

## **JUDGMENT SHEET**

### **ISLAMABAD HIGH COURT, ISLAMABAD,** **(JUDICIAL DEPARTMENT)**

#### **Criminal Appeal No.91/2015**

*Muhammad Rameez & 2 others v. The State & another*

Appellants by: Raja Ghaneem Aabir Khan and Mr. Muhammad Ilyas Khan, Advocates.

Respondents by: Raja Rizwan Abbasi, Advocate for Respondent No.2 (Complainant)  
Mr. Zohaib Hassan Gondal, State Counsel.  
Muhammad Anar, Inspector/I.O., P.S. Nilore, Islamabad.  
Ishaq Khan, S.I., P.S. Nilore, Islamabad.

*and*

#### **Criminal Revision No. 28/2015**

*Faisar Naseer v. Nazim Iqbal & 3 others*

Appellants by: Raja Rizwan Abbasi, Advocate.

Respondents by: Raja Ghaneem Aabir Khan and Mr. Muhammad Ilyas Khan, Advocates for Respondents No.1 to 3.  
Mr. Zohaib Hassan Gondal, State Counsel.  
Muhammad Anar, Inspector/I.O., P.S. Nilore, Islamabad.  
Ishaq Khan, S.I., P.S. Nilore, Islamabad.

Date of Hearing: 17.08.2020.

### **JUDGMENT**

**MOHSIN AKHTAR KAYANI, J:** Through this common judgment, we intend to decide the captioned criminal appeal as well as criminal revision arising out of judgment dated 18.10.2014, passed by Additional Sessions Judge (East), Islamabad, whereby Muhammad Rameez, Nazim Iqbal and Muhammad Attique (appellants) have been convicted in case FIR No.91, dated 21.08.2012, under Sections 302, 324, 337-F(ii)/34 PPC, P.S. Nilore, Islamabad and sentenced in the following manner:

- Under Section 302(b) PPC to undergo imprisonment for life and to pay compensation to the tune of Rs.200,000/- each to legal heirs of deceased

under Section 544-A Cr.P.C., in default whereof, the appellants shall further suffer simple imprisonment for a period of six (06) months under Section 544-A(2) Cr.P.C.

- Under Section 324 PPC to undergo rigorous imprisonment for 10 years with fine of Rs.30,000/- each, in default whereof, appellants shall further undergo simple imprisonment of two months.
- Under Section 337-F(ii) PPC to undergo simple imprisonment for one year with fine of Rs.5,000/- each, in default whereof, appellants shall further undergo simple imprisonment of three (03) months.
- Benefit of Section 382-B Cr.P.C. has been given to the appellants.

2. Brief and consolidated facts referred in the instant cases are that Faisar Naseer (Complainant) filed a complaint (Exh.PU) against Muhammad Rameez, Nazim Iqbal, Muhammad Attique (appellants) and Muhammad Raqeeb (died during the trial) with the allegations that he while heading towards his house after performing his duty at Abbasi CNG Station, Bhara Kahu, Islamabad met his younger brother namely Aser Naseer (deceased) nearby abandoned house of Muhammad Raqeeb at about 01:30 p.m., where appellants Muhammad Rameez, Nazim Iqbal and Muhammad Attique (armed with .30 bore pistols) along with Muhammad Raqeeb (armed with a fire-arm) intercepted them, whereby Nazim Iqbal/appellant made two fire shots on the deceased hitting at the back of his neck followed by another shot hitting the deceased on right leg near his knee, Muhammad Attique/appellant fired at the deceased hitting him on right side thigh and Nazim Iqbal/appellant fired at the deceased hitting on right side thigh. The complainant on raising hue and cry was shot by Muhammad Raqeeb with a pistol hitting him at right superior iliac spine region making an exit from right thigh. The deceased succumbed to injuries at spot while complainant was taken to hospital by his uncle Qazir and cousin Asim. The motive alleged in

complaint was stated to be that complainant's sister was divorced by appellants' uncle namely Abid Hussain. After completion of investigation, the said four accused persons were charged on 27.02.2013, to which they pleaded not guilty and claimed trial. The Learned trial Court after recording of pro and contra evidence passed the impugned judgment 18.10.2014 while the appellants and complainant feeling aggrieved thereof have filed the captioned criminal appeal and criminal revision seeking acquittal and enhancement of sentence, respectively.

