

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT  
HYDERABAD**

Criminal Jail Appeal No.S-74 of 2021

Appellants: Hameed, Ibrahim and Abbas represented by  
Ms. Urooj Aqeel, Advocate.

Complainant: Muhammad Ramzan represented by Mr.  
Hameedullah Dahri, Advocate.

The State: Mr. Nazar Muhammad Memon, Additional  
Prosecutor General, Sindh.

Date of hearings: 20.04.2026 & 27.04.2026

Date of decision: **15-06-2026.**

**JUDGMENT**

**RIAZAT ALI SAHAR, J.**– Through the instant Criminal Jail Appeal, the appellants have called in question the judgment dated 17.04.2021 passed by the learned Additional Sessions Judge-IV, Dadu, in Sessions Case No. 93 of 2015, whereby they were convicted under Section 302(b) read with Section 149, P.P.C., and sentenced to imprisonment for life on two counts for the murders of Bahadur and Ali Dost alias Manzoor Ali. They were further directed to pay compensation of Rs.200,000/- each to the legal heirs of each deceased under Section 544-A, Cr.P.C., and in default thereof, to undergo simple imprisonment for six months. The benefit of Section 382-B, Cr.P.C., was also extended to them.

2. The prosecution case, according to the FIR No. 13 of 2014 lodged by complainant Muhammad Ramzan (PW-1) is that on 25.06.2014, he alongside his sister Mst. Hameeda, his brother-in-law Qadir Bux Leghari, and his brothers had traveled to the shrine of Hazrat Makhdoom Bilawal for Ziarat. During their return journey at approximately 3:00 p.m., co-accused Ahmed Khan Leghari and others forcibly abducted Mst. Hameeda and Qadir Bux Leghari. After

narrating the abduction to village elders (nekmards), the complainant, accompanied by his brothers (Bahadur, Mehboob, and Nazeer) and a friend (Ali Dost Lund), proceeded toward the police station on a motorcycle. At approximately 5:00 p.m., upon reaching the Chandan bridge: they were trapped by ten armed individuals identified. Present appellants Hameed armed with a rifle, Ibrahim armed with a K.K. type rifle, Abbas armed with a gun along with co-accused Zulfiqar, Muneer, Ali Gul (guns), Muhammad Bux (DBBL gun), Sikandar (DBBL gun), Pehlwan (gun), and Akbar (pistol). The accused party encircled the complainant party, with co-accused Akbar instigating the group by declaring they were seeking revenge. Following this instigation, co-accused Pehlwan and Sikandar fired upon the complainant's brother, Bahadur, hitting him in the abdomen. Present appellant Hameed fired a straight shot from his rifle at Ali Dost alias Manzoor, hitting him in the back at the scapula region. The accused fled the scene while firing into the air. Ali Dost died instantly at the spot, while Bahadur succumbed to his injuries shortly after the police arrived at the scene. Following the completion of post-mortem examinations at Civil Hospital Dadu and funeral rites, FIR was registered. The enmity over matrimonial affair existed between the complainant and accused party as per FIR, which ostensibly fomented the motive for the attack. The FIR (Ex.21-A) was registered and its contents read over to the complainant, who affirmed their correctness.

3. Upon registration of the crime, the investigation was set into motion and, after completion thereof, the police submitted a report under Section 173, Cr.P.C. In the challan, accused Muhammad Bux, Sikandar, Pehlwan, and the present appellants, namely Hameed, Ibrahim and Abbas, were shown as absconders, whereas co-accused Zulfiqar, Muneer, Ali Gul and Akbar were placed in Column No.2. However, upon taking cognizance of the matter, the learned Magistrate disagreed with the opinion of the Investigating Officer and summoned the said co-accused to face trial along with the nominated accused.

4. Initially, appellant Hameed was arrested and put to trial. Subsequently, upon the arrest of appellants Ibrahim and Abbas, an amended charge was framed against them under Sections 302, 337-H(ii), 114, 147, 148 and 149, P.P.C., alleging that, being members of an unlawful assembly and in prosecution of their common object, they committed the murders of Bahadur and Ali Dost alias Manzoor Ali on the instigation of co-accused Akbar and thereafter resorted to aerial firing while making their escape. The appellants pleaded not guilty and claimed trial.

