

Stereo. HC JD A 38.
Judgment Sheet

**IN THE LAHORE HIGH COURT,
BAHAWALPUR BENCH, BAHAWALPUR.
JUDICIAL DEPARTMENT**

Capital Sentence Reference No.2 of 2021
(The State Vs. Khateeb Hussain)

Criminal Appeal No. 43-ATA of 2021
(Khateeb Hussain Vs. The State and another.)

Criminal Appeal No. 34-ATA of 2021
(Zafar Hussain Vs. The State and another.)

Date of hearing:	21.02.2023.
Appellants by:	Syed Zeeshan Haider, Advocate. (for the appellant namely Khateeb Hussain in Criminal Appeal 43-ATA of 2021). Mr. Muhammad Mushtaq Warraich, Advocate. (for the appellant namely Zafar Hussain in Criminal Appeal No. 34-ATA of 2021).
State by:	Mr. Asghar Ali Gill, Deputy Prosecutor General.
Complainant by:	Mr. Muhammad Umair Mohsin, Advocate.

SADIO MAHMUD KHURRAM, J. – Khateeb Hussain son of Muhammad Hussain and Zafar Hussain son of Ghulam Hussain(convicts) were tried by the learned Judge, Anti-Terrorism Court ,Bahawalpur Division, Bahawalpur, in case F.I.R. No. 142 of 2019 dated 20.03.2019 registered at Police Station Civil Lines District Bahawalpur in respect of offences under sections 302, 353 and 109 P.P.C. and under sections 7, 11-W and 21-I of the Anti-terrorism Act, 1997 for committing the *Qatl-i-Amd* of Khalid Hameed son of Muhammad Sharif (deceased). The learned trial court vide judgment dated 16.01.2021 convicted Khateeb Hussain son of Muhammad Hussain and Zafar Hussain son of Ghulam Hussain (convicts) and sentenced them as under:-

Khateeb Hussain son of Muhammad Hussain:

- i) Death under section 302(b) P.P.C. as Tazir for committing Qatl-i-Amd of Khalid Hameed son of Muhammad Sharif (deceased) and directed to pay Rs.500,000/- as compensation under section 544-A, Cr.P.C. to the legal heirs of the deceased and in case of default thereof, the convict was directed to undergo further six months of simple imprisonment.
The convict was ordered to be hanged by his neck till dead.
- ii) Death under section 7 (a) of the Anti-terrorism Act, 1997 and directed to pay fine of Rs.200,000/- and in case of default thereof, the convict was directed to undergo further six months of simple imprisonment.
The convict was ordered to be hanged by his neck till dead.
- iii) Rigorous Imprisonment for two years under section 353 P.P.C. and directed to pay fine of Rs.50,000/- and in case of default thereof, the convict was directed to undergo further six months of simple imprisonment.
- iv) Rigorous Imprisonment for two years under section 7 (h) of the Anti-terrorism Act, 1997 and directed to pay fine of Rs.50,000/- and in case of default thereof, the convict was directed to undergo further six months of simple imprisonment.

Zafar Hussain son of Ghulam Hussain:

- i) Rigorous Imprisonment for seven years under section 21 (i) read with section 7 (a) of the Anti-terrorism Act, 1997 and also read with sections 302 and 118 P.P.C. and directed to pay fine of Rs.50,000/- and in case of default thereof, the convict was directed to undergo further six months of simple imprisonment .
- ii) Rigorous Imprisonment for five years under section 11-W of the Anti-terrorism Act, 1997, and directed to pay fine of Rs.50,000/- and in case of default thereof, the convict was directed to undergo further six months of simple imprisonment

The convicts were extended the benefit available under Section 382-B of Code of Criminal Procedure, 1898 by the learned trial court. All the sentences awarded to the convicts were ordered to run concurrently by the learned trial court.

2. Feeling aggrieved, Khateeb Hussain son of Muhammad Hussain (convict) lodged Criminal Appeal No. 43-ATA of 2021 assailing his conviction and sentences. Feeling aggrieved, Zafar Hussain son of Ghulam Hussain (convict) lodged Criminal Appeal No. 34-ATA of 2021 assailing his conviction and sentences. The learned trial court submitted Reference under section 374 Cr.P.C. read with section 30(2) of the Anti-terrorism Act, 1997, which has been numbered as Capital Sentence Reference No. 02 of 2021 for confirmation or otherwise of the death sentences awarded to Khateeb Hussain son of Muhammad Hussain (appellant). We intend to dispose of the Criminal Appeal No. 43-ATA of 2021, Criminal Appeal No. 34-ATA of 2021 and the Capital Sentence Reference No.02 of 2021 through this single judgment.

3. Precisely, the facts necessary, as stated by Waleed Khan (PW-12), the complainant of the case, are as under: -

“Stated that on 20.3.2019, I alongwith Adnan Mustafa and Ghulam Yasin came to S.E. College, Bahawalpur to drop my father as routine. My father Khalid Hameed was Associate Professor in English Department, S.E College and was Vice Principal of the College. We parked our vehicle at parking at 8:40 a.m. My father was going towards his office, meanwhile we witnessed accused Khateeb Hussain, present in Court, was present while taking shield of a pillar. He emerged and gave a blow of iron-lock on the head of my father and then repeatedly gave 'churi' blows in the eye, on the eye, cheek, neck and shoulder of my father. My father fell down. We made hue and cry, many students and other persons attracted there. Khateeb Hussain accused present in Court, made alarm that Welcome Party scheduled to be held on 21.3.2019 at S.E. College, Bahawalpur was for promoting vulgarity and Professor Khalid Hameed, Organizer of said Welcome Party, due to which, he (Khateeb Hussain) had murdered him. Accused Khateeb Hussain tried to flee away from the spot, but we alongwith other students of the College caught hold of him with blood stained 'churi'. We handled my father, but he succumbed to the injuries at the spot. We shifted my father to the Hospital in Vehicle. Then I came back to college where police, Rescue 1122 and PFSA Team were already arrived. I

presented application Exh.PE to police whereon F.I.R of instant case was registered. Accused Khateeb Hussain murdered my father in broad daylight, due to which fear and panic spread amongst students and teachers. Police made formal arrest of accused. Thereafter, at the time of postmortem examination, I myself, Adnan Mustafa and Ghulam Yasin identified dead body of my father. After postmortem examination, Medical Officer handed over last worn clothes of my father comprising blood stained off-white shirt P1, blood stained off-white pant P2, blood stained yellow coloured cot P3, brown belt blood stained P4 to Muhammad Imran Constable who further handed over those to Investigating Officer, I.O prepared sealed parcel of said articles and took those into possession vide recovery memo Exh.PB, attested by me and Adnan Mustafa PW. I also handed over to Investigating Officer my blood stained black coloured 'qameez', P12 black shalwar P13, off white cot P14, all blood stained due to handling of my father and caught-holding of accused. I.O prepared sealed parcel and took into possession vide recovery memo Exh.PJ, attested by me and PWS. I. also took into possession chekdar shirt blood stained P15 and black coloured pant P16 of Adnan Mustafa PW and same were also blood stained due to handling of my father and caught holding of accused Khateeb Hussain. I.O prepared sealed parcel of said clothes and took into possession vide recovery memo Exh.PK, attested by me and PWs. Similarly 1.0 also took into possession clothes of Ghulam Yasin PW comprising Mehndi coloured 'qameez' P17 and shalwar P18 and same were also blood stained due to handling of my father and caught holding of accused Khateeb Hussain. 1.0 prepared sealed parcel of said clothes and took into possession vide recovery memo Exh.PM, attested by me and PWs. 1.0 recorded my statements u/s 161 Cr.P.C in this regard.

On 23.3.2019, I myself, Adnan Mustafa and Ghulam Yasin joined investigation of this case. Muhammad Imran T-S.I, Incharge I.T Centre DPO office, Bahawalpur checked the Mobile phone of Khateeb Hussain accused present in court and showed us WhatsApp messages conversated between him and accused Zafar Hussain, present in Court, wherein Zafar Hussain accused, present in Court, was seen instigating Khateeb Hussain for murder of my father. Muhammad Imran T-S.I also prepared 03 hard copy prints P10/1-3 of said messages and took into possession vide recovery memo Exh.PN, attested by Adnan Mustafa and Ghulam Yasin PWS and I got recorded my statement u/s 161 Cr.P.C in this regard wherein I made request to police to join accused Zafar Hussain into investigation as a culprit with Khateeb Hussain.

On 30.3.2019, I myself, Adnan Mustafa and Ghulam Yasin joined investigation of this case and I produced USB P18, containing Videos of accused Khateeb Hussain wherein he confessed his guilt of committing murder of my father. I.O took said USB P18/, into possession vide recovery memo Exh.PQ, after making sealed parcel, attested by me and PWS. I.O recorded my statement u/s 161 Cr.P.C in this regard.”

