

JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Jail Appeal No. S-09 of 2025
Muharram @ Mehro v The State

Appellants : Muharram alias Mehro son of Chanesar through Mr. Mir Pervaiz Akhtar Talpur, Advocate for the pauper appellant.

Respondent : The State through Mr. Neel Parkash, Deputy Prosecutor General, Sindh.

Amicus Curiae : Mr. Maisum Hussain Sahar, Advocate

Date of Hearing : 09.10.2026

Date of Judgment : 22.10.2026

JUDGMENT

Muhammad Humayon Khan, J.: Through this Criminal Jail Appeal, appellant Muharram alias Mehro calls in question the judgment dated 18-09-2021 passed by the learned Additional Sessions Judge-I (MCTC), Tando Adam, in Sessions Case No.661 of 2020, arising out of Crime No.117 of 2020 registered at Police Station Tando Adam City. By the impugned judgment, the appellant was convicted under section 302(b), PPC and sentenced to imprisonment for life as ta'zir for committing qatl-i-amd of Ayaz Ahmed. He was further directed to pay compensation of Rs.100,000/- to the legal heirs of the deceased under section 544-A, Cr.P.C. and, in default, to suffer simple imprisonment for six months. The benefit of section 382-B, Cr.P.C. was extended to him. Co-accused Abbas, son of the appellant, was declared a proclaimed offender and the case against him was kept on dormant file.

2. The prosecution case, as set out in the FIR and unfolded at trial, is that on 07-06-2020 at about 10:00 p.m. complainant Sarfaraz (PW-1) and his brother-in-law Parvaiz Akhtar (PW-2) were sitting and conversing on a vacant plot in Rasheed Colony, Tando Adam. Ayaz Ahmed, brother of the complainant, was standing in the street at a distance of about forty to fifty paces. Abbas, son of the appellant, allegedly abused or exchanged hot words with Ayaz. Upon hearing the commotion, PW-1 and PW-2 moved towards Ayaz. They stated that the appellant came out of his house carrying a dagger and inflicted one blow on the abdomen of Ayaz, who cried and fell. The appellant and Abbas then fled towards the open plot. The witnesses lifted the injured and arranged to take him for medical assistance.

3. The injured was first taken on a motorcycle to Police Station Tando Adam City. The police did not record a formal FIR at that stage, but station diary entry No.25, produced as Exh.12/C, records the arrival of the complainant party with injured Ayaz at about 10:30 p.m. on the night of occurrence. ASI Muhammad Waris (PW-7) instructed the relatives to proceed to Taluka Hospital Tando Adam and followed them with PC Mashooq Ali. Police letter No.987 dated 07-06-2020, subsequently produced as Exh.9/A, was issued for medico-legal examination and treatment. The fact that the injured was brought before the police within minutes is therefore not dependent only upon the later oral testimony of the related witnesses; it is reflected in the contemporaneous official record.

4. At 10:50 p.m. on the same night, Dr Ghulam Qadir (PW-4) examined Ayaz at Taluka Hospital Tando Adam. He found a cavity-deep incised wound measuring four inches by two inches between the umbilical and left hypochondrial region, with loops of intestine protruding. He provided first aid and referred the patient to Liaquat University Hospital, Hyderabad, because of his serious condition. Ayaz underwent treatment and surgery at Hyderabad. He survived until 28-06-2020, when he died during treatment. His body was brought back to Taluka Hospital Tando Adam, where post-mortem examination was conducted by Dr Soraj Mal (PW-5). The prosecution thus alleges a continuous medical sequence commencing with the sharp abdominal injury on 07-06-2020 and ending with death on 28-06-2020.

5. The formal FIR was lodged by Sarfaraz on 13-06-2020 under section 324, PPC. The place of occurrence was inspected on 14-06-2020. The appellant was arrested on 15-06-2020 near Khosa Petrol Pump. On 17-06-2020, while in custody, he allegedly offered to point out the weapon and led the police to an open plot near his house. A dagger having a four-inch handle and a five-inch sharp portion, stated to bear dried blood, was dug out from earth and sealed. After the death of Ayaz, section 302, PPC was added. The clothes of the deceased and the dagger were eventually sent to the Chemical Laboratory, which reported the presence of human blood. The investigation was completed by two officers and a report under section 173, Cr.P.C. was submitted before the competent Court.

6. On 01-04-2021 the learned trial Court framed a charge alleging that the appellant, acting with Abbas in furtherance of common intention, intentionally caused dagger injury to Ayaz in the abdominal region and that Ayaz died from that injury on 28-06-2020. The appellant pleaded not guilty and claimed trial. The prosecution examined eight witnesses and produced the FIR, injury memo, site-inspection memo, arrest and recovery memos, sketch of the dagger, inquest papers,

medical letter, provisional medical certificate, hospital record, post-mortem reports, map of the place of occurrence, station diary entries and the Chemical Examiner's report. The appellant was afforded an opportunity to cross-examine each witness.

