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**JUDGMENT SHEET**  
**LAHORE HIGH COURT, LAHORE**  
**JUDICIAL DEPARTMENT**

**Criminal Appeal No.23151/2019**

Muhammad Farooq vs The State and another

**Murder Reference No.94/2019**

The State vs Muhammad Farooq

**J U D G M E N T**

Date of hearing:	<b><u>10.01.2023</u></b>
Appellant by:	Mr. Sohail Shafique, Advocate.
State by:	Rana Ahsan Aziz, Additional Prosecutor General.
Complainant by:	Malik Muhammad Riaz Awan, Advocate.

**Farooq Haider, J:-** This single judgment will dispose of **Crl. Appeal No.23151/2019** filed by Muhammad Farooq (appellant/convict) and **Murder Reference No.94/2019**, sent by learned trial court under Section: 374 Cr.P.C. for confirmation of death sentence awarded to Muhammad Farooq (appellant) as both the matters have arisen out of one and the same judgment dated: 10.04.2019 passed by learned Additional Sessions Judge/Judge, MCTC, Kasur/trial court.

2. Muhammad Farooq (appellant) alongwith his co-accused Saif Ullah was tried in case arising out of F.I.R. No.194/2018, dated: 31.05.2018 registered under Sections: 302, 34 PPC at Police Station: Theh Sheikhum, District: Kasur and after conclusion of trial, learned trial Court *vide* aforementioned impugned judgment dated: 10.04.2019 while acquitting Saif Ullah (above mentioned co-accused), has convicted and sentenced the appellant as under: -

<b><u>Conviction</u></b>	<b><u>Sentence</u></b>
<b><u>Under Section:</u></b> 302(b) PPC	<b><u>Under Section 302 (b) PPC</u></b> to “ <i>Death</i> ” as <i>Taz’ir</i> (for committing <i>Qatl-e-amd</i> of Muhammad Akram) with payment of compensation under Section: 544-A(1) Cr.P.C. amounting to Rs.5,00,000/- to the legal heirs of the deceased and in default thereof to further undergo S.I. for six months.

3. Briefly, the prosecution case as per application (Ex.PB) submitted by Abdul Aziz (complainant/PW-2) to Muhammad Akram A.S.I. (PW-11/nor retired) at Police Station: Theh Sheikhum, is that on 31.05.2018 at 06/07:00 a.m., Muhammad Akram brother-in-law (بیہنوئی) of the complainant alongwith his sister namely Tahira Bibi and son-in-law (داماد) namely Muhammad Shahzad

while riding on two motorcycles were coming towards Kasur Court on the date of hearing; said Tahira Bibi was sitting on the motorcycle of Muhammad Akram and aforesaid Shahzad was riding on his own motorcycle; said Muhammad Akram was an accused in case titled as “The State versus Muhammad Saleem etc.” whereas Tahira Bibi and Shahzad alongwith Muhammad Akram were coming to meet Muhammad Saleem (arrested accused in aforementioned case) and after crossing Gaggar Chowk (گگڑ چوک) when they reached at Kasur Road at a distance of 3/4 Acre from Gaggar Chowk (گگڑ چوک), meanwhile, accused persons while riding on motorcycle without registration number driven by Saif Ullah accused, arrived there and boarded Tahira Bibi from motorcycle of Muhammad Akram; Muhammad Farooq made straight fireshots in result whereof Muhammad Akram after becoming injured fell down on the ground and succumbed to the injuries; on raising hue and cry by Tahira Bibi and Muhammad Shahzad, Muhammad Farooq pointed his weapon towards them and extended threat that if anyone would come forward, he would also be done to death upon which aforementioned Shahzad and Tahira Bibi became frightened and stood off (دور ہو گئے); accused persons while extending threats fled away from the spot on their motorcycle, in the meantime, someone made call to 15 (help line) and subsequently police had taken said Muhammad Akram, who died in result of fireshots.

Motive behind the occurrence as per application (Ex.PB) for registration of case was pendency of criminal case regarding murder of Amanat Ali (father of Saif Ullah and paternal uncle of Muhammad Farooq) against Muhammad Akram and his brother Muhammad Saleem, etc.

4. On the basis of aforementioned application (Ex.PB), case *vide* F.I.R. No.194/2018 (Ex.PB/2), dated: 31.05.2018 under Sections: 302, 34 PPC was registered at Police Station: Theh Sheikhum, District: Kasur.

