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Judgment Sheet

**IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT**

Crl. Appeal No.10692-J of 2021
(Muhammad Imran alias Gochhi vs. The State)

JUDGMENT

Dates of hearing:	07.04.2025, 10.04.2025, 15.04.2025, 18.04.2025, 25.04.2025, 29.04.2025, 06.05.2025, 09.05.2025, 16.05.2025, 03.07.2025, 18.09.2025, 22.10.2025, 30.10.2025, 31.10.2025 01.12.2025
Appellant by:	Mr. Ali Hussain, Advocate
State by:	Mirza Nasar Ahmad, Additional Attorney General, Mr. Mohsin Bhatti, Mr. Irfan Malik, Rana Arfan Ali, Assistant Attorneys General with Mr. Abid Ayoub, Supervisor Polygraph PFSA, Lahore. Syed Farhad Ali Shah, Prosecutor General Punjab, Hafiz Asghar Ali, Dr. Muhammad Usman, Asmat Ullah Khan Hanjra, Deputy Prosecutors General, Mr. Muntazir Mehdi Bukhari, ADPP with Malik Shahzeb Khokhar, Law Officer, Kashif Aftab, Deputy Chief Networks Punjab Safe Cities Authority, Dr. Sumira Qambar Bokhari, Head of the Department of Psychiatry Services Hospital, Lahore, Dr. Ali Madeeh Hashmi, Professor PIMH, Lahore and Sabir Saqlain Legal Advisor, Arslan Nawaz, Law Officer,
Complainant by:	Mr. Faseeh Ullah Khan, Advocate.
Amici Curiae:	M/s Sikandar Zulqarnain Saleem, Mian Ali Haider and Ammad Tahir Ch. Advocates.

ALI ZIA BAJWA, J.:- Muhammad Imran alias Gochhi, son of Javed Bhatti alias Kaifi, by caste Muslim Sheikh, resident of Jhugian near the Railway Line, Dharam Pura Puli, near

Survey Colony, Garhi Shahu, Lahore (hereinafter referred to as “*the appellant*”), has challenged his conviction and sentences awarded by the learned Additional Sessions Judge, Lahore (hereinafter referred to as “*the trial court*”), vide judgment dated 26.11.2020 (hereinafter referred to as “*the impugned judgment*”). The appellant was tried in connection with FIR No. 765/2019, dated 27.12.2019, registered at Police Station Race Course, District Lahore, under Sections 365, 302, 379, 201, and 411 of the Pakistan Penal Code, 1860. Upon conclusion of the trial, the learned trial court convicted and sentenced the appellant as follows:

- **Under Section 302(b) PPC**, sentenced to undergo imprisonment for life with the direction to pay Rs.5,00,000/- as compensation to the legal heirs of the deceased in terms of Section 544-A Cr.P.C., which shall be recoverable as arrears of land revenue. In case of default in making payment of compensation, he shall further undergo S.I. for six months.
- **Under Section 379 PPC**, sentenced to undergo rigorous imprisonment for three years with fine of Rs.50,000/- and in case of default thereof, to further undergo S.I. for three months.
- **Under Section 411 PPC**, sentenced to undergo rigorous imprisonment for three years with fine of Rs.50,000/- and in default thereof, to further undergo S.I. for three months.
- **Under Section 201 PPC**, sentenced to undergo rigorous imprisonment for three years with fine of Rs.50,000/- and in default thereof, to further undergo S.I. for three months.
- All the sentences of imprisonment shall run concurrently. Benefit of Section 382-B Cr.P.C. was also extended in favour of the appellant.

2. The prosecution’s narrative, as delineated in the written application (Exh. PA) submitted by the complainant, on the strength of which the formal First Information Report (Exh. PA/2) was lodged, has been reproduced below for ready reference:

