

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present: Justice Muhammad Hashim Khan Kakar
Justice Ishtiaq Ibrahim
Justice Ali Baqar Najafi

Jail Petition No. 166/2022

(Against the order/judgment dated 04.03.2022
passed by the High Court of Sindh, Bench at Sukkur,
in Crl. Jail Appeal No. S-57/2020)

Ghulam Sarwar Ghangro

Petitioner(s)

Versus

The State

Respondent(s)

For the Petitioner(s): Syed Muhammad Tayyab Shah, ASC

For the State: Ms. Rahat Ahsan, APG Sindh

For the Complainant(s): N.R.

Assisted by: Aqib Aman, Research Officer

Date of Hearing: 21.10.2025

JUDGMENT

Muhammad Hashim Khan Kakar, J. Through the instant petition, the petitioner, Ghulam Sarwar Ghangro, has assailed the impugned judgment dated 04.03.2022, passed by the High Court of Sindh, Bench at Sukkur, whereby his appeal was dismissed and his conviction and sentence were upheld.

2. The prosecution alleges that on 15.10.2005, the complainant and his two sons were lured to Bagerji forest by the petitioner and one Saeed Ahmed under the pretext of purchasing a buffalo. It is alleged that the petitioner while citing a prior insult, shot the complainant's son, Abdul Waheed, with a Kalashnikov, causing his instantaneous death. The complainant, with the help of his other son, then transported the deceased's body to the hospital, where the FIR was subsequently lodged.

3. The Trial Court vide judgment dated 20.09.2019 convicted the petitioner under section 302(b) PPC and sentenced him to imprisonment for life and also directed to pay compensation of Rs.300,000/- to the legal heirs of deceased Abdul Waheed under section 544-A Cr.PC and in default thereof to further undergo SI for six months. Benefit of section 382-B was also extended to the petitioner. Feeling aggrieved, the petitioner preferred appeal before the High Court which was also dismissed.

4. The learned counsel for the petitioner has vigorously asserted that the prosecution failed to meet its threshold obligation of establishing the petitioner's guilt beyond a reasonable doubt. The said contention rests on the fundamental inconsistency between the ocular evidence and the medical and circumstantial evidence adduced. Specifically, counsel emphasizes the non-recovery of both spent casings from the *locus in quo* and the alleged crime weapon, alongside the absence of a crucial chemical examiner's report concerning blood evidence. Further, he submits that the evidence is demonstrably tainted by major contradictions among the prosecution witnesses, who are also shown to be closely related to the complainant. It is argued that the Trial Court and High Court erroneously convicted the petitioner by disregarding these patent defects, thereby rendering the impugned judgments contrary to law and justice, warranting their setting aside and the acquittal of the petitioner on the benefit of doubt.

5. The learned APG for the State supported the correctness of the impugned judgments. It is the contention of the prosecution that the courts' decisions are well-reasoned and meticulously grounded in law, disclosing no apparent illegality or irregularity. Consequently, it is submitted that the judgments of courts below warrant no interference from this Court and prays for the dismissal of the instant petition.

6. We have heard the learned counsel and gone through the record through their valuable assistance. We have observed that as per prosecution version the occurrence took place on 15.10.2005 at 06:00 p.m. and the post-mortem was conducted on 16.10.2005 at 01:30 a.m. i.e. after 07:30 hrs. As per report of doctor at the time of post mortem,

rigor mortis was fully developed. Before further deliberation regarding the determination of the time of death, it is essential to establish the relevant forensic criteria. The phenomenon known as *rigor mortis* signifies the post-mortem stiffening of both voluntary and involuntary muscles in the human body. This process typically commences within 2 to 4 hours after death and achieves full development within approximately 12 hours in a temperate climate. Similarly, the reverse process with which *rigor mortis* disappears is called *algor mortis*. In sudden natural deaths occurring in a temperate climate during average seasonal conditions *rigor mortis* usually commences within 2 to 4 hours of death. It reaches a peak in about 12 hours and starts to disappear after another 12 hours. The cadaver becoming limp some 36 hours after death¹. Rai Bahadur Jaising P. Modi in his well celebrated work “*A Textbook of Medical Jurisprudence and Toxicology*² also makes such mention which is reproduced hereunder:

“Rigor mortis generally occurs, while the body is cooling. It is in no way connected with the nervous system, and it develops even in paralyzed limbs, provided the paralyzed muscle tissues have not suffered much in nutrition. It is retarded by perfusion with normal saline.....

Time of Onset.- This varies greatly in different cases, but the average period of its onset may be regarded as three to six hours after death in temperate climates, and it may take two to three hours to develop.