7. The prosecution witnesses may conveniently be placed in three groups. The first comprises the two witnesses of occurrence: complainant Sarfaraz (PW-1) and Parvaiz Akhtar (PW-2). The second comprises the medical and formal witnesses: PC Abdul Saboor (PW-3), who dealt with the clothes after post-mortem; Dr Ghulam Qadir (PW-4), who examined Ayaz while alive; Dr Soraj Mal (PW-5), who conducted the post-mortem and considered the Hyderabad treatment record; and the Tapedar (PW-6), who produced the sketch and map. The third comprises ASI Muhammad Waris (PW-7), the first investigating officer, and SIP Muhammad Sharif Gadhani (PW-8), who completed the investigation and dispatched the case property. The evidentiary worth of each category is distinct: the first identifies the assailant, the second addresses injury and causation, and the third supplies the investigative and corroborative chain.

8. In his statement under section 342, Cr.P.C., the appellant denied the prosecution allegations and maintained that he was innocent and had been implicated because of a dispute over a plot. He did not examine himself on oath under section 340(2), Cr.P.C. and did not produce defence evidence. The learned trial Court held that the direct account of PW-1 and PW-2 was natural and consistent, that the delay in the FIR stood explained by the effort to save the injured, that the medical evidence supported the ocular version and that recovery of a bloodstained dagger supplied corroboration. It accordingly convicted the appellant under section 302(b), PPC, but, taking account of the circumstances of the occurrence, imposed imprisonment for life rather than death.

9. Mr. Mir Pervaiz Akhtar Talpur, learned counsel for the pauper appellant, assailed the conviction on several connected grounds. He submitted that the FIR was lodged after six days although the appellant was a known resident of the locality; that neither the appellant nor Abbas was named by Ayaz when he was taken to the police station; that the police did not approach Ayaz during the twenty-one days for which he survived; and that no dying declaration or statement of the injured was recorded. He contended that the delay, coupled with the silence of the injured, left room for consultation and false implication. He further submitted that PW-1 and PW-2 were closely related to the deceased, were sitting forty to fifty paces away at night and differed about the direction of the plot, availability of electricity, gathering of persons, mode of transport and alleged cause of the quarrel.

10. Learned counsel next argued that the prosecution changed its position regarding motive: the FIR referred to an exchange of hot words with Abbas, whereas PW-1 stated in cross-examination that Ayaz had gone to collect rent from the appellant and a scuffle followed. He also challenged the recovery because it was made ten days after the occurrence from an open place near the appellant's house, no independent resident was associated, and the related eye-witness was repeatedly used as mashir. He pointed to the non-production of the Property Register and relevant dispatch and arrival entries, the absence of blood grouping or individual identification, and the difference between PW-2 and PW-7 as to which police official dug out the dagger. Finally, he submitted that one blow in a sudden occurrence, followed by survival for twenty-one days and death with sepsis after surgery, did not justify maintaining either causation or conviction under section 302(b), PPC.

11. Mr .Neel Parkash, learned Deputy Prosecutor General, supported the impugned judgment. He submitted that both eye-witnesses were natural witnesses whose presence was established by the immediate transportation of the injured to the police station and hospital; that the appellant and deceased were known to each other; and that the witnesses remained consistent on the identity of the appellant, the dagger, the abdominal blow and the immediate fall of Ayaz. He maintained that discrepancies regarding directions, the precise source of light and the number of persons who gathered were peripheral. The station diary entry, police medical letter and examination at 10:50 p.m. were said to exclude fabrication, while the complainant's attendance upon his critically injured brother at Hyderabad reasonably explained the formal delay in the FIR. The medical evidence, according to him, proved a fresh sharp injury, intestinal perforations, shock, haemorrhage and sepsis, thereby establishing causation.

12. Mr. Maisum Hussain Sahar, learned amicus curiae, assisted the Court by taking me through the depositions and exhibits and by identifying the legal distinction between the admissibility of a piece of evidence and the weight it may safely receive. He submitted through his written synopsis that relationship does not disqualify a witness, but the testimony must be scrutinised with care; that delay in the formal FIR must be assessed against the contemporaneous police and medical record; and that the recovery, even if legally provable, could not be treated as conclusive because its place, mashirs and chain of custody required separate examination. He also drew attention to the need to distinguish the original stab wound from surgical wounds visible at post-mortem, and to determine from the medical evidence whether sepsis was an intervening cause or a complication of the penetrating injury.

