

Judgment Sheet
PESHAWAR HIGH COURT, PESHAWAR
(*Judicial Department*)

Cr. A No. 368-P/2014

Mian Gul VS Gulab Said and others

JUDGMENT

Date of hearing: **04.12.2025.**

Appellant by: Rahim Shah, nephew of the appellant.

State by: Mr. Abdul Rauf Afridi, AAG.

Respondents by: Mr. Shahzad Khan Gigyani, Advocate.

SAHIBZADA ASADULLAH, J.- The instant criminal appeal has been filed against the judgment of the learned Additional Sessions Judge, Shabqadar, dated 16.05.2014, whereby, the respondents/ accused were acquitted of the charges levelled against them in case FIR No. 557 dated 23.09.2011 under sections 302, 324, 449, 34 PPC at Police Station Battagram, District Charsadda.

2. Brief facts of the case are that on 23.09.2011, the complainant, Mian Gul, while accompanying the dead bodies of his son Sajjad, his nieces, Mst. Maryam and Mst. Jasmin, and Muhammad Jan, son of Syed

Ahmad, reported the matter to Police Station Battagram, that after *Jummah* prayer, he, along with his sons Sajjad, Ayaz, Muhammad Jan, son of Said Ahmad, and Rahman Shah, son of Roghan Shah, as well as Akhtar Gul and Ahmad Ali, was present in the mosque when the accused Irfan, Gulab Said, and Akbar Ali, their relatives, duly armed, entered the mosque and started indiscriminate firing at his son Sajjad, as well as at them, with the intent to kill. As a result, his son Sajjad and Muhammad Jan sustained firearm injuries and died on the spot, whereas Akhtar Gul and Ahmad Ali, co-villagers, received firearm injuries, while his son Ayaz, the complainant, and Rahman remained unhurt. He further stated that on the same day, his nieces Mst. Jasmin and Mst. Maryam had gone in the morning to the house of his relative Baz Mir, and soon after the occurrence in the mosque, the accused entered the house of Baz Mir and, with the intention to kill Mst. Jasmin, opened fire, due to which both Mst. Jasmin and Mst. Maryam sustained firearm injuries and died on the spot. The alleged motive for the occurrence was that Mst. Jasmin, niece of accused Gulab Said, had

earned a bad name with the son of the complainant, Sajjad three months prior to the incident. Hence, the instant FIR.

3. It is also pertinent to mention that soon after the occurrence, respondents/accused, alongwith another went into hiding and after the respondents/accused arrest, their supplementary challan was submitted to the Court. Provisions of section 265-C Cr.P.C. were complied with and the respondents/accused were charge sheeted to which they pleaded not guilty and claimed trial. In order to prove its claim, the prosecution produced and examined as many as 12 witnesses. After closure of prosecution evidence, statements of respondents/accused were recorded under section 342 Cr.P.C., wherein they posed innocence, however, neither they wished to be examined on Oath as required under section 340 (2) Cr.P.C., nor wanted to produce evidence in defence. The learned trial Court, after full-fledged trial, acquitted the respondents/ accused of the charges leveled against them vide the impugned judgment hence, the instant appeal.

4. As the learned counsel for the appellant is not in attendance, the nephew of the appellant appeared and informed the Court that the appellant/complainant has passed away, and that he relies upon the arguments advanced by the worthy Additional Advocate General for the State, so the arguments of the worthy AAG as well as those of the learned counsel for the respondents heard, and with their valuable assistance, the record has been examined.

5. That Friday proved to be a day of sorrow and devastation. Inside the mosque, two innocent people were killed and two others were injured. The violence did not end there. Shortly afterwards, the assailants went to the house of Mir Baz, where two innocent women were also shot and killed. Their bodies, along with the injured, were taken from the two locations to the police station. The complainant reported the matter, injury sheets and inquest reports were prepared, the injured were sent for medical examination, and the dead bodies were dispatched for post-mortem. After the First Information Report was registered, the Investigating officer visited the mosque and

prepared the site plan on the pointing out of the complainant. Blood was collected from the spots where the deceased had fallen. From the mosque, three cases of 7.62 bore, three spent bullets of the same bore, and one empty cartridge of 30 bore were recovered. Bullet marks were also seen on the walls and windows. The Investigating officer then proceeded to the house of Mir Baz, prepared another site plan, on pointation of the eyewitness, collected blood-stained earth, and he also succeeded in collecting 02 empties of 7.62 bore, 06 empties of .30 bore, and also 02 empties of 12-bore, from the spot. The respondents went into hiding but were later arrested and put on trial. At the end of the trial, were acquitted of the charge.