4. After the formal investigation of the case report under section 173 of the Code of Criminal Procedure, 1898 was submitted before the learned trial court wherein the appellants namely Khateeb Hussain son of Muhammad Hussain and Zafar Hussain son of Ghulam Hussain were sent to face trial.

The learned trial court framed the charge against the accused on 07.11.2019 to which the accused pleaded not guilty and claimed trial.

5. The prosecution in order to prove its case got statements of as many as **sixteen** witnesses recorded. The ocular account of the case was furnished by Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14). Syed Gull Hussain Patwari (PW-1) prepared the scaled site plan of the place of occurrence (Exh.PA). Muhammad Imran (PW-2) stated that on 20.03.2019, the appellant namely Khateeb Hussain was detained by the witnesses along with the *Churri*. Fahad Mustafa (PW-3) stated that on 20.03.2019, he had given first aid to the appellant namely Khateeb Hussain. Muhammad Imran 1160/C (PW-4) stated that on 20.03.2019 he escorted the dead body of the deceased to the hospital and received the last worn clothes of the deceased from the Medical Officer after the post mortem examination of the dead body of the deceased. Abdul Jabbar 2176/C (PW-5) stated that on 23.03.2019, the appellant namely Zafar Hussain was arrested and at the time of his arrest, the mobile phone device (P-5) having two Subscriber Identity Module cards (P-6 and P-7) were recovered from his possession. Aamir Lal, T/SI (PW-7) stated that on 20.03.2019, he got lodged the formal F.I.R (Exh.PD). Syed Muhammad Imran Naqvi, SI (PW-9) stated that on 21.03.2019, Muhammad Ajmal, Inspector (PW-15) handed over to him the Mobile Phone Device recovered from the appellant namely Khateeb Hussain for analysis and he also prepared three pages (P-10/1-3) relating to the screenshots of the conversation between the appellants using WhatsApp Messenger. Muhammad Nawaz 1572/HC (PW-10) stated that on 20.03.2019, Muhammad Ajmal, Inspector (PW-15) handed over to him one sealed parcel

said to contain blood stained cotton and one sealed parcel said to contain blood stained Churri and eleven other sealed parcels and on 21.03.2019, the Investigating Officer of the case , handed over to him one sealed parcel said to contain a blood stained chain lock and on the same day, he handed over all the said parcels to the Investigating Officer of the case for their onward transmission to the office of the Punjab Forensic Science Agency, Lahore . Muhammad Nawaz 1572/HC (PW-10) further stated that on 23.03.2019, the Investigating Officer of the case handed over to him three sealed parcels said to contain mobile phone devices and on 25.03.2019, he handed over the said parcels to Muhammad Iqbal, Inspector (PW-6) for their onward transmission to the office of the Punjab Forensic Science Agency, Lahore and on 30.03.2019, the Investigating Officer of the case handed over to him another sealed parcel said to contain a mobile phone device which on 02.04.2019, he handed over to the Investigating Officer of the case for its onward transmission to the office of the Punjab Forensic Science Agency, Lahore and on 09.04.2019, he received the reports of the Punjab Forensic Science Agency, Lahore along with two Digital Versatile Discs (P-11/1-2) which he handed over to the Investigating Officer of the case. Muhammad Akhtar, SI (PW-8) investigated the case on 20.03.2019 and detailed the facts of his investigation in his statement before the learned trial court. Muhammad Ajmal, Inspector (PW-15) investigated the case from 20.03.2019 till 10.04.2019, arrested the appellant namely Khateeb Hussain on 20.03.2019 and arrested the appellant namely Zafar Hussain on 23.03.2019 and detailed the facts of his investigation in his statement before the learned trial court.

6. The prosecution also got Dr. Ahsan Firdous (PW-11) examined, who on 20.03.2019 was posted as Senior Demonstrator, Forensic Medicine Qaid-e-Azam Medical College, Bahawalpur and on the same day, conducted the post-mortem examination of the dead body of Khalid Hameed son of Muhammad Sharif (deceased). Dr. Ahsan Firdous (PW-11), on examining the dead body of Khalid Hameed son of Muhammad Sharif (deceased) observed as under:-

“ Injury No.1

An incised wound measuring 6.5x1cmx bone exposed was present on the middle of the forehead 03 cm above the root of nose. This wound was linear in shape.

Injury No.2

A ragged shape lacerated wound having a bruise with abrasion at its upper end was present at left side of forehead 1 cm above left eye brow measuring 04 cm x 02 cm x underlying bone exposed and fractured.

Injury No.3 (a)

A linear shape incised wound measuring 3 cm x 0.5 cm x underlying bone not exposed was present on left side of cheek 03 cm below left eye.

Injury No.3 (b)

An incised wound linear in shape was present on left side of cheek 2 cm below injury No.03(a) measuring 4.5 cm x 0.8 cm x underlying muscle cut.

Injury No.4

A linear shape Incised wound measuring 3 cm x 0.5 cm x underlying bone not exposed was present on right side of head 01 cm above the right ear.

Injury No.5

A linear shape incised wound measuring 13 cm x 02 cm x underlying bone having chip fracture at the upper end of wound, the wound was located 05 cm behind the right ear and extending up to vertex of skull on right side.

Injury No.6

A spindle shaped incised wound was present on right side of cheek 04 cm below right eye measuring 1.5 cm x 0.5 cm x underlying bone not exposed.

Injury No.7

Lunar shaped incised wound measuring 2 cm x 0.7 cm x underlying muscle cut was present 02 cm below and behind right ear.

Injury No.8 (a)

A linear shaped incised wound measuring 5 cm x 0.2 cm was present on right side of neck underlying muscle not damaged. The injury was located 5 cm below and behind right ear pinna.

Injury No.8 (b)

An incised wound 3 cm x 0.2 cm x underlying muscle not damaged was present on right side of neck 2 cm below injury No. 8(a).

Injury No.9 (a)

An oblique linear shaped incised wound measuring 4 cm x 1.5 cm was present at nap of neck 6 cm below occiput. The underlying muscle were cut with damage to the underlying blood vessels.

Injury No.9 (b)

A lunar shaped incised wound measuring 3 cm x 1 cm x underlying muscle cut was on the back of neck 02 cm below and away from the Injury No.9(a).

Injury No.9 (c)

A linear shaped incised wound running obliquely 1.5 cm below Injury No.9(b) measuring 2.5cm x 1 cm x underlying muscle cut on the right side of neck at its posterior aspect.

Injury No.10

A linear shaped incised wound measuring 1.4cm x 0.3cm was present on front of neck horizontal in direction at the level of thyroid cartilage.

Injury No.11

An incised wound measuring 1 cm x 0.3 cm x underlying muscle not damaged was present on middle of forearm at its posterior aspect 7 cm above right wrist joint.

Injury No.12

An incised wound measuring 3 cm x 0.5 cm x underlying muscle not damaged was present at right shoulder 4 cm medial and backward to right acromian.

Injury No.13

Right eye was punctured and depressed on its medial aspect with camaged to the cornea. Clotted blood was present in the right eye- ball.

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VI-REMARKS BY MEDICAL OFFICER

After thorough external and internal postmortem examination, I was of the opinion that Injury No.1,3, 5 and 9 have caused damaged to the blood vessels and excessive blood loss whereas Injury No.2 has caused damaged to meninges, cranial heamorrhage (sic) and neurogenic shock. Therefore, Injury No.1,3,5 and 9 and Injury No.2 have collectively caused death in this case. Such type of injuries were sufficient to cause death in ordinary course of nature. All the injuries were ante mortem in nature. Injury No.1, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 were caused by sharp-edged weapon while injury No.2 and 13 were caused by blunt object. The probable time that elapsed between injury and death was less than 15 minutes and between death and postmortem examination within 03 hours.”

The prosecution also got Dr. Ahmad Adnan (PW-16) examined who on 24.03.2019 was posted as Medical Officer BV hospital, Bahawalpur and on the same day had examined the appellant namely Khateeb Hussain and observed the presence of an incised wound on the ring finger of the right hand and a lacerated wound present on the left thumb of the appellant namely Khateeb Hussain and issued the Medico Legal Examination Certificate (Exh.PFF/1).

7. On 23.12.2020, the learned Deputy Prosecutor General gave up the prosecution witnesses namely Ghulam Yaseen , Muhammad Ismail 2143/HC, Muhammad Afzal Abid, Abdul Nasir, Muhammad Wasif, Farhan Rasool, Nasir Zia and Wali Muhammad as being unnecessary and closed the prosecution evidence after tendering in evidence the reports of the Punjab Forensic Science Agency, Lahore (Exh.PGG, Exh.PHH, Exh.PJJ and Exh.PKK) and one Digital Versatile Disc (P-37).