13. Having heard learned counsel and the learned amicus and having independently reappraised the record, the questions requiring determination are: (i) whether PW-1 and PW-2 were present and had a sufficient opportunity to observe the occurrence; (ii) whether their relationship with the deceased and the discrepancies brought out in cross-examination make their evidence unsafe; (iii) whether the six-day delay in the FIR creates a reasonable possibility of deliberation notwithstanding the station diary and medical record of the same night; (iv) whether silence of the injured has an exculpatory effect; (v) whether the medical evidence establishes that the dagger injury caused death; (vi) what weight may be assigned to motive and recovery; (vii) whether defects in investigation have caused a failure of justice; and (viii) whether the proved act falls under section 302(b) or section 302(c), PPC.

14. The starting point is the criminal standard of proof. The prosecution must establish every material ingredient beyond reasonable doubt, and the accused is not required to prove innocence or to establish an alternative occurrence. *Tariq Pervez v The State 1995 SCMR 1345*, *Muhammad Akram v The State 2009 SCMR 230* and *Muhammad Mansha v The State 2018 SCMR 772* reaffirm that one circumstance creating a reasonable doubt in the mind of a prudent person is sufficient and that its benefit is a right, not a matter of grace. The correlative principle is that the doubt must arise rationally from the evidence and must relate to a material feature. The Court may not manufacture doubt from conjecture, nor may it discard an otherwise coherent account because human witnesses differ on incidental detail. The task is to identify what the prosecution had to prove and then determine whether the challenged circumstance weakens that proof at its foundation.

15. The appellate duty of reappraisal requires the evidence to be read both separately and cumulatively. A witness is first tested for presence, opportunity of observation, consistency, conduct and any reason for false implication. The account is then compared with the earliest available record, medical evidence and objective circumstances. A discrepancy becomes material when it changes the identity of the offender, the manner of assault, the weapon, the seat of injury, the time or place in a way that makes the prosecution versions incapable of standing together. A difference concerning an incidental direction, an imprecise estimate of distance or the number of bystanders does not have the same consequence unless, in the factual setting, it undermines observation or reveals a deliberate reconstruction. This distinction prevents both extremes: accepting every prosecution statement merely because its broad theme is similar, and rejecting truthful evidence because witnesses do not reproduce an occurrence with photographic uniformity.

16. PW-1 Sarfaraz gave a direct account. He stated that he and Parvaiz were sitting on the vacant plot opposite his house, that his brother Ayaz was standing in the street, that Abbas abused Ayaz and that upon hue and cry they rushed towards him. He saw the appellant come out carrying a dagger and cause a blow on Ayaz's abdomen. Ayaz cried and fell; both accused fled; and PW-1 and PW-2 took the injured first to the police station and then to Taluka Hospital. PW-1 identified the appellant in Court. His account of the seat of injury, the immediate serious condition and the onward referral is consistent with Exh.9/A to Exh.9/C and with Dr Ghulam Qadir's deposition. His statement that he remained concerned with the injured's treatment at Hyderabad also provides the factual explanation offered for the delay in lodging the formal report.

17. Cross-examination of PW-1 brought out matters requiring evaluation. He said the plot was towards the north of his house, there was no electricity at the plot, and the appellant's house could not be seen by a person standing outside his shop. He nevertheless placed himself on the open plot, not at the shop, and said the distance between that plot and the appellant's house was forty to fifty paces. He stated that the incident occurred on the northern side of the appellant's house. He accepted that the words 'hue and cry' did not appear in the FIR and added that four or five persons gathered. He also introduced the circumstance that Ayaz had gone to collect rent from the appellant and that a scuffle occurred. He accepted that Ayaz did not name the appellant at the police station and could not say whether Ayaz was conscious. These admissions require caution, but none amounts to a retraction of his direct attribution of the dagger blow.

18. PW-2 Parvaiz Akhtar substantially corroborated the occurrence. He stated that he was visiting his in-laws and was sitting with PW-1 on the open plot when Abbas abused Ayaz. As they moved towards Ayaz, he saw the appellant come out with a dagger and inflict a blow. He then helped take Ayaz to the police station and hospital. PW-2 also witnessed preparation of the injury memo, site inspection, arrest and alleged recovery, and later participated in the inquest and seizure of clothes. His extensive involvement in the subsequent investigation requires the Court to separate his direct evidence of the occurrence from his role as a repeatedly associated mashir. The first is to be tested against his presence and cross-examination; the second requires the additional safeguards applicable to recovery and police proceedings.

19. In cross-examination, PW-2 said the plot was towards the west of the complainant's house, the deceased stood beside the northern wall of the appellant's

house, and electricity was available in the street and at the appellant's house. He denied that persons of the locality gathered but volunteered that four or five gamblers or drug users saw the incident and went away. He accepted that Ayaz did not disclose the names of the appellant and Abbas, explaining that the injured was unconscious and unable to utter a word. He also stated that his section 161, Cr.P.C. statement was recorded before the formal FIR during the visit to the police station on 13-06-2020. Regarding recovery, he accepted that no private person was invited, that nearby shops existed and that children came out when the police arrived. He said ASI Waris dug out the weapon, whereas PW-7 attributed the digging to PC Mashooq Ali.