بخدمت جناب SHO صاحب قمانہ ریس کورس لاہور جناب عالیٰ امدادگار گزارش ہے کہ میں عامر حسین ساکن محلہ شاہ مقصود ساہبوال ضلع سرگودھا کا بھائی ہوں یہ رے والد صاحب مسی فقیر حسن پاکستان آری سے بطور حوالدار ریلائیڈ ہیں جو ویکن ہٹ سیکورٹی کپنی ۴۱ پر مال لاہور میں بطور سیکورٹی ڈیوئل ملازم ہیں میرے والد ۱۵ دن بعد ایک ماہ بعد گھر چکر لگاتے ہیں اور روزانہ فون کر کے گھر کے حالات خیر خوبی کا پوچھ کرتے رہتے ہیں اور ہفتہ وار ریٹ ہیں کرتے ہیں مورخہ 22.12.2019 کو قریب 04:00 بجیٹام گھر فون کر کے خیر خوبی پوچھی اور کہا کہ میں دوست کے پاس جا رہا ہوں اس کے بعد دوسرے دن

والد صاحب نے رابطہ نہ کیا جو مورخہ 23.12.2019 کو ہم نے والد صاحب کے فون نمبر 0305.8512592 پر رابطہ کیا جو فون بند تھا ہم نے کافی کوشش کی جو میرے والد کا فون بدستور بند تھا ہم پریشان ہو گئے تو ہم سیکورٹی آفس آئے اور پتہ کیا تو سیکورٹی آپریشنز خلیل عباس صاحب نے ڈیلو کبرے دیکھے اور بتایا کہ مورخہ 22.12.2019 کو بوقت 04:30 بجیشم میرے والد دفتر سے باہر گئے اور واپس نہ آئے دوسرے دن مورخہ 23.12.2019 کو میرے والد دفتر نہ آئے تو آفس والوں نے غیر حاضری لگادی میرے والد صاحب کا فون بند حارہ سے ہارے والد صاحب کا کوئی یقینہ نہ چل رہا سے ہارے والد صاحب کو ملاش کیا جائے ہماری مدد فرمائی جائے مجھے شبہ ہے کہ والد کو کسی نے اغوا کر لیا ہے دستخط بجروف اردو و نشن انگریزی عامر حسین مذکور کاروانی پولیس : میں معہ ذوالقدر علی 12535 / C امداد حسین 7479 / C بسلسلہ گشت پل نہر مال روڈ پر موجود ہوں کہ مسکی عامر حسین اور محمد اقبال ناں نے میرے پیش ہو کر درخواست ہذا پیش کی ہے مضمون درخواست و حالات واقعات سے سردست صورت جم 365 ت پ پائی جاتی ہے لہذا درخواست ہذا بغرض اندرانج مقدمہ بدرست ذوالقدر علی 12535 C ارسال تھا ہے مقدمہ درج رجسٹر کے تنتیش حوالے اوسی گیشن ونگ بھاؤں جائے دستخط بجروف اردو امداد حسین ASI تھا اس کو رس لاحور 27.12.2019 از پل نہر مال روڈ۔ از تھا ہے حسب آمد تحریر درخواست مقدمہ درج رجسٹر کے اصل تحریر درخواست معہ نقل FIR بغرض تنتیش بدرست آئندہ کنسٹیبل عقب انچارج اوسی گیشن ونگ ارسال ہے جاپ SHO صاحب کو مقدمہ ہذا کی بابت مطلع کیا گیا ہے۔

3. Upon conclusion of the investigation, a report under Section 173 of the Code of Criminal Procedure, 1898 (hereinafter '*the Code*'), was duly prepared and submitted before the learned trial court. In support of its case, the prosecution produced a total of sixteen (16) witnesses to substantiate the allegations. Thereafter, the statement of the appellant was recorded under Section 342 of the Code, wherein he denied all allegations and professed his innocence, while choosing not to produce any evidence in his defense nor to appear as a witness under Section 340(2) of the Code. Upon culmination of the trial proceedings, the learned trial court convicted and sentenced the appellant in the manner and to the extent detailed hereinabove.

4. The learned counsel for the appellant, the learned counsel for the complainant, and the learned Law Officer representing the State have been heard at length. The entire record placed before the Court has also been meticulously perused.