5. In support of its case, the prosecution examined eight witnesses (PW-1 to PW-8) and thereafter closed its side. The appellants were then examined under Section 342, Cr.P.C., wherein they denied the prosecution allegations, professed their innocence, and claimed false implication. They neither examined themselves on oath in terms of Section 340(2), Cr.P.C. nor produced any witness in defence.

6. It is pertinent to note that in the first round of litigation, the appellants were convicted vide judgment dated 19.10.2018. Feeling aggrieved, they preferred Criminal Appeals No. S-240 and S-241 of 2018 before this Court. The said appeals were allowed vide judgment dated 22.02.2021 and the matter was remanded to the trial Court on the ground that the mandate and spirit of Section 367(2), Cr.P.C. had not been complied with while rendering the judgment. Upon remand, the learned trial Court reappraised the evidence and, through the impugned judgment dated 17.04.2021, again convicted and sentenced the appellants as discussed hereinabove, which has led to the filing of the present appeal.

7. A concise overview of the testimony of the prosecution witnesses is set out hereunder:

**PW-1 Muhammad Ramzan (Complainant/Ocular Witness)**

In cross-examination, PW-1 admitted that the incident allegedly occurred at a distance of only four kilometres from Police Station Phulji Village; however, the formal

FIR was not lodged immediately and was instead registered after the burial of the deceased and completion of condolence proceedings. Although he claimed that information was conveyed to the police within 15 to 20 minutes of the occurrence, no contemporaneous FIR was recorded at that time.

The witness further admitted that while the police memo did not show recovery of any empty cartridges near the dead bodies, six empty cartridges were allegedly recovered from a distance of about two to two and a half furlongs from the place where the bodies were lying. The defence also confronted the witness with the fact that four nominated accused persons, namely Zulfiqar, Munir, Ali Gul and Akbar, were ultimately placed in Column No.2 of the challan, thereby casting doubt upon the correctness of the initial version furnished by the complainant.

The witness also acknowledged the existence of previous disputes between the parties and denied the defence suggestion that he was falsely implicating the accused due to such enmity.

#### **PW-2 Nazir Ahmed (Ocular Witness)**

PW-2 admitted in cross-examination that he could not state whether any residents of Makhdoom Bilawal had witnessed the alleged abduction of Mst. Hamidah and Qadir Bux. He further admitted that an FIR had previously been lodged by the accused party against his brother, though he asserted that the same was false.

The witness acknowledged that he was present when the complainant pointed out the place of vardhat to the police. The defence suggested that he was not present at the time of the occurrence and had falsely implicated the accused due to previous hostility; however, he denied the suggestion.

#### **PW-3 Yamin (Mashir of Recovery)**

PW-3 admitted his relationship with the complainant party and also conceded that the co-mashir belonged to the same caste. He further stated that no empty cartridges were recovered beside the dead bodies and that the alleged empties were recovered from a location approximately two and a half furlongs away from the bodies.

The witness admitted that he had been informed of the occurrence by the complainant after the incident and reached the place of vardhat [offence] thereafter. The

defence challenged the authenticity of the recoveries and suggested that the memos were prepared at the police station and that the cartridges had been supplied by the complainant side; however, the witness denied such suggestions.

**PW-4 Dr. Niaz Ahmed (Medical Officer)**

During cross-examination, the doctor conceded that the injury sustained by deceased Ali Dost might not necessarily be a bullet injury. Although he subsequently adhered to his opinion recorded in the post-mortem report, the concession elicited by the defence creates uncertainty regarding the exact nature of the firearm injury.

The doctor further stated that the injury had been caused from a distance of approximately four to eight feet. No forensic material was produced to conclusively connect the injury with any specific weapon allegedly possessed by the appellants.

**PW-5 Inspector Ali Akbar Panhwar (Investigating Officer)**

PW-5 admitted that during investigation he found some nominated accused innocent and let them off. He further conceded that no statements of any independent persons under section 161 Cr.P.C. had been recorded during the investigation.

The witness acknowledged that the original Investigating Officer, ASI Qamaruddin Abro, who had prepared the principal documents and conducted the initial investigation, had passed away. Consequently, he himself had not prepared the memos relating to the place of vardhat, danistnamas, or recovery proceedings.