6. The incident profoundly shocked the conscience of all concerned, as it occurred in a mosque and at a time when worshippers had assembled for prayer. It is a great misfortune that with the passage of time, not only our morals but also our sense of care and responsibility have begun to weaken. The mosque, a place of peace and respect, where silence and humility reigned, has now been

violated. On that blessed day, as people gathered for prayer, two innocent lives were lost, and others were seriously injured, their blood stained the floor of a house meant for worship, devotion, and calm. This terrible event has grieved every heart and revealed the dangerous mindset of those who brought violence into this sacred space. They acted without thought, unable to distinguish whom to harm and whom to spare. Shockingly, they were themselves Muslims, yet they brought terror into a house of God. We do not claim that those accused, or those against whom allegations were made, are guilty without proper evidence, but what we say, and cannot ignore, is that what happened is morally wrong and deeply shocking as a sacredness of mosque was violated, lives were taken, and the innocent were hurt. Who did what may still be determined, but the moral wrong is undeniable. Shall such acts continue to happen; shall we allow our sacred places to be violated and our morals to crumble. We shall never let our emotions, no matter how strong or religious, decide who is guilty or innocent. No one can be called guilty without a fair trial, and no one can

be declared innocent without careful examination of evidence. Justice requires that we understand how and why this tragedy happened, examine every witness and every fact, and then decide who is guilty and who is not. In law, there is no place for emotions, and for the Judge, there is no room at all. Before declaring anyone guilty or innocent, we must study the evidence, hear the witnesses, and understand the circumstances that led to the crime and the decisions made, and only then can we know whether justice has truly been served. The mosque is a place of peace, a sanctuary where evil cannot enter, a place where only the presence of God should be felt. If we allow violence and sin to enter such a place, the consequences are not just terrifying, they are a stain on our conscience, a lesson for all time, and a source of shame. This Court will proceed carefully, guided by evidence and reason, to ensure that justice respects both the sacred mosque, that was violated, and the lives, that were taken. Only through careful analysis can we preserve morality, protect the sanctity of worship, and restore the faith of society in law and in justice. Only then can we

hope that such a tragedy never happens again, and that our sacred spaces remain safe and honored.

7. Before we proceed further, it is necessary to clarify that what we have stated above is not merely the personal view of this bench. It reflects the sentiments of every conscientious Muslim, who wishes for the mosque to be respected, honored, and preserved in its sanctity. In no way should what we have said be understood as prematurely declaring the accused guilty before the Court has examined the matter fully. We shall not reach any conclusion regarding the guilt of the accused without proper scrutiny. Our task is to determine whether the evidence presented before the Court is sufficient to hold the accused responsible, and whether the witnesses and other material presented were such that the Court could justly rely upon them. It is essential for us to examine what evidence was placed before the learned trial Court, and whether the learned Judge applied the mind correctly in reaching the decision. We must understand the strengths and weaknesses of the testimonies, and whether any doubt arising

from the evidence was rightly given in favor of the accused. To arrive at this understanding, it will be necessary to consider, on one hand, the observations made by the learned trial Judge, and on the other hand, the entirety of the evidence presented. Only then can we determine whether the learned Judge reached a position that was permissible in law, and whether the evidence was sufficient to hold the accused responsible. It is only through this careful and deliberate examination that we can ascertain whether justice was done, and whether the Court correctly balanced the evidence, the law, and the rights of all parties involved. It remains important for us to ask whether, once the accused have been acquitted, the Court may still review or reconsider that decision. If the Court intends to do so, the reasons for such reconsideration must be clear and well-founded. We see a real need to look at this case again carefully, because only by reviewing the facts, the events, and all the evidence can we understand whether the accused were truly given the full benefit of doubt to which they were entitled.

