

IN THE HIGH COURT OF SINDH KARACHI
Criminal Jail Appeal No.175 of 2025

Appellant : Naseer Ahmed son of Muhammad Rafique
Through Mr. Muhammad Immad Qamar
Advocate

Respondent : The State
Through Mr. Muhammad Mohsin Mangi,
APG

Date of hearing : 17.09.2026
Date of order : 21.10.2026

JUDGMENT

MIRAN MUHAMMAD SHAH, J:- Through the captioned criminal appeal the appellant Naseer Ahmed son of Muhammad Rafiq, has impugned the judgment dated 25.02.2025, passed by the learned Additional Sessions Judge-IV/Model Criminal Trial Court, Ext: Karachi South, in Sessions Case No.2298/2021 [The State v. Naseer Ahmed & another], arising out of FIR No.52/2021, registered at Police Station Civil Line Karachi, whereby he was convicted for the offence under Section 302(b), PPC, and sentenced to imprisonment for life and to pay compensation of Rs.10,00,000/- to the legal heirs of deceased Ateeq. In default thereof, to undergo for six months more. He was also directed to pay diyat amount to the legal heirs of the deceased. However, the benefit of Section 382-B, Cr.P.C. was extended to him.

2. Facts of the prosecution case, in brief, are that on 30.03.2021 at about 2230 hours, complainant Muhammad Iqbal recorded his statement under Section 154, Cr.P.C. at the Emergency Ward of Jinnah Hospital, Karachi. He stated therein that on the same day, at about 1915 hours, he received a telephone call from his elder brother Muhammad Siddique, who informed him that his son Ateeq had been inflicted churri blows during a scuffle and had died. Upon reaching the hospital, the complainant found the dead body of his nephew having injuries caused by a sharp-edged weapon. There, eyewitness Banaras son of Abdul Rehman informed him that at about

1800 hours, while he and his brother Abid were present near Ateeq's popcorn cart at Gali No.23, Sector D-2, Hijrat Colony, Karachi, a dispute arose between Ateeq and a resident of the locality, namely Naseer Ahmed, over the cart. Naseer called his brother Nafees Ahmed, and both allegedly attacked Ateeq with a churri, inflicting injuries to his neck and chest. Ateeq was shifted to Jinnah Hospital but succumbed to his injuries on the way. On the basis of the complainant's statement, the instant FIR was registered.

3. After completion of the investigation, the challan was submitted before the competent Court, wherein the appellant was shown in custody, whereas co-accused Nafees Ahmed was shown as an absconder in Column No.II. The learned trial Court framed charge against the appellant, to which he pleaded not guilty and claimed trial.

4. At trial, the prosecution examined ten witnesses, namely PW-1 Muhammad Iqbal, complainant; PW-2 Abdul Ahad Memon, Judicial Magistrate; PW-3 Banaras Ahmed, eyewitness; PW-4 Abid, eyewitness; PW-5 HC Nayyar Abbas, arresting officer; PW-6 PC Sher Baz Khan, mashir; PW-7 SIP Abdul Majeed, Investigating Officer; PW-8 Dr. Rajendar Kumar, MLO; PW-9 SIP Falak Sher, Duty Officer; and PW-10 PC Hassan Shah, mashir. These witnesses in their evidence also produced certain documents. Thereafter, the prosecution closed its side of evidence.

5. The statement of the appellant under Section 342, Cr.P.C. was recorded, wherein he denied the allegations and claimed his innocence. He neither examined himself on oath under Section 340(2), Cr.P.C. nor produced any witness in his defence. The learned trial Court, after hearing the parties and examining the evidence convicted and sentenced the appellant as mentioned above.

