IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Appeal No. S-96 of 2023

Appellants	:	1. Haji Noor Din s/o Jamal Din 2. Muhammad Nawaz s/o Malguzar 3. Waqar @ Abdul Haq s/o Muhammad Nawaz 4. Shahid s/o Shahnawaz 5. Aamir s/o Shahnawaz 6. Mst. Arbab Khatoon w/o Shahnawaz 7. Karim Dino s/o Sanwlo All by caste Manganhar, Appellant Nos. 01 to 06 through Mr. Saeed Ahmed Bijarani, Advocate & appellant No.07, through Mr. Farhat Ali Bugti, Advocate
Complainant	:	Ali Nawaz Manganhar Through Mr. Ahsan Ahmed Memon, Advocate
The State	:	Through Mr. Nazeer Ahmed Bhangwar, DPG
Date of hearing	:	28.07.2025
Date of judgment	:	19.09.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J.;-- This Criminal Appeal is directed against the impugned judgment dated 14.11.2023, passed by the learned IIIrd Additional Sessions Judge, Shikarpur, in Sessions Case No. 269/2022. Vide the impugned judgment, the learned trial Court convicted the appellants named above for offences charged and sentenced them as under:

- For offence u/s 148 r/w 149 PPC to undergo R.I for three years and to pay fine of Rs.10,000/- each, in case of default thereof, S.I for one month more.
- For offence u/s 302(b) imprisonment for life and fine of Rs.5,00,000/- each, in default thereof, to suffer R.I for one year more. Amount of fine if recovered shall be paid to the legal heirs of deceased, Mst. Zulekhan, Mst. Farzana, Kashif Ali and Sajid Ali, as compensation u/s 544-A Cr.P.C.
- For offence u/s 337-A(i) PPC to suffer imprisonment for two years and to pay daman of Rs.30,000/- each, to be paid to the legal heirs of victim/injured Ali Nawaz (since died) as compensation u/s 544-A Cr.P.C; in case of default, to suffer S.I for three months more.
- For offence u/s 337-F(i) PPC to suffer imprisonment for one year and to pay daman of Rs.20000/- each, to be paid to the legal heirs of victim/injured Ali Nawaz (since died) as compensation u/s 544-A Cr.P.C; in case of default thereof, to suffer S.I for three months more.
- For offence u/s 342 PPC to suffer imprisonment for one year and to pay daman of Rs.30000/- each, in case of default thereof, to suffer R.I for three months more.

- For offence u/s 201 PPC to suffer imprisonment for seven years and fine of Rs.1,00,000/- each, in default thereof, to suffer R.I for six months more.

The benefit u/s 382-b Cr.P.C was extended to the appellants/accused.

2. The genesis of the prosecution's case is a narrative of shocking brutality, rooted in the First Information Report (FIR) lodged on 17th May 2018 by the complainant, Ali Nawaz, who has since passed away. The complainant, a police constable stationed at the Police Headquarters in Shikarpur, recounted that on the fateful evening of 14th May 2018, his wife, Mst. Zulekhan, his daughter, Mst. Farzana, and his two young grandsons, Kashif Ali (aged 8) and Sajid Ali (aged 6), had attended a musical function at a local school. It is the prosecution's assertion that upon their return to their official quarter late that night, they were ambushed by a formidable assembly of individuals, including the appellants, who had trespassed into the residence armed with sticks (*dandas*) and a firearm. The motive furnished for this violent intrusion was one of archaic 'honour,' with the principal accused allegedly proclaiming that the women, by attending a public function at night, had irreparably damaged the family's reputation and therefore could not be spared.

3. The FIR then details a horrific sequence of events wherein the assailants are said to have launched a targeted and fatal assault. Accused Muhammad Nawaz is alleged to have struck Mst. Farzana on the head with a danda, while accused Aamir and Waqar are assigned the roles of lethally assaulting Mst. Zulekhan and the minor boy Kashif Ali, respectively. It is further alleged that the assailants did not flee but remained at the crime scene for the entire night, holding the complainant and other eyewitnesses captive. During this time, they allegedly undertook a calculated effort to expunge all evidence of the crime, meticulously washing the blood-stained premises before packing the four corpses into a large iron box at dawn. This box was then transported away from the Police Headquarters and the bodies were buried in a room at a separate location, in a clear attempt to conceal the *corpus delicti*.

4. The procedural and investigative history of this case is as tragic as it is complex, marked by anomalies that demand judicial scrutiny. A glaring irregularity is the fact that the police recovered the four concealed bodies on 16th May 2018, a full day *before* the FIR was formally registered, raising questions about the timeline and the initial police response. The subsequent investigation, spearheaded by Inspector Syed Hajan Shah, reached a conclusion that strikes at the very root of the prosecution's theory of a pre-concerted attack.

The Investigating Officer (IO) himself, after appraising the available material, found the evidence against two nominated accused, Nooruddin and Karim Dino, to be insufficient, and accordingly placed their names in Column-2 of the final report. This crucial finding of innocence by the state's own investigator was, however, set aside by the learned trial court, which decided to proceed against them. The earlier conviction of the accused was challenged before the Honorable high Court of Sindh in Cr. Appeal No.D-17 of 2020 and Cr. Appeal No. D-18 of 2020, whereby the judgment dated: 07.03.2022 passed by the learned Anti Terorism Court Shikarpur in Special Case No. 42/2018 was set-aside and Denovo Trial was ordered by Divisional Bench of this Court via ordinary Court. Consequently, the matter was proceeded before the learned trial court, whose judgment is impugned in this case.

5. Following the remand, a formal charge was framed against the appellants, who pleaded not guilty. The prosecution then marshalled its evidence through eleven witnesses, attempting to construct a chain of circumstances leading from the alleged motive to the recovery of the bodies. This included the testimony of two purported eyewitnesses, the expert opinions of the medical officers, and the evidence of the police officials. In their defense, the appellants staunchly denied the allegations, positing that they were victims of a false implication stemming from a deep-seated family enmity. In support of this, accused Karim Dino and Haji Nooruddin produced defense witnesses to establish their alibis for the time of the incident.