5. The entire prosecution case rests solely on circumstantial evidence, as no direct evidence is available on record. In its effort to establish the guilt of the appellant, the prosecution has

endeavored to construct an unbroken chain of circumstantial evidence, comprising the evidence of last seen, corroborative medical evidence, the alleged pointing out of the place of occurrence where dead body was also thrown by the appellant, the recovery of the deceased's dead body, the recovery of the mobile phone and shawl of the deceased on the pointing out of the appellant, the recovery of the appellant's clothes, the recovery of a rope allegedly used in the act of strangulation of deceased, the motive ascribed to the appellant, and the Call Data Record (CDR) of the mobile phone number of the deceased, which was secured before the arrest of the appellant in an effort to establish a nexus between the appellant and the deceased. The results of a polygraph examination were also relied upon by the prosecution to strengthen its case. These pieces of circumstantial evidence, taken collectively, have been presented as forming an unbroken chain pointing towards the culpability of the accused. To determine whether the prosecution has proved its case beyond a reasonable doubt, each piece of circumstantial evidence must be carefully examined. In cases resting solely on circumstantial evidence, the law mandates that each link in the chain must be clearly established, and all such links must collectively form a complete and unbroken sequence that leads unerringly to the guilt of the accused, excluding every reasonable hypothesis of innocence. Accordingly, a careful and objective evaluation of each piece of evidence is necessary to determine its probative value and legal sufficiency to sustain the conviction and sentence of the appellant.

6. The incident in the present case occurred on 22.12.2019; however, the FIR was registered five days later, on 27.12.2019, under Section 365 of the Pakistan Penal Code, 1860, against unknown accused for the alleged abduction of the deceased. The case of the prosecution is grounded in the theory that the deceased was last seen in the company of the appellant on 22.12.2019 at 4:30 p.m., as captured by a CCTV camera installed by

the Punjab Safe Cities Authority, and that the appellant was subsequently seen returning alone at approximately 5:02 p.m., after allegedly committing the murder of the deceased. The medical evidence in the instant case was brought on the record through the testimony of Dr. Muhammad Shahzeel Khan (PW-15), who carried out the post-mortem examination on the dead body of the deceased on 15.02.2020 at 12:30 p.m. Notably, this examination was conducted approximately one month and twenty-five days after the alleged occurrence, which has been stated to have taken place on 22.12.2019. According to PW-12, the probable time between death and the post-mortem examination was estimated to be 23 to 24 days, which directly contradicts the time of murder as alleged by the prosecution. According to the medical evidence, the estimated time of death indicates that the murder was likely committed around 20.01.2020, rather than on 22.12.2019 as alleged by the prosecution. This inconsistency in the timeline, as revealed by the post-mortem findings, significantly challenges the narrative of the prosecution case and hits at the roots of the credibility of the alleged last seen evidence. Last seen evidence is a form of circumstantial evidence, and by its nature, it is considered a weak type of evidence. Standing alone, it is insufficient to support a conviction for a capital offence. In a murder case where the prosecution relies on evidence of last seen, it must be corroborated by other independent circumstantial evidence. In assessing last seen evidence, the proximity in time and place between when the deceased was last seen in the company of the accused and the subsequent discovery of death holds critical evidentiary value, as it strengthens the inference that the accused may be involved in the commission of the offence. The shorter this interval, the stronger the inference that may be drawn against the accused. However, if a considerable gap exists, or if the prosecution fails to exclude other reasonable hypotheses consistent with innocence, the benefit of doubt must invariably be extended to the accused. Reliance may be placed on the authoritative judgments of

the Honourable Supreme Court of Pakistan in *The State through Prosecutor General, Sindh and others v. Ahmed Omar Sheikh and others - 2021 SCMR 873* and *Qaisar Mehmood and another vs. The State – 2021 SCMR 662.*

7. Furthermore, the video footage obtained from the Safe City Authority was forwarded to the Punjab Forensic Science Agency (PFSA) for forensic analysis. The PFSA report, Exhibit PBB, is available on the record and reflects that at 4:31 p.m., the appellant was seen accompanying the deceased. The report concludes that the facial features of the appellant match those of the suspect captured in the footage alongside the deceased. However, the forensic facial comparison analysis conducted by the Punjab Forensic Science Agency (PFSA) was found to be inconclusive with respect to the suspected individual seen returning alone at 5:22 p.m. While the earlier footage at 4:31 p.m. indicated a positive match of facial features between the appellant and the individual accompanying the deceased, the subsequent footage did not yield a definitive match. The forensic experts were unable to conclusively determine whether the facial features of the appellant corresponded to those of the person recorded returning alone. As such, the report leaves the identity of the individual seen at 5:22 p.m. uncertain, thereby introducing an element of doubt in the appellant's continued presence around the alleged scene. Considering the foregoing, the last seen evidence fails to inspire confidence and is insufficient to sustain a conviction for murder.