The witness further admitted that he had not re-recorded the statements of prosecution witnesses under section 161 Cr.P.C. after assuming charge of the investigation. He also could not recall the exact date on which the case property was sent for chemical examination.

**PW-6 Mukhtiar Ahmed (Tapedar/Site Sketch Witness)**

PW-6 admitted that his designation as Tapedar was not mentioned in the requisition letter or in the site sketch. He further conceded that there was no specific written

direction from the Mukhtiarkar authorising him to inspect the place of occurrence.

The witness also admitted that the site sketch did not bear his official stamp nor the stamp of the Mukhtiarkar Office. No senior revenue official accompanied him during the inspection.

**PW-7 Saeed Ahmed (Investigating Officer)**

PW-7 was only a formal witness who stated that he had recorded statements of certain prosecution witnesses under section 161 Cr.P.C. During cross-examination, he admitted that he could not recall the exact time at which he had received the police papers relating to the case.

**PW-8 ASI Ghulam Farooque**

PW-8 admitted during cross-examination that he could not state whether the contents of the documents relied upon by the prosecution had actually been written by the deceased Investigating Officer, ASI Qamaruddin Abro. His testimony was therefore confined merely to identification of signatures allegedly belonging to the deceased officer and did not extend to proving the contents or preparation of those documents.

8. Learned counsel for the appellants argued that the prosecution case is doubtful on account of the unexplained delay of about two days in lodging the FIR, despite an earlier FIR having already been registered regarding the connected abduction incident without any mention of the alleged murders. He further contended that the ocular account suffers from material contradictions inter se and is not fully supported by the medical and site-plan evidence. It was also argued that the prosecution withheld material witnesses, including Mehboob and the alleged abductees, thereby attracting an adverse presumption under Article 129(g) of the Qanun-e-Shahadat Order, 1984. Learned counsel further submitted that the acquittal of the accused in the connected abduction case has destroyed the alleged motive. Lastly, he maintained that no weapon was recovered from the appellants, the investigation was defective, and the appellants have been falsely implicated due to previous enmity and monetary disputes between the parties. On these grounds, he sought their acquittal.

9. The learned DPG, assisted by counsel for the complainant, vehemently opposed the appeal, arguing that the appellants are directly nominated in the FIR with specific roles attributed to each in the commission of the offense; that the prosecution witnesses have fully supported the case during the trial. Despite extensive cross-examination, their testimony remained firm and unshaken regarding the material facts of the occurrence; that the ocular account is corroborated by both medical evidence and circumstantial facts, which collectively form a continuous chain connecting the appellants to the crime; that any delay in the registration of the FIR or the recording of statements has been plausibly explained and does not prejudice the case, given the gravity of the incident and the prevailing circumstances; that the prosecution has established its case beyond a reasonable shadow of doubt. Therefore, it is prayed that the appeal, being devoid of merit, be dismissed and the conviction be upheld.

10. I have heard learned counsel for the parties and have perused the record with their able assistance. The present appeal arises out of the judgment dated 17.04.2021 passed by the learned Additional Sessions Judge-IV, Dadu, whereby the appellants Hameed, Ibrahim and Abbas were convicted under section 302(b) read with section 149 of the Pakistan Penal Code, 1860, on two counts and sentenced to imprisonment for life, with compensation for each deceased. The prosecution case, in short, was that after an earlier episode of alleged abduction of Mst. Hameeda and Qadir Bux, the complainant party was intercepted near Chandan bridge at about 5:00 p.m. on 25.06.2014, where Bahadur and Ali Dost alias Manzoor Ali were shot dead; the specific allegation of firing at Ali Dost was assigned to appellant Hameed, whereas the fatal shots to Bahadur were assigned to co-accused Sikandar and Pehlwan, and appellants Ibrahim and Abbas were attributed only presence in the armed assembly.