8. After the closure of prosecution evidence, the learned trial court examined the appellants namely Khateeb Hussain son of Muhammad Hussain and Zafar Hussain son of Ghulam Hussain under section 342 Cr.P.C. and in answer to question why this case against you and why the PWs have deposed against you, the appellants namely Khateeb Hussain son of Muhammad Hussain and Zafar Hussain son of Ghulam Hussain replied that they were innocent and had been falsely involved in the case due to suspicion. The appellants namely Khateeb Hussain son of Muhammad Hussain and Zafar Hussain son of Ghulam Hussain further stated that they had not committed any offence and were not involved in the occurrence in any manner. The appellants namely Khateeb Hussain son of Muhammad Hussain and Zafar Hussain son of Ghulam Hussain opted not to get themselves examined under section 340(2) Cr.P.C. however, the appellant namely Zafar Hussain got Shahid Aziz (DW-1) examined in his defence.

9. On the conclusion of the trial, the learned Judge, Anti-Terrorism Court, Bahawalpur Division, Bahawalpur, convicted and sentenced the appellants as referred to above.

10. The contention of the learned counsels for the appellants precisely is that the whole case is fabricated and false. The learned counsels for the appellants submitted that the prosecution remained unable to prove the facts in issue and did not produce any unimpeachable, admissible and relevant evidence. The learned counsels for the appellants further contended that the statements of prosecution witnesses were not worthy of any reliance. The learned counsels for the appellants also submitted that the appellants had no

connection with the occurrence. The learned counsels for the appellants also argued that the recoveries were full of procedural defects, of no legal worth and value and result of fake proceedings. The learned counsels for the appellants finally submitted that the prosecution has totally failed to prove the case against the appellants beyond the shadow of a doubt.

11. On the other hand, the learned Deputy Prosecutor General along with the learned counsel appearing on behalf of the complainant of the case contended that the prosecution has proved its case beyond the shadow of any uncertainty by producing independent witnesses. The learned Deputy Prosecutor General along with the learned counsel appearing on behalf of the complainant of the case further argued that the appellant namely Khateeb Hussain was responsible for committing the *Qatl-i-Amd* of the deceased , whereas the appellant namely Zafar Hussain was responsible for not only instigating the said murder but also glorifying the same. The learned Deputy Prosecutor General along with the learned counsel appearing on behalf of the complainant of the case further argued that the recoveries from the appellants also corroborated the prosecution account. The learned Deputy Prosecutor General along with the learned counsel appearing on behalf of the complainant of the case contended that there was no occasion for the prosecution witnesses to substitute the real offenders with the innocent in this case. Lastly, the learned Deputy Prosecutor General along with the learned counsel appearing on behalf of the complainant of the case prayed for the rejection of appeals.

12. We have heard the learned counsels for the appellants, the learned Deputy Prosecutor General, the learned counsel appearing on behalf of the complainant of the case and with their assistance perused the record and evidence recorded during the trial.

13. In the first instance, we would like to discuss the prosecution case with regard to the appellant namely Khateeb Hussain son of Muhammad Hussain (the appellant in Criminal Appeal No. 43 ATA of 2021). In the instant unfortunate incident, Khalid Hameed, Assistant Professor as well as the Vice Principal, the Government Sadiq Egerton College, Bahawalpur, lost his life on the morning of 20.03.2019 at about 08.40 a.m before the teaching process had to start in the institution. The deceased namely Khalid Hameed, Assistant Professor as well as the Vice Principal, the Government Sadiq Egerton College, Bahawalpur suffered from as many as **fifteen incised wounds and two blunt traumas** on his body during the incident and lost his life (*Dr. Ahsan Firdous (PW-11), who conducted the post-mortem examination of the dead body of Khalid Hameed, though numbered the injuries observed on the dead body of the deceased as injury No.1 to injury No.13 , however, opined that injury No.3 was actually two different injuries and injury No.8 was also two separate injuries , whereas the injury No. 9 was actually three different injuries*). The prosecution in order to prove the ocular account, got Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) examined. The prosecution witnesses namely Waleed Khan (PW-12) and Adnan Mustafa (PW-13) were related to the deceased. The deceased namely Khalid Hameed was the father of the prosecution witness namely Waleed Khan (PW-12) and the brother in-law of the prosecution witness

namely Adnan Mustafa (PW-13). It is also a fact that the other prosecution witness namely Muhammad Waseem Nawaz (PW-14) was performing his duties as an Associate Professor, the Government Sadiq Egerton College, Bahawalpur, the same institution inside which Khalid Hameed (deceased) was murdered. The prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) explained their presence at the place of occurrence, at the time of occurrence with consistence. We have noted that the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14), in a very natural and forthright manner, narrated the occurrence and gave each and every detail of the same. It is also an admitted fact that the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) had no previous enmity with the appellant namely Khateeb Hussain and during the whole course of trial not even a suggestion was made that there existed any enmity of the appellant namely Khateeb Hussain with the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14), which could have motivated the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14), to depose against the appellant namely Khateeb Hussain. In this state of things, when the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) had provenly no enmity with the appellant namely Khateeb Hussain to involve him in the occurrence without any reason, then the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) can be considered as independent witnesses.

Furthermore, during the course of cross-examination of the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14), the sequence of the arrival of the prosecution witnesses at the place of occurrence was probed and all the facts necessary to prove that the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) were present at the place of occurrence and also witnessed the same were brought on record and proved beyond doubt. It was stated by the prosecution witnesses namely Waleed Khan (PW-12) and Adnan Mustafa (PW-13) , that on the day of occurrence i.e 20.03.2019 at 8.40 a.m, they arrived at the Government Sadiq Egerton College, Bahawalpur to drop off Khalid Hameed (deceased), as Khalid Hameed (deceased) was performing his duties as Assistant Professor as well as the Vice Principal of the Government Sadiq Egerton College, Bahawalpur and just as Khalid Hameed (deceased) was proceeding towards his office, the appellant namely Khateeb Hussain initially hit Khalid Hameed (deceased) with an iron chain lock and thereafter gave repeated blows with the *Churri* (P-8), causing as may as fifteen injuries with the same on various parts of the body of Khalid Hameed (deceased), till he died. During the course of cross-examination the prosecution witness namely Waleed Khan (PW-12) explained that his house was at a distance of 1.5 kilometres from the college, whereas his shop was in front of the BV hospital, Bahawalpur which again was at a distance of 1.5 kilometres from the college, therefore, firstly , as a routine , he would drop off his father , the deceased namely Khalid Hameed at the college and then proceed to his shop. The prosecution witness namely Waleed Khan (PW-12), during cross-examination, explained as under:-

"My house is at a distance of about 1½ km from S.E. College/place of occurrence. House of Adnan Mustafa PW is about one km away from S.E. College. Distance between house of Ghulam Yasin PW and S.E. College is about 02 kms. **Our house is situated towards Eastern side of S.E. College** while that of Ghulam Yasin PW is situated towards Western side of S.E. College.

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I deal in medical equipments (sic). In the days of occurrence, my shop was in front of B.V. Hospital, Bahawalpur. The distance between BV Hospital and S.E. College is about 1½ km. "

In this manner, it was quite natural and indeed the routine of the prosecution witness namely Waleed Khan (PW-12) to first drop his father at the college and then proceed to his shop. Similarly, the prosecution witness namely Adnan Mustafa (PW-13) also explained that on the day of the occurrence he had accompanied the deceased and the prosecution witness namely Waleed Khan (PW-12), his maternal nephew, when he witnessed the occurrence. The prosecution witness namely Adnan Mustafa (PW-13), during cross-examination, explained as under:-

" I had gone to S.E. College on the day of occurrence. Khalid Hameed deceased was my brother-in-law (Behnoee)."

As mentioned above, the prosecution witness namely Muhammad Waseem Nawaz (PW-14), was performing his duties as an Associate Professor, at the Government Sadiq Egerton College, Bahawalpur, the same institution inside which Khalid Hameed (deceased) was murdered and in his statement before the learned trial court explained that he was waiting for the teaching process to start when he was attracted to the place of occurrence after hearing the hue and cry and thereafter witnessed the occurrence. The prosecution witness

namely Muhammad Waseem Nawaz (PW-14) , during cross-examination , stated as under:-

"I was sitting in staff room of college since about 10/15 minutes when I heard noise/commotions. The occurrence continued to take place in Veranda for about 1½ or 02 minutes. No occurrence took place within our staff room. When I reached into the Veranda/place of occurrence, 03/04 persons had already gathered there. We were three Professors sitting in staff room when we heard commotions. The office room of the deceased is attached with the Veranda, where occurrence took place. The occurrence continued to take place also in office room of the deceased for about 03/04 minutes. " (emphasis supplied)

During the course of the investigation and the trial, no question was raised regarding that the prosecution witness namely Muhammad Waseem Nawaz (PW-14) was not performing his duties as an Associate Professor, at the Government Sadiq Egerton College, Bahawalpur or that he was on leave on the day when the occurrence took place. In this manner, no exception can be taken to the presence of the prosecution witness namely Muhammad Waseem Nawaz (PW-14) at the place of occurrence, at the time of occurrence . During the course of cross-examination, the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) remained consistent with regard to all the relevant facts.