3. Learned counsel for appellants contends that the learned trial Court while passing the impugned judgment has ignored the settled principles of law and has not given any reasoning for passing of the impugned judgment; that the learned trial Court had not taken into account the discrepancies apparent on record and even ignored the defence evidence brought on record by the appellants; that the medical evidence and ocular account are at variance to each other but no benefit in this regard has been extended to the appellants; that the learned trial Court while passing the impugned judgment has also violated the golden principle of criminal jurisprudence as despite availability of glaring discrepancies on record, benefit of doubt has not been extended to the appellants, therefore, impugned judgment is liable to be set-aside and appellants may kindly be acquitted of the charge.

4. Conversely, learned counsel for complainant opposed the filing of criminal appeal of accused persons on the grounds that the prosecution has successfully proved the case against appellants, as such the occurrence has not been denied by the appellants and the motive as described by the complainant has been proved against the appellants; that the medical evidence is in line with the prosecution evidence, while negative FSL report has no bearing on the case being a corroborative piece of evidence; that the learned trial Court has rightly appreciated the evidence available on record but could not apply its judicial

mind while passing the impugned judgment, therefore, instant criminal revision may kindly be accepted and Nazim Iqbal/appellant, who has been awarded life imprisonment, may be awarded death sentence under Section 302(b) as well as the fine as imposed by the learned trial Court may be enhanced.

5. Arguments heard, record perused.

6. Perusal of record reveals that PW-11 Faisar Naseer (complainant) lodged a complaint Exh.PU to S.H.O. P.S. Nilore, Islamabad with the allegations he was going to his house on motorcycle at 01:30 p.m. and when he reached near the house of Muhammad Raqeeb/accused, he joined his younger brother Aser Naseer (deceased), aged about 17/18 years, who was coming with his livestock after grazing. In the meanwhile, appellants namely Nazim Iqbal, Muhammad Attique and Muhammad Rameez, all armed with .30 bore pistol, while Muhammad Raqeeb armed with weapon, unpredictably appeared and blocked their way, whereby Nazim Iqbal/appellant fired two shots upon deceased hitting on his back side of neck, Muhammad Attique/appellant fired upon buttock of the deceased, whereafter Nazim Iqbal/appellant again fired upon the deceased hitting on his right leg near knee gap. Whereas, Muhammad Raqeeb fired upon the complainant on raising of his hue and cry, which hit him on the abdomen and exit from the thigh. The incident was witnessed by his uncles Khalid Hussain and Wazir as well as his cousin Asim Wazir, who took the injured to hospital. The motive was the divorce of complainant's sister by the maternal uncle of accused persons namely Abid Hussain. The complaint Exh.PU was converted into FIR No.91, dated 21.08.2012, under Sections 302, 324, 337-F(ii)/34 PPC, P.S. Nilore, Islamabad, referred as Exh.PA.

7. The police after reaching at spot shifted the dead body to PIMS Hospital through Muhammad Iftikhar Hussain/HC for the purpose of postmortem, whereas the complainant was treated by PW-6 Dr. Tanveer Afsar Malik/MLO at

about 2.20 p.m. and as per MLR (Exh.PF), the following injuries have been observed:

- i. Fire-arm entry wound just 1cm medial to right superior iliac spin about 1 ½ c.m. in size, irregular in margin with no blackening, no tattoing but slight charring marks wound in muscle deep.
- ii. Fire-arm exit wound on lateral surface of right thigh about 7-9 c.m. approximately from the anterior superior iliac spine 1 ½ c.m. in size, irregular in shape on examination right femoral/pulsation popliteal pulsation pousal pedals pulsation. The Abd soft and normal BP 140/90 pulse 84 per min.