8. We believe that a careful review of the testimony, the circumstances, and the evidence is essential. Such a review will show whether the learned trial Court reached its original decision with proper care and fairness, and whether, in its effort to deliver justice, the accused may have been unintentionally denied the protections of law. This kind of careful consideration is not just a formality, it is fundamental to ensure that the verdict rests on a strong and reliable foundation of fact and principle, and that the integrity of justice is fully upheld. For this Court to undertake such a review, it will be essential that the events, the circumstances, and the testimony of the witnesses are all considered together. Only in this way can this Court understand the precise conditions and context that led the learned trial Court to conclude that the accused were innocent and to dismiss the charges against them. This Court must also examine whether, in reaching its decision, the learned trial Court gave due weight to the facts and circumstances, and whether the reasons for its conclusion, showing that the accused were in fact not guilty and had been wrongly

implicated, were clearly articulated. Given that four lives were lost and two persons were injured in this case, this Court must carefully consider whether, under these circumstances, the original proceedings may have inadvertently implicated the wrong persons while allowing the true perpetrators to escape scrutiny. It must also reflect on whether it is conceivable that a father or a brother, knowing who the real culprit was, would falsely charge innocent people for the murder of their own son. This case involves not only the tragic deaths of two innocent persons in a mosque and the injury of two others, but also the killing of two women at a house not far from the mosque, one of whom was connected to the deceased Sajad's illicit affairs. The record also shows that the accused were subject to taunts and pressures from others, and, in response, participated in a coordinated, tragic sequence of events that was witnessed and reported. In order to fully understand these circumstances, it is necessary to re-examine the testimony of the witnesses and determine whether the defense counsel was able effectively to challenge the evidence, and whether the

benefit of doubt was properly extended to the accused. This Court must also consider whether the evidence against the accused was sufficiently strong to sustain the charges, or whether the weaknesses and inconsistencies in the testimony led to the rightful conclusion that the accused were indeed innocent.

9. The issues that call for determination before this Court are as to whether the occurrence took place in the manner alleged and at the time asserted; whether the presence of the complainant and the eyewitness at the place of occurrence stands established, and whether the complainant was indeed the first to report the matter; whether the medical evidence lends assurance to the version of the prosecution; whether the motive set up by the prosecution has been proved and, ultimately, whether the prosecution has succeeded in discharging its burden of establishing the guilt of the accused.

10. In order to appreciate the peculiar circumstances of this case, it becomes necessary to examine the approach adopted by the learned trial Court and to revisit the grounds upon which the respondents were

acquitted, which would require a careful scrutiny of the testimony of the witnesses and the surrounding circumstances. The occurrence is said to have taken place within the mosque shortly after the *Jummah* prayer. The Investigating officer visited the scene, prepared the site plan, recovered spent cartridges and fired bullets, and collected blood from the spot. These circumstances lend strong support to the conclusion that the incident did occur inside the mosque and at the time alleged. The next question is whether the witnesses succeeded in establishing their presence at the scene, and whether the defence was able to expose inconsistencies of such weight as to cast doubt upon their credibility. The relationship between the parties, the circumstances said to have provoked the tragedy, and the connection of the deceased with the alleged motive also require consideration. To this end, we have examined the testimony of the complainant, who appeared as PW-09, and that of the eyewitness, PW-10. The complainant narrated the events in which the assailant opened fire, causing the deaths of Sajjad, and Muhammad

Jan, and injuring Akhtar Gul, and Ahmad Ali, while he himself remained unscathed. The eyewitness fully corroborated this account, explaining his presence in the mosque, the arrival of the assailant, the firing, and the resulting deaths and injuries. Neither the complainant, nor the eyewitness Ayaz Gul, claimed to have witnessed the second episode at the house of Mir Baz, as both were in the mosque at the relevant time. They later learnt that two women, Mst. Maryam, and Mst. Jasmin, had been killed there. It was suggested that Mst. Jasmin, had a connection with the alleged motive, and that one of the accused, being her maternal uncle, stood implicated on that account. This Court has further considered the manner in which the dead bodies and the injured were recovered, transported to the Police Station, and thereafter to the hospital, where they were subjected to medical examination. Though the injured did not testify before the learned trial Court, the medical evidence confirms that they had sustained firearm injuries. Having regard to these circumstances, and bearing in mind that the occurrence took place on a Friday, when

people ordinarily assemble for *Jummah* prayer, the presence of the complainant and the eyewitness inside the mosque appears both natural and credible. The material collected from the scene, including blood-stained earth, spent cartridges, and bullet marks on the walls and windows, reinforces their narrative. In this backdrop, it becomes essential to examine the reasoning that persuaded the learned trial Court to conclude that the prosecution had failed to prove its case, and to assess whether the evidence was correctly and fairly appreciated.