After completion of investigation, challan report under Section: 173 Cr.P.C. was submitted in the Court; appellant and his co-accused (since acquitted) were formally charge sheeted, however, they pleaded not guilty and claimed trial whereupon prosecution evidence was summoned; after recording of prosecution evidence, accused persons were examined under Section: 342 Cr.P.C. but they refuted the allegations levelled against them; they did not opt to appear as their own witnesses under Section: 340(2) Cr.P.C, however, Muhammad Farooq (appellant) produced photocopies of petition u/s 22-A, B Cr.P.C. alongwith comments of S.H.O. and order of Court as “Mark-A”, photocopy of plaint of civil suit titled as “Muhammad Akram versus Akhtar”

with order of the Court as “Mark-B” whereas Saif Ullah (co-accused) produced photocopy of registration of the motorcycle as “Mark-C”, in their defence.

Learned trial court after conclusion of trial while **acquitting co-accused namely Saif Ullah**, has convicted and sentenced the appellant as mentioned above through the impugned judgment dated: 10.04.2019.

5. Learned counsel for the appellant has submitted that conviction recorded and sentence awarded to the appellant through impugned judgment is against the ‘law and facts’ of the case; ocular account is neither trustworthy nor corroborated/supported by any other evidence. Learned counsel for the appellant finally prayed for acquittal of the appellant.

6. Conversely, learned Additional Prosecutor General and learned counsel for the complainant have supported the impugned judgment to the extent of conviction and sentence recorded against Muhammad Farooq (appellant) and prayed for dismissal of his appeal.

7. **Arguments heard. Record perused.**

8. It has been noticed that machinery of law was brought into motion by Abdul Aziz (complainant/PW-2) through application (Ex.PB) for registration of case; it is relevant to mention here that said Abdul Aziz (complainant/PW-2) in his examination-in-chief stated that he got scribed application (Ex.PB) at the spot and submitted the same to the police; in this regard, relevant portion of his statement is hereby reproduced: -

*“I got scribed application Ex.PB at the spot and submitted the same to the police. Ex.PB bears my signature as Ex.PB/1.”*

during cross-examination, he stated that on the day of occurrence, he did not go to the police station and application (Ex.PB) for registration of case was delivered to the police at the place of occurrence; relevant portion of his statement in this regard is as under: -

*“On the day of occurrence I did not go to the police station. Volunteered Ex.PB was delivered to the police at the place of occurrence.”*

Tahira Bibi (PW-3) categorically stated in her statement before the Court that police reached at the spot at about 06:30 a.m. and all proceedings were conducted by the police between 06:45/07:00 a.m. approximately; she further deposed that Abdul Aziz (complainant/PW-2) submitted application before the police at the spot; in this regard, relevant portion of her statement is reproduced: -

*“Complainant Abdul Aziz reached the place of occurrence within a span of 10-15 minutes. The police reached the spot at about 6:30*

*a.m. The police on reaching the spot conducted all the proceedings between 6:45/7:00 a.m. approximately. Except the proceedings mentioned above, the police did not conduct any other proceedings. Two vehicles of police came at the spot alongwith van of police of blue colour alongwith 6-7 officials. Abdul Aziz complainant remained at the spot till the conclusion of proceedings by the police. I do not know who recorded my statement; however he was sitting inside the police Dallah vehicle where he recorded my statement. Abdul Aziz submitted application before the police at the spot. ”*

Similarly, Muhammad Shahzad (PW-4) during his statement before the Court stated that complainant reached at the spot prior to arrival of the police; he further stated that after receiving application from the complainant, police conducted entire proceedings at the spot and police stayed at the spot about 45-minutes to 01-hour; relevant portion of his statement is reproduced: -

*“The police reached the spot at about 6:48 a.m. First of all Abdul Aziz complainant reached the spot to whom I informed him about the occurrence. Abdul Aziz reached the spot at about 6:46 a.m. prior to arrival of police. I do not know who informed the complainant about the occurrence prior to his reaching the spot. I did not inform any body about the occurrence prior to arrival of Abdul Aziz complainant. I did not inquire from Abdul Aziz complainant how has received the information about the occurrence. After receiving the application from the complainant, the police conducted the entire proceedings at the spot. The police stayed at the spot for about 45 minutes to one hour. Thereafter we had also gone to our houses.”*

whereas perusal of application (Ex.PB) for registration of case and First Information Report (Ex.PB/2) reveals that both said documents do not contain receipt of application for registration of case by the police at the spot and then transmitting the same to the police station for registration of case; furthermore, Muhammad Akram A.S.I. (now retired, who scribed First Information Report) while appearing as PW-11 during trial of the case categorically stated that on 31.05.2018, he was posted as A.S.I./Duty Officer at the police station and Abdul Aziz (complainant/PW-2) submitted application (Ex.PB) before him and on the basis of the same, he drafted First Information Report (Ex.PB/2); he further stated that complainant (PW-2) reached at police station at about 07:30 a.m. and at that time he was all alone; relevant portion of his statement in this regard is as under: -