8. According to the theory of the prosecution, the deceased was allegedly strangled to death by the appellant using a rope, and thereafter, his dead body was disposed of by throwing it into a drainage channel. However, this assertion stands in contrast to the medical opinion rendered by Dr. Muhammad Shahzeel Khan (PW-15), who, upon receiving the report from the Punjab Forensic Science Agency (PFSA), opined that the cause of death was

antemortem drowning. It was further observed by the medical officer that no ligature mark was identifiable on the dead body of the deceased. In a case based purely on circumstantial evidence, such an inconsistency in the story of the prosecution case and the medical findings further impairs the overall evidentiary chain and calls for cautious judicial appraisal.

9. Following his arrest, the appellant made a statement before the police on 05.02.2020, disclosing that he could point out the location where he had allegedly murdered the deceased and disposed of the dead body by throwing it into a drainage channel. However, under Article 40 of the Qanun-e-Shahadat Order, 1984, only that portion of a confession made in police custody which distinctly leads to the discovery of a new fact is admissible in evidence. The underlying principle is that information leading to the recovery of a material incriminatory fact previously unknown to the police is presumed to be reliable. In the present case, the appellant's pointing out did not lead to the recovery of the dead body or any incriminating material that could independently corroborate his guilt. As such, the disclosure, being unproductive and not resulting in the discovery of any new fact, falls outside the purview of Article 40 and is therefore inadmissible. Consequently, the mere act of pointing out a place, without any consequential discovery, cannot be treated as admissible against the appellant. The reliance can be placed on Zafar Ali Abbasi and another vs. Zafar Abbasi and others (2024 SCMR 1773), Ziaul Rehman v. The State (2001 SCMR 1405) and Fazal Subhan and another v. The State and others (2019 SCMR 1027), wherein it was held that mere pointing out of the place of occurrence, in the absence of any consequential discovery of a new relevant fact, does not fall within the ambit of Article 40 of the Qanun-e-Shahadat Order, 1984, and is thus inadmissible in evidence.

10. During the course of the investigation, on the pointing out of the appellant, clothes and shoes allegedly worn by him at the

time of the murder of the deceased were recovered on 10.02.2020 and taken into possession by the Investigating Officer through a recovery memo (Ex:PK). On the pointing out of the appellant, a shawl belonging to the deceased and a two-foot-long rope, allegedly used to murder the deceased, were also recovered from his residential tent on 18.02.2020, which were taken into possession through recovery memo (EX:PE). The recovery memos indicate that the recovered articles were intended to be sent for DNA analysis to establish a forensic link between the appellant and the murder of the deceased. However, there is no report from the Punjab Forensic Science Agency (PFSA) available on record to confirm that such analysis was ever conducted or to disclose its outcome. This omission creates a significant evidentiary gap in the prosecution's case, particularly in relation to the scientific corroboration of the alleged involvement of the appellant. Such alleged recoveries, in the absence of corroborative forensic evidence, carry little evidentiary value and are hardly of any avail to the prosecution's case.

11. On 04.02.2020, the mobile phone of the deceased, along with a memory card and a jazz company's mobile SIM, was recovered from the possession of the appellant at the time of his arrest and taken into possession through recovery memo (EX:PN). To establish that the recovered mobile phone belonged to the deceased, the prosecution relied upon the Call Detail Record (CDR) of mobile number 0305-8512592, which was taken into possession through a recovery memo (Ex:PG). It was asserted that the said number belonged to the deceased, and the CDR reflects IMEI numbers matching those of the mobile phone recovered from the possession of the appellant. The name of the deceased is conspicuously absent from the purported Call Data Record (CDR), which was relied upon to establish that the number was registered in his name and was in his use. Notably, the CDR was produced in the form of a standard computerized printout, which could easily be