6. Learned counsel for the appellants have presented a formidable critique of the impugned judgment, asserting that it is riddled with a litany of fatal infirmities. Their arguments center on the inordinate and unexplained three days delay in the lodging of the FIR, which they contend was used for deliberation and fabrication. They have vigorously attacked the credibility of the two eyewitnesses, branding them as interested and related parties whose testimony is a tapestry of material contradictions and self-serving improvements. It is further argued that the ocular account is irreconcilably at odds with the expert medical evidence, and that the entire investigation was conducted in a perfunctory manner designed merely to lend a veneer of legality to a predetermined conclusion, a claim they argue is substantiated by the IO's own exoneration of two of the accused.

7. In rebuttal, the learned Deputy Prosecutor General has robustly defended the trial court's findings. He has maintained that the ocular testimony forms a consistent and unbreakable narrative, which finds ample corroboration

from the unimpeachable findings of the medical experts and the stark, undeniable reality of the recovery of four bodies from a location linked to the accused.

8. In light of the competing claims and the gravity of the matter, the determination of this appeal hinges on the resolution of the following points:

i) Whether the impugned judgment passed by the learned trial Court is vitiated by material irregularities, including a misreading and non-reading of the evidence, rendering its findings legally unsustainable?

ii) Based on the finding on the first point, what shall be the final judgment and order of this Court regarding the conviction and sentence of the appellants?

My answer on the above points are as under;-

Point No.1 …… Affirmative

Point No.2 …… Appeal is allowed

My reasons on the above points are under:-

POINT NO.1:

9. Before dilating upon the merits of the case, I feel it appropriate to say that the heinousness and sheer gravity of a quadruple murder cannot be overstated. However, the vital role of a judge is to rise above the emotional weight of the crime and conduct a dispassionate appraisal based strictly on the evidentiary record, rather than on the shocking surface-level circumstances. This principle is paramount in the instant case. While there is no doubt that four tragic deaths occurred, the prosecution's narrative of the incident is suspect from its inception to its conclusion. The complainant's party, along with the police and the investigation itself, have introduced so many fatal flaws and contradictions that the entire case is vitiated, making it impossible to hold that the offense was committed in the manner alleged.

10. It is a cardinal principle of criminal jurisprudence that the onus lies squarely on the prosecution to prove its case against the accused beyond any shadow of a reasonable doubt. The conviction must rest on the intrinsic strength of the prosecution's evidence, not on the weakness of the defense. If there is any doubt, its benefit must as a matter of right and not grace, be extended to the accused.

11. In the present case involving the tragic demise of four innocent persons, including two women and two children, it is imperative to highlight a cardinal principle of criminal jurisprudence deeply rooted in both statutory law and Islamic teaching. Authentic Ḥadīth from Jamia Tarmidi (1424) narrates that;

> "…the Messenger of Allah (□): Avert the legal penalties from the Muslims as much as possible, if he has a way out then leave him to his way, for if the Imam makes a mistake in forgiving it would be better than making mistake in punishment."

12. Besides the above principle resonates profoundly within Islamic jurisprudence and it is also well saying that; *it is better that ten guilty persons be acquitted rather than one innocent person be convicted*. This maxim, famously articulated by William Blackstone in *Commentaries on the Laws of England* (1769), declares: *"The law holds, that it is better that ten guilty persons escape than that one innocent suffer"*. The Supreme Court has repeatedly reinforced this doctrine by holding that the benefit of doubt must be extended even at the risk of acquitting those who may be guilty. It is further emphasized that where evidence permits two reasonable views, the accused is entitled to the more favorable one and also that a single circumstance creating reasonable doubt entitles the accused to acquittal as of right.

13. The doctrine insists that in the criminal justice system, *in dubio pro reo* (when in doubt, favor the accused) is not merely a pragmatic guideline but a binding injunction. Hence, given the below glaring contradictions, investigative irregularities, and inconsistencies in the evidence presented in this case, the benefit of doubt must be unequivocally extended to the appellants, to uphold the cause of justice and prevent a miscarriage thereof.

14. This Court, sitting in appeal, is empowered and indeed duty-bound to undertake a thorough re-appraisal of the entire evidence on record to arrive at its own independent conclusion regarding the guilt or innocence of the appellants. The conviction in the instant case hinges primarily on the ocular account furnished by two eyewitnesses, sought to be corroborated by medical evidence and recoveries. This Court shall examine each piece of evidence meticulously. In case of Muhammad Mansha Kausar Vs. Muhammad Asghar & others (2003 SCMR 477) it was held that;

> *"...5. At the very outset it may be observed that the law relating to re* ***appraisal of evidence*** *in appeals against acquittal is stringent in that the* ***presumption of innocence is doubled*** *and multiplied after a finding of not guilty recorded by a competent Court of law. Such finding cannot be A reversed, upset and disturbed except when the* ***judgment is found to be perverse, shocking, alarming, artificial and suffering from error of***

jurisdiction or misreading/ non-reading of evidence. *No such circumstance appears to have been brought on the record to disturb the concurrent findings of fact concluded by two Courts below. In our view, reappraisal of evidence at this stage would be neither desirable nor permitted by law. Even if a second view be possible on assessment of evidence, law requires that a judgment of acquittal shall not be disturbed even though second opinion may be reasonably possible.*

[Bold is provided for emphasis]

15. In case of *Yar Muhammad and 3 others v. The State* (1992 SCMR 96) "Unless the judgment of trial Court is perverse, completely illegal and on perusal of evidence no other decision can be given except that the accused is guilty or there has been complete misreading of evidence leading to miscarriage of justice, High Court will not exercise jurisdiction" In case of *State and others v. Abdul Khaliq and others* (PLD 2011 SC 554) - Establishes standards for interference in acquittal judgments.