14. The learned counsel for the appellant has argued that the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) made no effort to save the deceased which proved that they were not present at the place of occurrence, at the time of occurrence. This argument of learned counsel for the appellant is also not tenable for the reason that the prosecution witnesses namely Waleed Khan

(PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) explained that the appellant namely Khateeb Hussain was so lethally quick in his actions that there hardly existed any opportunity for the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) to have intervened and stopped the appellant namely Khateeb Hussain from continuing to give repeated blows to the deceased till his death. The prosecution witness namely Waleed Khan (PW-12) explained during cross-examination that he was standing at a distance of about 15 feet from his father as he was attacked and stated as under:-

“I had shown the place to police where I was standing at the time of occurrence. The said place was at a distance of about 32 ft from the office of father. The said place was at a distance of about 12/15 ft from the Veranda, where my father was attacked by accused. We were three persons present at the place of occurrence when the accused started to cause injuries to my father. Many persons had gathered when my father was assaulted in the room of his office. ”

It is also a fact that the appellant namely Khateeb Hussain was indeed caught hold by the witnesses as well as the other students who were attracted to the place of occurrence and thereafter the custody of the appellant namely Khateeb Hussain was handed over to the police authorities. Muhammad Imran (PW-2) stated that on 20.03.2019, the appellant namely Khateeb Hussain was restrained and detained by the witnesses along with the *Churri*. Similarly, Fahad Mustafa (PW-3) stated that on 20.03.2019, he had given first aid to the appellant namely Khateeb Hussain when he was present in the college having been retained there by the witnesses. Muhammad Akhtar, SI (PW-8) also stated that at the time of receiving the written application (Exh.PE) , the custody of the appellant namely Khateeb Hussain along with the *Churri* (P-8)

was handed over to him by the witnesses . The prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) also stated that they caught hold of the appellant namely Khateeb Hussain after the occurrence and handed over him to the police authorities. The prosecution witness namely Waleed Khan (PW-12), during cross-examination , stated as under:-

“I alongwith Ghulam Yasin and Adnan Mustafa had over powered the accused and I also mentioned this factum in application Exh.PE. When we apprehended the accused, my father had succumbed to the Injuries.

.....

I alongwith witnesses had handed over the 'churi' the weapon of offence to the police. The accused and 'churi' the weapon of offence, were in custody of students till arrival of police. ”

The learned counsel for the appellant namely Khateeb Hussain remained unable to explain the fact of the arrest of the appellant namely Khateeb Hussain from the place of occurrence, while armed with the *Churri* (P-8) , just after the occurrence. Indeed, because the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) were present at the place of occurrence , at the time of occurrence , therefore, they were able to overcome and detain the appellant namely Khateeb Hussain alongwith the *Churri* (P-8) and thereafter handed over the custody of the appellant namely Khateeb Hussain to the police authorities.

15. We have also noted that the blood stained clothes of the prosecution witnesses namely Waleed Khan (PW-12) and Adnan Mustafa (PW-13) were sent to the office of the Punjab Forensic Science Agency, Lahore for analysis

and according to the report of the Punjab Forensic Science Agency, Lahore (Exh.PGG), the *Qameez* (P-12), *Shalwar* (P-13) and Waistcoat (P-14) as worn by the prosecution witness namely Waleed Khan (PW-12) on the day of occurrence and the shirt (P-15) and the trouser (P-16) as worn by the prosecution witness namely Adnan Mustafa (PW-13) on the day of occurrence were found to be stained with human blood. The prosecution produced evidence with regard to the handing over the said clothes of the prosecution witnesses namely Waleed Khan (PW-12) and Adnan Mustafa (PW-13) to the Investigating Officer of the case and their transmission from the Police Station to the Punjab Forensic Science Agency, Lahore. The presence of human blood the said clothes of the prosecution witnesses namely Waleed Khan (PW-12) and Adnan Mustafa (PW-13) also proves that they were present at the place of occurrence and had indeed witnessed the same. Moreover, according to column No.8 of the inquest report (Exh.PH/1) relating to the deceased namely Khalid Hameed, at the time of preparation of the same, the eyes and mouth of the deceased were also closed and had the deceased met his death in absence of the witnesses, then his eyes and mouth would not have been found closed. Dr. Ahsan Firdous (PW-11) who conducted the post mortem examination of the dead body of the deceased namely Khalid Hameed, also noted that the eyes and the mouth of the deceased were closed at the time of the post mortem examination of the dead body of the deceased. It is correct that it is a tradition in Pakistan that after the death, people immediately close the eyes and mouth of the deceased. Thus, the closed eyes and mouth of the deceased at the time of the preparation of the inquest report further proves the prosecution's version regarding the presence of the witnesses at the place, at the time of occurrence.

16. The learned counsel for the appellant namely Khateeb Hussain has also argued repeatedly, that the place of occurrence could not be proved. We find that the said argument of the learned counsel for the appellant namely Khateeb Hussain has no basis for the fact that the prosecution witnesses namely Waleed Khan (PW-12) Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) explained with clarity that initially Khalid Hameed (deceased) was hit with a chain lock by the appellant namely Khateeb Hussain as he was proceeding towards his office and subsequently the appellant Khateeb Hussain continued to inflict fatal blows with the Churri (P-8) on the person of the deceased in his office and the deceased eventually lost his life inside his office. The prosecution witness namely Waleed Khan (PW-12), stated during cross-examination, as under:-

“The dead body of my father was lying on ground of room of office.”

Similarly the prosecution witness namely Adnan Mustafa (PW-13) stated during cross-examination , as under:-

“Police had collected blood from. place of occurrence in my presence from one place i.e. the room of office where the dead body of deceased was lying.”

Muhammad Ajmal, Inspector (PW-15),the Investigating Officer of the case, visited the place of occurrence and took into possession the blood-stained cotton through the recovery memo (Exh. P.R). The report of the Punjab Forensic Science Agency, Lahore (Exh. P.GG) establishes that the said blood stained cotton taken from the place of occurrence was of human origin. The place of occurrence was further established by the rough site plan of the place of occurrence (Exh. P.EE.) as prepared by Muhammad Ajmal, Inspector (PW-15),the Investigating Officer of the case, and the scaled site plan of the place

of occurrence (Exh.PA) as prepared by Syed Gull Hassan Patwari (PW-1). A perusal of both the site plans (Exh. P.EE. and Exh.PA) reveals that the occurrence took place at the same place which was identified being the place of occurrence by the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14), being the office of the deceased inside the college .

17. Furthermore, as mentioned above, the occurrence in question had admittedly taken place in broad daylight at **08.40 a.m** and the same, therefore, could not have gone un-witnessed nor could have the culprit escaped unobserved. As it was a broad daylight occurrence, the question of misidentification of the appellant namely Khateeb Hussain even does not arise. It is also a fact of the prosecution case that there was nothing in the line of sight of the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) which could have obstructed the view of the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) and prevented them from witnessing the appellant namely Khateeb Hussain committing occurrence. According to the prosecution witness namely Waleed Khan (PW-12), he was at a distance of about 15 feet from his deceased father when he was attacked, whereas according to the prosecution witness namely Adnan Mustafa (PW-13) , he was also at a distance of about 18 feet from the place of occurrence , whereas the prosecution witness namely Muhammad Waseem Nawaz (PW-14) stated that he was at a distance of just 5/6 feet from the appellant namely Khateeb Hussain. The prosecution witness namely Adnan Mustafa (PW-13) , during cross-examination , stated as under:-

“ I was 18/20 ft away from the place of occurrence at the time of occurrence.”

The prosecution witness namely Muhammad Waseem Nawaz (PW-14) , during cross-examination , stated as under:-

“I was at a distance of 05/06 ft, from where the accused was apprehended.”

Furthermore, in the incident in issue, the weapon had been used from very close proximity and, thus, it would not have been difficult for the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) to identify the present appellant namely Khateeb Hussain. Reliance in this regard is placed on the case of **“*Muhammad Farhan Alias Irfan Versus The State*” (2021 S C M R 488)** wherein the august Supreme Court of Pakistan has held under:-

“5. The witnesses are closely related; the complainant lost his brother and a nephew related in no less degree with Muhammad Babar (PW-13) and Muhammad Waleed (PW-14) being father and brother, callously done to death in the midst of city during broad daylight, leaving no space to admit any hypothesis of substitution by the witnesses. Death of Malik Irfan and Arshad alias Pehlwan, nominated in the crime report alongside the appellant on the day one, while resisting a police encounter goes a long way to implicate the appellant as being a comrade in the crime.”