11. At the appellate stage this Court is duty-bound to reappraise the entire prosecution case independently, issue-wise, and

to determine whether the charge has been proved beyond reasonable doubt against each appellant separately. The governing legal framework, in the present context, includes section 149 PPC regarding common object, section 161 Cr.P.C. regarding police statements, and Article 129 illustration (g) of the Qanun-e-Shahadat Order, 1984 regarding adverse inference from withholding best available evidence. The analysis below therefore proceeds on the settled footing that each incriminating circumstance must be examined both on its own merit and in conjunction with the totality of the record.

12. Before examining the depositions on facts, the legal position must be stated. A related witness is not to be discarded merely because of relationship. Equally, a conviction may lawfully rest even upon a solitary natural witness, provided the Court finds the witness wholly reliable, confidence-inspiring and free from a motive to substitute the real offender with an innocent person. The distinction between a merely related witness and a truly interested witness has repeatedly been recognised: in *Allah Bakhsh v. Shammi and others* (PLD 1980 SC 225), *Muhammad Ehsan v. The State* (2006 SCMR 1857), *Niaz-ud-Din and another v. The State and another* (2011 SCMR 725), *Amal Sherin and another v. The State through A.G., N.-W.F.P.* (PLD 2004 SC 371), *Imran Mehmood v. The State* (2023 SCMR 795), and more recently *Muhammad Ramzan v. Khizar Hayat* (2024 SCMR 1085). The consistent theme of these authorities is that relationship by itself does not corrode credibility, but where a witness is shown to be truly interested or inimical, the Court must insist upon more careful scrutiny and, where necessary, independent assurance.

13. Tested on that anvil, PW-1 Muhammad Ramzan and PW-2 Nazeer were undoubtedly related witnesses and, because of the antecedent matrimonial controversy pleaded by the prosecution itself, also belonged to a faction having prior hostility with the accused side. That does not make their evidence inadmissible; it does, however, oblige the Court to sift their testimony with great

care. Their presence at the relevant time was not inherently impossible, because the prosecution case itself placed them on their way to the police station after the earlier episode. Yet the real question is not whether they could have been present, but whether their account of the murder occurrence is of such sterling quality that conviction can safely rest upon it. In my respectful view, once the record is read as a whole, the answer is in the negative.

14. The first serious difficulty is that the prosecution did not produce Mehboob, who according to its own version was one of the companions of the complainant party and therefore a natural witness to the entire sequence. His statement under section 161 Cr.P.C. was said to have been recorded during investigation, yet he was given up at the trial. That omission is not peripheral. Once a murder case resting mainly upon related testimony withholds a natural eyewitness without cogent explanation, the Court cannot treat the remaining ocular account as if nothing has happened. In such circumstances, the prosecution case is left resting substantially on PW-1 Ramzan, while the corroborative worth of PW-2 is separately weakened by delay in his section 161 statement, which I shall presently discuss. The law certainly does not oblige the prosecution to produce every listed witness, but where the withheld witness is a material and natural witness to the occurrence, unexplained non-production becomes a matter of consequence.

15. The ocular version also suffers from material, not trivial, infirmities. The prosecution ascribed the shot to deceased Ali Dost specifically to appellant Hameed, alleging that a straight rifle shot hit Ali Dost in the back at the scapular region. Yet the site, manner and range of that injury do not sit comfortably with the medical account. The inconsistencies are not of the ordinary sort which arise from lapse of memory or normal variations in description. They go directly to the manner of occurrence, the relative positioning of assailant and victim, and the question whether the witness account is a faithful narration or a later reconstruction. That is precisely the sort of discord which our criminal jurisprudence treats as material,

not minor, particularly where the conviction of one appellant depends on a specific attributed shot. *Muhammad Mansha v. The State (2018 SCMR 772)* remains instructive that once dishonest or case-strengthening improvements enter the ocular account, reliance becomes unsafe; the same judgment also drew support from *Sardar Bibi and another v. Munir Ahmad and others (2017 SCMR 344)*, *Akhtar Ali and others v. The State (2008 SCMR 6)*, *Khalid Javed and another v. The State (2003 SCMR 1419)*, *Mohammad Shafique Ahmad v. The State (PLD 1981 SC 472)*, *Syed Saeed Mohammad Shah and another v. The State (1993 SCMR 550)*, and *Mohammad Saleem v. Mohammad Azam (2011 SCMR 474)*. Recent High Court reiterations in *Allah Wadhaya v. State (2025 YLR 367)* and *Abid Ali v. State (2025 P.Cr.L.J. 383)* also underline that only minor discrepancies may be ignored; contradictions affecting the substratum cannot be brushed aside.

