IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Appeal No S - 111 of 2019 (old)

Criminal Appeal No S - 99 of 2024

(Shaheryar alias Nomi vs. The State)

Appellant : Shaheryar alias Nomi s/o Muhammad Rafique
Through Mr. Aziz Ahmed Laghari, advocate.

Complainant Zakir Ali s/o Ahmed Ali through,
Mr. Afzal Karim Virk advocate.

Respondent : The State through,
Mr. Shahzado Saleem Additional P.G.

Date of hearing & short order: 04.11.2026

Date of the reasons: 13.11.2026

JUDGMENT

NISAR AHMED BHANBHRO, J: The appellant Shaheryar alias Nomi has assailed the judgment dated 10.05.2019 (**impugned judgment**) passed by the Court of learned Additional Sessions Judge-I/MCTC, Mirpurkhas (**Trial Court**) in Sessions Case No.159/2012, titled *"The State versus Abdul Latif & others,"* arising out of Crime No.26/2012, registered at Police Station, Satellite Town, Mirpurkhas for offence under Section 302, 504, 114, 147, 148, 149 PPC, whereby the appellant was convicted and sentenced to undergo life imprisonment as Tazir and to pay Rs.1,00,000/- as compensation to the legal heirs of deceased Farrukh Ali U/s 544-A Cr.P.C and in case of default of payment, to further suffer S.I for Six (06) months more with benefit of section 382-B Cr.P.C for the period, which he served as Under Trial Prisoner(UTP).

2. Concisely, the facts as unfolded in the prosecution case are that as per FIR lodged by complainant Syed Zakir Ali on 21-3-2012 at 2015 hours at P.S Satellite Town, Mirpurkhas are that his nephew namely Syed Farrukh Ali came from Karachi on 25-02-2012 to attend marriage ceremony. On 16-03-2012, quarrel took place over children affairs, therefore, he along with his son Basit Ali and nephew Farrukh Ali went towards Abdul Latif on motorcycle for compromise and when they reached in front of Karyana shop of Abdul Latif at about 2200 hours, where everyone Nomi son of Muhammad Rafique, Kashif son of Qamro Abbasi, Aijaz son of Nooruddin Abbasi, armed with T.T Pistols and two other un-known persons duly armed were standing and Abdul Latif Abbasi was also available there. The complainant said to Abdul Latif as to why they were quarreling on children matter, on which Abdul Latif abused the complainant party and instigated other accused to murder, upon which Nomi Abbasi made straight fire with T.T pistol on nephew of complainant namely Farrukh Ali with intention to kill, which hit on left side of his chest, who fell down and the blood was oozing, while others also caused kicks and fists blows to them, on which complainant party raised cries, which attracted Abdul Ghaffar, Sadique Ali and others and on seeing them the accused persons went away while abusing. Thereafter, complainant party took injured to civil hospital Mirpurkhas, where police also reached and issued letter for medical treatment, the injured was referred to Hyderabad, and then to Jinnah Hospital Karachi. Thereafter the complainant appeared at P.S and lodged the FIR.

3. It is pertinent to mention here that after completion of investigation, initially the challan was submitted against the above named accused persons in the Court of learned Civil Judge & Judicial Magistrate-II, Mirpurkhas for the offences punishable under sections-324,337-A(i),337-F(i),147,148,149,114,504 PPC and since the offence is exclusively triable by the Court of Sessions, hence the learned Magistrate on taking cognizance sent the R & Pd of case to the Court of

Learned Sessions Judge, Mirpurkhas, from where it was made over to the Court of Assistant Sessions Judge-I, Mirpurkhas, where in compliance of the provision of Section 265 - C Cr.P.C, the copies of the police papers supplied to the accused persons vide Ex:01 and charge was framed vide Ex:02. Subsequently, during pendency of the case, injured Farrukh Ali expired, hence the supplementary challan for the offence punishable u/s 302 PPC was submitted by the prosecution, therefore, on the order dated:12-02-2014 of Learned Sessions Judge, Mirpurkhas passed on reference made by the learned Assistant Sessions Judge-I, Mirpurkhas, the R & Ps of this case were received by Trial Court by way of transfer for its disposal according to law.

4. After receipt of R & Ps, the amended charge was framed by Trial Court on 18-12-2014 for the offences punishable under sections-302, 504, 114, 147, 148, 149 PPC vide Ex:04, to which the accused pleaded not guilty and claimed trial vide Pleas Ex:04-A to Ex:04-D respectively.