18. We have also appreciated the fact that the occurrence in this case took place at about **08.40 a.m** and was reported by the complainant namely Waleed Khan (PW-12), immediately. According to the prosecution evidence, the written application (Exh. P.E.) of Waleed Khan (PW-12) was presented to Muhammad Akhtar, SI (PW-8) at the place of occurrence, on the day of the occurrence at about **09.45 a.m.** and thereafter the formal F.I.R (Exh.PD) was got registered at the Police Station on the same day at 09.55 a.m by Aamir Lal

T/SI (PW-7). Thus, it is apparent that the written application (Exh. P.E.) of Waleed Khan (PW-12) was submitted immediately and the formal F.I.R (Exh.PD) was registered with remarkable promptitude, especially when Waleed Khan (PW-12), the complainant of the case, had suffered the trauma of the death of his father namely Khalid Hameed (deceased) at the hands of the appellant namely Khateeb Hussain, who himself was a student of the said college and was studying in the 5th semester of B.S English program offered by the college. Waleed Khan (PW-12), not only named the appellant namely Khateeb Hussain but also mentioned each and every minor as well as a material fact of the incident in his written application (Exh. P.E.), which of course, excludes the possibility of deliberation or consultation regarding the false implication of the appellant namely Khateeb Hussain in the instant case. The essential features of the occurrence have been elaborately explained in the written application (Exh. P.E.) of Waleed Khan (PW-12). The promptitude in lodging of the F.I.R. also corroborates the case of the prosecution as against the appellant namely Khateeb Hussain. This promptitude in reporting the matter to the police also establishes the presence of the witnesses at the place of occurrence, at the time of occurrence and supports their narrative. Not only the written application (Exh.PE) was submitted with promptitude but the statements under section 161 of the Code of Criminal Procedure, 1898 of the prosecution witnesses namely Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) were also recorded immediately. The learned counsel for the appellant namely Khateeb Hussain has vehemently argued that the prosecution witness namely Muhammad Waseem Nawaz (PW-14) stated that he had not joined the investigation of the case, therefore, his evidence had no value, however, we find that the prosecution witness namely Muhammad

Waseem Nawaz (PW-14) , during cross-examination , specifically stated that he had indeed got recorded his statement under section 161 of the Code of Criminal Procedure, 1898. Muhammad Waseem Nawaz (PW-14) , during cross-examination , stated as under:-

“My statement u/s 161 Cr.P.C was recorded after an hour of arrival of the police at the spot,”

During the course of the trial, it was proved that the written application (Exh. PE.) of Waleed Khan (PW-12), upon the basis of which the formal F.I.R (Exh.PD) was registered, was a genuine document and was made spontaneously, naturally and contained the true facts, devoid of any manipulation. In this regard, reference is made to the judgment in the case titled as “Muhammad Waris v. The State” (**2008 SCMR 784**) wherein the august Supreme Court of Pakistan was pleased to observe as under:--

“The names of the said two eye-witnesses could not have been mentioned in such a promptly lodged F.I.R. if they had not been with the deceased persons at the time of their death.”

Reliance is also placed on the case of MUHAMMAD ARSHAD Versus The State (**2020 S C M R 2025**) wherein it has been held as under:-

“There is no denial to this fact that the instant occurrence has taken place in broad daylight in which one person was done to death in a brutal manner whereas 02 women folk were given severe injuries. The crime report was lodged with promptitude, although the inter-se distance between the place of occurrence and the police station is 10-KM. The facts and figures narrated above, rules out any possibility of deliberation and consultation. Further that there is only single accused nominated in the crime report which shows the fairness of the prosecution which normally is against the prevalent custom in our society.”

Reliance is also placed on the case of Noor Sultan and others Versus The State (**2021 S C M R 176**) wherein it has been held as under:-

“The instant occurrence has taken place on 28.02.2020 at 6.15 p.m. while the matter was reported to the police within 2.15 hours whereas inter-se distance between the place of occurrence and police station is 16 kilometers. Promptness in reporting the matter to the police reflect that there is no chance of any consultation or deliberation at the part of prosecution.”

Reliance is also placed on the case of Shaheen Ijaz Alias Babu Versus The State (2021 S C M R 500) wherein it has been held as under:-

“petitioner's nomination in a broad daylight incident by resident witnesses hardly admits a space to entertain any hypothesis of mistaken identity or substitution. Prompt recourse to law straight at the police station excludes every possibility of deliberation or consultation.”

Reference is also made to the judgment in the case titled as “Muhammad Aslam v. The State” (**2012 SCMR 593**) wherein the august Supreme Court of Pakistan was pleased to observe as under:--

“F.I.R. in the present case was recorded with a promptitude and in such circumstances prosecution has been able to prove the case against the appellant beyond any shadow of doubt.”

19. We have noted that not only the written application (Exh. P.E.) of Waleed Khan (PW-12) and the formal F.I.R (Exh.PD) were recorded with promptitude but the post mortem examination of the dead body of the deceased was also conducted without any loss of time. According to the statement of Dr. Ahsan Firdous (PW-11), he conducted the Post-Mortem Examination of the dead body of the deceased on **20.03.2019 at 10.45 a.m** when the occurrence had taken place on **20.03.2019 at 08.40 a.m** and the written application (Exh. P.E.) of Waleed Khan (PW-12) had been submitted on 20.03.2019 at 09.45 a.m and the formal F.I.R (Exh.PD) had been registered on 20.03.2019 at 09.55 a.m. Dr. Ahsan Firdous (PW-11) also explained that prior to conducting the post mortem examination of the dead body of the deceased ,

the deceased had not been examined or treated by anyone. Dr. Ahsan Firdous (PW-11), during cross-examination , explained as under:-

“Professor Khalid Hameed's dead body was received by me, therefore, no question arises of any first aid and report thereon.”

The promptitude in the holding of the post mortem examination of the dead body of the deceased also proves that the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) had witnessed the occurrence and thereafter the prosecution witness namely Waleed Khan (PW-12) reported the same to the police promptly and therefore, after completing all the formalities, the post mortem examination of the dead body of the deceased was conducted within two hours of the occurrence.

20. The medical evidence produced by the prosecution in the case, proves that the deceased, namely Khalid Hameed, succumbed to the injuries caused by the appellant namely Khateeb Hussain. The medical evidence fully supports the ocular account. Dr. Ahsan Firdous (PW-11) noted presence of as many as fifteen incised wounds and two blunt traumas on the body of the deceased. Dr. Ahsan Firdous (PW-11) further opined that the *fifteen incised wounds* (*Dr. Ahsan Firdous (PW-11) though numbered the injuries observed on the dead body of the deceased as injury No.1 to injury No.13 , however, opined that injury No.3 was actually two different injuries and injury No.8 was also two separate injuries , whereas the injury No. 9 was actually three different injuries*) observed by him on the dead body of Khalid Hameed son of Muhammad Sharif (deceased) were caused by the use of a sharp edged weapon and were sufficient to cause death in the ordinary course of nature. As mentioned above, the prosecution

witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) saddled the appellant with the responsibility of causing the said fatal injuries to Khalid Hameed son of Muhammad Sharif (deceased). The opinion of Dr. Ahsan Firdous (PW-11) with regard to the time which elapsed between the receiving of the injuries by the deceased and his death as and the time which elapsed between the death of the deceased and the post mortem examination also offers further corroboration of the statements of the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14). In view of the above discussion, it is ascertained and proved that the intent of the appellant namely Khateeb Hussain was to cause death and that he is guilty of *Qatl-i-Amd* of the deceased namely Khalid Hameed son of Muhammad Sharif .

21. We have also noted that the *Churri* (P-8) which was recovered from the possession of the appellant namely Khateeb Hussain after he was overwhelmed by the witnesses was sent to the Punjab Forensic Science Agency, Lahore for analysis and according to the report of the Punjab Forensic Science Agency, Lahore (Exh.PGG), the DNA profile obtained from the stained section of the shirt of the deceased and the DNA profile obtained from the blade of the *Churri* (P-8) recovered from the appellant namely Khateeb Hussain matched the DNA profile of the deceased. Furthermore, the DNA profile obtained from the shirt of the appellant namely Khateeb Hussain matched the DNA profile of the deceased also. In this manner, the report of the Punjab Forensic Science Agency, Lahore (Exh.PGG) provides further proof against the appellant namely Khateeb Hussain.

22. We have also noted that the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) also proved the motive which prevailed with the appellant namely Khateeb Hussain for committing the murder of Khalid Hameed (deceased) as being annoyed by holding of a function. During the course of the investigation, the application (P-26) submitted for the holding of the said function was taken into possession. The prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) also gave evidence that the appellant namely Khateeb Hussain ,after attacking the deceased, raised a cry that he, being annoyed by the announcement of holding of the said function, had murdered the deceased.