generated using any computer. Therefore, it was imperative that the CDR carried proper authentication or endorsement from the issuing cellular/telecom company. In the absence of a signature from an authorized officer or an official seal or authentication letter from the service provider, such a bare document lacks evidentiary sanctity and cannot be safely relied upon for the purposes of trial. Reliance may be placed on the illuminating judgment of the Hon'ble Supreme Court of Pakistan in ***Khair Muhammad and another v. The State - 2025 SCMR 1599.*** Furthermore, it has been observed that the Call Data Record (CDR) was not properly exhibited in evidence during the trial proceedings. No page of the CDR available on the record bears an exhibit number, nor does it contain the signature or official stamp of the learned trial judge endorsing it as part of the judicial record. This procedural lapse, in addition, renders the CDR unauthenticated and, consequently, strips it of any evidentiary worth, reducing it to a mere piece of paper devoid of legal consideration. Neither the recovered mobile phone nor the memory card was ever sent for forensic analysis, thereby depriving the recovery of any probative value and rendering it practically useless to the prosecution's case. In the absence of forensic examination, such evidence remains uncorroborated and fails to meet the threshold of reliable proof to connect the appellant with the commission of the crime in question.

12. The record reflects that the dead body in the present case was recovered on 14.02.2020 i.e. after nine days of the alleged pointing out of place of occurrence by the appellant. No recovery memo of the dead body is available on record. Although the prosecution asserts that the complainant identified the body as that of his father at the time of post-mortem examination on 15.02.2020, this claim does not withstand scrutiny. According to PW-15, who conducted the autopsy, the corpse was in an advanced state of putrefaction and was devoid of skin and flap/scalp over the skull.

This condition of the body, by itself, renders the alleged identification highly questionable, if not impossible, through ordinary visual means. In the face of such decomposition, the prosecution was under an obligation to resort to scientific methods of identification. However, no DNA analysis or any other forensic test was undertaken to conclusively establish that the recovered dead body was indeed of the deceased. The failure to secure scientific corroboration, despite the apparent impossibility of visual identification, creates a serious dent in the prosecution's case and leaves the identity of the dead body shrouded in doubt.

13. The prosecution also placed reliance on the polygraph test to substantiate its case against the appellant. Narco-analysis, polygraph test, and brain mapping are methods used in criminal investigations to help find out if a person is lying or knows something about a crime. Although all these methods are based on measuring physiological responses, they differ significantly in how they are conducted and in the specific aspects they aim to measure. In the context of this case, I shall confine my discussion solely to the polygraph test and the legal questions that arise in connection with its use. Polygraph test, commonly known as a lie detector test, assesses physiological arousal effects such as heart rate, blood pressure, respiratory activity, perspiration levels, and skin conductivity. The underlying assumption is that deceptive answers generate discernible physiological reactions that differ from those associated with truthful responses. Polygraph test is an investigative tool purportedly employed to detect deception and evaluate a subject's familiarity with crime-specific facts. Its methodology is essentially confirmatory, premised upon drawing inferences from the physiological responses elicited during examination.

14. Lie detection has remained an area of interest since ancient times, starting with the Spartans and the Spanish Inquisition, who judged fear and guilt through voice and pulse. Over time,

scientists like Galton (1879), Lombroso (1895), Mosso (1895), and others advanced the field using speech, heart rate, skin response, and breathing patterns. Marston's invention in 1917 of a blood pressure-based device directly inspired Larson's creation of the modern polygraph, marking a major step in the science of detecting deception.¹ John Augustus Larson, a policeman and student in Berkeley, invented the modern polygraph in 1921. It was the first device to record blood pressure, pulse, and breathing at the same time, making it suitable for police use.² In 1939, Leonarde Keeler patented the first modern polygraph device. He is known as the father of the polygraph for developing and promoting it.³

15. The administration of a polygraph test raises important constitutional concerns, particularly regarding the right to remain silent, a vital safeguard enshrined in Article 13(b) of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as '*the Constitution*'). The prohibition against compelled self-incrimination, also referred to as testimonial compulsion, is a foundational constitutional guarantee, firmly entrenched in the above-mentioned constitutional provision. The constitutional mandate is grounded in the centuries-old maxim ***nemo tenetur se ipsum accusare***, which signifies that no individual is obliged to incriminate himself. This principle is not merely procedural but is an essential safeguard of personal liberty, human dignity, and the integrity of the criminal justice system. Testimonial compulsion refers to any act or process through which the State, whether through the police, an investigating agency, or any authority exercising criminal jurisdiction, coerces an individual to disclose information, speak, answer questions, or provide mental content of a testimonial nature. Such compulsion may be physical, psychological, or subtly

¹ John Larson – The Innovator of Polygraph Science available on <https://liedetectortest.com/polygraph-history/john-larson-the-innovator-of-polygraph-science>

² John A Larson, *Lying and Detection: A Study of Deception and Deception Tests* (Glen Ridge, 1932).