8. PW-9 Dr. Muhammad Farrukh Kamal/MLO, PIMS Hospital conducted the autopsy of Aser Naseer (deceased) and recorded the following eight injuries:

- i. Entry wound 1x1 c.m. circular inverted margins bloodstained 7cm from right shoulder 6cm from neck between neck and shoulder.
- ii. Exit wound 2x2cm irregular averted margins bloodstained 3cm from sternal notch on right side front of chest.
- iii. Entry wound 1x1cm circular inverted margin bloodstained 9cm from above 5cm from mid line right back of chest.
- iv. Exit wound 2x2cm irregular averted margin bloodstained 3cm from sternal notch on right front of chest.
- v. Entry wound 1x1 circular inverted margin 5cm above from mid gluteal line 4cm from midline gluteal on right.
- vi. Exit wound 1.5 x 1.5cm irregular averted margin bloodstained 8cm from anterior superior iliac supine 4cm from midline on left lower abdomen.
- vii. Wound 1x1cm abrasion type in the center of back.
- viii. Entry wound 7cm above circular inverted margins from right knee. No exit wound. X-ray (P-5) showing right metallic bullet impacted in bone of right thigh.

#### **Internal Examination**

Walls of thorax, pleurae, right lung, mesenteric vessels, walls of abdomen, peritoneum, gluteal and thigh muscles were ruptured and damaged. All others were intact.

#### **Opinion**

In my opinion deceased died due to fire-arm injury which caused ruptured and damage of right lung small intestine along with mesenteric vessels and muscles of gluteal region and thigh were ruptured and damaged. All injuries are ante-mortem in nature and sufficient to cause death in ordinary course of nature.

#### **Time between injury and death**

1 to 2 or few min. time between death and postmortem 3 to 4 hours approximately.

The postmortem report has been referred as Exh.PM, inquest report as Exh.PN and hospital slip as Exh.PO.

9. During the course of cross-examination, PW-9 Dr. Muhammad Farrukh Kamal/MLO acknowledged that he has not mentioned about the corresponding holes on the clothes of deceased.

10. PW-16 Muhammad Anar/S.I. i.e. Investigating Officer of this case, prepared the rough site plan Exh.PA/B, secured the blood through cotton vide recovery memo Exh.PB and has also taken into possession 09 empties (P15/9) along with one bullet head (P16) through recovery memo Exh.PW. The Investigating Officer arrested Muhammad Raqeeb/accused on same day and got physical remand on next day i.e. 22.08.2012, while the next day the Investigating Officer got recovered the pistol on pointation of Muhammad Raqeeb/accused from his house vide recovery memo Exh.PY.

11. On 02.09.2012, appellants namely Nazim Iqbal and Muhammad Attique surrendered before the police while Muhammad Rameez was arrested on 04.09.2012. On 06.09.2012, Nazim Iqbal/appellant got recovered .30 bore pistol from his house through recovery memo Exh.PX, regarding which case FIR under Sections 13/20/65 of the Arms Ordinance, 1965 was registered. On 09.09.2012, Muhammad Atiq and Muhammad Rameez got recovered .30 bore pistols from their respective house, which were taken into possession vide recovery memos Exh.PZ and Exh.PZ/1, regarding which separate FIRs under Sections 13/20/65 of the Arms Ordinance, 1965 were registered, whereafter the appellants Muhammad Attique, Muhammad Rameez and Nazim Iqbal were sent to judicial lockup on 10.09.2012, against whom the Investigating Officer submitted incomplete *challan* on 12.09.2012. The Investigating Officer has also taken into possession Talaqnama submitted by Rizwana Naseer, vide recovery memo Exh.PT.

12. The star eyewitness of this case is the complainant i.e. PW-11 Faisar Naseer, who reiterated his stance of complaint. PW-11 Faisar Naseer stated that he was not in company of his deceased brother for grazing of the cattle, rather he