20. When the two depositions are placed side by side, their core is consistent: both were together on the vacant plot for several minutes; both placed Ayaz forty to fifty paces away near the appellant's house; both described an exchange involving Abbas; both saw the appellant emerge armed with a dagger; both attributed a single abdominal blow to him; both described the immediate fall of Ayaz and flight of the accused; and both took the injured to the police station and hospital. The discrepancies relate to whether the plot lay north or west of the complainant's house, whether electricity was available on the plot or in the street, whether the few persons who appeared were residents or transient gamblers, and who arranged or rode the motorcycle. Such differences do not alter the identity of the assailant, weapon, seat of injury, or conduct immediately after the occurrence.

21. There is, however, a genuine improvement regarding the immediate cause of the quarrel. Collection of rent was not stated in the FIR and was introduced by PW-1 in cross-examination. It is not a harmless detail because it purports to explain why Ayaz was present near the appellant's house. The safe course is not to use that improved circumstance at all. Once it is excluded, the remaining account still explains Ayaz's presence in the street and the exchange with Abbas, but the precise motive remains uncertain. By contrast, the words 'hue and cry' and differences about who first arranged the motorcycle do not strengthen the prosecution on any essential ingredient and have no independent probative force. Their omission from the FIR therefore does not amount to a material improvement. The Court has thus separated an improvement affecting motive from ordinary narrative detail rather than describing every variation collectively as minor.

22. The law does not treat a related witness as inherently untruthful. *Muhammad Ehsan v The State* 2006 SCMR 1857 holds that where direct evidence is truthful and confidence-inspiring, corroboration is a rule of caution rather than an

inflexible condition. *Niaz-ud-Din and another v The State and another* 2011 SCMR 725 and *Allah Bakhsh v Shammi and others* PLD 1980 SC 225 recognise that even one reliable witness may sustain a conviction, quality being more important than number. *Abid Ali and two others v The State* 2011 SCMR 208 and *Lal Khan v The State* 2006 SCMR 1846 explain that an interested witness is one having a motive to falsely implicate the accused, not merely a relative or friend. *Farooq Khan v The State* 2008 SCMR 917 and *Zahoor Ahmed v The State* 2017 SCMR 1662 likewise call for close scrutiny rather than automatic rejection.

23. The more recent formulation in *Muhammad Ramzan v Khizar Hayat* 2024 SCMR 1085 requires careful scrutiny of a witness who is truly interested in the result and stresses the importance of independent corroboration when such interest is established. That principle does not assist the appellant beyond requiring the caution I have already applied. The evidence here does not reveal that PW-1 or PW-2 had a demonstrated personal object to secure the appellant's conviction irrespective of truth. The suggested plot dispute was denied and not otherwise proved. More importantly, their essential account is not solitary: the immediate station diary entry and medical letter establish the occurrence's aftermath, and the doctors independently confirm the weapon category, seat, gravity and fatal progression of the injury. Their relationship therefore demands scrutiny, which their material account survives; it does not compel exclusion.

24. The occurrence took place at night, but this is not a case of identifying an unknown assailant by a momentary glimpse. Both parties lived in the same locality and the appellant was known to the witnesses. PW-1 said there was no electricity at the plot, while PW-2 said electricity existed in the street and at the appellant's house. The two propositions are not necessarily mutually exclusive: absence of a light source at the precise place where the witnesses sat does not establish darkness at the appellant's house or the spot beside its wall. The witnesses moved towards Ayaz upon the commotion and observed the appellant emerge from his own house. No suggestion was established that fog, obstruction, extreme distance or another physical condition made observation impossible. The minor difference about the source of illumination therefore does not create a reasonable possibility of mistaken identity.

25. I turn to the delayed FIR. An unexplained delay assumes significance because it may afford opportunity for consultation, reconstruction or substitution. Here, however, the prosecution does not ask the Court to bridge a six-day evidentiary vacuum. Station diary entry No.25 records the arrival of Sarfaraz, Parvaiz and

injured Ayaz at about 10:30 p.m. on 07-06-2020. Police letter No.987 of the same date was carried to Taluka Hospital. Dr Ghulam Qadir examined Ayaz at 10:50 p.m. and recorded a fresh cavity-deep incised wound. These documents arose before the formal FIR and establish that a serious sharp injury occurred at the stated time and that the complainant party approached the police immediately. They substantially reduce the scope for subsequently inventing the occurrence itself, although the question of delayed nomination must still be examined.

