

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH.
(Judicial Department)**

Cr.A. No. 179-B/2025 with M.R. No.06-B/2025.

Sajid Ullah.

Vs:

The State etc.

JUDGMENT.

Date of **hearing** 12.05 .2026.

For **appellant**: Messrs. Malik Rehman Khattak and Khurram
Rafique Khattak, advocates.

For the **State**: Mr. Abdul Qayum Khan Marwat
Asstt: A.G.

For **respondent**: Mr. Abid Anwar Khattak, advocate.

SABIT ULLAH KHAN, J.-

1. The appellant, Sajid Ullah, faced trial before the learned Additional Sessions Judge-I, Karak, in Sessions Case No.03/7 of 2024 arising out of FIR No.387 dated 04.08.2021 registered under Sections 302 and 324, P.P.C. at Police Station Karak, District Karak. Vide judgment dated 22.07.2025, the learned trial Court found the appellant guilty of committing *qatl-i-amd* of deceased Wadi Muhammad and consequently convicted him under Section 302(b), P.P.C., sentencing him to death as *Ta'zir*. He was further directed to pay compensation amounting to Rs.500,000/- to the legal heirs of the deceased under Section 544-A, Cr.P.C., and in default whereof to further undergo simple imprisonment for six months. The appellant was also convicted under Section 324, P.P.C. and sentenced to suffer

seven years' simple imprisonment. Both substantive sentences were ordered to run concurrently with the benefit of Section 382-B, Cr.P.C. extended in his favour. Feeling aggrieved by his conviction and sentence, the appellant has instituted the instant criminal appeal.

2. Briefly stated, the prosecution case, as set forth in the murasila/FIR, is that on 04.08.2021 at about 4:20 p.m., complainant Khiali Muhammad reported the matter to the local police at the Emergency Room of KDA Hospital, Karak, alleging therein that on the fateful day he along with his brother Wadi Muhammad had gone to the motorcycle workshop of Muhammad Noor Usman (PW-11), situated at Meta Khel Bazaar, for repair of their motorcycle. According to the complainant, while they were present inside the workshop, the appellant Sajid Ullah, armed with a pistol, suddenly arrived and resorted to indiscriminate firing upon them. As a consequence thereof, Wadi Muhammad sustained multiple firearm injuries and later succumbed to the same, whereas the complainant narrowly escaped unhurt. The motive behind the occurrence was stated to be previous blood feud arising out of the murder case of the father of the appellant, in which one Zafar Iqbal, brother-in-law of the deceased, had allegedly been convicted.

3. Upon registration of the case, the Investigating Officer visited the place of occurrence and secured blood-stained earth, crime empties, spent bullets, blood-stained garments of the deceased and other incriminating articles through separate recovery memos. The recovered material was subsequently transmitted to the Forensic

Science Laboratory for scientific examination and reports in respect thereof were obtained. The record further reveals that the appellant remained absconding for a considerable period, compelling the prosecution agency to initiate proceedings under Sections 87 and 88, Cr.P.C. against him. Ultimately, after completion of trial in absentia, he was declared a proclaimed offender by the learned trial Court vide order dated 09.06.2023.

4. Following the arrest of the appellant on 30.11.2023, supplementary investigation was conducted and supplementary challan was submitted before the learned trial Court. Upon completion of codal formalities, formal charge under Sections 302 and 324, P.P.C. was framed against the appellant on 02.03.2024, to which he pleaded not guilty and claimed trial. In order to substantiate the charge, the prosecution examined as many as twelve witnesses. Upon conclusion of prosecution evidence, recording of statement of the appellant under Section 342, Cr.P.C., and hearing learned counsel for the parties at considerable length, the learned trial Court convicted and sentenced the appellant in the manner noted hereinabove vide judgment dated 22.07.2025. Hence, the instant appeal.

5. Learned counsel for the appellant, while assailing the impugned judgment, vehemently contended that the learned trial Court fell into grave legal and factual error while recording conviction against the appellant on the basis of unreliable and insufficient evidence. It was argued that the prosecution case suffers

from inherent improbabilities and material contradictions striking at its very root. According to learned counsel, the entire prosecution case revolves around the testimony of complainant Khiali Muhammad (PW-10), who admittedly remained unhurt despite the prosecution allegation that indiscriminate firing was made upon both him and the deceased, thereby rendering his presence at the spot highly doubtful. Learned counsel further submitted that the alleged occurrence took place in a busy bazaar during daytime, yet no independent witness from the locality was associated by the prosecution except PW-11 Muhammad Noor Usman, whose testimony, according to learned counsel, does not specifically attribute the fatal firing to the appellant.