23. We have noted that the iron chain lock (P-32) was also shown to be had got recovered by the appellant Khateeb Hussain on 21.03.2021 but as the said recovery was made from the vicinity of the place of occurrence, hence we are not believing the said recovery as abundant caution. We have also noted that a video footage contained in a memory card (Exh.P-18/1) was also handed over by the complainant of the case to the Investigating Officer of the case on 30.03.2019, which video footage showed the appellant namely Khateeb Hussain admitting to his guilt, however, Muhammad Ajmal, Inspector (PW-15),the Investigating Officer of the case, admitted during cross-examination that he had not recorded the statement of the person who had recorded the said video footage as contained in a memory card (Exh.P-18/1), therefore, in absence of that proof, the said video footage as contained in a memory card (Exh.P-18/1) cannot be considered as admissible evidence.

24. We have scrutinized the evidence of the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) and find that they proved themselves to be truthful witnesses and implicit reliance can be placed upon their statements. Not even a single inconsistency could be brought up in their statements during cross-examination despite the fact that the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) were cross-examined at length. There is no evidence on record that the said prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) were motivated by any enmity to depose against the appellant namely Khateeb Hussain. The prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) were subjected to cross-examination but the defence failed to make cracks in their depositions and the genuineness of their statements has been proved. Moreover, during the cross-examination, the sequence of the occurrence was brought on record and the witnesses remained consistent. Hence, in view of the above facts, the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14), by no stretch of the imagination, can be declared as chance witnesses or be declared not to be present at the time of occurrence as they explained their arrival at the place of occurrence in the most natural and consistent manner. The presence of the prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) at the place of occurrence, at the time of occurrence, stands proved beyond a shadow of doubt.

Additionally, prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) had no reason to falsely implicate the appellant namely Khateeb Hussain in the commission of the offence or substituting the appellant namely Khateeb Hussain and letting off the real culprit. There is no such material available on record that would indicate substitution of the appellant namely Khateeb Hussain in the case with the real culprit. Substitution is a phenomenon of a rare manifestation because even the interested witnesses would not normally allow the real culprit for the murder of their relations to let off by involving an innocent person. In this context, reference can usefully be made to the case of "Irshad Ahmad and others v. The State and others" (PLD 1996 SC 138). The prosecution witnesses namely Waleed Khan (PW-12), Adnan Mustafa (PW-13) and Muhammad Waseem Nawaz (PW-14) in a forthright manner, held the appellant namely Khateeb Hussain responsible for committing the Qatl-i-Amd of the deceased namely Khalid Hameed .

25. The learned counsel for the appellant namely Khateeb Hussain has also argued that the appellant was aged about 21 years at the time of occurrence, hence, the same may be considered as a ground for awarding lesser sentence. Being young of age on its own is not a mitigating circumstance as held by the august Supreme Court of Pakistan in the case of "*Muhammad Yar v. The State*" (1997 SCMR 401) wherein it was observed as under:--

"Lastly an objective attempt was made by the learned counsel for the appellant that the appellant was young boy of 18 years, hence his sentence may be altered from death to life imprisonment. We are not convinced by his such contention. Young age by itself is not a mitigating circumstance. The appellant had killed three persons in broad daylight. He does not deserve any sympathy. We have gone through the evidence produced by the prosecution, (sic) in juxtaposition. The trial Court as well as the Appellate Court have properly assessed the evidence produced by the prosecution and the defence version. It is neither the case of misreading or non-reading of the evidence. Hence there is no material in the appeal which may call for

interference by this Court. In result of our above said observations the appeal is dismissed."

Reliance is placed upon the case of "*Faisal Aleem v. The State*" (**PLD 2010 SC 1080**) wherein august Supreme Court of Pakistan has held as under:--

'There is no cavil to the proposition that youth of accused alone does not constitute such an extenuating circumstance as would justify imposition of lesser penalty prescribed by law" *Harnamun v. Emperor* (AIR 1928 Lah. 855), *Maghar Singh Naghar Singh and others v. Emperor* (AIR 1941 Lah. 220), *The State v. Tasiruddin* (PLD 1962 Dacca 46), *Sher Hassan v. The State* (PLD 1959 SC (Pak) 480), *Ghulam Hyder v. The State* (1970 PCr.LJ 1052)".

26. We have also noted that the appellant namely Khateeb Hussain has been convicted and sentenced for the commission of offences under sections 7 (a) and 7(h) of the Anti-terrorism Act, 1997 ,however have found that the prosecution did not prove that the appellant namely Khateeb Hussain had committed offences under sections 7 (a) and 7(h) of the Anti-terrorism Act, 1997 . Undeniably, it is an admitted fact that provisions of Anti-terrorism Act, 1997 are co-related and ancillary to the substantive offence, which in all fairness is the provision of section 302, P.P.C. The gravity of said substantive offence can lead the court to the conclusion whether the provisions of Anti-terrorism Act, 1997 are attracted or not. Anti-terrorism Act, 1997 is a special law enacted with a special intent and purpose, which can be gathered from the bare reading of Preamble of the said Act. It is principle of legislation that the preamble of any enactment is always considered as *grundnorm* of the legislation, which expresses the postulates to attract the said provision of the enactment according to its scope of legislation. As stated above, the Anti-terrorism Act, 1997 is a special enactment and a special enactment needs to be taken in perspective of its own object. Any departure from the same would be a negation of its object and spirit. A preamble of a statute explains the very purpose and underlying philosophy behind the enactment. To better

understand the scheme of Anti-terrorism Act, 1997, it would be in order to reproduce the Preamble of the Act, which reads as under:-

"An act to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences;

Whereas it is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto;"

A bare perusal of the Preamble shows that the basic purpose behind the enactment of the Anti-terrorism Act, 1997, was to prevent, (i) terrorism, (ii) sectarian violence, and (iii) for speedy trial of heinous offences. The word "terrorism" has been given the same meaning as assigned in section 6 of the Anti-terrorism Act, 1997, which reads as under:-

"6. Terrorism.—(1) In this Act, "terrorism" means the use or threat of action where:-

(a) the action falls within the meaning of subsection (2); and

(b) the use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or a foreign government or population or an international organization or create a sense of fear or insecurity in society; or

(c) the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause or intimidating and terrorizing the public, social sectors, media persons, business community or attacking the civilians, including damaging property by ransacking, looting, arson or by any other means, government officials, installations, security forces or law enforcement agencies:

Provided that nothing herein contained shall apply to a democratic and religious rally or a peaceful demonstration in accordance with law.

(2) An "action" shall fall within the meaning of subsection (1), if it:-

(a) involves the doing of any thing that causes death;

(b) involves grievous violence against a person or grievous bodily injury or harm to a person;

(c) involves grievous damage to property including government premises, official installations, schools, hospitals, offices or any other public or private property including damaging property by ransacking, looting or arson or by any others means;

(d) involves the doing of any thing that is likely to cause death or endangers person's life;

(e) involves kidnapping for ransom, hostage-taking or hijacking;

(ee) involves use of explosive by any device including bomb blast 2[or having any explosive substance without any lawful justification or having been unlawfully concerned with such explosive;

(f) incites hatred and contempt on religious, sectarian or ethnic basis to strip up violence or cause internal disturbance;

(g) involves taking the law in own hand, award of any punishment by an organization, individual or group whatsoever, not recognized by the law, with a view to coerce, intimidate or terrorize public, individuals, groups, communities, government officials and institutions, including law enforcement agencies beyond the purview of the law of the land;

(h) involves firing on religious congregation, mosques, imambargahs, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship;

(i) creates a serious risk to safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civic life;

(j) involves the burning of vehicles or any other serious form of arson;

(i) involves extortion of money ("bhatta") or property;

(l) is designed to seriously interfere with or seriously disrupt a communication system or public utility service;

(m) involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties;

(n) involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant;

(o) involves in acts as part of armed resistance by groups or individuals against law enforcement agencies; or

(p) involves in dissemination, preaching ideas, teachings and beliefs as per own interpretation on FM stations or through any other means of communication without explicit approval of the government or its concerned departments.]

(3) The use or threat of use of any action falling within subsection (2) which involves the use of firearms, explosive or any other weapon is terrorism, whether or not subsection (1)(c) is satisfied.

(3A) Notwithstanding anything contained in subsection (1), an action in violation of a convention specified in the Fifth Schedule shall be an act of terrorism under this Act.

(4) In this section "action" includes an act or a series of acts.

(5) In this Act, terrorism includes any act done for the benefit of a proscribed organization.

(6) A person who commits an offence under this section or any other provision of this Act, shall be guilty of an act of terrorism.

(7) In this Act, a "terrorist" means:-

(a) an individual who has committed an offence of terrorism under this Act, and is or has been concerned in the commission, preparation, 1[facilitation, funding] or instigation of acts of terrorism;

(b) an individual who is or has been, whether before or after the coming into force of this Act, concerned in the commission, preparation, 1[facilitation, funding] or instigation of acts of terrorism, shall also be included in the meaning given in clause (a) above."

