

H C J D A 38.

JUDGMENT SHEET
IN THE LAHORE HIGH COURT
LAHORE
(JUDICIAL DEPARTMENT)

Cr. Appeal No.38037 of 2022
Sumaira Bibi v. The State, etc.

JUDGMENT

Date of hearing **24.11.2025**

Appellant by M/s Abid Hussain Khichi and Nadeem
 Siddique, Advocates.

State by Rana Muhammad Shafique, Deputy
 Prosecutor General.

Complainant Nemo.
by

MUHAMMAD WAHEED KHAN, J.- Through this appeal, appellant, Sumaira Bibi, has challenged conviction and sentence awarded to her by the learned Addl. Sessions Judge, Gujrat, vide judgment dated 24.05.2022, in case FIR No.394 dated 23.06.2019 registered u/s 302/365/109/201/34 PPC at Police Station Civil Lines, Gujrat, whereby she was convicted under section 302(b) PPC and sentenced to life imprisonment for committing Qatl-e-Amd of Muhammad Ramzan. She was also directed to pay Rs.3,00,000/- as compensation u/s 544-A Cr.P.C. to the legal heirs of the deceased, which shall be recoverable as arrears of land revenue and in case of default, to further undergo six months simple imprisonment. She was also convicted u/s 201 PPC and sentenced to three years rigorous imprisonment with a fine of Rs.30,000/-, in default thereof, to further undergo two months simple imprisonment. Both sentences were ordered to run concurrently and benefit u/s 382-B Cr.P.C. was extended to her.

Whereas co-accused, Shabbir Hussain, was acquitted of the charge by the learned trial Court vide the same judgment.

2. Brief facts of the case as narrated by Ameer Ahmad, complainant in complaint (Ex-PU) are that he was a resident of Arif Wala, District Pakpattan and his son, Muhammad Ramzan, who was a civil engineer in Naveed Construction Company, Gujrat situated at Jalalpur Jattan road in front of Zarai-Tarakyati Bank, was un-traceable since 21.06.2019 from 05:30 p.m. He having suspicion about abduction of his son, who was in possession of Rs.50,000/- alongwith a motor cycle GTM-2974 Honda 70 CC, lodged the case. Initially, the case was registered u/s 365 PPC, however, during course of investigation, a supplementary statement of the complainant was got recorded wherein he disclosed that his son was murdered by accused persons, Sumaira Bibi (appellant) alongwith her co-accused, Shabbir Hussain (since acquitted) and subsequently, offences u/s 302/201/34 PPC were added and on culmination of the same, report u/s 173 Cr.P.C. was submitted before the learned trial Court while declaring them as guilty, they were summoned, charge was framed which was denied by them, hence, trial commenced. The prosecution in order to prove its case produced as many as fifteen PWs. Last seen evidence in this case was produced by Muhammad Babar (PW-8), whereas complainant Ameer Ahmad himself appeared as PW-9. Medical evidence was furnished by Dr. Waqas Ali, who conducted autopsy on the dead body of the deceased and investigation of the case was carried out by Irshad Ahmad SI/SHO (PW-13) and Asad Ishaq DSP (PW-15). The remaining witnesses were of formal in nature and the prosecution after producing certain documents closed its evidence. After completion of prosecution evidence, statement of the appellant was recorded u/s 342 Cr.P.C., in which she denied the allegation leveled against her. She did not opt to appear as her own witness u/s 340 (2) Cr.P.C., however, produced certain documents in her defence. After evaluating prosecution evidence available on record, learned trial Court found the prosecution version correct 'beyond any shadow

of doubt' to the extent of the appellant, which resulted into her conviction and sentence in the afore stated terms.

3. In support of the instant appeal, learned counsel for the appellant contends that case of the prosecution is inherently flawed, hence, fails to inspire confidence; that this was an unseen occurrence and the whole case of the prosecution was based on the evidence of last seen furnished by Muhammad Babar (PW-8), which is not trustworthy and reliable according to the facts of the case, he has failed to show his presence at the place where he had lastly seen the appellant and her co-accused, hence, no implicit reliance can be made on his testimony to maintain the conviction and sentence of the appellant; that nothing incriminating was recovered from possession of the appellant and if anything shown, it was planted one; that the impugned judgment is based on surmises and conjectures as material evidence available on record in favour of the appellant has been mis-read by the prosecution; that medical evidence is also not in line with the ocular account; that motive set up by the prosecution has also not been proved and lastly prays that since the prosecution has miserably failed to prove its case against the appellant up to hilt, hence, by accepting the instant appeal, she be acquitted of the charge.