6. It was next argued that the prosecution story regarding a single assailant stands contradicted by the medical evidence reflecting multiplicity of firearm injuries on the person of the deceased. Learned counsel further contended that the alleged motive remained weak and unsubstantiated as neither any previous litigation record was produced nor any convincing evidence brought on record to establish immediate provocation for the occurrence. Serious exception was also taken to the manner of investigation by submitting that the weapon of offence could not be recovered; the crime empties were transmitted to the Forensic Science Laboratory with delay; and material discrepancies existed in the statements of prosecution witnesses regarding the manner of occurrence, place of firing and collection of crime empties. It was additionally argued

that the prosecution witnesses, being interested and inimically disposed towards the appellant, could not safely be relied upon without independent corroboration. Concluding his submissions, learned counsel prayed that since the prosecution had failed to prove its case beyond shadow of reasonable doubt, the appellant was entitled to acquittal by extending benefit of doubt.

7. Conversely, learned Assistant Advocate General, duly assisted by learned counsel for the complainant, stoutly defended the impugned judgment and contended that the prosecution had successfully established the guilt of the appellant through trustworthy, confidence-inspiring and legally admissible evidence. It was argued that the occurrence had been witnessed by complainant Khiali Muhammad (PW-10), whose presence at the spot was most natural and stood independently corroborated by PW-11 Muhammad Noor Usman, owner of the workshop where the occurrence took place. Learned law officer submitted that PW-11 is a wholly independent and disinterested witness having no previous enmity or affinity with either party and that his testimony fully supports the prosecution version regarding the place of occurrence, presence of the appellant and the murderous assault upon deceased Wadi Muhammad.

8. According to learned counsel, despite lengthy and searching cross-examination, nothing favourable to the defence could be elicited from the testimony of PW-11 so as to suggest that the occurrence was false, fabricated or had taken place in a manner

different from that narrated by the prosecution. It was further argued that mere non-receipt of firearm injury by the complainant or by PW-11 does not detract from their credibility, as it is not an inflexible rule of law that every person present at the place of occurrence must necessarily sustain injury. Learned counsel maintained that the ocular account furnished by the prosecution witnesses finds complete corroboration from the medical evidence, which unequivocally establishes that the deceased sustained multiple firearm injuries corresponding to the prosecution narrative.

9. Learned Assistant Advocate General further submitted that the motive behind the occurrence also stood established through admitted previous enmity between the parties arising out of the murder case of the appellant's father, wherein close relatives of the deceased party had allegedly been convicted. Learned counsel additionally contended that the appellant remained absconding for a considerable period after the occurrence and was ultimately declared proclaimed offender after completion of proceedings under Sections 87 and 88, Cr.P.C., which conduct itself constitutes an incriminating circumstance against him. It was further emphasized that the recovery of crime empties, blood-stained articles and positive forensic reports lend additional assurance to the truthfulness of the prosecution case. Concluding their submissions, learned counsel prayed for dismissal of the appeal and confirmation of the death sentence awarded by the learned trial Court.

10. We have heard learned counsel for the parties at considerable length and have meticulously examined the entire record with their able assistance.

11. The evidence brought on record, the reasoning assigned by the learned trial Court, the medical and forensic evidence, the statements of prosecution witnesses as well as the defence plea taken by the appellant in his statement under Section 342, Cr.P.C., have all been examined with anxious and deep judicial scrutiny, particularly keeping in view that the case involves a capital sentence requiring utmost caution in appraisal of evidence.

12. Before adverting to the merits of the respective contentions advanced at the bar, it would be advantageous to observe that in a criminal case involving capital punishment, the Court is under solemn legal obligation to undertake careful, independent and exhaustive appraisal of the entire evidence so as to ascertain whether the prosecution has succeeded in establishing the charge against the accused beyond any shadow of reasonable doubt. It is equally well settled that while the accused is entitled to benefit of every reasonable doubt, fanciful conjectures, speculative hypotheses or artificial discrepancies cannot be pressed into service to dismantle an otherwise trustworthy prosecution case. The evidence is to be appreciated as a whole and not in isolated fragments detached from the overall factual matrix.

13. In the instant case, the occurrence admittedly took place in broad daylight inside the motorcycle workshop of PW-11

Muhammad Noor Usman situated at Meta Khel Bazaar. The prosecution has examined complainant Khiali Muhammad (PW-10) as an eyewitness of the occurrence besides producing Muhammad Noor Usman (PW-11), owner of the workshop, as an independent witness. The ocular account furnished by these witnesses has been examined by us with utmost caution in the light of attending circumstances, medical evidence, forensic material and the defence plea raised by the appellant.