16. The medical evidence must now be examined in its proper legal place. It is settled that medical evidence is ordinarily corroborative. It may confirm the nature of injuries, the kind of weapon, the probable distance, and the time between injury and death, but it cannot by itself establish the identity of the assailant. That principle stands reflected in *Sikandar v. The State and another (2006 SCMR 1786)* and *Muhammad Younas v. The State (1990 SCMR 1272)*. Conversely, where there is a material conflict between ocular and medical evidence, the Court cannot ignore it; *Awal Khan and seven others v. The State through A.G.-KPK and another (2017 SCMR 538)* and *Muhammad Shafi alias Kuddoo v. The State and others (2019 SCMR 1045)* illustrate that when medical features do not support the role or manner attributed by the eyewitnesses, the prosecution version becomes doubtful to that extent.

17. Applying that principle here, the medical evidence concerning deceased Bahadur merely establishes homicidal death by firearm injury; it does not connect any present appellant with the

fatal shot because, on the prosecution's own showing, those shots were fired by co-accused Sikandar and Pehlwan, who are not before this Court. The more crucial question is the injury of deceased Ali Dost, attributed specifically to appellant Hameed. The prosecution said that Hameed's rifle shot hit Ali Dost on the back at the scapular region. The medical evidence, however, described the relevant firearm injury at the right lateral lower chest with an exit on the left side, and also indicated a much shorter probable range than that suggested by the witnesses. This is not a mere semantic discrepancy between "back" and "chest"; it bears directly upon positioning, trajectory and distance. In a case where the conviction of Hameed depends on one assigned rifle shot, such inconsistency cannot be downgraded to a trivial irregularity. Instead of corroborating the specific ocular role, the medical evidence introduces a real element of uncertainty.

18. The circumstantial and forensic features are also not of a corroborative character favourable to the prosecution. No incriminating weapon was recovered from any appellant. The empties allegedly secured from the spot were, according to the prosecution papers themselves, six 12-bore empties, whereas the role assigned to appellant Hameed was of firing a rifle shot and the role assigned to appellant Ibrahim was of carrying a K.K.-type rifle. Thus, even at the level of physical evidence, there is no scientific support for the specific weapon attribution against Hameed or Ibrahim. The empties do not meaningfully corroborate the prosecution's allegation as to appellants' arms. Moreover, the alleged empties were shown to have been recovered at a considerable distance from the dead bodies, a circumstance difficult to reconcile with the prosecution's own reconstruction of the shooting point. As to the legal effect of recovery, the law is equally settled that recovery of a weapon is only corroborative and never substantive proof in itself; this is reflected in *Mst. Nazia Anwar v. The State and others* (2018 SCMR 911), *Abbas Ali and another v. The State* (2021 SCMR 349), *Bashir Ahmed Leghari v. The State* (2020 SCMR 595), and also in the Sindh

**authority *Sikander Teghani alias Muhammad Bux Teghani v. The State* (2016 YLR 1098)**. If even a matched recovery remains merely corroborative, then the absence of any meaningful ballistic corroboration here leaves the prosecution with no forensic reinforcement at all against these appellants.

19. The delay in the registration of the FIR is another major infirmity. The occurrence was alleged to have taken place at about 5:00 p.m. on 25.06.2014, yet the murder FIR was recorded only after post-mortem and funeral rites, on 27.06.2014. Delay in lodging the FIR is not always fatal; if promptly and naturally explained, and if the ocular account is otherwise wholly reliable, the delay may be ignored. That balanced principle appears in ***Abdul Majeed v. The State* (2008 SCMR 1228)**. But the converse is equally settled: unexplained or unsatisfactorily explained delay affords time for deliberation, consultation and embellishment, as held in ***Tariq Pervez v. The State* (1995 SCMR 1345)**, ***Mehmood Ahmed and others v. The State and another* (1995 SCMR 127)**, ***Farman Ahmad v. Muhammad Inayat and others* (2007 SCMR 1825)**, and, more recently, ***Amir Muhammad Khan v. The State* (2023 SCMR 566)**.