11. None of the worshippers present in the mosque came forward to record their statements regarding the first incident, nor did anyone from the injured appear before the learned trial Court to support the allegation that they had sustained injuries. It was principally on account of the non-examination of these injured and independent witnesses that the learned trial Court viewed the available testimony with suspicion and ultimately disbelieved it. This Court must consider whether such a conclusion was justified, and whether the learned trial Court correctly

appreciated the circumstances prevailing in the mosque at the relevant time, together with the reasons that may have prevented the injured and other witnesses from stepping forward. It stands admitted that both parties were residents of Choora Khel, Battagram, and that the injured who received firearm injuries bore no relation to the complainant. There was no apparent hostility that might have deterred them from deposing against the respondents rather, their refusal to appear seems to stem from a desire to avoid personal conflict and the risk of retaliation. Likewise, the legal heirs of the deceased Muhammad Jan, neither charged the respondents of the killing nor offered themselves as witnesses. Their absence, however, cannot outrightly be construed as evidence of bias or any intention to shield the respondents, it is equally possible that they refrained from involvement to avoid further discord. In this setting, this Court must ask whether the non-production of these witnesses, including the injured and the legal heirs of Muhammad Jan, so undermines the case of prosecution that it cannot stand, and whether there exists any basis to believe that these

persons were under the influence of the complainant. Though the learned trial Court sought support from Article 129(g) of the Qanun-e-Shahadat Order, 1984, it appears to have applied traditional reasoning without taking into account the realities of contemporary society, in which reluctance to testify, particularly in cases of serious violence, is neither unusual nor indicative of falsehood. In such a social climate, the absence of independent or injured witnesses should not, of itself, lead to the conclusion that the case of prosecution is fabricated. The fact remains that the injured did, indeed, suffer firearm injuries during the same transaction. This circumstance confirms that the incident took place at the time and in the manner alleged, and supports the presence of the complainant and the eyewitness in the mosque at the relevant hour, an hour when local residents ordinarily gather for the *Jummah* prayer. In these circumstances, this Court considers it proper to attach due weight to the testimony of the complainant and the eyewitness, and to assess their evidentiary value on their own merit. It is equally necessary to re-examine the approach

of the learned trial court, which acquitted the respondents by drawing adverse inferences from the non-production of witnesses, without adequately appreciating the broader social and factual matrix in which the incident occurred. It is true that the complainant and the eyewitness are closely related to the deceased, and equally true that they recorded their statements implicating the respondents in the incident, however, nothing has been brought on record to suggest that these witnesses were motivated to falsely implicate the respondents, nor is there any evidence to indicate that they substituted innocent persons for the actual perpetrators. While the relationship of the complainant and eyewitness to the deceased exists, this alone cannot be a reason to exclude their testimony. Equally, there is no basis to believe that these witnesses would, under any circumstances, substitute innocent respondents in place of the real culprits. The defence has not produced any evidence to show that the complainant or eyewitness acted with *malice* or were interested to falsely implicate the respondents. In the absence of any such material, the relationship of the

witnesses to the deceased cannot diminish the value of their statements. It is the inherent credibility and worth of the statements of the witnesses that must be considered, and in this case, nothing on record suggests that the respondents were falsely charged. Reliance is placed on case law reported as **2023 SCMR 1568** titled **"Maskeen Ullah and another vs The State and another"**.