14. PW-10 Khiali Muhammad, complainant of the case and real brother of deceased Wadi Muhammad, deposed that on the day of occurrence he along with the deceased had gone to the workshop of PW-11 for repair of motorcycle and while they were present there, the appellant Sajid Ullah suddenly arrived armed with a pistol and opened firing upon them, as a result whereof Wadi Muhammad sustained firearm injuries and fell down. The witness further stated that he immediately shifted the injured to hospital wherefrom the matter was promptly reported to the police. The witness remained firm and consistent on all material particulars of the occurrence including identity of the assailant, place of occurrence and manner of assault.

15. We have gone through the cross-examination of PW-10 with anxious consideration. Despite lengthy and searching cross-examination, nothing could be elicited from his testimony which may cast serious doubt upon his credibility or render his presence at the spot doubtful. The defence failed to point out any material

contradiction or omission touching the core of the prosecution case. Minor discrepancies with regard to peripheral details are but natural and rather indicative of truthful testimony, as no witness can be expected to reproduce the occurrence with photographic precision after lapse of time. It is settled law that unless discrepancies go to the root of the matter and materially affect the substratum of the prosecution case, the same are liable to be ignored.

16. Much emphasis was laid by learned counsel for the appellant upon the fact that PW-10 remained unhurt despite the allegation that firing was made upon both him and the deceased. We are unable to subscribe to such contention. Mere non-receipt of injury by a witness does not ipso facto render his testimony doubtful. Criminal occurrences often unfold in suddenness and confusion; sometimes one intended target escapes unhurt due to movement, panic, chance or inaccurate aim. The evidentiary worth of a witness is to be determined from intrinsic confidence and consistency of his testimony and not from the fortuitous circumstance whether he sustained injury or not. More importantly, the presence of PW-10 at the spot receives complete independent corroboration from PW-11 Muhammad Noor Usman, in whose workshop the occurrence admittedly took place.

17. PW-11 Muhammad Noor Usman occupies a pivotal position in the prosecution case. He is neither related to the complainant party nor shown to be inimically disposed towards the appellant. His presence at the spot is most natural because the occurrence

admittedly took place inside his own workshop during business hours. The witness categorically deposed that complainant Khiali Muhammad and deceased Wadi Muhammad had come to his workshop for repair of motorcycle and while they were present there, firing took place whereafter he saw Wadi Muhammad drenched in blood. The witness further confirmed that the occurrence had taken place inside his workshop and blood had fallen upon the floor thereof.

18. The testimony of PW-11, being that of a wholly independent witness, assumes considerable significance; particularly because he had absolutely no conceivable reason to falsely depose on oath. We have minutely examined the prosecution evidence, especially the testimony of Muhammad Noor Usman (PW-11), whose statement is straightforward, natural, and confidence-inspiring. Neither in his statement recorded under Section 161 Cr.P.C. nor in his deposition before the learned trial Court did he claim to have identified the accused; however, he categorically stated that the complainant and his deceased brother were present at the place of occurrence. This statement sufficiently establishes the presence of the complainant at the spot, who specifically nominated the appellant alone for committing the murder of his deceased brother. In the given circumstances, the presence of the complainant stands duly established, and his testimony, being truthful and trustworthy, cannot be doubted or disbelieved.

19. The motive behind the occurrence was stated to be previous enmity. The record reveals that the motive stemmed from the murder of the appellant's father, who had allegedly been killed by one Zafar Iqbal, the brother-in-law of the deceased, Wadi Muhammad. Said Zafar Iqbal was tried and convicted by the learned trial Court and sentenced to imprisonment for life. Since Zafar Iqbal was already incarcerated, the appellant allegedly targeted the complainant's brother, namely Wadi Muhammad, and caused his death by firing multiple shots at him. In view of the above, the prosecution successfully established the alleged motive, which was not seriously disputed by or on behalf of the appellant during the course of trial. Moreover, the defence failed to create any dent in the prosecution evidence regarding the motive as well as the ocular account. Furthermore, in the absence of any strong evidence suggesting false implication or substitution of the real culprit, such a plea cannot be given precedence over the confidence-inspiring ocular account furnished by the prosecution witnesses.

20. The contention of learned counsel for the appellant that multiplicity of firearm injuries on the person of the deceased probalizes involvement of more than one assailant also carries no force. The prosecution case from beginning till end remained consistent against a single accused namely the appellant. No evidence whatsoever surfaced during investigation or trial suggesting participation of any co-assailant. Mere numerical discrepancy between the injuries and recovered empties cannot

override direct ocular account supported by medical evidence and independent witness testimony.