20. In the case in hand, the explanation is not satisfactory. The record itself shows that the earlier abduction episode had already been taken to the police, and the prosecution says that police reached the scene of the murders and the post-mortem formalities were completed on the same date. Even then, the murder FIR was deferred until after burial rites. More significantly, the existence of an earlier abduction report made soon after the events strips the subsequent delay of much of its claimed innocence, because by then the identity of the alleged culprits, according to the complainant, was already known. In these circumstances, the delay cannot be treated as a harmless lapse. It materially affects the confidence otherwise attachable to the first version.

21. The position of the section 161 statements is equally troubling. PW-2 Nazeer's police statement was not recorded

promptly; the investigating officer's own version places its recording days after the occurrence. The law on the point is settled that unexplained delay in recording the section 161 statement of an eyewitness drastically diminishes, and in some circumstances reduces to nil, the evidentiary worth of that witness because the delay furnishes an opportunity for tutoring and improvement. That principle is reflected in **Rahat Ali v. The State (2010 SCMR 584)** **and reiterated in Amir Muhammad Khan v. The State (2023 SCMR 566)**. Recent High Court decisions applying the same rule have observed in plain terms that delayed and uncorroborated statements become unsafe to rely upon. Once PW-2's corroborative value is thus seriously impaired, the prosecution is driven back substantially onto the word of PW-1 alone, whose testimony is already affected by delayed FIR and the medical incongruity noted above.

22. The non-examination or giving-up of material witnesses further deepens the doubt. Mehboob, a natural eyewitness according to the prosecution itself, was withheld. Mst. Hameeda and Qadir Bux, though not eyewitnesses to the murder occurrence as alleged, were the best available witnesses to the antecedent abduction episode and thus to the asserted motive and immediate background. No convincing explanation has been offered for keeping all of them away from the witness-box. Under Article 129 illustration (g) of the Qanun-e-Shahadat Order, 1984, the Court may draw an adverse inference where best available evidence is withheld. That principle was expressly invoked by the Supreme Court in **Bashir Ahmed alias Manu v. The State (1996 SCMR 308)** and by a Full Bench in **Abdul Ghani v. The State (2022 SCMR 2121)**. It is true that **Farman Ali v. The State and another (2020 SCMR 597)** recognises that non-examination of one witness is not always fatal when the remaining ocular account is wholly reliable. But that saving principle does not aid the prosecution here, because the remaining ocular account is itself not free from material doubt.

23. As regards motive, the prosecution alleged a matrimonial and revenge background. The law is again well settled that failure to prove motive is not invariably fatal if there is otherwise direct, confidence-inspiring evidence; however, where the direct account is itself shaky, unproved motive deprives the prosecution of an important supporting circumstance. That balanced approach appears from **Khalid v. The State through P.G. Sindh (2024 SCMR 1474)** and from later High Court reiterations that non-proof of motive, though not always destructive of conviction, becomes legally relevant where the rest of the prosecution case is wavering. In the present case, since the abductees themselves were withheld and no independent evidence was adduced to establish the alleged antecedent controversy, motive remained unproved and could not be used as a reinforcing circumstance against any appellant.

24. I also find the investigation to have been notably defective. The site sketch was procured belatedly; one investigating officer died before trial; the first and spontaneous information allegedly furnished to the police was not produced through the relevant roznamcha entry; the natural witness Mehboob was withheld; the physical evidence does not tally with the weapon attribution; and the section 161 statements of material witnesses were not recorded with due promptitude. Defective investigation, by itself, does not automatically entitle an accused to acquittal if the core of the prosecution case remains independently proved; that proposition is well recognised, inter alia, in **State/ANF v. Muhammad Arshad (2017 SCMR 283)**. Similarly, minor discrepancies or ordinary lapses of memory are not to be elevated into fatal contradictions, as explained in **Shamsher Ahmed and another v. The State and others (2022 SCMR 1931)** and **Aqil v. The State (2023 SCMR 831)**. The difficulty for the prosecution here is that the infirmities are not isolated, and the contradictions are not minor. The defects in investigation do not stand alone; they reinforce pre-existing doubts arising from the delayed FIR, delayed section 161 statements, withheld witnesses, and the lack of medical/forensic harmony with the specific roles alleged.