³ History of Polygraph – available on <http://www.kellypolygraphe.com/polygraph-history.php>

coercive, but in each form, it compromises the free will of the person and taints the probative value of the resulting evidence. Our Constitutional Courts have consistently held that any statement extracted through force, inducement, or coercion cannot be acted upon, as the very test of reliability is grounded in voluntariness. Closely aligned with the doctrine of testimonial compulsion is the privilege against self-incrimination, which protects an accused from being forced to provide communicative evidence. Its scope is not confined to formal confessions, rather, it encompasses any compelled response that may reasonably implicate the accused in a criminal offence. This safeguard is strengthened by Article 10-A of the Constitution, which ensures the right to a fair trial. A proceeding founded on coerced or involuntary statements cannot meet the basic requirements of fairness, neutrality, or due process. The State cannot obtain testimonial evidence through compulsion, coercion, inducement, custodial pressure, deceptive interrogation methods, or forensic/scientific techniques such as polygraphy test. Any such extraction violates constitutional protections, compromises the integrity of the criminal process, and weakens the fundamental presumption of innocence.

16. It is appropriate to clarify here the well-recognized distinction between testimonial evidence and physical evidence. While the law may, in suitable circumstances, compel the production of physical evidence, such as fingerprints, DNA samples, breath analyses, or bodily measurements. It firmly prohibits any compulsion that forces an accused to reveal his mental impressions or knowledge. Any forced narration of facts, explanations, admissions, or answers constitutes testimonial compulsion and is therefore impermissible. In this context, the question of polygraph examination merits particular attention. Although the physiological responses measured by a polygraph machine may be described as physical indicators, the procedure itself necessitates verbal answers

to structured questions and seeks to derive conclusions of truthfulness from those compelled responses. The coercive nature of administering such a test infringes the constitutional privilege against self-incrimination and constitutes an impermissible encroachment upon the right to silence. Conducting a polygraph test without the consent of the accused would violate the right against self-incrimination under Article 13(b) of the Constitution. While polygraphy offers forensic insights that may assist in complex criminal investigations, its involuntary administration raises serious constitutional concerns. Despite its potential as a supplementary investigative tool, such methods cannot override fundamental rights guaranteed by the Constitution.

17. Any statement made by an accused during a polygraph examination conducted while he is in custody is, in law, a statement rendered during investigation. The polygraph examiner operates as an adjunct of the investigative machinery, and the procedure itself is carried out under the authority and control of the State. Any verbal responses elicited during such testing are therefore neither independent nor voluntary declarations; rather, they are intrinsically bound to the investigative process. As a result, these statements fall squarely within the prohibitory ambit of the law regulating statements made to, or in the presence of, investigating officers, and cannot be accorded any evidentiary status. Even where an individual voluntarily consents to undergo polygraph test, any statement made during its administration remains inadmissible, for the subject does not retain full autonomy over his responses. However, if the process yields consequential discoveries, such derivative information may be admissible as evidence under Article 40 of the Qanun-e-Shahadat Order, 1984 (hereinafter referred to as '*the QSO*'). Article 40 of the QSO embodies the 'theory of confirmation by subsequent facts', allowing the admissibility of custodial statements only insofar as they are corroborated by the subsequent discovery of new and

relevant facts. The legal position stands fortified by the authoritative decision in *Smt. Selvi v. State of Karnataka* - (AIR 2010 SC 1974), wherein it was held that any information or material that is subsequently discovered with the help of voluntary administered test results can be admitted, in accordance with Section 27 of the Evidence Act, 1872.⁴ The relevant passage from the para 223 of the judgment is set forth hereunder for ease of reference and clarity.