26. PW-1 explained that, after first aid at Tando Adam, he and his younger brother shifted Ayaz to Hyderabad and that he did not return to Tando Adam for six or seven days. He lodged the FIR on 13-06-2020 while another brother remained with the injured. The evidence thus places the complainant at the bedside of a critically injured brother during the material interval. PW-7 admitted that he did not visit the Hyderabad hospital, and the police ought to have made greater effort either to obtain the complainant's report there or to ascertain whether Ayaz was capable of making a statement. That investigative omission is not approved. Yet the legal effect of delay is determined by whether it leaves a real possibility of concoction. The immediate police entry, medical letter and hospital examination, when read with the serious referral, furnish an objective explanation consistent with ordinary human conduct.

27. *Abdul Khaliq v The State 2020 SCMR 178* is closely applicable. In that case the Supreme Court found delay reasonably explained where the injured was taken to the police, examined under a police letter, referred to Hyderabad and remained under treatment; the first priority of the relatives was to save his life. The principle is not that treatment automatically excuses every delay. It is that a Court must see whether treatment is proved, whether the police were placed on notice and whether the interval was used in a manner suggesting fabrication. In the present case, all three safeguards exist in the prosecution's favour: police notice within minutes, contemporaneous medical examination, and a proved referral for serious abdominal surgery. PW-2's admission that his section 161 statement was written before formal registration on 13-06-2020 is an irregular sequence, but it occurred in the same reporting session and does not erase the earlier independent record.

28. An FIR is not substantive evidence of every fact stated in it; its principal importance lies in setting the criminal law in motion and providing an early version against which its maker may be tested. Here the formal FIR was delayed and therefore cannot, by itself, be treated as prompt corroboration of nomination. The station diary entry and medical letter perform a narrower but important function: they

prove prompt approach to police, the existence of an injured Ayaz and the commencement of medico-legal treatment. They do not, on the material reproduced in the record, independently prove that the appellant's name was disclosed that night. Identity must therefore stand on the sworn testimony of PW-1 and PW-2. The delay objection has not been answered by assuming prompt nomination; it has been answered by the proved treatment emergency, after which the eye-witness testimony is separately tested for reliability and motive to falsely implicate.

29. The injured's failure to name the appellant does not carry the exculpatory weight attributed to it. PW-1 accepted that no name was given and could not state whether Ayaz was conscious. PW-2 said Ayaz was unable to speak. Dr Ghulam Qadir stated that Ayaz was unconscious and in a serious condition, although he accepted that unconsciousness was not written in the provisional medical certificate. The omission weakens the precision of the doctor's later recollection on consciousness, but there is no affirmative evidence that Ayaz was alert, capable of speaking and deliberately withheld the appellant's name. The proved injury had opened the abdominal cavity and exposed loops of intestine, and the patient was referred after approximately fifteen minutes of emergency treatment. In that clinical setting, silence is neutral. The prosecution does not rely on a dying declaration, and the conviction is not being sustained by converting silence into an accusation.

30. The first medical component is clear. Dr Ghulam Qadir examined Ayaz within about fifty minutes of the stated occurrence. He found one fresh incised wound measuring four inches by two inches, situated between the umbilical and left hypochondrial regions on the left side of the abdomen, cavity-deep, with intestinal loops protruding. He attributed the wound to a sharp-cutting substance, gave first aid and referred Ayaz to Liaquat University Hospital because his condition was serious. The location and nature of this injury correspond with the direct account of a dagger blow to the abdomen. Medical evidence cannot by itself identify the assailant, but it can test whether the weapon, seat and immediate consequence described by the witnesses are medically possible. On each of those matters, the first examination supports rather than contradicts PW-1 and PW-2.

31. The second medical component concerns death after treatment. Dr Soraj Mal conducted the post-mortem on 28-06-2020. He found an open infected wound measuring approximately eighteen by ten centimetres extending from the epigastric region to the umbilicus and a stitched infected wound on the left hypochondrium anteriorly. He knew that surgery had been performed at Liaquat University Hospital, sought the ward record and produced the original treatment file,

including X-ray plates, comprising 141 pages as Exh.10/D. On internal examination he found multiple perforations in the jejunum; the other viscera were healthy. His final opinion was that death resulted from shock and haemorrhage together with sepsis, and that the injuries were sufficient to cause death in the ordinary course. That opinion was not displaced by contrary medical evidence.

32. The defence relies upon the twenty-one-day survival and the word 'sepsis' to suggest an intervening medical cause. Survival for a period after injury does not by itself break causation. The question is whether the original injury remained an operating and substantial cause of death or whether an independent event superseded it. Here the penetrating injury exposed the intestines, the later examination disclosed multiple jejunal perforations, surgery was required, infection developed in the operated abdomen, and the post-mortem doctor expressly included shock, haemorrhage and sepsis in one causal opinion. Sepsis was therefore shown as a complication of the abdominal injury and its treatment, not as an unrelated disease. In cross-examination the doctor merely said he could not state whether medical negligence had occurred. An inability to speculate is not affirmative proof of negligent treatment and cannot displace the proved medical chain.