12. The Investigating Officer, examined as PW-11, recounted in detail the steps taken during the course of the investigation. He stated that he visited both the spots and prepared site plans based upon the pointation of the complainant and the eyewitness, Mst. Shahida, who had witnessed the events within the house of Mir Baz. He was examined regarding the time of his arrival at the scene, the manner in which the inspection was conducted, and the identification of locations within the house. The Investigating officer confirmed the precise timing of his visit, the preparation of the site plans, and that he recorded statements of relevant witnesses under Section 161 Cr.P.C. He further

elaborated upon the cause of death, noted that one of the accused was the maternal uncle of the deceased Jasmin, and explained that the motive arose from the relationship between the deceased Mst. Jasmin, and the deceased Sajjad. He confirmed that the incident occurred following the *Jummah* congregation and admitted that the husband of Mst. Jasmin, namely Rahim Shah, had been present in the mosque and had performed the *Jummah* prayer. The scribe, examined as PW-07, corroborated the sequence of events at the Police Station. He confirmed the arrival of the dead bodies, the reporting of the matter by the complainant, and the preparation of injury sheets and inquest reports. Following this, the deceased were dispatched for post-mortem examination and the injured sent for medical attention. He further detailed the precise times of arrival of the deceased and the injured, the preparation of reports, and the collection of post-mortem documentation, further affirming the promptness of the official response. Taken together, the testimony of the Investigating officer and the scribe leaves no room for doubt that the injured and deceased were promptly

recovered from the scene, conveyed to the Police Station, and that the report was made without delay. This rapid sequence of events, from the moment of the incident to the reporting, excludes any possibility of prior consultation or deliberate fabrication by the complainant or eyewitness. They identified the accused whom they saw committing the acts and were able to confirm their presence both at the scene and at the Police Station at the time of reporting. While the husband of the deceased Mst. Jasmin, was present in the mosque, he neither participated in the assault nor discharged any firearm. The suggestion that his presence should have prevented the respondents from acting is without substance, as it presumes a particular mindset which did not manifest in any action. The circumstances demonstrate that one of the accused, being the maternal uncle of Jasmin, was deeply aggrieved and, acting in concert with the co-accused, proceeded to commit the fatal act. The conduct of the accused reveals a striking recklessness and indifference to human life. They did not take care to avoid harming others, carrying out their attack immediately after

Jummah prayer, resulting not only in the death of the intended target, Sajjad, but also the death of another innocent person and injuries to two others. This indiscriminate and brutal conduct reinforces the accuracy of the complainant's identification, and there is no reason to suspect exaggeration or false implication. Had the complainant wished to mislead, he could easily have implicated the husband of Jasmin, who was present yet remained uninvolved. The harmony between the witness statements and the prompt reporting of the incident excludes any suggestion of prior collusion or deliberation. The deceased and injured were swiftly brought to the Police Station, precluding any question of premeditated manipulation. Moreover, as the events occurred on a Friday during the *Jummah* congregation, attended by local residents, the presence of the complainant, the eyewitness, and the deceased at the times stated is established beyond dispute. Reliance is placed on "**Muhammad Mumtaz and another Versus The State and another"**
2012 SCMR 267.

13. The learned counsel for the respondents pointed out minor discrepancies in the statements of the witnesses and attempted to argue that the report was not made at the stated time, that the complainant was not present at the police station, and that the dead bodies were collected from the scene, shifted to the police station, and only thereafter was the attendance of the complainant procured, however, we are not persuaded by these submissions. It is clear that the complainant not only reported the matter but also fully supported the incident by explaining the circumstances in which the deceased were killed and the injured sustained their injuries. Furthermore, the eyewitness, Ayaz Gul, corroborated the report of the complainant and described the circumstances of the unfortunate incident. When the statements of these witnesses are considered together, there is no ambiguity that they supported each other on all material aspects of the case, and the defense, despite lengthy cross-examination, could not extract anything favorable to the respondents. In addition, the doctors who conducted the autopsies on the deceased and those who

examined the injured were examined in court.

They explained the nature of the injuries, the time at which the deceased and injured were brought to the hospital, and the interval between injury and death. They confirmed the probable time of the incident and the subsequent transfer of the deceased to the hospital, on the one hand, the doctor confirmed the timing of the injuries and the death, and on the other, the medical evidence fully corroborated the stance of the complainant.

The learned counsel sought to challenge the timeline, arguing that it was impossible for the dead bodies to be shifted to the hospital and examined at the stated times, however, this submission overlooks the fact that medical opinion is confirmatory in nature and does not replace the eyewitness account, provided the eyewitness account inspires confidence.

