson) would spare his father (who, one would think, he still loved despite everything) and instead ruin the life of an innocent woman who had married into their family. The absence of a plausible motive for false implication greatly reinforces the credibility of these witnesses.

26. Additionally, the consistency of the three eye-witnesses with each other and with the medical evidence makes their testimony highly reliable. The rule of prudence that "interested" testimony should be scrutinized with care has been satisfied in this case – I have scrutinized it minutely and find it confidence-inspiring. There are no major contradictions on material particulars. Minor discrepancies (such as whether PW-3 saw events from the roof before entering, or uncertainty about the number of steps in the staircase as PW-8 couldn't recall) are immaterial and do not undermine the substance of their statements. Such trivial inconsistencies are in fact natural and are often viewed by courts as indications that the testimony was not rehearsed. It is a settled principle that minor contradictions or embellishments which do not affect the core of the prosecution case are to be ignored – they do not entitle an accused to acquittal. All key aspects – the presence of the appellant, her active beating of the child, the use of a danda, her verbal threat to kill, the

timing (night of 1st June), location (her house) – remain steady and unshaken throughout the prosecution evidence.

27. The defence's alternate explanations were thoroughly disproven during cross-examination. The suggestion of an accidental fall was met with emphatic denials by witnesses who said *"she was never met with such incident"* (never fell from stairs), and this theory is anyway incompatible with the nature and multitude of injuries as discussed. The insinuation that perhaps PW-3 (cousin) or someone else killed the child and pinned it on the appellant is absurd on its face and found no traction in evidence – PW-2 and PW-3 both repudiated that idea when it was floated in cross. It is noteworthy that PW-2 is an **independent witness** with no blood relation to the children; he was a neighbour who happened to be present. The defence could not attribute any ill-motive to him; yet his account too squarely incriminated the appellant. This independent corroboration shuts out the theory of a family vendetta framing the appellant. Moreover, the *res gestae* utterances of the accused heard by all eyewitnesses – the appellant yelling that the child hadn't done chores and *"today she will be murdered"* – form part of the same transaction and strongly indicate her intention and participation in the crime. These statements are admissible as *res gestae* (being contemporaneous with the occurrence) and they directly incriminate the appellant by her own words at the scene. In law, such spontaneous exclamations by an accused are given due weight, as they are considered instinctive and unlikely to be concocted or misheard in the heat of the moment. Here, multiple witnesses

corroborate hearing those deadly words from the appellant, which align with her actions.

28. In addition to the ocular evidence, the prosecution case is buttressed by important corroborative pieces. First, the medical evidence, as already noted, corroborates the fact that the child was subjected to a brutal beating consistent with the witnesses' depiction of events. It has often observed like in ***Amir Zad v. The State [2013 MLD 723]*** that where medical evidence fully supports the ocular version, the ocular testimony stands fortified and can safely be relied upon. Here, every bruise and abrasion spoken of by the witnesses materialized on the post-mortem report, including injuries on the elbows and hands (matching being grabbed or struck on limbs) and a contusion on the scalp (possibly from a blow by the *danda*). There is no conflict between the medical and ocular evidence – and notably, the defence never asserted any such conflict. This harmony dispels doubt about the veracity of the witnesses' accounts. Second, the ***recovery of weapons*** on the appellant's own disclosure provides further confirmation. PW-6 (IO) and PW-8 (mashir) testified that the appellant herself led them to the roof and produced the "*danda*", while her husband produced the stick with red tape. This happened just 9 days after the incident, and it is highly incriminating. The recovered items matched the description given by the witnesses (one being a "danda" used for grinding, the other a stick wrapped in red tape). The appellant did not explain why these items – which turned out to be murder weapons – were hidden on her roof, except a bald denial. Although no forensic tests were done on them, none are