5. The prosecution in order to bring guilt home against the accused examined the following witnesses;-

P.W No.1 Complainant Syed Zakir Ali examined vide Ex:05, who produced the copy of FIR as Ex:05-A.

P.W No.2 Eye witness Syed Basit Ali examined vide Ex:06.

P.W No.3 Witness Abdul Ghaffar examined vide Ex07.

P.W No.4 Mashir Muhammad Nadeem examined vide Ex:09, who produced the mashirnama of arrest of accused Abdul Lateef as Ex:09-A, mashirnama of injury of injured deceased Farrukh Ali as Ex:09-B and mashirnama of place of incident as Ex:09-C respectively.

P.W No.5 Witness Sadique Ali examined vide Ex10.

P.W No.6 M.O Dr. Ghulam Jillani examined vide Ex:12, who produced police letter for medical treatment of injured Farrukh Ali as Ex:12-A, provisional and final medical certificates of the injured as Ex:12-B & Ex:12-C and attested copy of death certificate of injured deceased Farrukh Ali as Ex:12-D respectively.

P.W No.7 Witness Dr. Osama examined vide Ex:14, who produced attested copies of medical record of the deceased patient of Abbasi Shaheed Hospital Karachi as Ex:14-1 to Ex:14-5 respectively.

P.W No.8 I.O of this case namely SIP Riaz Ali examined vide Ex:15.

P.W No.9 Witness Inspector Tasawar Hussain examined vide Ex:17.

6. Thereafter the learned ADPP on behalf of the State closed the evidence side of the prosecution vide his statement Ex:18.

7. The statements of the accused persons were recorded u/s 342 Cr.P.C vide Ex:19 to Ex:22 respectively, whereby they denied the allegations leveled against them by the prosecution and stated that they were innocent and falsely implicated in this case due to old political enmity between complainant party and real brother of accused Abdul Latif and prayed for justice, but they declined to examine any witness in their defence and also declined to examine themselves on oath, though asked by the Court.

8. Learned Trial Court after hearing the parties through Learned Counsel and Learned Prosecutor convicted appellant Shehryar @ Nomi as aforementioned and acquitted the co-accused vide impugned judgment.

9. Learned counsel for the appellant contended that there was a delay of five days in registration of the FIR without any explanation, although the incident took place in the heart of city, at a distance of about half kilometer but matter was not reported to police promptly. He contended that the FIR was lodged by Zakir Ali, who was not the family member of the deceased Farrukh Ali. He contended that the incident took place during night time in market and many people were attracted, but none was cited as witnesses; therefore, evidence of interested witnesses could not be safely relied upon. He next contended that the incident took place on 16.03.2012 and the deceased died at Abassi Shaheed

Hospital, Karachi on 22.12.2013; therefore, his death could not be attributed to the appellant and might have been caused by other factors or reasons. He contended that during the investigation, the statement of the injured was not recorded and in the absence of such statement, it could not be held that the appellant was guilty of the charge. He contended that initially, charge under Section 324 PPC was framed and was later on altered without any notice to the appellant. He contended that there were material contradictions in the evidence of the prosecution witnesses; therefore, the benefit of the same must be extended to the appellant. He placed reliance on the case of **Hashim Qasim and another V. The State (2017 SCMR 986), Rasheed Ahmed alias Sheeda V. The State (2026 SCMR 798), Mst. Mir Zalai V. The Stat (2020 SCMR 319), Gulfam and another V. The State (2017 SCMR 1189), Javed Akber V. Muhammad Amjad and Jameel @ Jeela and another (2016 SCMR 1241), Sardar Bibi and another V. Munir Ahmed and others (2017 SCMR 344), Sarfaraz and another V. The State (2023 SCMR 670), Muhammad Asif V. The State (2017 SCMR 486), Muhammad Ashraf @ Acchu V. The State (2019 SCMR 652), Mst. Zahida Bibi V. The State (PLD 2006 SC 255) and Akber Saeed V. The State and another (2025 SCMR 935)**. He lastly prayed to allow the instant appeal and acquit the appellant of the charge.