Section 6 of the Anti-terrorism Act, 1997 defines terrorist acts, section 7 of the Anti-terrorism Act, 1997 provides punishment for such acts whereas section 8 of the Anti-terrorism Act, 1997 prohibits acts intended or likely to stir up sectarian hatred mentioned in clauses (a) to (d) thereof. The word "sectarian" has been described as "pertaining to, devoted to, peculiar to, or one which promotes the interest of a religious sects, or sects, in a bigoted or prejudicial manner". However, the word "heinous offence" has not been described in the Anti-terrorism Act, 1997. In common parlance "heinous offence" means an offence which is serious, gruesome, brutal, sensational in character or shocking to public morality and which is punishable under laws of the land. A bare reading of the Anti-terrorism Act, 1997 reveals that an Anti-Terrorism Court has been conferred jurisdiction not only to try all those offences which attract the definition of 'terrorism' provided by the Anti-terrorism Act, 1997 but also some other cases, which have been specified in Third Schedule of the Anti-terrorism Act, 1997 involving heinous offences which do not fall in the said definition of terrorism. The sole purpose of trying such offences by the Anti-Terrorism Court is for speedy trial of such heinous offences irrespective of the fact that they do not fall within the ambit of 'terrorism'. The august Supreme Court of Pakistan in the case of "*Ghulam Hussain v. The State*" (**PLD 2020 SC 61**), while elaborately discussing the scope and intent of the legislature behind the enactment of Anti-terrorism Act, 1997, has held that "an act of 'terrorism' is not just a grave offence but it is a

class and species apart and this class or species has to be understood in its true and correct perception and perspective otherwise every serious offence may be found by one Judge or the other to involve terrorism depending upon a subjective assessment of the potential of the act to create some sense of fear or insecurity in some section of the society as such an approach may not be wholesome as it may ultimately result in every case of a serious offence landing in a Special Court and thereby rendering the ordinary courts substantially redundant. The august Supreme Court of Pakistan declared in the case of "*Mumtaz Ali Khan Rajban and another v. Federation of Pakistan and others*" (**PLD 2001 SC 169**) that the subject matters of the Suppression of Terrorist Activities (Special Courts) Act, 1975 and the Anti-terrorism Act, 1997 , were "different" and their respective applicability was "governed by different criteria". The august Supreme Court of Pakistan further held that the "*distinction between cases of terrorism and cases of specified heinous offences not amounting to terrorism but triable by an Anti- Terrorism Court has already been recognized by this Court in the cases of Farooq Ahmed v. State and another (2020 SCMR 78), Amjad Ali and others v. The State (PLD 2017 SC 661) and Muhammad Bilal v. The State and others (2019 SCMR 1362)*". It has been clarified by the august Supreme Court of Pakistan that such specified heinous offences are only to be tried by an Anti-Terrorism Court and that court can punish the person committing such specified heinous offences only for commission of those offences and not for committing terrorism because such offences do not constitute terrorism. The cases of the offences specified in entry No. 4 of the Third Schedule to the Anti-terrorism Act, 1997 , are cases of those heinous offences which do not per se constitute the offence of terrorism but such cases are to be tried by an Anti-Terrorism

Court because of their inclusion in the Third Schedule. In cases of heinous offences mentioned in entry No. 4 of the said Schedule, an Anti-Terrorism Court can pass a punishment for the said offence and not for committing the offence of terrorism. It may be pertinent to mention here that the offence of abduction or kidnapping for ransom under section 365-A, P.P.C. is included in entry No. 4 of the Third Schedule and kidnapping for ransom is also one of the actions specified in section 7(e) of the Anti-terrorism Act, 1997 but an ordinary case of abduction or kidnapping for ransom under section 365-A, P.P.C. is merely triable by an Anti-Terrorism Court but if kidnapping for ransom is committed with the design or purpose mentioned in clauses (b) or (c) of subsection (1) of section 6 of the Anti-terrorism Act, 1997 , then such offence amounts to terrorism attracting section 7(e) of that Act. In the former case, the convicted person is to be convicted and sentenced only for the offence under section 365-A, P.P.C. whereas in the latter case, the convicted person is to be convicted both for the offence under section 365-A, P.P.C. as well as for the offence under section 7(e) of the Anti-terrorism Act, 1997 . The same may also be said about the other offences mentioned in entry No. 4 of the Third Schedule to the Anti-terrorism Act, 1997 pertaining to "Use of firearms or explosives by any device, including bomb blast in a mosque, imambargah, church, temple or any other place of worship, whether or not any hurt or damage is caused thereby", "Firing or use of explosive by any device, including bomb blast in the court premises", "Hurt caused by corrosive substance or attempt to cause hurt by means of a corrosive substance" and "Unlawful possession of an explosive substance or abetment for such an offence under the Explosive Substances Act, 1908". Such distinction between cases of terrorism and other heinous offences by itself explains and recognizes

that all heinous offences, howsoever serious, grave, brutal, gruesome, macabre or shocking, do not *ipso facto* constitute terrorism which is a species apart. The august Supreme Court of Pakistan in the case of "*Ghulam Hussain And Others Versus The State and Others*" (**P L D 2020 Supreme Court 61**) has held as under :-

“15. The resume of our legislative developments in the field of terrorism shows, as already observed in the case of Basharat Ali (supra), that with different laws and definitions of terrorist act or terrorism the emphasis has been shifting from one criterion to another including the gravity of the act, lethal nature of the weapon used, plurality of culprits, number of victims, impact created by the act and effect of fear and insecurity brought about or likely to be created in the society by the action. The last definition of a 'terrorist act' contained in section 6 of the Anti-Terrorism Act, 1997 squarely focused on the effect of fear and insecurity intended to be created by the act or actually created by the act or the act having the potential of creating such an effect of fear and insecurity in the society. It, however, appears that subsequently the legislature did not feel convinced of the aptness or correctness of that definition and resultantly the erstwhile definition of a 'terrorist act' contained in section 6 of the Anti-Terrorism Act, 1997 was repealed and a totally fresh and new definition of 'terrorism' was introduced through an amended section 6 of the Anti-Terrorism Act, 1997. The legislature had probably realized by then that an effect of an act may not always be a correct indicator of the nature of such an act as every crime, especially of violence against person or property, does create some sense of fear and insecurity in some section of the society and a definition of terrorism based upon the magnitude or potential of an effect created or intended to be created or having a potential of creating would necessarily require a premature, speculative and imaginary quantification of the effect so as to determine the nature of the act in order to decide about the jurisdiction of a criminal court to try such an act. That surely was an unsure test and the result of such a premature, speculative

and presumptive test could vary from court to court and from Judge to Judge reminding a legal scholar of the Star Chamber and the early days of a Court of Equity in England where equity was said to vary with the size of the Chancellor's foot. The new definition of 'terrorism' introduced through the amended section 6 of the Anti-Terrorism Act, 1997 as it stands today appears to be closer to the universally understood concept of terrorism besides being easier to understand and apply. The earlier emphasis on the speculative effect of the act has now given way to a clearly defined mens rea and actus reus. The amended clause (b) of subsection (1) of section 6 now specifies the 'design' and clause (c) of subsection (1) of section 6 earmarks the 'purpose' which should be the motivation for the act and the actus reus has been clearly mentioned in subsection (2) of section 6 and now it is only when the actus reus specified in subsection (2) of section 6 is accompanied by the requisite mens rea provided for in clause (b) or clause (c) of subsection (1) of section 6 that an action can be termed as 'terrorism'. Thus, it is no longer the fear or insecurity actually created or intended to be created or likely to be created which would determine whether the action qualifies to be termed as terrorism or not but it is now the intent and motivation behind the action which would be determinative of the issue irrespective of the fact whether any fear and insecurity was actually created or not. After this amendment in section 6 an action can now be termed as terrorism if the use or threat of that action is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect, etc. or if such action is designed to create a sense of fear or insecurity in the society or the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause, etc. Now creating fear or insecurity in the society is not by itself terrorism unless the motive itself is to create fear or insecurity in the society and not when fear or insecurity is just a byproduct, a fallout or an unintended consequence of a private crime. In the last definition the focus was on the action and its result whereas in the present definition the emphasis appears to be on the motivation and objective and not on the result. Through this amendment the legislature seems to have finally appreciated that mere shock, horror, dread or

disgust created or likely to be created in the society does not transform a private crime into terrorism but terrorism as an 'ism' is a totally different concept which denotes commission of a crime with the design or purpose of destabilizing the government, disturbing the society or hurting a section of the society with a view to achieve objectives which are essentially political, ideological or religious. This approach also appears to be in harmony with the emerging international perspective and perception about terrorism. The international perception is also becoming clearer on the point that a violent activity against civilians that has no political, ideological or religious aims is just an act of criminal delinquency, a felony, or simply an act of insanity unrelated to terrorism. This metamorphosis in the anti-terrorism law in our country has brought about a sea change in the whole concept as we have understood it in the past and it is, therefore, of paramount importance for all concerned to understand this conceptual modification and transformation in its true perspective.