16. In the present case, there are two alleged eye witnesses namely Muhammad Khan (PW-1) and Sher Muhammad (PW-2), whose evidence are fraught with major contradictions, material improvements, and inherent improbabilities. While they are consistent on the broad narrative, their accounts diverge significantly on crucial details of the crime's timeline, execution, and aftermath. The cross-examination successfully exposed pre-existing enmity, a lack of independent corroboration, and the highly unlikely nature of the events as described, rendering their evidence untrustworthy and failing to inspire confidence.

17. PW-1 Muhammad Khan and PW-2 Sher Muhammad. are closely related to the complainant and the deceased. PW-2 Sher Muhammad is the step-son of the complainant, and PW-1 Muhammad Khan is his cousin. While relationship is not, in itself, a ground to discard testimony, it necessitates a higher degree of caution and a search for independent corroboration. Their presence at the scene is also highly questionable. Both witnesses reside in Pano Aqil and their explanation for being present together at the complainant's quarter in Shikarpur on that particular evening is vague and unconvincing, placing them in the category of chance witnesses whose evidence is traditionally viewed with suspicion. The testimonies of the two eyewitnesses are not just slightly divergent; they are mutually destructive on almost every material particular of the case. PW-1 Muhammad Khan testified that all four deceased

expired within 10 to 15 minutes of being injured. In stark contrast, PW-2 Sher Muhammad stated that they expired after 2 to 3 hours. This is not a minor discrepancy; it is a fundamental contradiction concerning the most critical aspect of the occurrence. PW-1 was adamant that during the entire incident, which he claims lasted for hours, *"none came from outside."* PW-2, however, claimed that "neighbours gathered but the accused asked them that it is their domestic issue and further asked go away." These two versions cannot coexist. The contradictions continue unabated to the point of recovery. PW-1 stated the bodies were buried at a depth of only "2 to 3 inches," while PW-2 claimed a depth of "4 to 5 feet." Regarding the digging tools, PW-1 stated the police brought two spades, whereas PW-2 claimed spades and *'Balchas'* were already lying in the room. The most glaring contradiction, which also points to a severe investigative flaw, is the matter of CCTV footage. PW-1 stated he was unaware of any cameras. PW-2, however, made a startling claim in his cross-examination: "through movie of CCTV Cameras we saw that the accused were going with dead bodies in iron box." If such crucial, clinching evidence existed, its non-production by the prosecution is fatal to their case and warrants an adverse inference against them. The entire prosecution narrative strains credulity. The idea that fourteen individuals could enter a police quarter within a fortified Police Headquarters, commit four brutal murders over a prolonged period, tie up three adult males, meticulously wash the crime scene, pack four bodies into a large iron box, and transport it out of the Police HQ without raising any alarm or being noticed by any of the hundreds of police personnel residing there, is a scenario that defies logic and common sense. It is a settled principle of law that where witnesses make contrary statements and dishonest improvements to strengthen the prosecution case, their testimony becomes unworthy of credence. The incident allegedly took place on the night of 14.05.2018, but the FIR was lodged on 17.05.2018. This delay of nearly three days is inordinate and has not been plausibly explained and even nothing is on record as to why the complainant and his both P.Ws i.e. P.W-01 & 02 remained away from such proceedings, which meant that the incident has not been happened in the way by way of which P.Ws are describing. The story of the police not believing the complainant, a police constable himself, about a quadruple murder inside Police Headquarters is unbelievable. Such a delay provides ample time for deliberation, consultation, and the fabrication of a false narrative. The defence has also brought on record evidence of pre-existing enmity, including a murder case against the complainant's brothers. This

provides a strong motive for false implication, suggesting that the alleged "honour" motive may be a mere pretext to settle old scores. In the case of *Muhammad Zafar and another v. Rustam and others* (2017 SCMR 1639) "conviction upon the statements of the witnesses who made dishonest improvements and their divergent stances in the FIR and the private complaint made them doubtful". Muhammad Mansha (supra)" In that eventuality, the conviction upon the statements of the witnesses who, in the assessment of the High Court, made dishonest improvements then there was no legal justification to convict".

18. The story does not end here; indeed, both witnesses tried to maintain a consistent core narrative on the points that PW-1 is the cousin of PW-2, and PW-2 is the step-son of the deceased complainant, Ali Nawaz. Both claim to have been present in the complainant's quarter on the day of the incident (14.05.2018). They agree that the four deceased (Mst. Zulekhan, Mst. Farzana, Kashif, and Sajid) went to a school function, and in their absence, a large group of named accused entered the quarter, armed with *dandas* (sticks) and a gun. They state that they, along with the complainant, were tied up with ropes. They assert that upon the return of the four deceased, the accused, led by Mohammad Nawaz, attacked and killed them. They provide consistent roles for the primary assailants (Mohammad Nawaz hitting Farzana, Aamir hitting Zulekhan, etc.). They agree that the bodies were placed in bags (*bachka*), put into an iron box, the blood was washed from the scene, and they were threatened before the accused departed. Both claim they went to Police Station New Foujdari immediately after, but the police did not believe their story. They state that two days later, they located the bodies buried at the house of accused Mohammad Nawaz after noticing a foul smell and then led the police to the location. The consistencies are superficial. The testimonies collapse under the weight of their contradictions on material facts. In case of *Abid Ali & 2 others v. The State* (2011 SCMR 208) Discusses natural witnesses vs chance witnesses and corroboration requirements. In 2008 SCMR 1221 *Ghulam Qadir v. State* "medical evidence may confirm the ocular evidence with regards receipt of injuries, nature of the injuries, kind of weapons used in the occurrence but it would not connect the accused with the commission of the offence". Furthermore, for the better convenience, the further inconsistencies among both the key witnesses are glared as under; -