“Even when the subject has given consent to undergo any of these tests, the test results by themselves cannot be admitted as evidence because the subject does not exercise conscious control over the responses during the administration of the test. However, any information or material that is subsequently discovered with the help of voluntary administered test results can be admitted, in accordance with Section 27 of the Evidence Act, 1872.”

18. Furthermore, Polygraph tests possess inherent limitations and are subject to a considerable margin of error. The test results are not always reliable and can be influenced by various factors. For instance, false positives, where truthful individuals are mistakenly flagged as deceptive, may result from emotional states such as stress, anxiety, depression, or fear, none of which necessarily indicate deception. Additionally, certain medical conditions, particularly cardiac ailments, neurological disorders, or other physiological impairments, can significantly distort the autonomic responses upon which polygraph examinations primarily rely. Such conditions may lead to misleading or unreliable results, thereby further diminishing the evidentiary value and diagnostic accuracy of the polygraph test in assessing the truthfulness or deception of an individual. On the other hand, false negatives can occur when deceptive individuals successfully mask their physiological responses. This may be achieved through deliberate

⁴ Article 40 of the Qanun-e-Shahadat Order, 1984 is a verbatim reproduction of Section 27 of the Indian Evidence Act, 1872, and provides a narrow exception allowing only that portion of a custodial statement which distinctly leads to the discovery of a fact to be admissible in evidence.

countermeasures, such as regulated breathing or subtle muscle control. A trained or habitual liar may suppress such physiological cues. Moreover, even among individuals without any underlying medical conditions, the results of a polygraph examination may vary significantly due to inherent differences in personality, psychological disposition, and socio-cultural background. Factors such as upbringing, educational exposure, emotional resilience, and individual sensitivity to stress can all influence physiological responses during the test. As such, the reliability of the polygraph as a uniform tool for detecting deception is inherently limited, considering that the same set of questions may elicit markedly different physiological reactions from different individuals, irrespective of their truthfulness. This variability in individual responses weakens the scientific credibility and evidentiary value of polygraph results.

19. Despite the constitutional and evidentiary limitations attached to polygraphy, a voluntarily undertaken test may still function as a useful investigative aid. Although the statements made during the process remain inadmissible, the examination can help investigators refine their inquiries, identify leads, and assess inconsistencies, thereby assisting the investigative process within lawful bounds. The reliability of lie detector results can vary based on factors like the examiner's integrity, expertise, training, and questioning design. These concerns should be addressed in court, not used to completely exclude such evidence. There is no strict legal requirement that expert testimony must meet a specific level of reliability to be admissible in court. Instead, its admissibility is generally based on whether the testimony is relevant, whether it can assist the court in understanding the issues, and whether the expert is properly qualified in the subject matter. Concerns about the reliability of the methods used, the expert's credibility, or the accuracy of the findings are typically addressed through cross-

examination. These concerns affect the weight of the evidence, not whether it can be presented at all. A question of reliability alone does not make evidence inadmissible or justify its complete exclusion. Instead, the proper way to challenge doubtful but admissible evidence is through vigorous cross-examination, the presentation of opposing evidence, and the careful application of the burden of proof. These traditional methods ensure fairness without unnecessarily limiting the evidence available to the court. Reliance can be placed on **United States V. Scheffer – 523 U.S. 303 (1998)**. The polygraph test may suggest truthfulness, but it is unreliable due to its inherent limitations and potential for misinterpretation. It lacks standalone evidentiary value and cannot independently establish guilt or innocence. While useful as an investigative tool, its results must be considered alongside other evidence and cannot serve as conclusive proof of the guilt of an accused.

20. In view of the foregoing discussion, it would be appropriate and in the interest of justice to issue necessary directions to the competent authorities entrusted with the administration of the polygraph tests, as under:

- I. No polygraph examination shall be undertaken solely at the discretion of the Investigating Officer without the free and informed consent of the accused. Such consent shall be recorded before the Magistrate concerned, who shall ensure that it has been given voluntarily, without any coercion, inducement, or undue influence.
- II. The Magistrate shall ensure that the accused is in judicial custody at the time of recording consent. Any consent obtained during the period of physical remand, or while the accused remains under the control or custody of the police, shall not be deemed valid. The consent must be recorded only after the accused has been lodged in judicial

lock-up and is produced independently before the Magistrate, free from any external influence or coercion.