needed when eye-witnesses saw those very objects being used on the victim and later identified them in court. The recovery was witnessed by impartial eyes (even if the mashir was related, the fact of discovery at the accused's instance is hard to fabricate without collusion of the accused, which wasn't alleged). The defence called it "foisted" but offered no proof of any conspiracy by police to plant these ordinary household items. It is unlikely the police would fabricate that the appellant produced the danda if she had not – they could easily have said the co-accused (husband) produced both, if they merely wanted to bolster evidence. The fact that the recovery is attributed separately to each accused adds credibility; it shows the appellant's consciousness of guilt (leading to the weapon she used). Our Courts have held that when ocular evidence is credible, supporting evidence like recovery of weapon adds further reinforcement, though even without it the direct evidence here was sufficient. In this case, the recovery is a cherry on top, so to speak, confirming the appellant's role.

29. I have also considered the manner of cross-examination and the demeanour of witnesses as reflected in the record. The defence thoroughly cross-examined PWs 1–3, but I find that far from shaking their credibility, the cross-examination in many ways strengthened it. For example, the defence hammered on the point of them being related, which they candidly admitted (they did not try to hide relationships). They were forthright about prior incidents of the appellant's cruelty (even though there were no official reports – PW-3 openly said he had no documentary proof of complaints, which

reflects honesty rather than a feigned ignorance). They did not exaggerate or provide tailored answers. When unsure, they said as much (PW-8: *"I do not remember the length of the danda";* PW-3: *"I do not know the age of Amna when her mother died").* Such candour inspires confidence that they were speaking the truth to the best of their ability, not reciting a memorized script. Despite rigorous questioning, nothing of substance emerged to label them as untruthful. There was not a single admission or contradiction that aids the defence version. The learned trial Judge, who observed their demeanour first-hand, found them credible, and that finding carries weight on appeal absent a clear reason to differ. I find no such reason. On the contrary, the testimonial evidence passes the test of credibility on all counts.

30. The appellant's own version, on the other hand, is a bare denial. She did not take the oath to explain her innocence, nor produced any evidence. Thus, apart from conjecture, there is **no rebuttal** to the prosecution's straightforward evidence. If indeed, as the defence implies, the father alone beat the child and the step-mother did not participate, one wonders why the appellant could not bring even a single witness or circumstance to support that claim. The incident happened in her own home; if she was, say, in another room or not present during the critical moments, she could have said so. But she did not even offer an alibi or any specifics in her Section 342 statement – only a general plea of false implication. The vacuum of any affirmative defence further tilts the balance against her when weighed against the positive evidence on record.

31. It is pertinent to mention here to refer to certain legal maxims and principles that govern the appreciation of evidence in such cases. The defence urged the principle of ***"in dubio pro reo"*** – that is, if there is any doubt, it must be resolved in the accused's favour. This principle is indeed the golden thread of criminal justice: the prosecution must prove guilt **beyond reasonable doubt**, and if a reasonable doubt arises, the accused gets the benefit. However, this does not mean that every minor contradiction or hypothetical doubt will upset a conviction. The doubt must be rational and arise from the evidence, not from extraneous conjecture. As discussed, the so-called doubts raised by defence (like the FIR timing or related witnesses) have been reasonably explained and do not create a real uncertainty about the appellant's guilt. In the present case, I find **no such loophole or lacuna** in the prosecution case that would give rise to a reasonable doubt. The evidence forms a complete chain: the motive and background (step-mother's animosity), the direct act (witnessed by three people), the result (confirmed by medical science), and the follow-up conduct (accused hiding the weapons, fleeing the scene) all align towards the appellant's culpability. The defence has not been able to break this chain. There is thus no scope to extend the benefit of doubt to the appellant – to do so here would be to give a **false or conjectural be**nefit, not a reasonable one, which the law does not permit.