*“On 31.05.2018 I was posted as ASI/Duty Officer at PS Theh Sheikhum. On the same date, Abdul Aziz complainant submitted application Ex.PB before me and on the basis of the same I got drafted formal FIR Ex.PB/2 through computer without any addition or omission and it bears my signature.”*

Aforementioned both stances are contradictory and this mystery that when and where application was moved by the complainant for registration of case to the

police either at the place of occurrence or at the police station, could not be resolved which raises question mark in this regard. Perusal of application for post-mortem examination (Ex.PL) reveals that same was forwarded to C.M.O. at 03:20 p.m. on 31.05.2018 whereas statement of Dr. Abdul Samad (PW-5) reflects that dead body was received in the mortuary at 09:50 a.m. on 31.05.2018, police papers were received in the mortuary on 31.05.2018 at 04:00 p.m. and he conducted post-mortem examination over dead body of the deceased at 04:20 p.m. on the same day; he also categorically stated that due to non-production of relevant documents i.e. inquest report, application for autopsy and F.I.R., the post-mortem could not be conducted; relevant portion of his statement in this regard is as under:-

*“The dead body was received in the mortuary at 9:50 a.m. on 31.05.2018. Due to non production of documents i.e. inquest report, application for autopsy and FIR, the post mortem could not be conducted on till 4:00 p.m. on the same date. I received the complete documents at 4:00 p.m. and thereafter I conducted the post mortem at 4:20 p.m. on the same date.”*

Now it is crystal clear that as per own case of the prosecution, dead body of the deceased was received in the mortuary at 09:50 a.m. on 31.05.2018 and post-mortem examination over dead body of the deceased could not be done due to non-production of documents i.e. inquest report, application for autopsy and F.I.R. rather same was conducted with much delay i.e. 04:20 p.m. As per F.I.R., Muhammad Akram (deceased of the case) succumbed to the injuries at the spot but question does arise that if case was registered at the claimed time i.e. 07:45 a.m., then why police papers were not dispatched with dead body which was received in the mortuary at 09:50 a.m. and answer is very simple that same were not prepared till then; such sort of delay in conducting post-mortem examination dislodges promptness of recorded F.I.R. and it reflects that none of the cited eyewitnesses was present at the time and place of occurrence and time has been consumed for procuring, inducing witnesses and after deliberation and consultation concocting story for the prosecution; in this regard, guidance has been sought from the dictum laid down by the august Supreme Court of Pakistan in the case of “**SUFYAN NAWAZ and another versus The STATE and others**” (2020 SCMR 192), relevant portion from Paragraph No. 4 (Page 194) is being reproduced: -

*“The unexplained delay of about ten hours in autopsy of Kabeer Ahmad (deceased) alone creates dent in the prosecution story so far as presence of eye-witnesses at the place of occurrence is concerned.”*

In aforementioned circumstances, it is crystal clear that case was not registered at the stated time rather with much delay, however, showing ante time in the record; therefore, neither any sanctity nor evidentiary value can be attached to said First Information Report and same cannot provide any corroboration to the case of prosecution. By now it is well settled that First Information Report lays foundation of the criminal case and when it has not been promptly recorded rather with delay as stated above and no reasonable explanation regarding its delayed recording has come on the record, then it is fatal for the case of prosecution. In this regard, guidance has been sought from the case of **“HAROON SHAFIQUE versus The STATE and others”** (2018 SCMR 2118), case of **“MUHAMMAD RAFIQUE *alias* FEEQA versus The STATE”** (2019 SCMR 1068), **“TARIQ MEHMOOD versus The STATE and others”** (2019 SCMR 1170), **“TARIQ ALI SHAH and another versus The STATE and others”** (2019 SCMR 1391) and **“SAFDAR MEHMOOD and others versus TANVIR HUSSAIN and others”** (2019 SCMR 1978).