Duration-In temperate regions, rigor mortis usually lasts for two to three days. In northern India, the usual duration of rigor mortis is 24 to 48 hours in winter and 18 to 36 hours in summer. According to the investigations of Mackenzie, in Calcutta, the average duration is nineteen hours and twelve minutes, the shortest period being three hours, and the longest forty hours.” In Colombo, the average duration is 12 to 18 hours. When rigor mortis sets in early, it passes off quickly and vice versa. In general, rigor mortis sets in one to two hours after death, is well developed from head to foot in about twelve hours. Whether rigor is in the developing phase, established phase, or maintained phase is decided by associated findings like marbling, right lower abdominal discolouration, tense or taut state of the abdomen, disappearance of rigor on face and eye muscles. If on examination, the body is stiff, the head cannot be fixed towards the chest, then in all probability, the death might have occurred six to twelve hours or so more before the time of examination.....

Age..... In adolescent and healthy adult bodies, the occurrence of rigor mortis is slow but well marked, while it is feeble and rapid in the bodies of children and old people.” (**Underlined for emphasis**)

7. Admittedly, the deceased was young male of 26 years in a temperature climate area where the weather is comparatively hot even in

¹ Taylor, Alfred Swaine (1984), *Principles And Practice of Medical Jurisprudence* , B I Churchill Livingstone Pvt Ltd, p 140

² Modi, Jaising P. (2003) *A Textbook of Medical Jurisprudence and Toxicology*, Civil and Criminal Law Publication (21st Edition 2003-2004) ", pp 228-230

early winters. Occurrence statedly took place at 06:00 p.m. and the post-mortem was conducted the next day at 01:30 a.m. i.e. after 07:30 hrs. Swift development of complete *rigor mortis* on the body of young adult deceased in the temperature region contradicts the time of occurrence deposed by the prosecution witnesses and development of *rigor mortis* within such short span of time is implausible which suggests that the occurrence does not appear to have taken place at the point of time mentioned by the witnesses. In cases of similar circumstances, this Court has also observed that development of *rigor mortis* within such short span of time is mind boggling and came to the conclusion that occurrence does not appear to have taken place at the point of time mentioned in the crime report.³ This determination of time is further clarified by deposition of expert/doctor who conducted post-mortem of deceased. Dr. Mushtaque Ahmed who appeared as PW-5 admitted during the cross examination that as per his report, the time duration between death and post mortem was sixteen to eighteen hours and by this calculation the death occurred on 15.10.2005 in between 7:30 a.m. to 09:30 a.m. He further admitted that according to the condition of dead body it was impossible that death occurred in between 05:00 p.m. to 07:00 p.m. as alleged by prosecution. The deposition of expert witness/doctor also appears to be in accord with the medical jurisprudence as discussed above and aspires confidence.

8. We have further observed that the anomaly of time of death suggests that the prosecution witnesses were not present at the time of occurrence and the same appears to be unseen occurrence. The prosecution witnesses are relatives of deceased and several contradictions have also been pointed out. The complainant/eyewitness, Sher Muhammad, appeared as PW-1 and the other eyewitness, Azizullah, appeared as PW-2 who stated in their examination-in-chief that the dead body of deceased was brought to PS Bagerji on donkey cart where report was lodged and thereafter the police gave the letter to hospital for post mortem, however, the complainant during cross examination admitted that they took the dead body to hospital and they returned to PS after

³ "Noor Ahmad v. The State and others" (2019 SCMR 1327) and Asad Rehmat v. The State and others" (2019 SCMR 1156)

that. The FIR also depicts that firstly the dead body was taken to hospital and then the complainant approached the P.S. to report the incident. Moreover, the eyewitnesses also made improvement regarding robbing of Rs.25,000/- from deceased during their examination-in-chief which was not reported in FIR. In addition to this, the conduct of the eyewitnesses as reflected in record is also unnatural as the real son of complainant and real brother of the eyewitness was being murdered in front of their eyes and they neither resisted nor raised any hue and cry to rescue the deceased. The time durations as narrated by prosecution also do not add up harmoniously to support prosecution story. The distance between place of occurrence and police station is 3 ½ KM and despite of the same there is a delay of 07:30 hrs in conducting the post mortem. These contradictions are also coupled with the fact that the crime weapon was not recovered and motive was not established. All these circumstances create reasonable doubts and the benefit of such doubt must be extended to the petitioner.

9. In light of the above considerations the instant petition is converted into an appeal and the same is allowed by setting aside the impugned judgment. The petitioner is acquitted of the charges levelled against him and he is ordered to be released forthwith if not required in any other case.

ISLAMABAD

21.10.2025

(Aqib Aman)



Approved for Reporting