DETAIL OF INCIDENT	PW-1 MUHAMMAD KHAN	PW-2 SHER MUHAMMAD	ANALYSIS OF CONTRADICTION
Time of Arrival	Arrived at Shikarpur at 5:00 PM.	Arrived at Shikarpur at 3:00-4:00 PM.	A minor but notable discrepancy in their timeline for the day.
Travel from Morh	Came from Rustam Morh to the quarter on a Rikshaw.	Came from Rustam Morh to the quarter by foot.	A direct contradiction on a simple fact of their journey.
Time of Accused's Entry	Accused entered 1 to 1.5 hours *before* the deceased returned.	Accused entered at 10:45 PM or 11:00 PM, just before the deceased returned.	Major Contradiction. This alters the entire timeline. Did the accused lie in wait for over an hour, or was it a swift ambush?
Duration of Murders	The murders took about half an hour.	The murders took 1 to 1.5 hours.	Major Contradiction. This difference is significant and questions their observation of the event.
Time of Death	Deceased expired within 10 to 15 minutes of being injured.	Deceased expired within 2 to 3 hours of being injured.	Fatal Contradiction. This is a massive and irreconcilable difference. One version suggests a quick, brutal end, while the other implies a prolonged agony.
Presence of Neighbours	"During the incident, none came from outside."	"Neighbours gathered but the accused asked them that it is their domestic issue and further asked go away."	Major Contradiction. This goes to the core of the incident's plausibility. One claims it was completely concealed, the other claims there were external witnesses who were turned away.
Digging Depth	Bodies were found by digging 2 to 3 inches.	Bodies were found by digging 4 to 5 feet.	Major Contradiction. A 2-3 inch depth is barely a burial. 4-5 feet is a serious attempt at concealment. This discrepancy is too large to be a simple mistake.
Tools for Digging	Police brought spades with them.	Spades and *Balchas* were already lying in the room where bodies were buried.	Contradicts the source of the tools used for a crucial part of the investigation—the recovery.
Giving Ropes to Police	Does not remember if the ropes were given to the police.	States they had given the ropes to the police.	A contradiction regarding the handling of a key piece of physical evidence (*case property*).
CCTV at Police HQ	It is incorrect to suggest CCTV cameras are installed.	It is correct, and they saw the accused on CCTV going with the iron box.	Fatal Improvement. PW-2 makes a damning "improvement." If such definitive evidence existed, it would be the linchpin of the prosecution's case. His claim, which PW-1 denies, severely damages his credibility.
Information to Mir Hassan	Informed his father Mir Hassan on 15.5.2018 when he was in Karachi.	Informed Mir Hassan on 14.5.2018 when he was in Kandhkot.	A clear contradiction on the date and location of a key communication.

19. The learned trial court erred in sifting the evidence to base the conviction. The principle of *"sifting the grain from the chaff"* has been reconsidered by the Honourable Supreme Court, which has directed that the rule of *falsus in uno, falsus in omnibus* (false in one thing, false in everything) shall be an integral part of our criminal jurisprudence. The eyewitnesses in this case have been found to have resorted to deliberate falsehoods on numerous material aspects. Their testimony has been contradicted by each other, by the medical evidence, and by common sense. In such a situation, it is not safe to rely on any part of their testimony to uphold a conviction on a capital charge. When the ocular evidence is disbelieved to the extent of some accused, it cannot be relied upon to convict others without strong independent corroboration, which is conspicuously absent in this case. Reliance is placed on the case of *Mst. Sughra Begum and another v. Qaiser Pervez and others* (2015 SCMR 1142) "A chance witness, in legal parlance is the one who claims that he was present on the crime spot at the fateful time, albeit, his presence there was sheer chance", *Muhammad Irshad v. Allah Ditta and others* (2017 SCMR 142) "Muhammad Irshad complainant and Rab Nawaz were chance witnesses and the stated reason for their presence with the deceased at the relevant time had never been established" and *Ibrar Hussain and another v. The State* (2020 SCMR 1850) Supreme Court guidance on chance witnesses.

20. The prosecution relies on medical evidence as corroboration. However, instead of supporting the ocular account, it further damages it. The medical officers, PW-3 Dr. Abdul Shakoor and PW-7 Dr. Shama, opined that the time between injury and death was "instantaneous." This directly supports PW-1's version (10-15 minutes) but demolishes PW-2's version (2-3 hours). When one eyewitness is fundamentally contradicted by medical evidence, the credibility of the entire ocular account is shattered. It is a cardinal principle that where ocular evidence is in conflict with medical evidence, the latter is to be preferred, and reliance on such contradictory oral evidence for conviction is dangerous. Furthermore, the medical evidence describes extensive, brutal injuries, particularly to Mst. Zulekhan, whose face was "fully damaged." This is inconsistent with the simplistic narrative of single blows assigned to specific accused in the FIR, suggesting subsequent embellishments to align the story with the post-mortem findings. The circumstantial evidence, primarily the recoveries, is equally infirm and cannot be used to corroborate the tainted ocular account. The sole mashir examined, PW-9 Saddam Hussain, is the cousin of eyewitness PW-2 Sher Muhammad. He is not a respectable inhabitant of the