10. Learned counsel for the complainant contended that there was no ill-will on the part of complainant to falsely implicate the appellant. He contended that after the incident, the matter was promptly reported to the police and the injured was in critical condition; therefore, he was shifted first to Hyderabad then to Karachi and thereafter the complainant appeared at the police station for registration of the FIR and delay if any in registration of FIR was nothing but natural. He contended that the prosecution witnesses remained consistent on material points and despite of lengthy cross examination remained un-shattered. He contended that the incident had taken place at the shop of co-accused Abdul

Latif and question of wrong identification did not arise. He contended that the learned Trial Court rightly convicted the appellant and prayed for dismissal of the appeal.

11. Learned Additional P.G, while supporting the arguments of learned counsel for the complainant, further contended that the incident had taken place at the shop of co-accused Lateef and the police had arrived at the place of incident promptly. He contended that there was no enmity between the deceased and the appellant and that appellant was attributed a single shot, which hit the deceased in the chest. He contended that the deceased struggled for his life for about one year and nine months and the delay in the registration of the FIR was not attributable to the complainant; as such, the benefit of the same could not be extended to the appellant. He contended that initially, report was submitted for the offence under Section 324 PPC and thereafter supplementary challan was submitted wherein Section 302 PPC was incorporated. He contended that the post-mortem of the deceased was not conducted, but his continuous treatment in the hospital was sufficient to prove that he succumbed to the injuries sustained at the hands of the appellant. He prayed for dismissal of the appeal.

12. Heard learned counsel for the appellant, learned counsel for the complainant and learned Additional P.G for the State and perused the material available on record.

13. Learned Defence Counsel has attempted to take advantage of delay in registration of F.I.R. which was incorporated in 154 Cr.P.C book after five days of the incident. From the scanning of evidence, it transpired that the deceased Farrukh Ali was resident of Karachi and had come to Mirpurkhas to attend the wedding ceremony of the complainant party, when a dispute took place between the parties over children. The complainant party as a goodwill gesture came to

the shop of Abdul Lateef in a reconciliation effort, where straight firing was made upon Farrukh Ali, which hit him over the chest. As a matter of natural conscience, the injured was taken to the hospital to rescue his life. Since the incident had taken place about half kilometer away from the police station, the police arrived at the scene of the offence promptly, collected information, went to the hospital and inspected the injuries of the deceased, and recorded the statement of complainant party regarding the incident. It transpired from the Provisional Medical Certificate issued on 17.03.2012 that the deceased was referred to the hospital through police docket No.663 dated 16.03.2012, which suggested that the police had knowledge of the incident and were making necessary *Karwai*. The deceased was guest in Mirpurkhas and his family was busy making every effort to rescue his life. In such eventuality, it was incumbent upon the concerned SHO to record an entry in the roznamcha register regarding the incident. This failure to fulfill the obligation on the part of police cannot be attributed to the deceased or even to the informant Zakir Ali. As such, the delay in the registration of the FIR cannot be attributed to the complainant party. Reliance in this regard is placed on the case law reported as Muhammad Bux alias Shahzaib V. The State (**2026 S C M R 1798),** wherein Honorable Supreme Court of Pakistan has discussed in detail the effects of delay of registration of F.I.Rs in criminal cases. It is held that the prime concern of the court shall be that whether the informant delayed the registration of the FIR or it was on the part of the Police. It was further held by the Honorable Supreme Court that:

> *"9. The registration of a case under section 154 of the Cr.P.C. cannot be refused nor delayed when the information relating to the commission of a cognizable offence has been given to or received by the Officer Incharge of a Police Station as held by this Court in numerus of judgments. The registration of the case is the primary step to put the criminal proceedings in motion and to enable the Officer in Charge of a Police Station to initiate the course of investigation strictly in accordance with the mandate set out in the Cr.P.C. The police official cannot assume the role of an adjudicator or assume the role of a Magistrate or a court to embark upon an inquiry in order to ascertain the credibility of the information before it is entered in the prescribed book kept under section 154 of the Cr.P.C.*

10. This Court has observed that investigation or inquiry in the nature of finding the correctness or otherwise of the information prior to registration of the FIR will be hit by the provisions of section 162 of the Cr.P.C. It is well established that the First Information Report (FIR) is a way to inform the police about a serious crime, known as a cognizable offense. The purpose of FIR is to report the incident and provide details so that the police can start investigation. While FIR is one way to set the investigation process in motion, nevertheless, the police don't always need one to start investigating. If they have credible information or knowledge about a crime from any informer, they can begin investigating on their own. In fact, the police have a duty to take-action and not wait for complainant to appear for FIR if they have reason to believe that a cognizable offense has been committed. They should take initiative to investigate and gather evidence without any delay.