21. The argument that PW-11 did not receive firearm injury during the occurrence is equally devoid of substance. It is not the prosecution case that indiscriminate firing continued targeting every individual present inside the workshop. Non-receipt of injury by a witness is not a legal ground to discard his testimony when otherwise found trustworthy and confidence-inspiring. It is a matter of common experience that in many criminal occurrences, some persons present at the scene escape unhurt while others become victims of assault. Therefore, mere absence of injury upon PW-11 cannot diminish the evidentiary value attached to his testimony.

22. The ocular account furnished by PW-10 and PW-11 finds complete and substantial corroboration from the medical evidence produced by PW-4 Dr. Aftab Ahmad. The doctor found multiple firearm injuries on the person of deceased Wadi Muhammad including entry and exit wounds on vital parts of the body. According to the medical opinion, death had occurred due to cardio-pulmonary arrest secondary to hypovolemic shock caused by firearm injuries. The number, seat and nature of injuries fully correspond with the prosecution version regarding repeated firing upon the deceased. It is well settled that medical evidence may not identify the assailant, yet it serves as strong corroborative evidence in determining whether the ocular account is probable, truthful and consistent with the injuries sustained by the deceased. In the instant

case, the medical evidence completely supports the prosecution narrative and does not create even the slightest inconsistency therein.

23. At this juncture, profitable reference may be made to the dictum laid down by the august Supreme Court of Pakistan in *Akbar Saeed v. The State and another* (2025 SCMR 935), wherein it was held that so long as the material aspects of prosecution evidence possess a ring of truth, minor discrepancies or inconsequential inconsistencies are to be ignored and cannot be made basis for acquittal. It was further observed that a witness to a firing incident cannot be expected to narrate with mathematical exactitude the precise direction and location of each firearm injury and that where ocular account is found confidence-inspiring and trustworthy, the same is to be preferred over speculative discrepancies.

24. Support in the above view is also drawn from the dictum laid down by the august Supreme Court of Pakistan in *Sajid Mehmood v. The State* (2022 SCMR 1882), wherein it was authoritatively held that where the ocular account furnished by prosecution witnesses is found reliable, straightforward and confidence-inspiring, the same is sufficient to sustain conviction and is to be preferred over alleged discrepancies in medical or investigative aspects of the case. The august Court further observed that during a sudden firing incident, witnesses cannot be expected to describe with scientific precision the exact location and direction of each firearm injury and, therefore, casual inconsistencies between ocular and medical evidence do not materially affect the prosecution case.

25. We are also fortified in our above view by the dictum laid down by the august Supreme Court of Pakistan in *Sher Afzal v. The State* (2025 SCMR 894), wherein it was held that where the prosecution succeeds in producing confidence-inspiring and trustworthy ocular account duly corroborated by medical evidence and surrounding circumstances, minor discrepancies or investigative omissions lose their significance and do not adversely affect the prosecution case.

26. Support in the above view is also drawn from the dictum laid down by the august Supreme Court of Pakistan in *Munir Ahmad v. The State* (2025 SCMR 1123), wherein it was authoritatively held that minor discrepancies of inconsequential nature cannot reasonably be considered good grounds for disbelieving independent and disinterested witnesses. The august Court further observed that while appreciating ocular testimony, the evidence of a witness is to be examined as a whole and unless the discrepancies pointed out are so material as to shake the very credibility of the witness or strike at the root of the prosecution case, the same are liable to be ignored. It was additionally held that normal discrepancies are bound to occur due to lapse of time, memory and powers of observation and truthful witnesses cannot be expected to reproduce the occurrence with photographic or parrot-like precision. In the instant case as well, the alleged discrepancies highlighted by the defence are merely peripheral and inconsequential in nature and do not diminish the

evidentiary worth of PW-11 Muhammad Noor Usman, who is a wholly independent and disinterested witness.

27. The prosecution case further derives support from the recovery evidence and forensic material collected during investigation. PW-7 Shahid Zaman and PW-8 Yar Muhammad, Investigating Officer, deposed in detail regarding collection of blood-stained earth, crime empties, spent bullets and blood-stained garments of the deceased from the place of occurrence. The prosecution also brought on record positive reports of the Forensic Science Laboratory. Though forensic evidence is corroborative in nature, yet it furnishes additional assurance to the truthfulness of ocular account and strengthens the prosecution structure.

