Judgment Sheet

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

Criminal Appeal No.348-A/2023

Liaqat Ali, etc.….. (Appellants)

versus

The State and other. …(Respondents)

Present: Mr. Atif Ali Jadoon, Advocate for appellants.

Mr. Aamir Khan, Assistant Advocate General for State.

Mr. Javed Khan Tanoli, Advocate for complainant-respondent.

Date of hearing: **26.11.2025.**

JUDGMENT

SYED MUDASSER AMEER, J.- This single judgment decides this criminal appeal together with Criminal Appeal No.141-A/2021 titled "*Liaqat Ali v. The State*" and Criminal Revision No.58-A/2023 titled "*Muhammad Bilal v. Liaqat Ali, etc*." All arise out of the same FIR No.148 dated 14.07.2017 registered under sections 302, 324, 337-A(ii), 337-A(v) and 34 PPC read with section 15 of the Khyber Pakhtunkhwa Arms Act, 2013 at Police Station Ghazi, Haripur. The order under challenge is the judgment dated

31.10.2023 delivered by the learned Additional Sessions Judge-IV, Haripur in Trial No.4/7 of 2017, after remand. By that judgment, all four appellants, namely, Liaqat Ali, Sherdad, Muhammad Faraz and Muhammad Irshad, were convicted under section 302(b) PPC and sentenced to **imprisonment for life** on two counts as Tazir. Each was directed to pay Rs.500,000/- as compensation under section 544 CrPC to the legal heirs of each deceased.

2. Each appellant was further convicted under section 324 PPC for attempting to commit qatl-amd and causing injuries to Muhammad Bilal, Akhtar Nawaz, Shiraz, Mujahid, Mst. Fazeelat Jan and Mst. Dilshad, and sentenced to ten years simple imprisonment with Rs.50,000/- as Arsh to each injured. They were also convicted under section 337-A(ii) PPC and sentenced to one year simple imprisonment, and under section 337-A(v) PPC and sentenced to three years simple imprisonment, with Rs.10,000/- as Daman to each injured. In default of payment of compensation, they were to undergo a further six months rigorous imprisonment. All

sentences were ordered to run concurrently with benefit of section 382-B CrPC.

3. In connected Criminal Appeal No.141-A/2021 the appellant has challenged the judgment of the Model Criminal Trial Court, Haripur dated 19.05.2021 in Trial No.3/3 of 2017 whereby appellant Liaqat Ali was convicted under section 15 of the Khyber Pakhtunkhwa Arms Act, 2013 and sentenced to three years simple imprisonment with a fine of Rs.5,000/-, or three months simple imprisonment in default. The complainant has also filed Criminal Revision No.58-A/2023 seeking enhancement of the sentence from life imprisonment to death and enhancement of the compensation.

4. In brief; these appeals and the connected criminal revision arise from the same occurrence. They turn on the same facts. They are decided together. The impugned judgments are dated 31.10.2023 and 19.05.2021. The trial court, after remand, convicted the four appellants for double murder, multiple injuries and related offences.

Liaqat Ali was also convicted in the separate arms case. The complainant seeks enhancement to death.

5. FIR No.148 was lodged on 14.07.2017. Murasila recorded at 10:55 a.m. recorded the statement of Muhammad Bilal (PW-8). He alleged that at 10.30 a.m. he and his family were cleaning their well. The appellants reached the spot. Liaqat held a 12-bore double-barrel gun. The others held sticks and axes. An altercation followed. Liaqat fired at the complainant party. Bilal and Akhtar sustained firearm injuries. Two persons, Haji Gulab and Rashid, also hit by the fire shots died on the spot. The remaining injured, namely Mst. Fazeelat, Mst. Dilshad and Mujahid, alleged blows of sticks and axes. The dispute, so said, was land, passage and the well.

6. Twenty witnesses were examined. The appellants were convicted. This Court then remanded the matter for a limited purpose: to summon and examine the doctors and the Investigating Officer of the cross-case (FIR No.149) and to bring the necessary record of that case onto this file. After remand, the trial court re-summoned the concerned doctors and the

I.O. They were examined specifically on the injuries and investigation in the cross-version. The trial court nonetheless again convicted the appellants. They now challenge those findings. The complainant, in turn, seeks enhancement. We have heard all learned counsel at length.

7. We begin with the prosecution case on its own strength. The ocular account is the backbone. It must stand or the rest falls. Three eyewitnesses appeared. They were PW-8 Muhammad Bilal, PW-9 Shiraz and PW-10 Akhtar. Their testimony is not without difficulty.

8. The FIR blamed both Sherdad and Faraz for injuring Mst. Dilshad. In court, PW-8 blamed only Faraz. The role of Sherdad changed. At one moment he wielded an axe. At another a stick. The prosecution never explained this shift. The recovery of the axe was neither made from, nor linked to him by any disclosure. The I.O. did not state the distance of the point of recovery of the axe from the alleged position of the accused. These are serious omissions.

9. The allegation against Liaqat carries its own improbabilities. He was said to have fired several shots from a double-barrel gun. But no eyewitness stated that he reloaded the weapon. A double-barrel gun cannot fire more than two shots without reloading. It does not eject empties like a repeater. Yet three empties were found at the spot. The number of shots, the nature of the weapon and the empties simply do not align.

10. The credibility of PW-14, the scribe, was also shaken. The Murasila was said to be prepared in the hospital. PW-2, the doctor, said the dead bodies had been brought from the police station. The trial court in earlier proceedings (O.S. No.77 dated 11.03.2021) had found PW-14 fabricating the record of the cross-case. This casts a shadow over the genesis of the FIR.