32. Another principle highlighted is ***"falsus in uno, falsus in omnibus"*** ("false in one thing, false in everything"). The learned

APG rightly pointed out that our superior judiciary has recently reaffirmed this doctrine in criminal cases. In the case ***"Notice to Police Constable Khizar Hayat" (PLD 2019 SC 527)***, it was observed that courts should not grant a license to witnesses to mix truth with falsehood, and if a material portion of testimony is proved false, the whole of it should be discarded. Applying that standard here, I note that none of the prosecution witnesses have been found giving any false statement on a material point. The defence tried to show contradictions, but as analyzed, those were minor and not indicative of lies – no part of their account has been demonstrated to be a deliberate falsehood. Therefore, the ***falsus in uno*** rule does not operate against the prosecution's witnesses in this case. If anything, it works against the defence: the appellant's Section 342 story that *"she was not involved at all"* is contradicted by an avalanche of evidence – if we were to treat that statement as testimony, it would be deemed false in face of the record. But since the appellant chose not to testify on oath, we simply have a general denial which carries little weight against positive evidence.

33. It is also useful to recall the principle of ***"sifting the grain from the chaff"*** which earlier courts often employed – meaning, even if some part of a witness's statement is not credible, the court may separate the truth from falsehood rather than rejecting the entirety. The recent re-emphasis on ***falsus in uno*** has cautioned courts not to indulge witnesses who lie. In the present matter, we fortunately do not have to perform any such sifting of truth vs. lies in the prosecution evidence, as I have found the

material testimony to be uniformly truthful. However, even if (hypothetically) one thought any one witness overstated or erred on a minor detail, the **cumulative effect** of all evidence would still clearly establish the appellant's guilt. The three eyewitnesses mutually corroborate each other. Our law allows reliance on the testimony of even a single credible witness for conviction in a murder case, if it inspires confidence. Here we have three, plus medical and circumstantial corroboration – a prosecution case of this strength easily crosses the threshold of proof beyond reasonable doubt.

34. In view of the foregoing discussion, my finding on Point No.2 is in the **affirmative** – the prosecution has proved that the appellant Mst. Razia was actively involved, in concert with her husband, in the fatal beating of Baby Amna. The evidence confirms that the appellant shared the common intention to cause death or at least such bodily harm as was likely to cause death, fulfilling the requirements of Section 34 PPC for joint liability. Both the actions and utterances of the appellant demonstrate her common intention with co-accused Agha Riaz. To clarify the law, Section 34 PPC does not create a distinct offence, but it is a rule of evidence that makes each participant in a criminal act liable as if the act were done by him alone, provided the act was done in furtherance of the common intention of all. Common intention can form on the spot; it can be inferred from the **coordinated conduct** of the accused and the circumstances. In this case, the simultaneous beating by both accused and their coordinated threats leave no doubt that they were actuated by one mindset – here, a punitive and fatal mindset

towards the child. There was a pre-arranged plan, perhaps not long premeditated but certainly a plan in execution during the incident, to teach the child a *"lesson"* in a manner they knew could be lethal (as evidenced by their own words). Thus, each is responsible for the other's actions as well. Even if, for instance, the final blow that caused the child's death was struck by the father, the appellant would be equally guilty of murder by virtue of Section 34, since the entire beating episode was their joint endeavour. However, based on the evidence it appears the child died from a combination of injuries, so one cannot even segregate whose blow was fatal – making it an even clearer case for application of Section 34 PPC. In sum, the appellant's guilt as a principal offender in the murder stands established.

35. Having found Points 1 and 2 proved against the appellant, the next question is the precise offence made out and whether the conviction and sentence need any alteration. The charge against the appellant was under Section 302 PPC, which encompasses the intentional causing of death (*qatl-i-amd*). The trial court convicted her under Section 302(b) PPC, which is the punishment section for intentional murder not committed in the name of "honour". The evidence unquestionably brings the case within the ambit of *qatl-i-amd*. This was not an accidental or unintentional killing – it was a willful act of fatal violence upon a child for a petty reason. The presence of specific intent to cause death (or at least knowledge that death was likely) can be inferred from the nature of weapons used (a heavy pestle and a stick, repeatedly, on a

little girl) and the express threats to kill uttered by the perpetrators. In jurisprudence, even if the intent was to inflict "chastisement," the extent of force used here far exceeded any notion of lawful correction and squarely falls under **intentional bodily injury sufficient in the ordinary course to cause death**, which is treated as intent to murder (as per Illustration to Section 300 PPC). The appellant and her husband proclaimed they would kill her – one cannot ask for more direct evidence of ***mens rea***. Therefore, the conviction under Section 302 (b) PPC is appropriate.