…….

26. This Court has in various cases directed the Inspector Generals of the Police of all provinces for prompt registration of FIR, but observe that this practice of late registration is still persisting. A prime example is ***Khizar Hayat case***[10] *where the statutory duty of the police officials to register FIR promptly was emphasized.* ***In Haider Ali case***[11]*, this Court directed Inspector Generals of Police of all provinces to submit reports regarding the accountability of the police officers, as inefficiency, maladministration and abuse of powers by the Police in regards to registration of FIR was observed by this Court. Recently, in* ***Seeta Ram case***[12]*, this court called Inspector General of Sindh to explain the reasons for this persistent practice as, to our observations, this is more prevalent in the province of Sindh as compared to other provinces.*

27. Before departing with this judgment, this court directs that the Inspector General of Police all provinces must ensure that there shall be prompt registration of FIR, once the informant informs the Officer Incharge of the Police Station, then the same is duty bound to register the FIR, without causing any delay. Criminal Justice system has evolved and we have observed that in investigation of criminal matters, the time is of essence, and delay can result in either the loss or deuteriation of evidence, to be very specific, forensic evidence, ultimately prejudicing the merits of the case. It is pertinent to refer to the report of ***U.S. Department of Justice***[13]*, the relevant part reads as under:*

The time elapsed from crime commission and its report to police, and the delay in police response to the scene, have long been considered factors not only in apprehending criminals but also in the preservation of scene evidence. With the passage of time, the likelihood increases that the evidence may be contaminated or destroyed by the victim, witnesses and passersby.

Therefore, the law recognizes investigations after the registration of FIR, and a delay in registration means that a delayed start to the investigation of offence which might cause lost or disappearance of evidence caused by the Officer Incharge of Police Station, who was furnished information, but the FIR was registered after considerable delay. The law penalizes the disappearance of evidence, in following words of P.P.C.:

201. Causing disappearance of evidence of offence, or giving false information to screen offender. Whoever, knowing or having reason to believe that an offence has been committed,

causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence; shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life; and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years imprisonment and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

In cases where the Officer Incharge of Police Station delays the registration of FIR, it shall be presumed that such delay is caused to benefit the accused persons, unless the police official establishes to the contrary and the burden of proof shall lie upon him. It bears emphasis that section 201, P.P.C. does not create any exception in favour of public functionaries, including police officials. The provision employs the expression whoever , which is of widest amplitude, and by settled principles of statutory interpretation, encompasses every person, irrespective of rank, office, or official capacity. A police officer, therefore, stands on no higher pedestal than a private citizen when the question concerns the concealment or disappearance of evidence of an offence. This principle flows directly from the law declared by the Supreme Court in ***Malik case***[14]*, wherein it was unequivocally held that no authority or functionary is above the law, and that any immunity not expressly granted by statute is alien to constitutional governance.*

28. Apart from above, where a police official, having knowledge of the commission of a cognizable offence through any source whatsoever, deliberately fails to set the law in motion, or despite receiving information, declines or delays the registration of an FIR, or omits to initiate the legally mandated proceedings, such omission cannot be viewed as a mere procedural lapse. Rather, where the consequence of such omission is the loss, destruction, or disappearance of evidence, the conduct squarely attracts the provision of section 201, P.P.C. This Court has repeatedly emphasised that delay in registration of FIR strikes at the root of a fair investigation, as held in Muhammad ***Bashir case***[15] ***and Lal Khan case***[16]***,*** *wherein unexplained delay was recognised as a factor enabling manipulation and loss of evidence. The argument that a police officer may only be proceeded against departmentally, and not criminally, is legally untenable. Departmental liability and criminal liability operate in distinct and independent fields; the former addresses misconduct in service discipline, while the latter concerns an offence against the law and society at large. This distinction stands affirmed by this Court in Abdul Khaliq case*[17]*, wherein it was held that criminal prosecution of a civil servant is not barred merely because departmental proceedings*

are also maintainable. Indeed, a police officer is under a higher legal and moral obligation than an ordinary citizen. While a private individual may or may not be fully cognizant of legal consequences of inaction, a police officer is specifically entrusted with the statutory duty to prevent crime, preserve evidence, and prosecute offenders. Failure to act, when coupled with knowledge of an offence, raises a presumption of intent, particularly where such failure benefits the accused or prejudices the complainant. This Court has consistently held that custodians of law are answerable with greater, not lesser, rigour, as deviation from duty by such persons erodes public confidence in justice. Therefore, why should a police officer who delays or refuses registration of an FIR, thereby enabling the disappearance of evidence, not be arraigned under section 201, P.P.C. in the same manner as a common citizen? To hold otherwise would amount to conferring unwarranted immunity, a concept repeatedly rejected by this Court, and would be destructive of the rule of law. Such selective insulation would offend the constitutional principle of equality before law, and negate the foundational doctrine that no one is above the law, a principle firmly embedded in constitutional jurisprudence. The criminal law does not recognize a privileged class immune from prosecution merely by virtue of office.