- III. Upon grant of permission, the polygraph examination shall be conducted exclusively by a duly qualified and certified examiner affiliated with the Punjab Forensic Science Agency (PFSA) or any other legally recognised and accredited forensic institution. The procedure shall strictly conform to the protocols prescribed by the PFSA. The entire process shall be audio-visually recorded in its entirety, and comprehensive documentation thereof shall be preserved by the examining authority for record and reference.
- IV. Prior to the commencement of the polygraph examination, the accused shall once again be unequivocally informed that participation in the test is entirely voluntary and that he retains the right to withdraw his consent at any stage during the procedure. Under no circumstances shall any form of pressure, whether physical or psychological, be exerted to procure or sustain his cooperation during the course of the examination.
- V. The result of the polygraph examination shall be regarded solely as an expert opinion within the meaning of Article 59 of the QSO. Subject to judicial scrutiny and admissibility in accordance with law, the result of the polygraph examination shall not constitute substantive proof of guilt and may be employed solely for corroborative or investigative purposes.

21. As regards the polygraph test conducted in the present case, the examination was carried out by the forensic scientist, PW-13, Mr. Aabad Ayoub, and the report was duly tendered in evidence as EX:PP. Furthermore, the video footage of the test proceedings

was also reviewed during the course of arguments. Upon examination of the footage, several glaring illegalities and procedural lapses committed by the expert conducting the test came to light, raising serious concerns about the integrity and reliability of the examination process. It has been observed that the appellant did not provide any voluntary consent to undergo the polygraph examination, rather, he appeared visibly reluctant and unwilling to subject himself to such a test. In the absence of free and informed consent, the credibility and evidentiary value of the said examination stand seriously compromised, rendering the entire process devoid of legal sanctity and probative worth. It has been further observed by the Court, with grave concern, that the confessional statement of the appellant was recorded on oath by the forensic scientist, PW-13. This act was clearly beyond the legal mandate and professional scope of the said expert, whose role was limited solely to conducting the polygraph examination. The administration of an oath and the recording of a confessional statement do not fall within the domain of a forensic scientist. Such conduct not only exceeds his lawful authority but also amounts to grave illegality, thereby casting serious doubt on the credibility and integrity of the entire polygraph examination. It is a settled law that the recording of a confessional statement of an accused during investigation is exclusively within the jurisdiction of a Judicial Magistrate under the law, and thereafter, if necessary, by the trial court during the trial proceedings. Any deviation from this prescribed procedure renders the statement legally untenable and devoid of evidentiary value. In view of the foregoing observations, the polygraph test does not materially advance the case of the prosecution. Given the procedural irregularities, lack of voluntary consent, and the unauthorised recording of a purported confessional statement by the forensic expert, the evidentiary worth of the polygraph examination stands substantially diminished. As such, the test fails to carry any significant probative value in support of the prosecution's version.

22. For circumstantial evidence to be deemed credible and relied upon, it was essential for the prosecution to establish every link in an unbroken chain, ensuring that each piece of evidence seamlessly connected to the next. This chain must be so complete and compelling that one end reaches the dead body of the victim while the other encircles the neck of the accused, leaving no room for doubt or alternative explanations. Any missing link in this sequence would weaken the case, and in such a scenario, the benefit of the doubt must inevitably go to the accused. This chain must be so strong and complete that it rules out every possible hypothesis of innocence, leaving no room for doubt.⁵

23. In the present case, I am constrained to observe that the record does not reveal any coherent and unbroken chain of circumstantial evidence sufficient to lawfully sustain the conviction and sentence of the appellant. Consequently, Criminal Appeal No. 10692-J of 2021 is allowed; the appellant is acquitted of the charges, and his conviction and sentence are hereby set aside.

(Ali Zia Bajwa)

Judge

Approved for reporting.

Judge

The judgment was pronounced & written on 01.12.2025 and after completion, it was signed on 05.12.2025.

Athar

⁵ Rahmatullah and 2 others vs. The State – 2024 SCMR 1782 and Fayyaz Ahmad vs. The State – 2017 SCMR 2026