was on duty and after finishing his duty when he was coming home the occurrence had taken place, though he has not produced any of his attendance sheet or evidence to justify his attendance to the Investigating Officer. As per stance of PW-11 Faisar Naseer, he was coming back from his duty and accidentally met the scene of occurrence. He was confronted with his stance Exh.PU regarding the weapon of offence used by Muhammad Raqeeb, whereby he stated that he used .30 bore pistol, however when Exh.PU was confronted, it was not so recorded. He also mentioned in his statement recorded under Section 161 Cr.P.C. that Shalwar of deceased (Exh.P8) was having five (05) bullet holes, however when it was confronted with the statement this fact was not so recorded. He further confirmed that Abid Hussain had divorced his sister two years ago through Talaqnama Mark-A, which was not witnessed by any of the accused person as marginal witness. PW-11 Faisar Naseer further confirmed that he filed his application Exh.PU at Polyclinic Hospital to the Investigating Officer, but he was not sure that he informed the police, who reached the hospital, however he acknowledged that he had not informed the police about the occurrence through any phone call. PW-11 Faisar Naseer remained in hospital for two months after the incident, but nothing has been brought on record to that effect. During the course of incident he had seen his brother and accused persons at the same time when firing was being made.

13. The other eyewitness of the occurrence is PW-12 Khalid Hussain, who stated that on 21.08.2012, he along with nephew Aser Naseer were going to home after grazing the cattle and suddenly the accused party appeared at spot and stopped them. Nazim Iqbal/appellant made two fires upon the deceased hitting him on the back side of neck, followed by another fire shot by Muhammad Attique/appellant hitting the deceased on his left buttock, whereafter Nazim Iqbal/appellant made a straight fire hitting the deceased on right leg near the knee joint. PW-11 Faisar Naseer/complainant on seeing the said firing rushed

towards his brother (deceased) while making hue and cry, upon which Muhammad Raqeeb/accused made a straight fire on him hitting him below the right side of abdomen. PW-12 Khalid Hussain also stated that his brother Wazir and other nephews reached at the spot and took PW-11 Faisar Naseer/complainant to Polyclinic Hospital. He alleged the motive of the occurrence as previous enmity i.e. divorce of the deceased's sister by the maternal uncle of appellants. During the course of cross-examination, PW-12 Khalid Hussain acknowledged that he is real uncle of deceased and works in Phoenix Security Company, Aapbara from last 6/7 years with 12 duty hours i.e. from 06 a.m. to 06 p.m. He further confirmed that he had no enmity with the accused party, however his brother (father of deceased) had developed enmity with the accused party after the divorce of his daughter. He also confirmed that he mentioned in his statement recorded under Section 161 Cr.P.C. that accused Muhammad Attique made a straight fire hitting the deceased on left buttock, however when confronted no such fact was recorded. Similarly, he had also been confronted with his statement where he had mentioned that deceased tried to get up after receiving fire-arm injury from Muhammad Attique/appellant, but same was not mentioned in his statement, nor had he mentioned the motive behind the occurrence in his statement recorded under Section 161 Cr.P.C., even he has been confronted regarding statement of repeated fire alleged upon Nazim Iqbal/appellant, but said fact was not recorded. PW-12 Khalid Hussain has not produced any documentary evidence to confirm that he was on leave on the day of occurrence and the incident took place in the main street of village. He further acknowledged that police reached at spot after 15/20 minutes of the alleged occurrence and he recorded his statement under Section 161 Cr.P.C. to Muhammad Anar/S.I. i.e. Investigating Officer of this case. He did not accompany the injured to the hospital, however he confirmed that he and PW-11 Faisar Naseer/complainant were behind the deceased in the alleged incident and



none from locality was present over there, even none else crossed them in street while passing through the street.

14. In order to prove the motive of this case, the prosecution has produced PW-13 Rizwana Naseer, who stated that she was married to Abid Hussain in the year 1996 and the accused party used to fight with his brothers and on the instigation of accused persons/appellants her husband used to torture her. She stated that she was divorced on 10.11.2011, which is the motive behind the occurrence. During the course of cross-examination, she acknowledged that she remained wife of Abid Hussain for 15 years and she has one son from the said wedlock, who is presently living with Abid Hussain, regarding which she has filed a suit for custody of his son, which is still subjudice. She further acknowledged that at the time of occurrence she along with injured brother (complainant) and deceased were present at spot and none other was present at the spot.