29. Accordingly, this neglect and breach of the mandatory provision of law, shall now result in initiation of criminal proceedings against the police officer. Where deliberate delay or inaction on the part of the Officer Incharge of a Police Station results in the concealment, loss or destruction of evidence, criminal liability under section 201, P.P.C. is validly attracted. In such cases, the presumption shall operate against the delinquent officer, and the burden shall lie upon him to explain the delay and rebut the inference of intentional concealment. Hence, the District and Sessions Judges, as well as Magistrates taking cognizance under section 190, Cr.P.C. would be competent to call upon such officers, either due to their own observation or on application of the informant or the victim himself/herself, and consequently charge them under section 201 of the P.P.C. as well as any other applicable law, if they are satisfied that such delay was caused by the police officer, however, this shall be after serving show cause notice to the said police officer. Additionally, the above said Judicial officers shall be competent to initiate criminal proceedings apart from 201 P.P.C., under the relevant provincial laws for the discipline of police.

30. Apart from the registration of a criminal case, departmental proceedings shall be initiated against the police officer who delays registration of FIR since the provisions of Police Order 2002, penalize it in following words:

155. Penalty for certain types of misconduct by police officers. - (1) Any police officer who - (c) is guilty of any willful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey;

Since section 154, Cr.P.C. is a mandatory provision of law, and a delayed registration amounts to a willful breach and neglect of a mandatory provision of law, therefore it is observed that learned judges of the trial Court shall refer the matter to the District Police Officer concerned for the initiation of departmental proceedings against that police officer. It is

pertinent to note that the erstwhile, Police Act, 1861 also carried such provision in the following words:

29. Penalties for neglect of duty, etc. Every police-officer who shall be guilty of any violation of duty or willful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave, or who shall engage without authority in any employment other than his police-duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to imprisonment for a term which may extend to three years and with 0.1 million fine.

31. Since the practice of delayed registration is considerably more prevalent in Sindh as evident from the above referred cases, the Prosecutor General, Sindh, is directed to submit a report to the Officer Incharge, Branch Registry of this Court at Karachi, for our perusal in chambers, within one month regarding the average delay in registration of FIRs in regard to heinous offences in the last two years in the Province of Sindh.

32. The office is also directed to send a copy of this judgment to the Inspector Generals of Police and the Prosecutor Generals of all provinces as well as ICT. The Inspector Generals of Police of all provinces and the ICT shall ensure the mechanism of internal policing to curb the excess/misuse of powers by the police officers. They are directed to take practical steps in order to ensure that there is no refusal or delay in registration of FIR under section 154 of the Cr.P.C, if the information relates to the commission of a cognizable offence, even if such information is initially entered in Roznamcha/daily diary, it shall be treated as part of FIR and incorporated accordingly. We also expect that the Prosecutor Generals of the respective Provinces as well as ICT advise the police authorities and frame standard operating procedures in accordance with the mandate of the Cr.P.C. They are further directed to make the relevant Police Rules in Line with the spirit of the Cr.P.C., specifically in regards to the Form of FIR, in consultation with all relevant departments.

33. In regard to this particular case, the Inspector General of Police, Sindh is directed to initiate departmental proceedings against the police officers who caused delay in registration of FIR in instant case.