25. This brings the Court to section 149 PPC. Vicarious liability under section 149 is not to be imposed mechanically. Its application requires proof of membership of an unlawful assembly, existence of a common object, and commission of the offence in prosecution of that common object or of an offence known to be likely to be committed in prosecution of it. Mere presence at the spot, or a vague allegation of companionship, does not by itself establish the requisite common object. Recent judicial discussion on section 149 has reiterated those ingredients and emphasised that mere presence or general lalkara is not enough without dependable material showing shared object or active participation. High Court murder cases have also acquitted passive or non-firing accused where the prosecution failed to prove beyond reasonable doubt that they shared the common object to commit murder.

26. Applying that principle to the present case, the case of appellants Ibrahim and Abbas stands on an even weaker footing than that of Hameed. No overt act was attributed to either of them. No shot was ascribed to them. No ballistic or recovery evidence connected them with the murders. The principal fatal roles were assigned to Hameed, Sikandar and Pehlwan, yet even the prosecution did not say that Ibrahim or Abbas fired at either deceased. In a case already marred by delayed FIR, delayed section 161 statements, withheld natural witness Mehboob, unproved motive, and absence of dependable independent corroboration, their bare armed presence cannot sustain a conviction under section 302(b) read with section 149 PPC. The prosecution failed to prove, beyond reasonable doubt, that either Ibrahim or Abbas shared the common object to commit the murders in question.

27. As to appellant Hameed, the position is not rescued by the fact that a specific role was attributed to him in the FIR. A specific role is important, but only if the evidentiary foundation remains sound. Here it does not. The delayed FIR, the material tension between ocular and medical evidence regarding the injury to Ali Dost, the absence of rifle-related forensic corroboration, the

delayed section 161 statement of the supporting eyewitness, and the unexplained withholding of Mehboob cumulatively create a real and reasonable doubt about the correctness of the prosecution's attribution to Hameed. The Court cannot separate one doubtful strand from an already fragile chain and then hold that only Hameed may still be convicted because his name appears with a specific shot. Criminal liability cannot be upheld on a process of selective confidence where the very manner of occurrence becomes uncertain.

28. The defence pleas under section 342 Cr.P.C. were of denial and false implication on account of enmity. It is unnecessary that the appellants should prove those pleas as if they were prosecuting a civil case. The prosecution must stand on its own legs and cannot derive strength from the weakness of the defence. That elementary principle has long stood recognised, including in *Shamoon alias Shamma v. The State (1995 SCMR 1377)*. Therefore, even though the defence did not lead evidence on oath, the appellants remain entitled to an acquittal if the prosecution case itself falls short of the requisite standard.

29. The cumulative effect of the circumstances discussed above is decisive. This is not a case of one innocuous contradiction or one investigative lapse. Rather, the record discloses a concatenation of defects affecting the prosecution at every important level: first version, eyewitness support, medical harmony, forensic corroboration, motive, and common object. The governing rule is that even a single circumstance creating reasonable doubt in the mind of a prudent person entitles an accused to acquittal; several authorities have reiterated that formulation, including *Tariq Pervez v. The State (1995 SCMR 1345)*, *Muhammad Akram v. The State (2009 SCMR 230)*, *Muhammad Mansha v. The State (2018 SCMR 772)*, and *Muhammad Hassan and another v. The State and others (2024 SCMR 1427)*. Here there is not one but several such circumstances. The benefit of doubt, as repeatedly emphasised in our jurisprudence, is a matter of right and not of concession.

30. For the foregoing reasons, this appeal is allowed. The conviction and sentence recorded against appellants Hameed, Ibrahim and Abbas by the learned Additional Sessions Judge-IV, Dadu, vide judgment dated 17.04.2021, under section 302(b) read with section 149 PPC on both counts, along with the directions regarding compensation, are set aside. All three appellants are acquitted of the charge by extending to them the benefit of doubt. They shall be released forthwith if not required in any other custody case. If any amount of compensation or fine has been realised from them in this case, the same shall be refunded in accordance with law.

JUDGE

Muhammad Danish