6. Learned counsel for the appellant contended that the impugned judgment is contrary to the evidence and law and that the prosecution failed to prove its case beyond reasonable doubt. He argued that material

contradictions exist between the ocular and medical evidence, particularly regarding the location of the injuries. He further submitted that the doctor who initially examined the deceased was not produced and that no independent witness was associated, despite the occurrence having taken place in a populated area. He also questioned the reliability of the alleged recovery of the crime weapon and submitted that the evidence was not properly appreciated by the learned trial Court. He, therefore, prayed that the impugned judgment be set aside and the appellant be acquitted. In support of his contentions, learned counsel relied upon 2026 YLR 466 and 2022 YLR Note 68.

7. Conversely, learned APG for the State opposed the appeal and supported the impugned judgment. He contended that the two eyewitnesses consistently supported the prosecution case and corroborated each other. He further submitted that the medical evidence supported the ocular account and that the recovery of the crime weapon, which was found stained with human blood as per the forensic report, provided further corroboration. He argued that the discrepancies pointed out by learned counsel were minor in nature and did not affect the prosecution case. He, therefore, prayed that the appeal be dismissed. In support of his submissions, learned APG relied upon 1996 SCMR 908.

8. I have heard learned counsel for the appellant, learned APG and perused record.

9. From an appraisal of the evidence, it transpires that the kitchen knife was used as the crime weapon and that its recovery was allegedly effected at the pointation of the appellant. This is the only ground available to the prosecution in support of the conviction of the appellant as per his arguments. The other being motive which was stated to be a quarrel over the parking of a fruit cart (Rehra). However, the defence has pleaded an altogether different motive. As per the learned defence counsel, the deceased

was having an illicit relationship with PW Abid and Banaras. They were allegedly the eye-witnesses of the incident and room mates of the deceased whereas according to the learned defence counsel, both PWs, being fed up with the deceased's pressure to do indecent acts with them, they killed him and placed the blame upon the present appellant and his brother. The defence, in support of its contention, states that this story was narrated to the appellant by Abid and Banaras themselves. However, later on, the blame was placed upon the present appellant by the same PWs. The motive set up by the prosecution appears to be very weak, as merely over the parking of a cart, people do not ordinarily take the life of another person. It is admitted by PW-3 Banaras that he and his brother Abid resided together with the deceased and that they were much younger in age than the deceased. He even denied in his cross-examination that the appellant had quarrelled with any cart owner (purportedly the motive behind the murder as per prosecution). Despite the fact that knife blows were allegedly given to the deceased by the present appellant and his brother/co-accused, no one came in between them to stop them, which appears highly unlikely. Even the alleged eye-witnesses did not state in his examination-in-chief that they had made any effort to stop the appellant from stabbing the deceased. The complainant, who is the father of the deceased, is not an eye-witness to the occurrence; hence, his entire evidence is based on hearsay. The recovery of blood-stained earth and blood-stained clothes of the deceased, as well as the crime weapon, was effected after a delay of 12 days, for which no plausible explanation has been furnished by the prosecution. These lacunas appearing in the prosecution case create serious doubt about its veracity.

10. The principal question is whether the prosecution evidence considered cumulatively, establishes the appellant's guilt beyond reasonable doubt? In a criminal trial, the burden remains on the prosecution throughout; the accused is not required to establish innocence. The Court must assess the

quality, consistency and reliability of the evidence rather than the number of witnesses or the mere fact that a trial Court has returned a finding of guilt. The evidence must be scrutinized as a whole, and any material infirmity must be considered in deciding whether the prosecution has discharged its burden.

11. The prosecution relied principally on Banaras and Abid as eyewitnesses. Their testimony therefore required careful examination as to whether their presence at the place of occurrence was natural, whether their account remained consistent on material particulars, and whether their conduct and cross-examination supported their claimed presence. The judgment records that the witnesses were residing with the deceased; that fact alone does not make them unreliable. However it was also noted that the eyewitness did not describe any attempt to intervene when the deceased was allegedly being attacked by two persons, and that PW-3 denied that the appellant had quarrelled with any cart owner. These matters were relevant to the overall assessment of credibility, though the absence of intervention should not, by itself, be treated as conclusive: reactions during a sudden violent occurrence can differ.