Having regard to all circumstances, this Court finds that not only did the eyewitness account remain consistent, but it is also supported by medical evidence to a significant extent. The consistency between the statements of the complainant, the eyewitnesses, and the Investigating officer, along with other

supporting evidence, fully corroborates the story of the complainant. Accordingly, the defense, despite its efforts, has failed to convince this court otherwise. Reliance can be placed on **Imran Mehmood Versus the State and another (2023 SCMR 795).**

-Second Episode-

14. It appears essential to take into account the evidence collected from the house of Mir Baz, as well as to consider who witnessed the incident, who recorded statements, and who was examined before the learned trial Court to confirm whether the respondents were indeed the perpetrators. This Court is particularly concerned with determining that whether, in the absence of an eyewitness to the second episode, it can still be linked to the incident at the mosque, and that whether the respondents can be held responsible when no eyewitness testimony has emerged directly implicating them in the tragic deaths of the two innocent women. In light of the circumstances of the present case, this Court finds it necessary to consider the statement of the Investigating officer who visited the house and, on the instructions of

Mst. Shahida, prepared the site plan. Blood samples were collected from the places of the deceased, and empty cartridges of various calibers were recovered. Notably, the timing of both incidents is nearly identical, the locations are in close proximity, and the alleged motive in both cases is the same. When such critical features are shared between the two incidents, and when the motive, the illicit relationship between the female deceased Mst. Jasmin, and the male deceased, Sajjad, is common, it becomes pertinent to ask whether, even in the absence of direct eyewitness testimony, the circumstances can be relied upon to establish a connection, and whether proof of the first episode may lend credibility to the second. It is, of course, beyond dispute that the prosecution must independently prove its case through impartial and credible evidence, and that charges against an accused must be established on the basis of reliable material. While it is unfortunate that a key female witness to the second episode, Mst. Shahida, was not produced, this Court must nevertheless examine the essential aspects of the case. Even in her absence, the evidence

collected by the investigating agency must be assessed to determine whether the two episodes are connected and whether the respondents can be linked to both. Once the Court is satisfied that such a connection exists, the subsequent events may be regarded as part of the same transaction. In such a scenario, this Court will consider whether the evidence was collected and linked in such a manner, whether the parties were related in context, and whether the alleged motive was sufficiently consistent. Taken together, these factors may lead to the inescapable conclusion that the second episode occurred in the same transaction, and that the perpetrators were none other than those charged with the murders of Muhammad Jan, and Sajjad, and the causing of injuries to two others. If this Court considers the mindset of the accused in this context, it must now determine whether the provocations and taunts directed at them by others were sufficient to influence their actions. At the same time, this Court must consider whether, in the absence of eyewitness testimony in the second episode, the accused can still be held responsible and whether the

benefit of doubt could or should have been extended to them. First and foremost, this Court must examine whether the subsequent episode bears any connection to the first incident. It must also assess whether, even if the accused are given the benefit of doubt regarding the murders of the women, the Court can remain satisfied that there is a credible explanation for who could have committed such acts of killing two innocent women at the very time when Sajjad, and Muhammad Jan, had already been murdered and two others injured. This review is crucial because, on the record, no alternative motive has been presented for the killing of the deceased, and it cannot be said that the two incidents were entirely independent of one another. Neither can one be separated from the other, nor can the connection between them be dismissed. It is, therefore, incumbent upon this Court to determine whether the benefit of doubt was rightly extended to the accused, and whether, even in the absence of the eyewitness who refused to testify from the house in question, the circumstances still point convincingly to the same accused as responsible for both

incidents. It may be easier to say that the prosecution was unable to fully establish the case because one key eyewitness implicitly refused to testify, however, we are of the view that simply relying on this fact would not satisfy the demands of justice, and doing so could result in a miscarriage of justice, something that must, under all circumstances, be avoided.