11. The site plan does not match the statements of the eyewitnesses. Blood is said to have fallen at certain spots. No blood stained earth was recovered from those spots. The manner of occurrence narrated in court does not fit the physical evidence on the ground. The Supreme Court in *Abid Hussain* (2024

SCMR 1608) held that when the manner described is not trustworthy, the accused must have the benefit of doubt.

12. The medical evidence diverges from the ocular account. The injuries of Mst. Dilshad are blunt. Yet the allegation was axe blows. Post-mortem reports show entry and exit wounds inconsistent with the positions attributed to the deceased in the prosecution narrative. Haji Gulab was said to have been hit on face and neck but pallet was recovered from his right lung. The sequence and timing of examinations of multiple injured persons, some said to be at different points, appear improbable. These contradictions matter. One material loophole, as held in *Khial Muhammad* (2024 SCMR 1490), is enough for acquittal. Additional guidance appears in *Tajamal Hussain Shah* (2022 SCMR 1567).

13. The axe and two sticks bore human blood. The blood did not match any complainant-side injured. The defence is that these weapons were used against the accused party. The possibility cannot be ruled out.

When a defence version may reasonably be true, it must prevail.

14. The recovery of the 12-bore gun is unsafe. The houses of the appellants were locked. They were not searched. The recovery memo says Liaqat produced the gun from a room near a mosque. The site plan shows no such room. PW-15 and PW-17 contradict each other on whether the house was locked or open. The very sketch contradicts the plan. The law is clear. Matching recovery alone does not establish guilt. *Muhammad Saleem* (2016 SCMR 1605).

15. The three empties recovered on 14.07.2017 were not dispatched to the Forensic Science Laboratory at once. They were sent only after the alleged recovery of the weapon on 22.07.2017. Both items travelled together. This practice destroys the evidentiary value of the FSL report. The Supreme Court in *Nawab Siraj Ali* (2023 SCMR 16) has settled the matter. Sending empties with the weapon after arrest smacks of foul play. *Sarfraz* (2023 SCMR 670) reiterates the rule.

16. The motive is weak. The land, according to the Patwari's report and the Khasra Girdawari, is jointly owned. No exclusive possession is shown. Per site plan, appellants' house is adjacent to the spot; complainant party's is not. The complainant admitted that no cleaning tools were present. Thus the very foundation of the alleged motive is doubtful.

17. The prosecution case, on its own, is plagued with doubt. It is not proved by unimpeachable, trustworthy and confidence-inspiring evidence. This alone would have been enough to acquit. But the matter does not end here. There is more.

18. On the same day, FIR No.149 was registered on the report of appellant Liaqat. It alleged that the present complainant party attacked the appellants and caused injuries to six persons, including Liaqat, his father Sherdad, his wife, daughter and others. The time, place, parties and motive are the same. After remand, all medico-legal reports were exhibited. No suggestion of fabrication. No hint of self-infliction. The I.O. admitted that FIR No.149 was based on true

facts. He could not say who was the aggressor. These facts are decisive.

19. The complainant, PW-8, concealed this cross-version. He denied seeing injuries on the appellants' side. PW-9 and PW-10 followed suit. This suppression is deliberate. It is dishonest. It destroys the credibility of the prosecution. The Supreme Court has condemned such suppression time and again. In *Rafaqat Ali* (2022 SCMR 1107), in *Muhammad Javed* (2020 SCMR 2116), in *Amjad* (2020 SCMR 2084), in *Bashir Ahmad* (2019 SCMR 1417). All say the same thing. Suppression of injuries of the opposite side shakes the very foundation of the prosecution.

20. These facts bring the case squarely within the category of cross-cases and free fights. In *Rajmeer Khan* (2019 SCMR 1949), the Court held that where both sides conceal truth and sustain injuries, it becomes impossible to discern the real aggressor. The benefit must go to the accused. The rule is echoed in *Saee Muhammad* (2007 SCMR 203) and *Mushtaq Hussain* (2011 SCMR 45). And the principle is old. If

two versions arise, and the defence version may reasonably be true, the entire prosecution must fall.

21. The doubt here is far more than one. It is deep, persistent and reinforced by independent record. Criminal law does not demand a multitude of doubts. One is enough. *Obaidullah v. The State* (2025 SCMR 1558) states the law clearly:

> "It is by now well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused, whereas the instant case is replete with number of circumstances, which have created serious doubts in the prosecution story."

The same view appears in *Imtiaz Hussain Shah v. The State* (2025 SCMR 1110), *Muhammad Ashraf v. The State* (2025 SCMR 1082), *Sikandar Ali alias Bhola* (2025 SCMR 552), *Muhammad Nawaz* (2024 SCMR 1731), *Saghir Ahmad* (2023 SCMR 241), *Bashir Muhammad Khan* (2022 SCMR 986), and *Khalid Mehmood* (2022 SCMR 1148).

22. The prosecution has failed to establish guilt beyond reasonable doubt. The ocular account is doubtful. The medical evidence is inconsistent. The

recoveries are unsafe. The motive is unproved. The cross-version is real. The suppression is deliberate. No conviction can stand on such evidence.

23. Criminal Appeal No.348-A/2023 is allowed. Criminal Appeal No.141-A/2021 is also allowed. The judgments dated 31.10.2023 and 19.05.2021 are set aside. All four appellants stand acquitted. They shall be released forthwith unless required in any other case.

24. As the appellants stand acquitted, the connected Criminal Revision No.58-A/2023 seeking enhancement has become infructuous. It is dismissed.

25. These are the detailed reasons of the short orders of even date.

ANNOUNCED
26.11.2025.
(Jamil)

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