As far as ocular account in the case is concerned, Abdul Aziz (complainant/PW-2) categorically stated in his statement before the Court that he was not eyewitness of the occurrence; in this regard, relevant portion of his statement is as under:

*“It is correct that I am not an eye witness of this occurrence and my statement is based upon the facts told by the PWs and I have deposed as narrated by the PWs.”*

Meaning thereby that ocular account comprises upon Tahira Bibi (PW-3, sister of Muhammad Akram/deceased of the case) and Muhammad Shahzad (PW-4, son-in-law of deceased of the case). Admittedly, both said cited eyewitnesses are not residents of the place of occurrence, so, they are chance witnesses. It is by now well settled that chance witnesses have to plausibly/reasonably explain and prove reason of their presence at the “time and place” of occurrence. Though in the application (Ex.PB) for registration of case it was got recorded by the complainant that on the day of occurrence of this case, both aforementioned cited eyewitnesses were accompanying Muhammad Akram (deceased of the case) for going to Court in Kasur with respect to date of hearing of the case because said Muhammad Akram (deceased of the case) was accused in case titled as “The State versus Muhammad Saleem, etc.” whereas Tahira Bibi and Muhammad Shehzad (both witnesses mentioned above) had to meet Muhammad Saleem (accused arrested in said case) and that’s why they

were coming with Muhammad Akram. Similarly, Tahira Bibi while appearing as PW-3 stated that they were coming to Kasur Courts; Shehzad (PW-4) also stated that they were coming to Kasur Courts to attend hearing of case against Akram (deceased). Therefore, it was mandatory for the prosecution to prove that aforesaid case was pending before the Courts at Kasur and on that day, date of hearing was fixed in said case but attested copy of order sheet, cause list or any other document to prove/substantiate said contention/version was not produced during trial of the case. Hence, “**cause**” claimed by the prosecution with respect to accompanying aforementioned both cited eyewitnesses with the deceased of the case at the “time and place” of occurrence that they were going to Kasur Courts in connection with date of hearing in the case, could not be established; therefore, their testimonies being “suspect evidence” cannot be believed without a pinch of salt; in this regard, guidance has been sought from the case of “**Mst. SUGHRA BEGUM and another versus QAISER PERVEZ and others**” (2015 SCMR 1142); relevant portion whereof is reproduced as under: -

*“14. A chance witness, in legal parlance is the one who claims that he was present on the crime spot at the fateful time, albeit, his presence there was a sheer chance as in the ordinary course of business, place of residence and normal course of events, he was not supposed to be present on the spot but at a place where he resides, carries on business or runs day to day life affairs. It is in this context that the testimony of chance witness, ordinarily, is not accepted unless justifiable reasons are shown to establish his presence at the crime scene at the relevant time. In normal course, the presumption under the law would operate about his absence from the crime spot. True that in rare cases, the testimony of chance witness may be relied upon, provided some convincing explanations appealing to prudent mind for his presence on the crime spot are put forth, when the occurrence took place otherwise, his testimony would fall within the category of suspect evidence and cannot be accepted without a pinch of salt”*

Guidance can also be sought from the case of “**MUHAMMAD AMEER and another versus RIYAT KHAN and others**” (2016 SCMR 1233); the relevant portion whereof is also reproduced: -

*“4. As already observed above, one of the eye-witnesses relied upon by the prosecution, i.e. Noor Muhammad had not been produced by the prosecution before the trial Court and the ocular account was furnished in this case only by Ghulam Abbas (PW-9). The said witness was a first cousin of Muhammad Afzal deceased and was admittedly a chance witness who ordinarily resided about one kilometer away from the place of occurrence. The stated reason for availability of this witness near the place of occurrence had never been established through any independent evidence at all”*

In this regard, case of “**NAVEED ASGHAR and 2 others versus The STATE**” (PLD 2021 Supreme Court 600), “**SUFYAN NAWAZ and another versus The STATE and others**” (2020 SCMR 192), “**Mst. MIR ZALAI versus GHAZI KHAN and others**” (2020 SCMR 319) can also be referred. Tahira Bibi (PW-3) and Muhammad Shahzad (PW-4) both stated that assailant made 4/5 fireshots at the deceased of the case but they did not utter even a single word regarding locale of receipt of injuries i.e. frontal, posterior, lower or upper part of the body; perusal of Column No.8 of the Inquest Report (Ex.PN) reflects that eyes and mouth of the deceased were found as “semi opened (قدرے کھلا)”. It is most relevant to mention here that said state of affairs raises eyebrows regarding presence of Tahira Bibi (PW-3) and Muhammad Shahzad (PW-4) at the “**time and place**” of occurrence particularly when they both are closely related to the deceased i.e. Tahira Bibi is sister whereas Muhammad Shahzad is son-in-law of the deceased; had they been present at the place of occurrence, at the relevant time, then they would have definitely closed the eyes and mouth of the deceased; while observing so, guidance has been sought from the case of “**MUHAMMAD ASIF versus The STATE**” (2017 SCMR 486).