locality where the recoveries were made. The Investigating Officer (IO), PW-5 Syed Hajan Shah, admitted that the place of recovery was a populated area and the place of arrest was near a shrine, yet he made no effort to associate any independent person from the public to act as a mashir. This is a flagrant violation of the mandatory provisions of Section 103 of the Criminal Procedure Code, 1898. The law is clear that where it was possible to have witnesses from the public but no effort was made, the recovery becomes doubtful. Using a single, related witness for every mashirnama from the recovery of bodies to the arrest of accused and the alleged recovery of weapons makes him a stock witness and renders the entire exercise a farce. In case of *Muhammad Zafar and another v. Rustam and others* (2017 SCMR 1639) it was held by the Honorable Supreme Court that *"conviction upon the statements of the witnesses who made dishonest improvements and their divergent stances in the FIR and the private complaint made them doubtful." In* Muhammad Mansha (supra) "In that eventuality, the conviction upon the statements of the witnesses who, in the assessment of the High Court, made dishonest improvements then there was no legal justification to convict". In case of *Abid Ali & 2 others v. The State* (2011 SCMR 208) it was held that; Discusses natural witnesses vs chance witnesses and corroboration requirements. In 2008 SCMR 1221 *Ghulam Qadir v. State* "medical evidence may confirm the ocular evidence with regards receipt of injuries, nature of the injuries, kind of weapons used in the occurrence but it would not connect the accused with the commission of the offence".

21. The investigation is marred by serious flaws. The failure to collect and produce the CCTV footage, which a key prosecution witness claimed to have seen, is an inexcusable lapse. The IO failed to examine any independent witnesses from the Police Headquarters, which is inconceivable for a crime of this magnitude occurring within its precincts. The unexplained delay of several days in dispatching the allegedly blood-stained articles to the chemical laboratory further casts doubt on the integrity of the evidence. It it is settled principle of law that chance witnesses require satisfactory explanation of presence. In case of *Mst. Sughra Begum and another v. Qaiser Pervez and others* (2015 SCMR 1142) "A chance witness, in legal parlance is the one who claims that he was present on the crime spot at the fateful time, albeit, his presence there was sheer chance", similarly in case of *Muhammad Irshad v. Allah Ditta and others* (2017 SCMR 142) "Muhammad Irshad complainant and Rab Nawaz were chance witnesses and the stated reason for their presence with the deceased at the relevant time had never been established" as well as in case

of *Ibrar Hussain and another v. The State* (2020 SCMR 1850) - Supreme Court guidance on chance witnesses.

22. Crucially, the IO, PW-5 Syed Hajan Shah, admitted in his cross-examination that due to insufficient material, he had placed the names of appellants Nooruddin and Karim Dino in column-2 of the challan. This admission from the investigator himself that he found no credible evidence against two of the accused demolishes the prosecution's claim of their involvement and, by extension, casts a shadow on the entire case.

23. The law demands that the prosecution must prove its case beyond any shadow of a reasonable doubt. A single circumstance creating a reasonable doubt in a prudent mind entitles the accused to the benefit of that doubt, not as a matter of grace but as a matter of right. In this case, there is not one, but a multitude of circumstances that create grave and insurmountable doubts about the prosecution's story. The learned trial court fell into error by failing to appreciate these deep-seated infirmities and based its conviction on evidence that was manifestly unreliable. Application of the doctrine in Pakistani criminal law is well enshrined in case of Notice to Police Constable *Khizar Hayat* (PLD 2019 SC 527), which is a landmark judgment establishing "the rule falsus in uno, falsus in omnibus shall henceforth be an integral part of our jurisprudence in criminal cases". Similarly *Liaqat Vs. The State* (AJ&K High Court) discloses; *Comprehensive analysis of falsus in uno doctrine vs. sifting grain from chaff;* as well as in case *Sardar Khan and another vs. The State* (1998 SCMR 1823) - "Maxim 'Falsus in uno falsus in omnibus' has not been accepted by the superior Courts in Pakistan as a rule of universal application".

24. The witnesses' actions and omissions, and the alleged inaction of the police, raise serious doubts. Despite being in a dire situation, they admit to not calling the universal emergency number. They were in the middle of a police headquarters with potentially hundreds of quarters. It is highly improbable that four murders, a clean-up, and the removal of a large iron box could occur without them raising an alarm to neighbours, many of whom would be police personnel. Despite PW-2 claiming neighbours gathered and PW-1 claiming they told 20-30 people afterwards, not a single person from the police lines was named as a witness. They failed to produce their Call Detail Records (CDRs) to prove their presence, or any invitation card for the school function to substantiate the victims' reason for leaving the house. Reliance is safely placed in case of 2013 MLD 723 (Peshawar High Court) - "Medical evidence is always treated as a confirmatory or corroborative piece of evidence. When the ocular

account is straightforward, truthful, confidence inspiring and is furnished by injured witnesses, it hardly needs corroboration" and *Sher Zaman Vs. The State* (Peshawar High Court) - "True that medical evidence is confirmatory in nature, but equally true that when the eyewitness account lacks confidence" and in the case of 2009 SCMR 916 *Ghulam Mustufa v. State* "medical evidence can only establish the type of weapon used, the seat of injury and the time elapsed between receipt of injury and the medical examination. It can never be a primary source of evidence".

25. The most unbelievable part of their story is the police at PS New Foujdari (located *within the police headquarters*) refusing to believe a report from a fellow police constable (the complainant) about a quadruple homicide that supposedly just occurred yards away. The defense counsel rightly suggests this was because the story was unbelievable from the outset. The defence counsel effectively "dug" into the prosecution's case and extracted several damaging admissions: The cross-examination established pre-existing enmity. It was brought on record that the complainant's brothers were accused in the murder case of Ghulam Hussain, the maternal uncle of accused Karim Dino. This provides a strong motive for the complainant and his relatives to falsely implicate the accused party. The defence meticulously established that the crime scene was a quarter inside the main police headquarters, a secured area with boundary walls and guards. They successfully painted the narrative of a dozen accused committing a prolonged murder and cleanup without anyone noticing as inherently incredible. It was established that the deceased Farzana's ex-husband and the biological father of the deceased children, Bangul Khan, was not pursuing the case. In fact, his brother (Nazeer) and nephew (Murtaza) are among the accused, which is a highly unusual circumstance if the prosecution's story is true. The defence questioned their residence, their reason for being in Shikarpur, and their relationship to the victims to portray them as chance witnesses with a weak connection and a fabricated story. While demeanour is observed in person, the transcript reveals a pattern. Both witnesses frequently resort to "I do not know" or "I do not remember" when pressed on specifics (e.g., exact size of the rope, who tied whom, the colour of the cleaning cloth). This evasiveness, coupled with the glaring contradictions, suggests fabrication rather than a failure of memory due to trauma. PW-2, in particular, appears to be an over-eager witness who improves the story (e.g., the CCTV footage claim), ultimately destroying his own credibility. The testimonies of

Muhammad Khan and Sher Muhammad are not confidence-inspiring and are fundamentally untrustworthy.