28. The conduct of the appellant after the occurrence is also not without significance. The record reveals that he remained absconding for a considerable period and proceedings under Sections 87 and 88, Cr.P.C. had to be initiated against him. Ultimately, he was declared proclaimed offender by the learned trial Court. Though absconsion by itself may not constitute conclusive proof of guilt, yet it remains a relevant incriminating circumstance reflecting consciousness of guilt when viewed in conjunction with the entire body of evidence available on record.

29. The defence plea taken by the appellant in his statement under Section 342, Cr.P.C. consists merely of bare denial and allegation of false implication. However, no evidence in defence was produced to probabalize such plea. The appellant neither opted to

appear as his own witness under Section 340(2), Cr.P.C. nor examined any witness in defence. It is by now a settled proposition of law that mere denial or suggestions put during cross-examination do not assume the status of evidence unless substantiated through independent material.

30. We have also examined the alleged discrepancies highlighted by the defence with regard to recovery of empties, dispatch of parcels to FSL and certain peripheral aspects of investigation. Suffice it to observe that no investigation can be expected to be ideal or flawless. Even otherwise, any defect or omission on the part of Investigating Officer by itself cannot constitute ground for acquittal unless prejudice of serious nature is shown to have been caused to the accused. The settled principle is that defective investigation cannot eclipse substantive and confidence-inspiring ocular account.

31. Learned counsel for the appellant also placed reliance upon a number of judgments including *Ghulam Mustafa alias Raja Buledi v. The State* (2025 SCMR 1633), *Muhammad alias Ahmad v. The State* (2025 SCMR 2052) and *Seeta Ram v. The State* (2025 SCMR 2028) in support of his contention that the prosecution case suffers from doubt. We have carefully gone through the said authorities; however, the same are clearly distinguishable on facts and circumstances and thus render no assistance to the appellant. In the cited cases, benefit of doubt was extended on account of material contradictions affecting the core of the prosecution case, doubtful presence of eyewitnesses, unexplained delay in registration of FIR,

infirm and unsafe recoveries, legal defects in investigation and other serious evidentiary infirmities. Conversely, in the present case, the occurrence was promptly reported; the presence of PW-10 Khiali Muhammad and PW-11 Muhammad Noor Usman at the place of occurrence stood firmly established; the ocular account remained consistent on all material particulars; and the same received substantial corroboration from medical as well as forensic evidence. Therefore, the aforesaid authorities, being distinguishable on material facts, are of no avail to the appellant.

32. The learned trial Court has discussed the entire evidence with judicial objectivity, maturity and balanced reasoning. We have independently reappraised the whole record and find ourselves in agreement with the conclusions drawn by the learned trial Court. The prosecution has succeeded in establishing through reliable ocular account duly corroborated by independent witness PW-11 Muhammad Noor Usman, medical evidence, forensic material and surrounding circumstances that it was none else but the appellant who committed the murder of Wadi Muhammad and attempted to commit *qatl-i-amd* of complainant Khiali Muhammad.

33. It is also pertinent to observe that the present case does not rest upon circumstantial evidence alone, nor upon any judicial or extra-judicial confession. The prosecution has produced direct ocular account supported by independent corroboration from a wholly disinterested witness. The cumulative effect of the entire evidence

leaves no room for any reasonable doubt regarding complicity of the appellant in commission of the offence charged against him.

34. For what has been discussed hereinabove, we are of the considered view that the prosecution has successfully proved its case against the appellant beyond any shadow of reasonable doubt through consistent, trustworthy and confidence-inspiring evidence. The ocular account furnished by PW-10 Khiali Muhammad not only remained consistent on all material particulars but also received independent corroboration from PW-11 Muhammad Noor Usman, a wholly disinterested witness, besides medical evidence, forensic material and other surrounding circumstances brought on record by the prosecution. The defence has failed to point out any material contradiction, infirmity or legal defect warranting interference in the well-reasoned judgment rendered by the learned trial Court.

35. Consequently, finding no merit in the instant appeal, the same is hereby dismissed and the conviction and sentences awarded to the appellant vide judgment dated 22.07.2025 passed by learned Additional Sessions Judge-I, Karak, are maintained in toto. As a necessary corollary to dismissal of the appeal, **Murder Reference No.06-B/2025** sent by the learned trial Court is hereby answered in the AFFIRMATIVE.

Announced
Dt: 12.05.2026
Imranullah PS

- Sd -
Judge

(D.B) Hon'ble Mr. Justice Muhammad Tariq Afridi & Hon'ble Mr. Justice Sabit Ullah Khan.

SCANNED
21.05.2026
Court Rooms

21/05