33. The apparent difference between one injury in the first certificate and two external wounds at post-mortem has also been considered. The initial doctor saw one incised wound before surgery. Three weeks later the post-mortem doctor saw an open infected midline wound and a stitched infected wound in an abdomen upon which surgery had been performed. The later description must therefore be read in its treatment chronology; it does not establish two dagger blows. Both eye-witnesses consistently attributed one blow, and the original certificate recorded one penetrating wound. The charge used the expression 'dagger blows', but a variance in grammatical number does not prejudice the appellant when the prosecution evidence and the finding relied upon concern one specific blow. The Court proceeds on the narrower and proved case of a single intentional dagger blow.

34. *Zahoor Ahmed v The State 2017 SCMR 1662* illustrates the proper supporting role of medical evidence where it confirms the injury, weapon type and interval described by otherwise reliable eye-witnesses. Conversely, medical evidence cannot supply identity if the ocular account fails. I have therefore not used the doctors to prove who stabbed Ayaz; identity comes from PW-1 and PW-2. The doctors confirm that those witnesses described a medically compatible event at a time consistent with the official referral and that the wound produced the fatal sequence. This distinction answers the submission that medical evidence is merely

corroborative. That is legally correct, but corroboration is precisely its function here, and it is strong on the material particulars for which it is relevant.

35. The prosecution's account of motive is less satisfactory. The FIR attributes the immediate occurrence to an exchange of hot words between Abbas and Ayaz. PW-1 added in cross-examination that Ayaz had gone to collect rent from the appellant and a scuffle ensued. No rent document, prior complaint or independent witness was produced to establish that assertion, and PW-2 did not furnish the same explanation. I therefore do not treat collection of rent as a proved motive. Nor do I infer a pre-planned design from the evidence. Failure to prove motive is relevant, particularly to sentence, but it is not necessarily fatal when direct evidence of the act is reliable. *Haji Muhammad Sadiq v Liaquat Ali and others* 2014 SCMR 1034 and *Qurban Hussain v The State* 2017 SCMR 880 recognise that an obscure motive or cause ordinarily counsels against death and in favour of imprisonment for life. That caution is already reflected in the sentence imposed.

36. The appellant nevertheless argues that absence of premeditation, a sudden quarrel and a single blow require alteration from section 302(b) to section 302(c), PPC. *Zeeshan alias Shani v The State* PLD 2017 SC 165 concerned a free fight without premeditation in which one blow was inflicted with a simple stick; the Supreme Court treated those combined circumstances as falling under section 302(c). *Amir Khan v The State* 2025 SCMR 1572 likewise turned on a sudden physical grappling initiated by the deceased, absence of premeditation, one shot and the particular circumstances of self-defence exceeded. Those decisions do not formulate a rule that every single-blow homicide falls under clause (c). The nature of the weapon, part of the body chosen, conduct of the parties and proof of a free fight remain decisive.

37. In the present case, the evidence does not establish that the appellant and Ayaz were engaged in a free fight, that Ayaz attacked the appellant, or that the appellant acted in private defence or under grave and sudden provocation. The quarrel described in the FIR was between Abbas and Ayaz. The appellant came out of his house armed with a dagger and intentionally drove it into the abdomen of Ayaz with sufficient force to open the cavity and expose the intestines. A dagger is a deadly sharp weapon, unlike the simple stick in *Zeeshan alias Shani*. The abdomen is a vital region and the wound was profound, not superficial or accidental. The fact that the appellant did not repeat the blow and the occurrence was not proved to be pre-planned are substantial mitigating circumstances; they justify the lesser sentence

of life imprisonment, but they do not on this record displace the intention or knowledge contemplated by section 302(b), PPC.

38. I next examine recovery independently because admissibility and evidentiary weight must not be conflated. PW-7 stated that on 17-06-2020 the appellant, while under interrogation, offered to point out the concealed dagger. The police party took him to a place about twenty feet from his house. On his indication, earth was dug and a dagger bearing dried blood was recovered, sketched, sealed and documented between approximately 3:20 and 3:50 p.m. PW-2 supported the pointation and sealing. The discovery of a fact distinctly related to information supplied by an accused in custody may be legally relevant, but only the discovered fact and the proved surrounding circumstances receive weight. Any confession of guilt allegedly made to police is not used against the appellant.