We are also not convinced that the accused must automatically be held guilty in every aspect rather, it is our duty to examine the record carefully and determine whether the witnesses can reliably establish the connection of the accused to the incident. Even if the key eyewitness did not appear, the circumstances and motives leave little room for doubt. The two deceased victims cannot be considered in isolation. In this case, the motive serves as a crucial connecting link, tying the deceased Jasmin, to the deceased Sajjad. This connectivity allows us to conclude that no other individual could have been responsible, rather the accused were, beyond reasonable doubt, the perpetrators. When all these factors are considered together, the possibility of extending the benefit of doubt to the accused

becomes extremely limited. Rather, we must address this critical aspect of the case alongside the testimony, to determine with clarity who was responsible for the killing of the innocent women. By doing so, we can reach a reliable and just conclusion that is both consistent and fair.

15. The question before this Court is whether the absence of Mst. Shahida, the key eyewitness, should have been treated as fatal to the case of prosecution, and whether the learned trial Court was justified in drawing an adverse inference under Article 129-G of the Qanoon-e-Shahadat Order, 1984. We are of the view that the learned trial Court committed a serious error in this regard, failing to properly understand the circumstances. The reluctance of the witnesses to appear was driven by fear of the accused, the fear was so real and pervasive that the witness was unable to come forward boldly to testify against them. Being a woman, her apprehension was reasonable and justified, however, it cannot follow that the accused should be acquitted solely on this basis. This Court must inquire into the true cause of the deaths of the two innocent

women. If an alternative motive or cause had existed, it could have been explored and analyzed independently. Yet, the evidence shows a singular, powerful motive, the accused were consumed by vengeance, to such an extent that they could not wait for the deceased Sajjad, to exit the mosque before acting. Their thirst for revenge drove them to act immediately, without pause, reflecting a mental state of extreme agitation and determination. This same mental state and climate of fear also explains why the key eyewitness did not testify and why even those injured in the incident failed to appear before the learned trial Court. The learned Court, in taking an adverse inference from their absence, considered only one side of the matter, without appreciating that the absence was a direct result of the intimidation of the accused, so how could a lone female witness be expected to appear in such circumstances. Furthermore, the evidence collected at the house of Mir Baz, demonstrates the close proximity of events, the same motive, and nearly identical timing. The site plan, blood samples, and recovered empty cartridges, all point to a single coordinated

chain of events, coupled with the fact that three accused were charged and empties of three different bores were collected from the house, so in our view, these circumstances cannot be excluded or disregarded. Therefore, this case hinges on circumstantial evidence, which was meticulously documented by the Investigating officer. When considered alongside the testimony of the available witnesses, it becomes clear that both episodes are interconnected. Given the motive and the evidence, we are fully satisfied that the case has been established and there is no reasonable explanation for these acts other than the culpability of the accused. The evidence, both direct and circumstantial, demonstrates beyond doubt that the accused were responsible for the killings of the two women. To acquit the accused in the presence of all these circumstances would amount to a grave injustice, particularly to the two innocent women who lost their lives. Before reaching any final and logical conclusion, it is necessary to place both cases side by side, examine them collectively, and carefully assess the evidence on record. Only thereafter can it be determined

whether the two cases are so closely connected that separating them would be neither reasonable nor possible. Even to imagine that these incidents are independent of each other would be an exercise in improbability. Guided by the settled principles of criminal jurisprudence, we are required to determine the correct course, which clearly indicates that both incidents are interlinked, much like two bodies forming a single whole. When the evidence is read collectively, no conclusion other than the guilt of the accused emerges, and it leads irresistibly to the inference that the accused were the perpetrators. We are convinced that after the firing in the mosque, the accused had not fully achieved their objective, for their purpose could only be completed by the killing of Jasmin, as well, thereby enabling them to claim, at least in their own perception, that the stain of dishonor had been erased. When such circumstances exist, and when the connection of the accused is supported by a single, consistent motive rooted in perceived dishonor, the circumstantial evidence becomes strong enough to firmly link the second episode with the first.