4. Conversely, learned Deputy Prosecutor General has faithfully defended the impugned judgment by controverting the arguments of learned counsel for the appellant and has contended that the prosecution has ably proved its case against the appellant "beyond reasonable shadow of doubt"; that to substantiate the case of the prosecution apart from last seen evidence, the prosecution has adduced medical evidence, recovery of dead body from the house of the appellant, evidence of motive which has also been believed by learned trial Court, so, all the evidence produced by the prosecution fully corroborates the last seen evidence produced by Muhammad Babar (PW-8), so, in presence of voluminous evidence, the appellant does not deserve any leniency and she has rightly been adjudged

guilty by the learned trial Court, hence, the instant appeal is liable to be dismissed.

5. I have heard learned counsel for the appellant, learned Law Officer and perused the record with their assistance.

6. Undoubtedly, no direct evidence qua murder of, Muhammad Ramzan s/o complainant, Ameer Ahmad, was available in this case, rather to bring home guilt of the appellant, the prosecution had relied upon the evidence of, Muhammad Babar (PW-8), who alongwith Nawaz (not produced), had lastly seen, Muhammad Ramzan (deceased), in the company of appellant Sumaira Bibi and co-accused Shabbir Hussain (since acquitted), who allegedly called upon him from Lala G Hotal, Gujrat, on 21.06.2019 at 05:00 p.m., when former were sitting alongwith him, and evidence of recovery of dead body of the deceased from house of the appellant. Ameer Ahmad (PW-9) complainant/father of the deceased, while reporting the incident to the police on 21.06.2019 at 11:00 a.m. stated that he originally hails from District Pakpattan, his son, Muhammad Ramzan, was an engineer in Naveed Construction Company, Gujrat, who used to reside at Jalalpur Jattan Road, in front of Zaritrakyati Bank. The other employees of construction company informed him that his son, Muhammad Ramzan, was missing and his mobile phone was also switched off. On his application (Ex-PU), formal FIR (Ex-PA) was drafted by the police under section 365 PPC (**Kidnapping or abducting**), however, offences u/s 302/201/34 PPC were added on 24.06.2019. The complainant (PW-9) made another statement (supplementary statement) to the police on 24.06.2019, to the effect that two persons, Muhammad Nawaz (not produced) and Muhammad Babar (PW-8), apprised him that on 21.06.2019 at evening time, when they were sitting in Lala G Hotal, Service Mor, Gujrat and having tea, two persons, Sumaira Bibi (appellant) and Shabbir Hussain (since acquitted) arrived there on motor cycle. They called upon Muhammad Ramzan, who left with them while riding on his motorcycle GTM-

7974 Honda 70. Appellant Sumaira Bibi, was arrested on 22.06.2019, she led the police party to her house, situated at Street No.1 Akhtar Shah Colony, Gujrat, on 25.06.2019, pointed out place where she alongwith her co-accused, Shabbir Hussain, had got buried dead body of Muhammad Ramzan, after killing him. The police after digging earth from a room of the said house got recovered the dead body, which was identified by Ameer Ahmad (PW-9) complainant/father of the deceased and Muhammad Babar (PW-8). The dead body was taken into possession by the police vide recovery memo (Ex-PF) and got conducted postmortem on 26.06.2019 by Dr. Waqas Ali ABS Teaching Hospital, Gujrat (PW-7).

7. Meaning thereby that the prosecution is basically relying upon two pieces of evidence, one last seen evidence provided by Muhammad Babar (PW-8) and Muhammad Nawaz (not produced), coupled with the recovery of dead body at the instance of the appellant from her house. There is no denial of the fact that last seen evidence itself is not considered sufficient for establishing the guilt but if, the chain of the facts is such that no reasonable inference can be drawn except that the accused had committed the offence, after the victim has been last seen in his company then in absence of reasonable explanation from the accused, such evidence can be relied upon. In case of “KHURSHID v. THE STATE” (PLD 1996 SC 305), the august Supreme Court of Pakistan had held that deceased was last seen with the accused persons is a reliable piece of circumstantial evidence if corroborated by other piece of circumstantial evidence which are interlinked and which clearly connect the accused persons with the commission of the offence charged with. I am mindful of the fact that under Article 40 of the Qanun-e-Shahadat Order, 1984 (QSO), the evidence qua recovery of dead body at the instance of the accused, is permissible evidence, which article reads as under:-