39. Several features reduce the recovery's assurance. The place was an open plot near the appellant's house; shops and houses existed in the wider vicinity; children emerged when the police arrived; and no independent resident was associated. PW-2, a close relative of the deceased and an eye-witness, was repeatedly used as first mashir in the injury memo, site inspection, arrest, recovery, inquest and clothes proceedings. PW-2 said ASI Waris dug out the dagger, while PW-7 said PC Mashooq Ali did so. *Sultan and others v The State 1987 SCMR 1177* underscores the importance of associating independent persons in a recovery where practicable. Concealment beneath earth makes the object less openly visible than one lying on the surface, but the deficiencies prevent the recovery from being treated as a decisive or independent foundation for conviction.

40. The chain of custody presents an additional limitation. The dagger was recovered on 17-06-2020. The clothes were obtained after the post-mortem on 28-06-2020. PW-3 stated that the doctor sealed the clothes in his presence and that he delivered them to ASI Waris. PW-8 stated that on 29-06-2020 he received the parcel of clothes and deposited it with WHC Allah Bux Domki through entry No.92 in Property Register No.19; on 08-07-2020 he sent the clothes and dagger through PC Shahzad Ali to the Chemical Laboratory. Yet PW-8 accepted that he did not produce the relevant Property Register entry or Roznamcha entries Nos.32 and 30 regarding dispatch and return. The custodial history of the dagger from 17-06-2020 until dispatch is not demonstrated with the documentary completeness expected for scientific evidence.

41. Exh.13/B reports human blood on the dagger and clothes. This is more than a wholly negative forensic result, but it does not identify the blood group and does not individualise the blood on the dagger as that of Ayaz. *Zahoor Ahmed v The State 2017 SCMR 1662* holds that bare recovery without a positive forensic report cannot ordinarily corroborate the ocular account. Here the report is positive only to the general extent of human blood, and its force is further qualified by the gaps in safe custody. I therefore attach limited corroborative weight to the recovery and report. This conclusion is important: the conviction is not maintained because a bloodstained dagger was produced. It is maintained only if the direct evidence, tested independently and supported by the contemporaneous and medical record, proves the charge. *Muhammad Ehsan v The State 2006 SCMR 1857* permits reliance on such direct evidence where it is itself confidence-inspiring.

42. Article 40 of the Qanun-e-Shahadat Order, 1984 embodies the limited discovery principle applicable to information received from an accused in police custody: only so much of the information as distinctly relates to the fact discovered may be proved. The prosecution may therefore rely upon the appellant's alleged pointation and the discovery of a buried dagger, subject to proof of those facts; it may not rely upon the police assertion that he confessed guilt. Even within Article 40, legal relevancy does not settle reliability. The Court must still consider whether the place was accessible, whether the object was actually concealed, whether mashirs were independent, whether sealing and custody were established and whether science connects the object with the offence. Applying those safeguards explains why the recovery is not excluded altogether yet is assigned no more than limited supporting value in the present appeal.

43. The site evidence does not introduce a contradiction capable of displacing the occurrence. PW-2 said footprints of the appellant were shown to police, but accepted that the site memo did not mention the appellant's footprints, only footprints of people generally. No reliance can therefore be placed upon alleged individual footprints. The Tapedar produced the sketch and map as Exh.11/A and Exh.11/B on the basis of the place pointed out during investigation. A site plan is useful for understanding relative locations, but it is not substantive proof of who caused the injury. I use it only to assess whether the witnesses' position and the spot near the appellant's house are inherently impossible. The record reveals no such impossibility. Differences in compass direction from the complainant's house do not overcome the common placement of Ayaz beside the appellant's house.

44. The investigation was not exemplary. The police failed to record a formal report on the night when the injured was brought; did not visit the Hyderabad hospital; did not attempt a Magistrate-recorded statement if the patient's condition later permitted; inspected the site only after the FIR; repeatedly used a related witness as mashir; omitted independent persons at recovery; and failed to produce the complete malkhana and dispatch record. PW-7 also did not produce his own duty entry for 07-06-2020. These defects require the affected pieces of evidence to be scrutinised and, where necessary, discounted. They do not automatically nullify a trial conducted by a competent Court or erase reliable substantive evidence. A Court must ask whether the defect created prejudice or a material uncertainty in proof. I have excluded footprints, assigned little weight to arrest formalities and treated recovery cautiously. The direct and medical evidence remains intact after those deductions.

45. The appellant's plea of false implication over a plot was put to PW-1 and PW-2 and repeated under section 342, Cr.P.C. The appellant bore no burden to prove innocence, and his failure to examine himself cannot fill a gap in the prosecution case. The plea must nonetheless be considered against the whole record. Neither eye-witness admitted a plot dispute, and no document or independent witness established it. Enmity can operate in two directions: it may provide a reason for the crime and also a reason for false implication. Here the prosecution case is not accepted because the defence failed to prove enmity; it is accepted because the contemporaneous police and medical record confirms the immediate aftermath and because two witnesses with an explained presence consistently attribute the act to a known person. No reasonable basis appears for sparing an actual assailant and substituting the appellant.