12. Motive may help explain why an offence was allegedly committed, but a weak or unproved motive does not automatically defeat an otherwise trustworthy ocular account. Conversely, where the direct evidence itself is doubtful, an uncertain motive may add to the cumulative doubt. The defence advanced a different theory concerning the deceased and the eyewitnesses. Unless supported by reliable evidence, that alternative theory need not be accepted as fact; the decisive question remains whether the prosecution proved the appellant's guilt beyond reasonable doubt.

13. The defence argued that the ocular account conflicted with the medical evidence, particularly regarding the location of injuries, and that the doctor who initially examined the deceased was not produced. Medical evidence generally assists the Court in determining the nature, location and

probable cause of injuries and whether the narrated occurrence is medically possible. It does not ordinarily identify the assailant. A discrepancy is material when it undermines the prosecution's account on a significant point; minor differences that do not affect the core account need not be fatal. The Court should therefore identify the exact injury descriptions and compare them with each eyewitness's account before deciding whether the inconsistency is irreconcilable. The medical record show the injury on the left side as well chest injuries. The eyewitness account differs from independent medical evidence hence making the eyewitness evidence weak and not corroborated

14. The prosecution relied on the alleged recovery of a kitchen knife at the appellant's pointation, along with blood-stained earth and the deceased's clothes. The Court noted that these recoveries were effected after a delay of twelve days and that the prosecution had not offered a plausible explanation for the delay. Delay does not automatically render a recovery inadmissible or false; its significance depends on the explanation, the chain of custody, the place and manner of recovery, and the forensic linkage between the recovered article and the offence. A report showing human blood, without more, does not necessarily establish that the appellant used the article to commit the murder. In this case, the delayed recovery was assessed together with the weaknesses in the eyewitness account and motive, rather than in isolation.

15. In the present case, the Court identified several weaknesses: the prosecution motive was considered weak; the eyewitness account raised questions regarding the alleged quarrel and the witnesses' conduct; the complainant was not an eyewitness and his account of the occurrence was based on information conveyed to him; and the recovery of the weapon, blood-stained earth and clothes was delayed by twelve days without a plausible explanation. The cumulative effect of these circumstances created

doubt as to whether the prosecution had proved the appellant's participation beyond reasonable doubt. The defence did not have to prove its alternative theory in order to secure acquittal. The question was whether the prosecution evidence was sufficiently reliable to sustain the conviction. It has repeatedly been held by the superior Courts that even a single circumstance creating reasonable doubt in the prosecution case is sufficient to discredit the same and entitle the accused to acquittal. Further, there can be no second opinion that the administration of justice depends upon the quality of evidence, which must be free from suspicion and strong enough to dispel any apprehension of false implication of an innocent person along with the guilty. In this regard, reliance is placed upon the celebrated dictum of the Hon'ble Supreme Court in *Tariq Pervez v. The State* (1995 SCMR 1345), wherein it was held that the benefit of doubt, however slight, must always go to the accused.

16. I also place my reliance on following case law to fortify my conclusion:

- * *Ghulam Qadir and others v. The State* (2008 SCMR 1221). Cited in later Superior courts decisions as reiterating the benefit-of-doubt principle.
- * *Muhammad Akram v. The State* (2009 SCMR 230). Frequently cited on the prosecution's burden and benefit of doubt.
- * *Ghulam Sarwar Ghangro v. The State* (2025 SCP 442) (reported as 2025 SCLR 33). A later Supreme Court decision concerning a murder conviction and cumulative weaknesses in the prosecution case, including inconsistency in timing, witness credibility and absence of reliable corroboration.

17. In view of the above discussion, the instant appeal is allowed. The impugned judgment dated 25.02.2025, passed by the learned Additional Sessions Judge-IV/Model Criminal Trial Court, Karachi South, is hereby set aside. The appellant, namely, Naseer Ahmed, is acquitted of the charge by extending to him the benefit of doubt. He shall be released forthwith, if not required in any other custody case.

JUDGE