14. Honorable Supreme Court of Pakistan reiterated this principle in the case of **Ali Raza Siyal V. The state (2026 SCMR 1989)**, holding therein that delay in registration of FIR would not be fatal if the same is not attributed to the complainant / informant of the case. In the present case too delay cannot be attributed to the victim family. In this regard PW 06 Dr Ghulam Jillani

MLO of the case deposed that on 16.03.2012 at 10:00 PM, he received injured Farrukh Ali in Civil Hospital Mirpur Khas for treatment, patient was referred by police. PW 08 Riaz Ali deposed that on 16.03.2012 at about 2240 hours he was directed by the SHO of Police Station Satellite Town to proceed to the shop of Lateef Abassi (place of incident), he went there and thereafter came to hospital and inspected the injuries of deceased. PW 01 Complainant Syed Zakir Ali deposed that soon after the incident, they removed injured to hospital, where police arrived. This indicates that information of the incident was conveyed to police within time. Consequently, the victim cannot be made to suffer on account of the delay occasioned by the conduct, omission or negligence of the police officials. The informant, in the present case, acted with due promptitude in reporting the occurrence, as is borne out from the contemporaneous entry made in the Roznamcha. It is well settled that while examining the effect of delay, the Courts are required to consider whether such delay is attributable to the informant in reporting the crime, and not the delay occasioned by the failure of the police to discharge their statutory obligation of promptly registering the FIR. To hold otherwise would frustrate the very object and spirit of the relevant provision of law, as it would permit the entire prosecution to fail on account of the omission, inefficiency or neglect of a police officer, over which the complainant or the victim has no control.Once information relating to the commission of a cognizable offence is conveyed to the police through any source whatsoever, it is their bounden statutory duty to take immediate steps to ascertain the facts and to ensure the prompt registration of the FIR. The police are not legally justified in waiting for the heirs of the deceased to approach them after the completion of funeral rites, nor can such conduct be countenanced in law. Record shows that the informant promptly reported the matter to the police within 30 minutes of the incident as the police reached the hospital and place of incident within 45 minutes of the incident, however, it was the police who caused the delay in

this case and failed to register the FIR, as such cannot be held fatal for the prosecution case.

15. Adverting to the issue of alteration of charge. It is contended by Learned Counsel for the Appellant that the appellant was initially indicted for an offence punishable under section 324 P.P.C and amendment in charge was made without notice to the appellant. The contention so raised is contrary to record. First report was filed by I.O under section 324 P.P.C, and the case was made over to the Court of Learned Assistant Sessions Judge, I Mirpur Khas. On death of Farrukh Ali, subsequent report under section 302 P.P.C was submitted before the concerned Magistrate, which was sent up to Learned Assistant Sessions Judge, I Mirpur Khas. On receipt of subsequent report, learned Court made a reference to Learned District & Sessions Judge Mirpur Khas. The reference was allowed and case withdrawn from the Court and transferred to Learned Trial Court for disposal in accordance with law. Learned Trial Court framed amended charge, wherein appellant recorded his plea. It cannot be said that appellant was kept blind of the subsequent development, he was in knowledge of every new development and not misled in any manner, warranting a denovo trial. Subsequent police report and amended charge were sufficient notice to the appellant that he was facing a trial under charge of killing Farrukh Ali.

16. Adverting to the issue of absence of post mortem report. It is an admitted position on record that post mortem of the deceased was not conducted. To delineate the effects of absence of post mortem, it will be quite relevant to discuss the evidence on record. PW 06 Dr. Ghulam Jilani deposed that the deceased had sustained one firearm injury, which was through and through, below the clavicle bone a vital part of the body. The final medical certificate produced at Ex. 12/C, (available at Page No. 95 of the paper book) shows that the injury had damaged the nervous system of the victim Farrukh Ali. In its Final MLC Dr. Ghulam Jillani

opined that the damage done to the nervous system was permanent in nature and there was no chance of recovery in the future. Deceased Farrukh's family under an aspiration and hope of miracle in Almighty Allah continued injured Farrukh's medical treatment until his death on 22.12.2013. The pain of intervening period of One year and Nine months sustained by the family cannot be described in words. Farrukh breathed his last in Abassi Shaheed Hospital on 22.12.2013. On an application filed by the prosecution, Dr. Usama, Medical Practitioner at Abbasi Shaheed Hospital, Karachi was examined by the Court. He deposed that the deceased had died in the hospital due to cardiopulmonary arrest caused by sepsis of bedsores. Dr Usama deposed that deceased had developed sepsis and bedsores as he remained on bed under continuous treatment, was paralysed and physically unable to move. Bedsores are the injuries to the skin, caused due to a prolonged attachment to bed. Ceased Farrukh Ali remained bedridden for about one year and nine months and natural consequence thereto developed bedsores and his family shifted him from one hospital to another, praying for the possibility of his recovery. Bedsore is a critical medical condition of the patient, wherein skin of the patient peels and developed injuries. In such a situation, when the deceased was initially medically examined and an opinion regarding his injury was available, a post-mortem examination after his death was not even a requirement because the opinion regarding the injury was already available on record. It is settled law that medical evidence is corroborative in nature and may support the prosecution case.. The absence of the postmortem examination on the dead-body of the deceased is not always fatal to the prosecution case provided it is proved beyond the shadow of any doubt that the deceased had died on account of any act of the accused. In the present case the conduct of the post mortem was not necessary as the initial report in the shape of MLC sufficiently opined that nervous system of deceased became dysfunctional due to the injury sustained at the hands of accused and his recovery was not possible. The only objection