16. For what has been discussed above it is concluded and declared that for an action or threat of action to be accepted as terrorism within the meanings of section 6 of the Anti-Terrorism Act, 1997 the action must fall in subsection (2) of section 6 of the said Act and the use or threat of such action must be designed to achieve any of the objectives specified in clause (b) of subsection (1) of section 6 of that Act or the use or threat of such action must be to achieve any of the purposes mentioned in clause (c) of subsection (1) of section 6 of that Act. It is clarified that any action constituting an offence, howsoever grave, shocking, brutal, gruesome or horrifying, does not qualify to be termed as terrorism if it is not committed with the design or purpose specified or mentioned in clauses (b) or (c) of subsection (1) of section 6 of the said Act. It is further clarified that the actions specified in subsection (2) of section 6 of that Act do not qualify to be labeled or characterized as terrorism if such actions are taken in furtherance of personal enmity or private vendetta."

In the instant case we have noted that according to the prosecution witnesses namely Waleed Khan (PW-12) , Adnan Mustafa (PW-13) and Muhammad

Waseem Nawaz (PW-14) , the motive which prevailed with the appellant namely Khateeb Hussain for committing the murder of Khalid Hameed (deceased) was his annoyance over announcement of holding of a function by the deceased. None of the prosecution witnesses stated that the appellant namely Khateeb Hussain *designed* to coerce and intimidate any section of the public or committed the act of murder of the deceased for purpose of advancing a religious, sectarian or ethnic cause , though it could be said that the act of the appellant did lead to developing a sense of fear and insecurity in the teachers and students. Only creating of sense of fear or insecurity in the society is not by itself terrorism , unless the motive itself is to create fear or insecurity in the society and not when fear or insecurity is just a byproduct, a fallout or an unintended consequence of a crime and mere shock, horror, dread or disgust created or likely to be created in the society, does not transform a crime into *terrorism*. Therefore, we have arrived at an irresistible conclusion that the appellant namely Khateeb Hussain could not have been convicted for the offences made punishable under sections 7(a) and 7(h) of the Anti-Terrorism Act, 1997. Similarly, we have also concluded that the prosecution could not prove that the appellant namely Khateeb Hussain had committed any offence made punishable under section 353 P.P.C. as no evidence was brought on record in this regard.

27. For what has been discussed above, we have come to an irresistible and clear conclusion the prosecution has proved beyond any shadow of doubt,through inspiring and truthful evidence, that the appellant namely Khateeb Hussain (the appellant in *the Criminal Appeal No. 43-ATA of 2021*) committed the *Qatl-i-Amd* of Khalid Hameed (deceased). We have also arrived

at the conclusion that the appellant namely Khateeb Hussain does not deserve any leniency in the matter of the sentence of death awarded to him under section 302 (b) P.P.C. In this regard, reliance is placed upon the case of "*Tariq Iqbal Alias Tariq Versus The State (2017 S C M R 594)* . In view of the conclusions drawn by us, the Criminal Appeal No. 43-ATA of 2021 as lodged by the appellant namely Khateeb Hussain son of Muhammad Hussain is *partly allowed* and the conviction and sentences of the appellant namely Khateeb Hussain son of Muhammad Hussain for the offences made punishable under sections 7(a) and 7(h) of the Anti-Terrorism Act, 1997 and under section 353 P.P.C. are *set aside*, however, the conviction and the sentence awarded to the appellant namely Khateeb Hussain son of Muhammad Hussain under section 302 (b) P.P.C. are **upheld and maintained.**

28. We would now discuss the case of the appellant namely Zafar Hussain (the appellant in *Criminal Appeal No.34-ATA of 2021*). With regard to the case of the appellant namely Zafar Hussain (the appellant in *Criminal Appeal No.34-ATA of 2021*), we find that the prosecution could not prove the charges against him. The appellant namely Zafar Hussain (the appellant in *Criminal Appeal No.34-ATA of 2021*) was alleged to had abetted the commission of the crimes committed by Khateeb Hussain(the appellant in *Criminal Appeal No.43-ATA of 2021*), however, the prosecution witnesses candidly admitted that they had no knowledge of such abetment by the appellant namely Zafar Hussain (the appellant in Criminal Appeal No.34-ATA of 2021). The prosecution witness namely Waleed Khan (PW-12) admitted during cross-examination, as under:-

“It is correct that I have no personal knowledge about instigation of Zafar Hussain accused to Khateeb Hussain accused regarding commission of murder of my father”

Similarly, the prosecution witness namely Adnan Mustafa (PW-13) , also admitted during cross-examination , as under:-

“ I have no personal knowledge/evidence or material regarding allegation of instigation by Syed Zafar Hussain to Khateeb Hussain accused for committing murder of deceased Khalid Hameed,”

Syed Muhammad Imran Naqvi, SI (PW-9), though stated that on 21.03.2019, Muhammad Ajmal, Inspector (PW-15) handed over to him the Mobile Phone Device recovered from the appellant namely Khateeb Hussain (the appellant in *Criminal Appeal No.43-ATA of 2021*) for analysis and he also prepared three pages (P-10/1-3) relating to the screenshots of the conversation between the appellants using *WhatsApp* Messenger, however, he too admitted that he had not mentioned that the appellant namely Zafar Hussain (the appellant in *Criminal Appeal No.34-ATA of 2021*) had abetted the commission of the crimes committed by Khateeb Hussain (the appellant in Criminal Appeal No.43-ATA of 2021). Syed Muhammad Imran Naqvi, SI (PW-9), during cross-examination , admitted as under:-

“It is correct that I have not mentioned in my report that Zafar Hussain accused present in the Court has instigated accused Khateeb Hussain for doing away with Professor Khalid Hameed (since deceased), however there inter se liaison surfaced through different modes.”

With regard to conviction of the appellant namely Zafar Hussain (the appellant in *Criminal Appeal No.34-ATA of 2021*) under sections 21-I and 11-W of the Anti-Terrorism Act, 1997, what has been made punishable under section 21-I of the Anti-Terrorism Act,1997 is the abetment of any offence under the Anti-Terrorism Act, 1997 , and what has been made punishable

under section 11-W of the Anti-Terrorism Act,1997 is the printing, publishing, or disseminating any material to incite hatred or giving projection to any person *convicted for a terrorist act* or any proscribed organization or an organization placed under observation or anyone concerned in terrorism. Section 11-W of the Anti-Terrorism Act,1997 provides as under:-

“11W. Printing, publishing, or disseminating any material to incite hatred or giving projection to any person convicted for a terrorist act or any proscribed organization or an organization placed under observation or anyone concerned in terrorism.- (1) A person commits an offence if he prints, publishes or disseminates any material, whether by audio or video-cassettes or any form of data, storage devise, FM radio station or by any visible sign] or by written photographic, electronic, digital, wall chalking or any other method or means of communication] which glorifies terrorists or terrorist activities or incites religious, sectarian or ethnic hatred or gives projection to any person convicted for a terrorist act, or any person or organization concerned in terrorism or proscribed organization or an organization placed under observation”.

Section 21-I of the Anti-Terrorism Act,1997 provides as under:-

“21I. Aid an abetment. Whoever aids or abets any offence, under this Act shall be punishable with the maximum term of same imprisonment provided for the offence or the fine provided for such offence or with both”

However, as we have already concluded that the prosecution failed to establish that any offence made punishable under Anti-Terrorism Act, 1997 had been committed, therefore, the conviction of the appellant namely Zafar Hussain (the appellant in Criminal Appeal No.34-ATA of 2021) under sections 21-I and 11-W of the Anti-Terrorism Act, 1997 cannot be maintained. In view of the above discussion, the Criminal Appeal No.34-ATA of 2021 as lodged by

the appellant namely Zafar Hussain son of Ghulam Hussain is **allowed**. The convictions and sentences of the appellant namely Zafar Hussain (the appellant in Criminal Appeal No.34-ATA of 2021) awarded by the learned trial court through the impugned judgment dated 16.01.2021 are **hereby set-aside**. The appellant namely Zafar Hussain (the appellant in Criminal Appeal No.34-ATA of 2021) is ordered to be acquitted by extending him the benefit of the doubt. The appellant namely Zafar Hussain (the appellant in Criminal Appeal No.34-ATA of 2021) is in custody and is directed to be released forthwith if not required in any other case.

29. Capital Sentence Reference No.02 of 2021 is answered in **Affirmative** and the sentence of death awarded to Khateeb Hussain son of Muhammad Hussain under section 302 (b) P.P.C. is **Confirmed**.

(MUHAMMAD AMJAD RAFIQ) JUDGE (SADIQ MAHMUD KHURRAM) JUDGE

Raheel

Approved for Reporting

Judge