It is pertinent to mention here that Tahira Bibi (PW-3) introduced dishonest improvements in her statement before the Court and same are hereby reproduced for ready reference: -

*“I have got recorded in my statement u/s 161 CrPC that at about 5:00/5:30 am I alongwith my brother proceeded from(confronted with ExDA wherein timing is not mentioned). I have got recorded in ExDA that Damad of deceased had come out from our house(confronted with ExDA wherein it is not so recorded). I have also got recorded to the 1.0 in my statement EXDA that we were coming to Kasur courts (confronted with ExDA wherein it is mentioned that I alongwith Muhammad Akram was coming to Kasur courts on two motor cycles). I have also got recorded in ExDA that a motor cycle without number came on behind us (confronted with ExDA where word 'behind' is not mentioned). I have also got mentioned in EXDA that the accused came from the left side from our motor cycle and forced us to stop the same; that Akram stopped motor cycle; that Farooq accused asked me to alight from the motor cycle, so I alighted from it and accused Farooq also asked me to keep away(confronted with ExDA wherein it is not so mentioned). I got mentioned in ExDA that accused Farooq was armed with pistol 30 bore(confronted with ExDA wherein it is not so recorded). I got recorded in ExDA that accused Saif Ullah remained present on his already started motor cycle, Farooq accused then sat behind accused Saif Ullah and then both of them had extended threats of murder of us and fled away from the spot confronted with ExDA wherein it is not so recorded). I have got recorded before he 1.0 in ExDA that after some time, Abdul Aziz complainant came at the spot. After a short while police also reached the place of occurrence,*



*Shahzad PW told the entire occurrence to complainant Abdul Aziz (confronted with ExDA wherein it is not so recorded). It is incorrect that I have made dishonest improvements in my statement just to strengthen the prosecution case.”*

Similarly, Muhammad Shahzad (PW-4) also introduced dishonest improvements in his statement before the Court, same are also reproduced: -

*“I have got recorded in my statement u/s 161 CrPC that at about 5:00/5:30 am I alongwith my brother proceeded from(confronted with ExDB wherein timing is not mentioned), I have got recorded in ExDB that Damad of deceased had come out from our house(confronted with ExDB wherein it is not so recorded). I have also got recorded to the 1.0 in my statement ExDB that we were coming to Kasur courts(confronted with ExDB wherein it is mentioned that I alongwith Muhammad Akram was coming to Kasur courts on two motor cycles). I have also got recorded in ExDB that a motor cycle without number came on behind us(confronted with ExDB where word 'behind' is not mentioned). I have also got mentioned in ExDB that the accused came from the left side from our motor cycle and forced us to stop the same; that Akram stopped motor cycle; that Farooq accused asked me to alight from the motor cycle, so I alighted from it and accused Farooq also asked me to keep away(confronted with ExDB wherein it is not so mentioned). I got mentioned in ExDB that accused Farooq was armed with pistol 30 bore(confronted with ExDB wherein it is not so recorded). I got recorded in ExDB that accused Saif Ullah remained present on his already started motor cycle, Farooq accused then sat behind accused Saif Ullah and then both of them had extended threats of murder of us and fled away from the spot(confronted with ExDB wherein it is not so recorded). I have got recorded before he I.O in ExDB that after some time, Abdul Aziz complainant came at the spot. After a short while police also reached the place of occurrence, I had told the entire occurrence to complainant Abdul Aziz (confronted with ExDB wherein it is not so recorded). It is incorrect that I have made dishonest improvements in my statement just to strengthen the prosecution case.”*