26. The sheer volume and nature of the contradictions on material points time, duration, manner of death, presence of onlookers, and recovery details go far beyond minor discrepancies attributable to memory loss. The narrative is plagued by improbabilities, chief among them being the commission of such a heinous and lengthy crime within a secure police compound without any alarm being raised or any intervention.

27. The cross-examination successfully established a motive for false implication due to prior enmity. The witnesses' failure to provide any corroborating evidence, combined with PW-2's fatal "improvement" regarding the CCTV footage, shatters their credibility. Their evidence cannot be considered a truthful account and is insufficient to form the basis for a conviction.

28. The complete body of evidence does not rescue the prosecution's case; instead, it sinks it entirely. The testimonies of the medical and police witnesses, rather than corroborating the already contradictory eyewitnesses, introduce a fresh cascade of fatal contradictions, expose a grossly negligent and procedurally flawed investigation, and in some instances, directly support the defence's arguments.

29. The ocular evidence is contradicted by the medical evidence on the time of death. The police evidence is in conflict with both the ocular and medical accounts regarding the crime scene and recovery. The star mashir (PW-9) is a close relative of an eyewitness and contradicts everyone, including himself. The Investigating Officer (IO) himself admitted he found insufficient evidence against two of the accused. The evidence is not only untrustworthy and unreliable, but it is also chaotic and self-destructive. The medical evidence, which should have provided objective support, instead introduces significant doubts and directly contradicts the ocular account of PW-2, Sher Muhammad. Dr. Shama (PW-7), who examined the female deceased, estimated the duration between injury and death as "about 10 minutes." This aligns with eyewitness Muhammad Khan (PW-1) who stated death occurred in "10 to 15 minutes." However, it fatally contradicts eyewitness Sher Muhammad (PW-2), who claimed the deceased expired after "02 to 03 hours." This is a major, irreconcilable conflict between a key eyewitness and the expert medical opinion. Dr. Abdul Shakoor (PW-3), who examined the deceased boys, admitted in cross-examination that "like injuries may be sustained by falling of roof."

This provides a plausible alternative explanation for the deaths, lending credence to the defence's suggestion and weakening the charge of murder by *dandas*. Dr. Noor Ahmed (PW-8), who examined the injured complainant Ali Nawaz, admitted that his injuries were simple and "may be caused due to falling from motorcycle," again offering an alternative scenario. Dr. Abdul Shakoor (PW-3) gave contradictory statements about the time he received the bodies of the two boys. First, he gives separate times (9:20 PM and 10:50 PM), and then says he received both at 9:20 PM. He also admitted to not fully undressing the deceased for examination, suggesting a potentially superficial post-mortem. The claim by both PW-1 and PW-2 is that the murders happened on the night of May 14th. However, Dr. Noor Ahmed (PW-8) examined the "fresh" injuries of the complainant on May 15th, stating they were caused "within period of one hour," a timeline that does not fit the prosecution's narrative. The medical testimony fails to provide clear corroboration. It contradicts a key eyewitness on the time of death and provides alternative, non-homicidal explanations for the injuries sustained by both the deceased and the complainant.

30. The evidence of the police officials reveals an investigation that was not just flawed, but shockingly incompetent and negligent. The cross-examination dismantled the prosecution's case by exposing massive procedural violations. The Investigating Officer's testimony is a catalogue of failures: He admitted he never visited the Hijazi Public School or recorded the statement of its owner to verify the alleged motive for the crime. He admitted he did not record the statement of any neighbour from the police lines or any police guard posted at the headquarters' main gate. He admitted that the recovered quilts (*rellies*) were sent to the chemical lab after a delay of 11 days (recovered May 17th, sent May 28th). He failed to produce the Malkhana register entry (Register-19) or the dispatcher's receipt to prove the items were kept safe and untampered during this long period. This is a fatal flaw that destroys the evidentiary value of the chemical report. Most damningly, he admitted that due to "insufficient material," he had placed accused Nooruddin and Karim Dino in column-2 of the challan (declaring them innocent). This is a direct contradiction of the prosecution's entire case against them. The SHO who led the recovery of the bodies was inconsistent and evasive. He first stated he prepared the recovery *mashirnama* at the hospital, then said he could not remember if it was at the spot or the hospital. He gave contradictory accounts of the burial. First, he says, "We did not make any digging," and that *rellies* were just lying on the surface. But he later states the ditch was "3 to 4 feet" deep, which would require

significant digging. This is a major self-contradiction. He confirmed he was not the SHO on the day of the incident and only took charge later, making his knowledge of the initial events secondary. The police investigation was a farce. Essential procedures were ignored, the chain of custody for crucial evidence was broken, and the lead investigator himself found no sufficient evidence against two of the accused he was supposed to prosecute. The police testimony demolishes its own case. Reliance is placed on the cases of *Akhtar Ali and others v. The State* (2008 SCMR 6) "10/11 hours delay in lodging of FIR provides sufficient time for deliberation and consultation when complainant had given no explanation for delay", which tarnishes the authenticity of the FIR, casts a cloud of doubt on the entire prosecution case" *Muhammad Asif Vs. The State* (2017 SCMR 486) "even one or two days unexplained delay in recording the statements of eye witnesses would be fatal and testimony of such witnesses cannot be safely relied upon".