15. The prosecution has also produced recovery witness i.e. PW-14 Zafar Mehmood, who stated that on 21.08.2012, he was present at the scene of occurrence when Investigating Officer had secured blood through cotton as well as recovered nine empties of .30 bore pistol along with one bullet head through recovery memos Exh.PV and Exh.PW, respectively. On 06.09.2012, he along with Wajid Hussain were present at the shop of one Haroon ur Rasheed at about 12 in the noon, when Nazim Iqbal/appellant along with Investigating Officer and other police officials came there, whereby said accused person led the police party towards a residential house, from where he got recovered .30 bore pistol (P10) from a gun holster lying in a room, which was taken into possession through Exh.PX. During the course of cross-examination, PW-14 Zafar Mehmood acknowledged that he is the real brother of Muhammad Naseer i.e. father of deceased and real uncle of deceased. He further acknowledged that none from the locality has been asked to record their statement, except him and the other

witness, even the recovery was not witnessed by the other residents of the locality. He also confirmed that on 06.09.2012, three (03) police officials came at the house of Nazim Iqbal/appellant for alleged recovery and no one was present there at the shop, except him, and he accompanied them, however he could not recognize the pistol recovered during his presence.

16. Likewise, on 31.08.2012, PW-15 Ikram Zafar witnessed the recovery of .30 bore pistol (P11) having been effected on the pointation of Muhammad Raqeeb/accused along with its licence (P12) vide recovery memo Exh.PY. He again joined the recovery proceedings of .30 bore pistol (P13), recovered on the pointation of Muhammad Attique/appellant along with Abdul Aziz on 09.09.2012 through recovery memo Exh.PZ. He was also witness of recovery of third pistol i.e. .30 bore pistol (P14) on the pointation of Muhammad Rameez/appellant, which was taken into possession vide recovery memo Exh.PZ/1. During the course of cross-examination, PW-15 Ikram Zafar has recognized the pistols recovered in his presence from accused persons namely Muhammad Raqeeb, Muhammad Atiq and Muhammad Rameez.

17. PW-16 Muhammad Anar/S.I. investigated the crime, arrested the accused persons and submitted his final report under Section 173 Cr.P.C. He stated that he remained at the place of occurrence for about 15 minutes, who received the written application from complainant in hospital on the day of occurrence. He acknowledged that inquest report had to be signed by him and then by doctor under the law, but his signatures were not present on the inquest report, again volunteered that at the end of report his signatures are available. He also confirmed that Columns No.22 and 23 of the inquest report were vacant and not filled up. He also confirmed that he had taken the recovered empties and a bullet head to the police station and handed it over to Moharrar Malkhana on same day. The pistols were recovered on 31.08.2012, 06.09.2012 and 09.09.2012, which were kept in the police station until 19.09.2012 when the Moharrar Malkhana had

sent the nine empties and one bullet head for ballistic examination. He further confirmed that on 19.09.2012, the empties and bullet head were returned under objection, whereafter same were re-sent to the Forensic Science Laboratory. He also confirmed that Muhammad Attique and Muhammad Raqeeb were not found present at the day and time of occurrence. The Investigating Officer has not verified *Talaqnama* produced by PW-13 Rizwana Naseer. He also confirmed that the doors of the houses belonging to accused Muhammad Attique and Muhammad Rameez were not locked, rather closed, which were opened by said accused persons.

18. On the contrary, the defence has also recorded their counter version, whereby DW-1 Farhat Shaheen stated that on 21.08.2012, at about 01:15 p.m., when she was at her house along with Muhammad Attique/accused for greeting of Eid, a child informed them that her brother Touheed Iqbal, who is deaf and dumb, received a stab wound at the hands of deceased, as such, DW-1 Farhat Shaheen was not present at the scene of occurrence, therefore, her testimony is considered to be a hearsay having no worth.

19. Similarly, Nazim Iqbal/appellant appeared as DW-2 in his own defence in terms of Section 340(2) Cr.P.C. and stated that he was present at the residence of his maternal uncle at Jawa Lal Pari, where he received a call from his brother Naveed Iqbal at about 1:50 p.m. informing him that the deceased and Rizwan Zafar had attacked on Touheed Iqbal, whereupon he committed murder of the deceased through .30 bore pistol. During the course of cross-examination, DW-2 Nazim Iqbal/appellant has failed to produce any defence evidence to establish that he was not present at the scene of occurrence, rather his plea of alibi has not been acknowledged. However, DW-2 Nazim Iqbal/appellant admitted that complainant's sister was married to his maternal uncle namely Abid Hussain, who divorced the said lady, even he never filed any application for the injuries on the person of Touheed Iqbal, nor filed any private complaint regarding their

counter version. He was specifically asked a question in this regard, but he could not place any valid reason for non registration of the FIR.