16. We are satisfied that the prosecution successfully proved its case in its entirety. Both incidents are part of one continuous narrative, and therefore the presence or absence of an eyewitness in the second episode does not carry decisive weight. Moreover, the Investigating officer produced all relevant documents before the Court and was subjected to effective cross-examination. This Court has carefully considered the circumstances of the present case, wherein two murders occurred within the mosque and two others within the house. Though the locations differ, the offences are closely linked in time, character, and context, forming a continuous chain of criminal conduct. Such circumstances naturally invoke the principle of treating multiple offences as part of a single transaction or episode, a well-recognized concept in criminal jurisprudence. Comparable circumstances were examined by the Court in ***Moorov v HM Advocate (1930 JC 68)***, where, after an exhaustive analysis, the Court articulated certain principles concerning the nexus between multiple incidents and the commission of distinct offences occurring either

in close proximity or within a defined span of time. The judgment emphasized that, where such offences display a unifying pattern, purpose, or method, their interconnection may legitimately be considered in assessing the credibility and evidential value of the acts in question. Though the **Moorov doctrine**, as enunciated in **Moorov v HM Advocate (1930 JC 68)** and reaffirmed in subsequent decisions including **Dodds v HM Advocate (1953 JC 1)**, **S v HM Advocate (2020 JC)**, and most recently **DR v HM Advocate (2024 SCCR)**, is not binding on this Court, yet it is persuasive and instructive. The doctrine underscores that where offences of a broadly similar character occur in close temporal proximity, they may be regarded as mutually corroborative, forming part of a coherent course of conduct. The underlying rationale rests on similarity of character, temporal proximity, and unity of circumstances, which collectively provide a reliable framework for evaluating evidence in cases involving multiple offences. In the present case, the facts commensurate fully with the essence of the **Moorov principle**. The actions of accused, though committed at

distinct sites, constitute a connected episode, and the evidence relating to each act reinforces the understanding of the others. It is therefore just, reasonable, and consistent with the overarching principles of criminal law to view these offences as forming a single transaction, same episode. The Moorov doctrine, though persuasive and not binding, provides valuable guidance in assessing the interrelatedness of the offences and the continuity of the conduct of accused. This Court is inclined to adopt this approach in examining the evidence and arriving at a holistic conclusion on the culpability of the accused. It is settled law that once an accused has been acquitted, they enjoy a double presumption of innocence, however, where a judgment is found to be arbitrary, mechanical, or contrary to the record, it becomes open to judicial scrutiny and correction. In the present case, we do not find that any extraordinary circumstances were required to justify interference. The learned trial Court failed to consider the most critical aspects of the case and instead relied on minor discrepancies to acquit the accused in a matter involving a grave and shocking tragedy. For

these reasons, we find that the approach adopted by the learned trial Court is unsustainable. Such an approach invites interference, compelling this Court to step in and ensure that justice is served by holding the accused accountable in accordance with law. The instant criminal appeal is allowed, the impugned judgment is set aside, the respondents are hereby convicted and sentenced as under:

i. *Under section 302(b)/34 PPC, each accused is sentenced to rigorous imprisonment for life as Tazir for committing the murders of Sajjad, Muhammad Jan, Mst. Jasmin, and Mst. Maryam, on four separate counts. Each accused shall also pay compensation of Rs. 500,000/- (Rupees five lac) to the legal heirs of each deceased under section 544-A Cr.P.C., recoverable as arrears of land revenue; and in case of default, each convict shall undergo simple imprisonment for six (06) months.*

ii. *Under section 324/34 PPC, for attempting at the lives of the complainant Mian Gul and the eyewitness namely Ayaz Gul, each accused is sentenced to rigorous imprisonment for five (05) years, (on two counts), and each shall pay a fine of Rs. 100,000/-; and in default of*

payment of fine, each shall further undergo simple imprisonment for three (03) months.

iii. Under section 449/34 PPC, for committing house trespass resulting in the murders of Mst. Maryam and Mst. Jasmin, each accused is sentenced to rigorous imprisonment for five (05) years, and each shall pay a fine of Rs. 5,000/- as compensation to the legal heirs of each deceased, in terms of section 544-A Cr.P.C. In default, each shall undergo simple imprisonment for one (01) month.

All the sentences shall run concurrently. The benefit of section 382-B Cr.P.C. is extended. As the respondents are present before the Court, they shall be taken into custody and sent to the judicial lock-up to serve the awarded sentences. A copy of this judgment shall be supplied to the respondents/accused free of cost through the concerned Superintendent of Jail.

Announced

04.12.2025

Naqqash Haider

J U D G E

J U D G E

Division Bench.

Hon'ble Mr. Justice Sahibzada Asadullah, J.

Hon'ble Mr. Justice Dr. Khurshid Iqbal, J.