36. As regards Section 34 PPC, it does not need a separate conviction as it is a rule of liability. The trial court mentioned Section 34 in the conviction to highlight the constructive liability, which is fine. In appeal, we clarify that the appellant is guilty of murder as a co-principal, and the common intention provision ensures she is legally responsible to the full extent.

37. On the point of sentence, the trial court awarded life imprisonment (imprisonment for life) rather than the death penalty. The State has not filed any appeal for enhancement, and the learned APG did not press for a harsher sentence, noting the trial court's reasoning. I have considered whether the sentence is proportionate to the crime. The murder of a helpless child by a guardian is an extremely heinous and heart-wrenching offence. It is aggravated by the breach of trust – a step-mother is expected to care for the children, yet here she became their killer. Many might argue that such an act warrants the maximum penalty of death. However, the

trial court took into account certain mitigating circumstances, chiefly the fact that the legal heirs of the deceased (who in this case included her brothers and possibly paternal relatives) compounded the offence with the father (co-accused) and accepted half the Diyat from him. This shows that the heirs, while not pardoning the step-mother, did agree to forgive the father's share of the crime. In our jurisprudence, when some accused are pardoned by compromise in a murder case, the remaining accused can be sentenced to life imprisonment instead of death in view of the compromise's partial effect – it serves as a mitigating factor (***Ghulam Murtaza v. State 2020 SCMR 1462***, where compromise with some accused was treated as mitigating for others). Moreover, the appellant is a woman, and while the law does not forbid awarding death to a female convict, courts have historically been inclined towards awarding life imprisonment to women in many instances. Given these considerations, I find that the sentence of imprisonment for life imposed on the appellant is legal and appropriate. It meets the ends of justice by punishing the appellant severely for her reprehensible act, while also aligning with the compromise effected by co-accused (which presumably reflects the heirs' willingness to forego *qisas* to that extent). The additional component of compensation to the heirs (Rs. 100,000/-) is in line with Section 544-A Cr.P.C. and is modest, but since the heirs have already received half the Diyat from the other accused, this amount seems symbolic and I would not interfere with it (besides, no one appealed against the quantum of fine/compensation). The appellant will also benefit from Section 382-B Cr.P.C. (as ordered by the trial court)

which credits her pre-conviction custody period towards her sentence.

38. In sum, the conviction of Mst. Razia for the murder of Baby Amna, punishable under Section 302(b) PPC read with Section 34 PPC, is well-founded on evidence and in accordance with law. The prosecution proved its case beyond reasonable doubt, and the defence failed to create any genuine doubt. The appeal is devoid of merit.

39. For the reasons discussed in detail above, I find no substance in the appeal. The impugned judgment of the learned trial court is upheld. The conviction of the appellant Mst. Razia under Section 302(b) PPC (read with Section 34 PPC) is **maintained**, and the sentence of **imprisonment for life** and fine/compensation as imposed by the trial court is **affirmed**. The appellant shall continue to serve out her sentence. The appeal is consequently **dismissed**. The conviction and sentence of the appellant recorded by the trial court are hereby confirmed.

40. Before parting, it is pertinent to note that the co-accused (Agha Riaz Ahmed) was acquitted on the basis of compromise, which is a disposition under Islamic law (since the offence of murder was compoundable by the heirs under Section 345 Cr.P.C. read with the provisions of Qisas and Diyat). That legal outcome does not affect the findings against the present appellant, because her guilt was independently determined on the evidence. She did not benefit from any pardon, and thus the law must take its full course against her. However, should the appellant consider seeking any remedy in the

future (such as mercy or remission), that would be for the relevant authorities to consider in accordance with law and the facts of this case.

JUDGE

****Abdullahchanna/PS****