which appellant's counsel raised that it was a case of attempt to murder under section 324 P.P.C but not of a murder, however he failed to demonstrate that how the cause of death of deceased could not be attributed to the culpable act of the appellant. In the given circumstances the initial MLC was sufficient proof of the cause of the death of the deceased as such the absence of postmortem report was of no avail to the accused/ appellant.

17. The appellant has asserted that witnesses were related and interested and persons from the market were not examined. This assertion is also contrary to record. As prosecution has examined PW 01 Zakir Ali and PW 02 Basit Ali who are relatives of the deceased, however PW 03 Abdul Ghaffar, Pw 05 Sadique Ali who were present in the market were also examined. The evidence of prosecution witnesses cannot be brushed aside on mere relationship, when the same inspired confidence. As far as evidence of the prosecution witnesses is concerned, PW 01 Zakir Ali and PW 02 Basat Ali, Pw 03 Abdul Ghaffar, PW 04 Muhammad Nadeem and PW 05 Sadique Ali made consistent statements regarding the manner in which the incident took place and specifically attributed the injuries to the appellant Shaharyar. They also deposed that Abdul Latif had grudge against the complainant party but not against the deceased and it appears that the life of Farrukh Ali was taken due to a trivial nature issue of dispute between children. The accused and complainant party were previously known to each other. The incident had taken place at the shop of the accused persons where the complainant party had gone for patch up, though the incident is night time but question of mis-identity did not arise as place of incident was a market and presence of light has not been denied. The ocular accounts in the case in hand, were unimpeachable and consistent with each other on all material particulars. The eye-witnesses were subjected to lengthy cross-examination, but there is nothing on file which may tend to discredit their testimony. The medical evidence, when examined in juxtaposition with the

ocular accounts, depict that there seems to be no contradiction between the former and latter. The medical evidence clarifies that the injuries were caused by firearm and is in consonance with the statements of eye-witnesses. Additionally, the duration shown between the injuries and post mortem also corroborates with the testimony.

18. Learned Trial Court, though while recording statement of accused has not issued the certificate through its hand, which was a mistake fatal in nature, but since the acquittal appeal No D 38 of 2019 (Re - Syed Zakir Ali V. The State and others) filed by the Complainant Zakir Ali against the acquittal of co-accused stands decided and dismissed by learned Division Bench of this Court, therefore, this Court cannot sit over the judgment of learned Division Bench, when such aspect of the case remained unattended.

19. The prosecution is always burdened with proving its case beyond reasonable doubt. Discrepancies in the prosecution's case may arise for multiple reasons; however, in the present case, the evidence of the prosecution witnesses remained consistent on material points. Therefore, the learned Trial Court rightly convicted the appellant while acquitting the co-accused, who had not been assigned any specific role. No exception can be taken to the findings rendered by the learned Trial Court.

20. The case law relied upon by learned counsel for the appellant with due reverence is on varying facts to the present case thus distinguishable .

21. For the foregoing reasons, this appeal being devoid of merits fails and is accordingly dismissed.

These are the reasons for short order dated 04.11.2026.

JUDGE

Approved for reporting

"Chander Kumar"

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Appeal No S - 111 of 2019 (old)

Criminal Appeal No S - 99 of 2024

(Shaheryar alias Nomi vs. The State)

Appellant : Shaheryar alias Nomi s/o Muhammad Rafique
Through Mr. Aziz Ahmed Laghari, advocate.

Complainant Zakir Ali s/o Ahmed Ali through,
Mr. Afzal Karim Virk advocate.

Respondent : The State through,
Mr. Shahzado Saleem Additional P.G.

Date of hearing & short order: 04.11.2026

Order

Heard Learned Counsel for the appellant, Complainant and Learned Additional Prosecutor General Sindh. For the reasons to be recorded latter on, this appeal is dismissed.

Judge