By now it is also well settled that witness who introduces dishonest improvement for strengthening the case, cannot be relied; in this regard, case of **“MUHAMMAD ARIF versus The STATE”** (2019 SCMR 631) and **“KHALID MEHMOOD and another versus The STATE and others”** (2021 SCMR 810) can be advantageously referred. It is also relevant to mention here that complainant claimed that though he is not eyewitness of the occurrence yet he was told about the occurrence by the witnesses, however, Tahira Bibi (PW-3) categorically stated that she did not tell the complainant about the occurrence and in this regard, relevant portion of her statement is hereby reproduced: -

*“I do not who informed the complainant Abdul Aziz about the occurrence. **However, I did not tell to him about the occurrence.** I also did not inform about the occurrence to any other person. I do not know how the police came at the spot and in this regard Allah knows better.”*

*(emphasis added)*

As per site plan (Ex.PA available at Page No.150 of the Paper Book) when assailant made firearm shots at the deceased, distance between them was 5-feet meaning thereby that if length of arm of the assailant is subtracted, then there should be definitely blackening on the entry wounds received by the deceased but the doctor has categorically stated while appearing before the Court as PW-5 that there was no blackening in the wounds; relevant portion of his statement in this regard is as under: -

*“There was no blackening on the wounds.”*

Though it was claim of the prosecution that cited eyewitness Muhammad Shahzad (PW-4) was also accompanying the deceased on the motorcycle but neither PW-4 disclosed any registration number, model, company, colour of said motorcycle nor produced the same during investigation/during trial of the case and it is also important to mention here that even said motorcycle of Muhammad Shahzad was not shown in site plan (Ex.PA, available at Page No.150 of the Paper Book). Perusal of Inquest Report (Ex.PN) further reflects that neither the complainant nor cited eyewitnesses identified the dead body of the deceased of the case and in Column No.4 of the Inquest Report, names of the persons identifying the dead body of the deceased are mentioned as “Nasir and Shafique”; similarly, Inquest Report was neither attested by the complainant nor cited eyewitnesses rather same was attested by Munir Ahmad and Muhammad Siddique. Nutshell of the above discussion is that testimonies of the complainant and aforementioned both cited eyewitnesses are neither confidence inspiring nor trustworthy, hence, cannot be relied in this case of capital punishment.

As far as recovery of pistol (P-1) from Muhammad Farooq (appellant) is concerned, suffice it to say that as per report of Punjab Forensic Science Agency (Ex.PP available at Page No.20 of the Paper Book), four empties/ cartridge cases secured from the place of occurrence, were not found as having been fired from said pistol; therefore, said recovery is inconsequential and of no help to the case of prosecution.

So far as recovery of motorcycle (P-2) taken into possession by the Investigating Officer through recovery memo (Ex.PD) at the alleged pointing out of Saif Ullah (co-accused) and statedly used in the occurrence, is concerned, suffice it to say that since any model, company, number or colour of the motorbike was not given in the First Information Report, therefore, same cannot provide any corroboration to the case of prosecution.

As far as medical evidence is concerned, since no locale of injuries was mentioned in the ocular account, therefore, medical evidence could not give any confirmation to said extent; furthermore, by now law is well settled that medical evidence is mere supportive type of evidence; it can tell about locale, nature, magnitude of injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same is also of no help to the prosecution in peculiar facts and circumstances of the case, in this regard, case of “**SAJJAN SOLANGI versus The STATE**” (2019 SCMR 872) can be safely referred.

As far as motive is concerned, when substantive piece of evidence in the form of ocular account has been disbelieved, then motive is of no help to the case of prosecution as the same loses its significance; furthermore, motive is a double edged weapon and in peculiar facts of the case, can be also considered as a reason for roping the accused in the case.

9. Nutshell of the above discussion is that prosecution has been failed to prove its case against the appellant, therefore, there is no need to discuss defence version.

10. In view of what has been discussed above, **Criminal Appeal No.23151/2019** filed by Muhammad Farooq (appellant), is allowed; conviction recorded and sentence awarded to the appellant through impugned judgment dated: 10.04.2019, are hereby set aside. Appellant is acquitted of the charge, he be released from jail forthwith, if not required in any other case.

11. **Murder Reference No.94/2019** is answered in **negative** and death sentence awarded to Muhammad Farooq is not confirmed.

This judgment has been dictated,  
pronounced, prepared and signed  
on 10.01.2023.

**(Aalia Neelum)**  
**Judge**

**(Farooq Haider)**  
**Judge**

**Approved For Reporting.**

**(Aalia Neelum)**  
**Judge**

**(Farooq Haider)**  
**Judge**