20. Likewise, DW-3 Muhammad Attique/appellant acknowledged that on 21.08.2012, at about 1 to 1:15 p.m., he was present at the house of sister DW-1 Farhat Shaheen, a little bit near to the place of occurrence and during conversation his nephew came there informing them that deceased had attacked on Touheed Iqbal with knife, whereas Naveed Iqbal had fired a shot at deceased. However, Similarly, DW-3 Muhammad Attique/appellant has also failed to justify his plea of alibi, even not justified the non-filing of any application to record their counter version in evidence, especially in the case of Naveed Iqbal and injuries of Touheed Iqbal.

21. DW-4 Abid Hussain stated that he was married to PW-13 Rizwana Naseer on 30.06.1996 and after 15 years of his marriage the latter demanded divorce. During the course of cross-examination, he acknowledged that all accused persons are his real nephews and due to divorce to PW-13 Rizwana Naseer, the relationship of the accused persons become strained with the complainant party, even there was exchange of harsh words/altercations between the parties before and after the divorce.

22. DW-5 Muhammad Akram stated that on 21.08.2012 i.e. second day of Eid, he along with his sister, brother Muhammad Masood, Mehmood Hussain and Nazim Iqbal/accused were present at the house of Muhammad Masood at about 1:30 p.m. to 1:50 p.m., when Nazim Iqbal/appellant received a telephone call from his brother Naveed Iqbal informing him about the incident that he had lost his control on temper on seeing his brother Touheed Iqbal in injured condition and shot dead the deceased. During the course of cross-examination, DW-5 Muhammad Akram acknowledged that he informed the police regarding said incident but despite efforts of the Court nothing is available on record to justify

the stance that he had ever informed the police authorities regarding their version, therefore, said evidence has no value.

23. Similarly, Muhammad Masood appeared as DW-6 and stated that on second day of Eid i.e. 21.08.2012, he hosted a feast at his house and invited his brother DW-5 Muhammad Akram, sister and brother Mehmood along with family and Nazim Iqbal/appellant along with family when he received information that incident took place where Touheed Iqbal got injured at the hands of deceased using *Churri* blows, whereupon Naveed Iqbal had fired upon the deceased, but he has no clue about any complaint ever filed on behalf of accused side to the police regarding their counter version. However, he acknowledged that complainant's sister was wife of his brother and divorce had taken place between them. He also acknowledged that said divorce led to strained relationship between complainant party and accused persons.

24. The last star witness of defence side is DW-7 Naveed Iqbal i.e. son of Muhammad Raqeeb/accused, who stated that on 21.08.2012, he was present in his house when he heard hue and cry of Touheed Iqbal and when he went out with his .30 bore pistol, he saw the latter being beaten up by the deceased and Rizwan Zafar, to which he lost his temper and opened fire upon the deceased hitting on his right leg, whereas Rizwan Zafar fled away from the scene of occurrence, while the deceased when tried to escape from the place of occurrence, DW-7 Naveed Iqbal again opened two fires upon the deceased hitting on his back near his shoulder, whereafter he came back to his house with his brother Touheed Iqbal. He has also taken the stance that his brother Muhammad Attique, Muhammad Rameez and Nazim Iqbal and his father Muhammad Raqeeb were not present at the place of occurrence, as such, PW-12 Khalid Hussain and PW-11 Faiser Naseer/complainant were also not present at the scene of occurrence. He further stated that he informed the police regarding the occurrence on same day, but surprisingly he had not moved any application

that his brother Touheed Iqbal was injured in any manner nor his father ever moved such application, although he has taken the specific stance that his brother Touheed Iqbal was medically examined, though he is not aware about the injuries of Touheed Iqbal, which were declared self inflicted, even he neither accompanied Touheed Iqbal to hospital nor had visited the police station in this regard, even not informed to the higher authorities of police through submission of any application or recording of his statement.