“40. How much of information received from accused may be proved. When any fact is deposed to as

discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

On going through the above provision of law, one thing is very obvious that information received from the accused is admissible and can be used against him, if something incriminating is recovered in pursuance of his information. To be admissible and used against the accused, the recovery must be based on a statement made by the accused, while in police custody and this statement must lead to the discovery of a fact not previously known to the police. If the accused has exclusive knowledge of the body's location, the recovery is considered as strong piece of circumstantial evidence. On going through recovery memo (Ex-PF), it reveals that it was the present appellant, Sumaira Bibi, who while confessing her guilt disclosed to the police that she can get recovered the dead body of Muhammad Ramzan (deceased) from her house and obviously, it was in her exclusive knowledge and was not previously known to the police. Although, first part of her statement where she allegedly confessed her guilt is not a permissible piece of evidence but according to above referred Article 40 of (QSO), when something is recovered in consequence of information provided by the appellant on the basis of which, dead body of the deceased was recovered, this is a valid piece of evidence and could be used to advance the prosecution's case and to meet the ends of justice.

8. The fundamental principle of universal application in cases dependent on circumstantial evidence is that in order to justify the inference of guilt, the incriminating fact must be incompatible with the innocence of the accused or the guilt of any other person and incapable of explanation upon any other reasonable hypothesis than that of his guilt. Reliance may be placed on the cases of “Sher Mohd. V. Emperor” A.I.R.(32) 1945 Lahore 27, “ZAHID HUSSAIN v. The CROWN” (PLD 1954 Lahore 710), “ABDUS SAMAD v. The

STATE”(PLD 1964 SC 167), “MD. NAZIR HOSSAIN SARKAR and another v. The STATE” (1969 SCMR 388), “MD. NAZIR HOSSAIN SARKAR and another v. The STATE” (1969 P Cr. L J 956) and “Mst. SAIRAN alias SALEEMA v. The STATE” (PLD 1970 SC 56). In case of “ABDUS SAMAD v. The STATE” referred above, while relying on the principle laid down by the Federal Court in case of “Fazal Elahi v. The Crown” (PLD 1953 FC 214), the Apex Court had held that the deceased child was last seen in company of accused. The accused having exclusive knowledge of place where remains of child were found is sufficient to establish charges of kidnapping and murder. In another celebrated judgment of this Court, passed in case of “GHULAM MUHAMMAD v. The STATE” (1982 P Cr. L J 1217), last seen evidence coupled with recovery of dead body at instance of accused held sufficient basis, for holding accused guilty of murder and death sentence awarded to the accused in that case was confirmed.

9. While keeping the above said criteria in mind, I am of the view that in the case in hand, two prosecution witnesses had seen the appellant and acquitted co-accused, Shabbir Hussain, when Muhammad Ramzan (deceased) had left with them from Lala G Hotal, Gujrat, on 21.06.2019 at evening time, the case qua his missing was registered on 23.06.2019, on the statement of his father Ameer Ahmad (PW-9) and on the very next day i.e. 24.06.2019, the appellant was implicated in this case and on 25.06.2019, she got recovered the dead body from her house that is also situated in Gujrat city. Meaning thereby that last seen evidence also qualifies, the test of not only the proximity of time but also of the distance/space, therefore, there is no occasion to discard the same on any hypothesis and the last seen evidence, is sufficiently corroborated by the recovery of dead body at the instance of the appellant, which itself carries a huge evidentiary value and is a strong piece of evidence to prove the guilt of the appellant.

10. The epitome of the above discussion is that the above said pieces of evidence are sufficient to bring home the guilt of the appellant, even otherwise, I have gone through the observations and findings so made by learned trial Court, which appear to be convincing and reasonable in view of the facts and circumstances of the case, therefore, the arguments so raised by learned counsel for the appellant, being devoid of force are repelled accordingly and convictions and sentences awarded to the appellant by the learned trial Court through the impugned judgment are **sustained**. Resultantly, the appeal filed by her is **dismissed**. However, both sentences shall run concurrently and benefit of section 382-B Cr.P.C as awarded by the learned trial Court will remain intact.

(MUHAMMAD WAHEED KHAN)
JUDGE

Sajid

APPROVED FOR REPORTING

JUDGE