31. The so-called corroborative evidence from the Tapedar (sketch-maker) and the Mashir (witness to police procedure) is weak and tainted. Tapedar Amjad Ali (PW-4): His sketch is of dubious value as he admitted it was prepared on the pointation of a Head Constable who was not an eyewitness, rather than the complainant. He also confirms that at the time of his visit, the place of incident seemed to have been washed "10/15 days before," which further muddles the timeline. Mashir Saddam Hussain (PW-9): This witness, instead of being an independent pillar of support, is the epicenter of the case's collapse. Highly Interested Witness: He is the first cousin of eyewitness Sher Muhammad (PW-2). A Mashir must be independent and impartial; a close relative fails this fundamental test. Improbable Presence: His story of being in Karachi, hearing the news, rushing to Shikarpur, and then being conveniently present for *every single police action* over several days from the body recovery on the 16th to the arrest on the 20th and the weapon recoveries on the 25th and 28th is inherently unbelievable. He contradicts the eyewitnesses and police on numerous points (e.g., whether the quarter had one room or two) and gives a rehearsed, dramatic, and unbelievable account of the accused individually confessing and pointing out specific *dandas*. Reliance is placed on the case of *State Vs. Bashir and others* (PLD 1997 SC 408) - "It has been repeatedly held that the requirements of section 103 Cr.P.C. namely, that two Members of the public of the locality should be Mashirs of the recovery, is mandatory unless it is shown by the prosecution that in the circumstances of a particular case it was not possible to have two Mashirs from the public" and in case of *Yameen*

Kumhar Vs. The State (PLD 1990 Karachi 275) - Comprehensive analysis of Section 103 requirements and stock witnesses.

32. The defence produced witnesses to establish alibis for accused Karim Dino and Nooruddin. The alibi evidence that accused Karim Dino was in Sukkur and Nooruddin was in Kandhkot cannot be dismissed lightly. Its credibility is massively boosted by the admission of the Investigating Officer (IO Syed Hajan Shah) himself, who concluded that there was insufficient evidence against these two men. The prosecution was unable to break the alibis during cross-examination, relying on generic suggestions that the witnesses were deposing falsely at the behest of the accused's sons.

This table summarizes the chaotic state of the evidence

Detail of Incident	PW-1 M. Khan	PW-2 S. Muhammad	PW-7 Dr. Shama	PW-6 SHO Ali	PW-5 IO Hajan	PW-9 Mashir Saddam
Time until Death	10-15 minutes	2-3 hours	10 minutes	---	---	---
Digging Depth	2-3 inches	4-5 feet	---	3-4 feet	2-3 feet	"Size in which four dead bodies were buried"
Presence of Neighbours	None	Gathered but told to leave	---	"Many people were present"	---	"Some persons from public were gathered"
CCTV at Police HQ	No	Yes, saw accused on it	---	Doesn't remember	No	Yes
Quarter Description	One room	One room, washroom, kitchen, veranda	---	---	Two rooms	One room (then agrees with two rooms)
Recovery of Bodies	Police brought spades	Spades were already there	---	"We did not make any digging"	---	"Police constables and some our persons had dug"

33. The complete set of testimonies reveals a prosecution case that is not just doubtful, but is in a state of complete collapse. Every piece of evidence is contradicted by another. The eyewitnesses are unreliable and contradict each other on fundamental facts. qThe medical evidence contradicts the eyewitnesses and offers alternative causes of death/injury. The police investigation is exposed as negligent, with a broken chain of custody and an IO who himself doubted the guilt of two accused. The sole Mashir is a close relative of an eyewitness, making him interested, and his testimony is riddled with improbabilities. The alibi defence for two accused is strongly supported by the IO's own investigation. The evidence is thoroughly inconsistent, untrustworthy, and fails to inspire any confidence whatsoever. It falls catastrophically short of the standard of proof required for a criminal conviction. No, the judgment is fundamentally flawed and is not in line with the evidence on record.

34. A comprehensive evaluation of all witness testimonies reveals that the trial court engaged in a severe misreading of the evidence, ignored a cascade of fatal contradictions, and overlooked the grossly defective nature of the police investigation. The judgment, by convicting the accused, reaches a conclusion that is unsustainable when weighed against the complete record.

35. The cornerstone of the court's decision to convict is its finding in Paragraphs 50 and 67 that the eyewitnesses (PW-1 Muhammad Khan and PW-2 Sher Muhammad) were consistent and trustworthy, stating, *"I could not find any material contradiction which may suggest that case of prosecution is doubtful."* This conclusion is factually incorrect and represents the judgment's primary flaw. As established in the detailed analysis, the testimonies are irreconcilable on numerous crucial points. The court's description of these issues as *"small variations and improvements of unimportant character"* (Para 66) is a severe mischaracterization. The court ignored 2-3 hour vs. 10-15 minute discrepancy on the time of death. The "no neighbours" vs. "neighbours gathered" contradiction. The "no CCTV" vs. "we saw them on CCTV" conflict. The "2-3 inches" vs. "4-5 feet" difference in the grave's depth. By ignoring these gaping holes and focusing only on the superficial narrative, the court built its entire verdict on a foundation that was demonstrably false and unreliable.

36. A prudent court must weigh not only the contradictions *within* a witness's testimony but also the contradictions *between different types* of evidence. This judgment fails to do so. The court did not address the direct conflict between eyewitness PW-2 Sher Muhammad (who claimed death took 2-3 hours) and PW-7 Dr. Shama (who opined death took 10 minutes). It also

ignored the doctors' admissions that the injuries could have been caused by a falling roof or a motorcycle accident, which supported the defence plea. The court overlooked the clash between PW-2 Sher Muhammad (who claimed to see the accused on CCTV) and PW-5 IO Syed Hajan Shah (who stated there was no CCTV camera). This was a direct test of credibility that the court did not perform. The testimony of SHO Ali Baig (PW-6) and IO Syed Hajan Shah (PW-5) contained its own set of contradictions regarding the crime scene, the depth of the grave, and the recovery process, which the court failed to notice or resolve.