46. The principle of benefit of doubt has therefore been applied to each disputed component rather than recited only at the end. Doubt regarding the precise motive has been resolved by not treating motive as proved. Doubt arising from the open-place recovery, related mashir and incomplete custody trail has been resolved by assigning the weapon and chemical report limited weight. The alleged footprints have been excluded. The uncertainty about Ayaz's consciousness has been resolved by treating his silence as neutral rather than incriminating. What remains is the consistent ocular attribution, immediate approach to the police, examination under a police letter within minutes, a medically corresponding sharp abdominal wound, a continuous treatment history and an unshaken medical opinion connecting that wound with death. These remaining circumstances are sufficient and do not depend upon the discounted evidence.

47. I may now answer the principal submissions categorically. The contention that relationship alone makes PW-1 and PW-2 unsafe is rejected; the law requires careful scrutiny, which their evidence survives on the essential facts. The contention regarding night identification is rejected because the appellant was known, emerged from his own house and was observed as the witnesses moved towards the commotion; no physical impossibility of observation is shown. The contention that the six-day FIR delay is fatal is rejected because the occurrence was reported to police in substance within minutes and the delay is objectively explained by emergency treatment at Hyderabad. The contention based on Ayaz's silence is rejected because his fitness to speak was not proved. The contention that medical evidence breaks the prosecution case is rejected; it supports weapon, seat, gravity and causation.

48. Other defence contentions are accepted only to a limited extent. The prosecution did not satisfactorily prove the rent-related motive; that circumstance supports caution in sentence, not acquittal. The recovery was not attended by the best safeguards and the safe-custody evidence is incomplete; it receives limited corroborative weight and is not used as the foundation of guilt. The investigation contained omissions; the affected evidence has been discounted, but the omissions did not create a failure of justice because independent substantive evidence remains. The single-blow submission is accepted as mitigation but not as a basis for conversion to section 302(c), PPC, since the proved act involved deliberate use of a dagger on the abdomen and the evidence does not establish a free fight, private defence, grave provocation or accident.

49. The submissions advanced by the learned Deputy Prosecutor General are accepted to the extent that the two witnesses are natural witnesses on the proved facts, that the contemporaneous police and medical record materially answers the delay objection, and that the medical evidence establishes the causal chain. His submission that the recovery furnishes strong corroboration is accepted only in part; the positive indication of human blood has some supporting value, but the open locality, related mashir, missing custody documents and absence of grouping prevent it from being treated as strong or conclusive. The learned amicus correctly emphasised the distinction between legal relevancy and probative weight. That distinction has permitted the Court to assess the recovery without either excluding it mechanically or allowing it to conceal weaknesses in its proof.

50. Upon cumulative appraisal, this is not a conviction produced by counting corroborative circumstances. Its foundation is a direct account by two

witnesses whose presence is natural and whose material assertions remained consistent despite lengthy cross-examination. Their relationship required caution, but their account is supported by objective events occurring within minutes: the police-station entry, official medical letter and fresh injury recorded at 10:50 p.m. The injury is precisely of the category and at the place described; the Hyderabad treatment record and post-mortem findings establish its progression; and the medical opinion connects it with death. The unproved motive, imperfect recovery and investigative lapses do not combine to form a reasonable alternative account. They are collateral weaknesses that have been isolated and appropriately limited rather than allowed to contaminate evidence that is independently reliable.

51. The learned trial Court could have expressed greater caution regarding the recovery, the safe-custody record and the improved assertion of rent. Its ultimate conclusion, however, is supported by a lawful appraisal of the decisive evidence. The prosecution proved beyond reasonable doubt that the appellant intentionally caused a cavity-deep dagger injury to the abdomen of Ayaz on 07-06-2020 and that Ayaz died on 28-06-2020 from that injury and its ensuing complications. The ingredients of qatl-i-amd punishable under section 302(b), PPC are therefore established. The sentence of imprisonment for life is already the lesser of the two punishments provided by that clause and fairly reflects the absence of proved premeditation, the single blow and uncertainty concerning the precise motive. No further reduction or alteration is warranted.

52. For the foregoing reasons, the jail appeal is dismissed. The conviction of appellant Muharram alias Mehro under section 302(b), PPC and the sentence of imprisonment for life recorded by the learned trial Court are maintained. The direction to pay compensation of Rs.100,000/- to the legal heirs of deceased Ayaz Ahmed under section 544-A, Cr.P.C., with simple imprisonment for six months in default, is also maintained. The appellant shall continue to receive the benefit of section 382-B, Cr.P.C. The observations made herein are confined to the decision of this appeal and shall not prejudice the proceedings, if any, against proclaimed offender Abbas.

JUDGE