25. Keeping in view the defence version, it was imperative for defence to have produced Touheed Iqbal, who had allegedly received injuries at the hands of deceased, but surprisingly, said Touheed Iqbal was given up by the defence through recorded statement on 08.07.2014 before the Court.

26. Perusal of the defence version reveals that Naveed Iqbal had committed murder of deceased through .30 bore pistol and this fact has also been admitted by the former before the Court that he committed murder of the deceased for having his brother Touheed Iqbal beaten up at the hands of deceased, as such, non-production of Touheed Iqbal devastates the defence evidence contaminating into the view that every step taken by the defence is an afterthought.

27. The juxtaposition of prosecution evidence and defence version establishes that PW-11 Faisar Naseer/complainant i.e. brother of deceased has explained the alleged occurrence with specific roles attributed to accused persons and the manner in which deceased has been done to death, as such, exhaustive cross-examination by the defence does not shatter the complainant, even his statement was corroborated through statement of PW-12 Khalid Hussain in a proper manner.

28. The motive in the name of divorce is acknowledged by both the sides and proved on record, though the marriage was dissolved at least two years earlier to the incident, therefore, the immediate cause of attack is not brought on record by the prosecution. 19.09.2012 – 21.08.2012

29. The fire-arm 09 empties along with one bullet head recovered from the spot on the day occurrence were not sent to Forensic Science Laboratory until the recovery of weapons of offence i.e. empties along with the bullet head despite having been taken into possession on 21.08.2012 were kept in Malkhana and sent to FSL on 01.10.2012, whereas the weapons of offence having been recovered on 31.08.2012, 06.09.2012 and 09.09.2012 were sent to FSL on 08.10.2012, as stated by PW-2 Ijaz Hussain Shah/Constable. However, the result of FSL (Exh.PA/G), dated 20.06.2013, though confirms the use of recovered pistols and matched with fire-arm empties, has no evidentiary value and is inconsequential. Reliance is placed upon 2008 SCMR 707 (Ali Sher and others Versus The State).

30. The evidence available on record clearly links the appellants with the commission of offence, even the defence version has no legs to stand and same has been discarded for having no material evidence, rather is an afterthought, especially when the defence has not produced the injured Touheed Iqbal and same was given up by the defence. This aspect leads this Court towards the conclusion in terms of Article 129(g) of the Qanun-e-Shahadat Order, 1984 as the defence has intentionally been given up Touheed Iqbal, who, if had been produced, could have gone against the defence version, though DW-7 Naveed Iqbal confessed the commission of murder, but his testimony has not been corroborated through independent means, and as such, he is declared to be a witness not truthful and made a statement on oath before the Court, which is nothing but a bundle of lies. His entire version has to be considered a created scheme to exonerate his brothers i.e. appellants from the sentence awarded by the learned trial Court.

31. This Court has also gone through the impugned judgment and observed that same covers all aspects on the case in hand and is free from any illegality. The plea of alibi taken by the appellants is not proved and entire defence version has been demolished by their own evidence. The sentence awarded by the

learned trial Court is in accordance with law and the accused persons/appellants have rightly been convicted in terms of Section 302(b) PPC for committing Qatl-e-Amd of the deceased, as such, the learned trial Court has already taken a lenient view while awarding life imprisonment instead of death sentence, therefore, captioned Crl. Appeal No.91/2015 (Muhammad Rameez & 2 others vs. The State & another) is hereby **DISMISSED**. However, criminal revision filed by complainant side is also not made out, especially when no justified reasons have been brought on record for enhancement of sentence awarded to appellants under the law, therefore, captioned Crl. Revision No.28/2015 (Faisar Naseer v. Nazim Iqbal & 3 others) is not made out on reasons discussed above and same is hereby **DISMISSED**.

(FIAZ AHMAD ANJUM JANDRAN)  
JUDGE

(MOHSIN AKHTAR KAYANI)  
JUDGE

Announced in open Court on: 28th Sept 2020.

JUDGE

JUDGE

Khalid Z.