37. The judgment completely ignores the devastating admissions made by the police witnesses during cross-examination, which proved the investigation was incompetent. The court should have considered: The most shocking oversight is the court's failure to address the admission by IO Syed Hajan Shah (PW-5) that he found "insufficient material" against accused Nooruddin and Karim Dino and had consequently placed them in Column-2 of the police report. A conviction cannot be sustained when the prosecution's own lead investigator had declared the accused innocent. The IO admitted to an 11-day delay in sending recovered items to the chemical lab and failed to produce the Malkhana register to prove the evidence was secure. This breaks the chain of custody and renders the chemical examiner's report legally worthless, a point the judgment ignores. The IO admitted he never tried to verify the motive by visiting the school, nor did he bother to question any independent witnesses from the police lines. The court wrongly accepted the prosecution case without questioning why the investigation was so perfunctory. The court relied on the evidence of Mashir Saddam Hussain (PW-9) without noting that he was the first cousin of eyewitness Sher Muhammad. This makes him a highly interested and related witness, not an independent one, and his evidence should have been treated with extreme caution. The judgment dismisses the defence pleas without merit. The alibis provided by the defence witnesses for accused Nooruddin and Karim Dino were significantly strengthened by the IO's own finding that he had declared them innocent. The court failed to give this crucial corroboration to the defence case any weight. The judgment is not a product of a careful, judicious, and impartial appraisal of the evidence. It is a selective document that accepts the prosecution's narrative at face value while completely disregarding the vast body of contradictory, exculpatory, and unreliable material brought on record during cross-examination.

38. Furthermore, it is pertinent to note that the learned trial court has fundamentally misapplied the law by terming the complainant's statement a dying declaration. This is a crucial legal error, as a dying declaration under Article 46 of the Qanoon-e-Shahadat Order, 1984, is the statement of a person who has died, and it must relate to the cause of that person's own death or the circumstances leading to it. In the present case, the complainant was not the subject deceased; rather, he died after giving his testimony before the Court. Therefore, his statement, by definition, cannot be categorized as a dying declaration. This error was not overlooked and was, in fact, challenged before the Honorable High Court in Criminal Appeal No. 8/I of 2019. The High Court, in its operative paragraph, made a clear observation regarding the invalidity of the trial court's approach, stating that such statements "require close scrutiny and is not to be believed merely for the reason that dying person is not expected to tell a lie" and that it is "a weak kind of evidence and its credibility depended upon the authenticity of the record and the circumstances under which it was recorded." The High Court's ruling effectively invalidated the trial court's reliance on the statement as a dying declaration and underscored the need for such evidence to be corroborated. The trial court's subsequent reliance on the same complainant's statement, without addressing this crucial judicial finding from a superior court, constitutes a gross misapplication of the law. The law demands that when the credibility of the declarant and his statement has already been judicially questioned and deemed untrustworthy by a superior court, any such statement requires the strongest possible corroboration and the most rigorous scrutiny. The trial court's failure to acknowledge that the High Court’s earlier reversal had effectively destroyed the foundation of credibility upon which Article 46 relies, and its mechanical application of this provision without proper legal analysis, renders the conviction legally unsustainable. The principle that "relying completely on the dying declaration without any further scrutiny on the part of court can lead to false judgment and ultimately affect the safe dispensation of justice" is particularly applicable in the present case, where the declarant's credibility had already been judicially impugned. The misapplication of the law in these circumstances represents not merely an error of judgment, but a fundamental miscarriage of justice that vitiates the entire conviction.

39. By ignoring fatal contradictions, a broken chain of custody, and the IO's own declaration of innocence for two of the accused, the judgment arrives at an erroneous conclusion. It is unsustainable on both facts and law and

represents a clear miscarriage of justice. Reliance is placed on the cases of *Mad Awal Badshah* (1984 SCMR 440) - "provisions of law with regard to additional evidence are and such power ought to be exercised very sparingly". *Abdul Hameed & 14 v. Abdul Qayyum & 16 others* (1998 SCMR 671) discretion regarding additional evidence. *Dr. Israr-ul-Haq vs Muhammad Fawaz and another* (2007 SCMR 1427) - "Direct evidence having failed, corroborative evidence was of no help. When ocular evidence is disbelieved in a criminal case then the recovery of an incriminating article in the nature of weapon of offence does not by itself prove the prosecution case" *Imran Ashraf and 7 others vs the State* (2001 SCMR 424) "Recovery of incriminating articles is used for the purpose of providing corroboration to the ocular testimony", *Tariq Pervez Vs. The State* (1995 SCMR 1345) – "Single circumstance creating reasonable doubt entitles accused to benefit". *Nasir alias Nasiree and another versus The State and another* (2021 SCMR 1614) Quality vs quantity of evidence. Federal Shariat Court cases (Multiple citations) "if a single circumstance creates reasonable doubt in a prudent mind about the guilt of the accused, then he shall be entitled to such benefit not as a matter of right".

40. For the foregoing reasons, this Criminal Appeal is allowed. The impugned judgment dated 14.11.2023, passed by the learned IIIrd Additional Sessions Judge, Shikarpur, is hereby set aside. Consequently, the appellants Haji Noor Din, Muhammad Nawaz, Waqar @ Abdul Haq, Shahid, Aamir, Mst. Arbab Khatoon and Karim Dino are acquitted of all the charges. They shall be released from custody forthwith if not required in any other case. The appeal is disposed of in the above terms.

J U D G E