

Stereo HCJDA-38
Judgment Sheet
**IN THE LAHORE HIGH COURT
RAWALPINDI BENCH RAWALPINDI
JUDICIAL DEPARTMENT**

Capital Sentence Reference No.03 of 2023
(The State versus Faizan Razzaq, Muhammad Rizwan, Muhammad Amin
Raees and Wazir Gull)

Crl. Appeal No. 574 of 2023
(Muhammad Amin Raees versus The State)

Crl. Appeal No. 587 of 2023
(Wazir Gull versus The State)

Crl. Appeal No. 588 of 2023
(Faizan Razzaq versus The State)

Crl. Appeal No. 738 of 2023
(Muhammad Rizwan versus The State)

Crl. Appeal No. 926 of 2023
(Usman Liaqat versus The State)
&

Crl. Appeal No. 1063 of 2024
(Umer Nawaz versus Faizan Razzaq, etc)

JUDGMENT

Date of hearing	20-11-2025
Appellants by:	Ms. Tahira Siddiqui, Advocate for appellant in (Cr.Appeal No. 574/2023). Mr. Muhammad Jehangir Iqbal, Advocate for appellants in (Crl.Appeal No.(588 & 738 of 2023).
State by	Barrister Zain Mansoor, Assistant Attorney General for Federation with Ilyas Khan, Inspector NCCIA-Rawalpindi
Complainant by:	Raja Imran Khalil, Advocate.

Ch. Sultan Mahmood. J:- Faizan Razzaq, Muhammad Rizwan, Muhammad Amin Raees, Wazir Gull and Usman Liaqat appellants were tried by learned trial court in case FIR No. 89 dated 12.09.2022 for offences

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under section 295-A, 295-B, 295-C, 109 & 34 PPC read with sections 11 & 22 of Prevention of Electronic Crimes Act, 2016, registered at Police Station FIA, Cyber Crimes Circle, Rawalpindi and vide judgment dated 04-09-2023 convicted and sentenced, appellants as under:-

1.Faizan Razzaq

U/s 295-C PPC

Sentenced to Death with fine of Rs.100,000/- or six months simple imprisonment in the event of default.

U/s 295-B PPC

Imprisonment for life.

U/s 11 of Prevention of Electronic Crimes Act, 2016

Seven years rigorous imprisonment

2.Wazir Gull

U/s 295-C PPC

Sentenced to Death with fine of Rs.100,000/- or six months simple imprisonment in the event of default.

U/s 295-B PPC

Imprisonment for life.

U/s 11 of Prevention of Electronic Crimes Act, 2016

Seven years rigorous imprisonment

3.Muhammad Rizwan

U/s 295-C PPC

Sentenced to Death with fine of Rs.100,000/- or six months simple imprisonment in the event of default.

U/s 295-B PPC

Imprisonment for life.

U/s 11 of Prevention of Electronic Crimes Act, 2016

Seven years rigorous imprisonment

U/s 22 of Prevention of Electronic Crimes Act, 2016

Seven years rigorous imprisonment

4.Muhammad Amin Raees

U/s 295-C PPC

Sentenced to Death with fine of Rs.100,000/- or six months simple imprisonment in the event of default.

U/s 295-B PPC

Imprisonment for life.

U/s 11 of Prevention of Electronic Crimes Act, 2016

Seven years rigorous imprisonment

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5.Usman Liaqat

U/s 11 of Prevention of Electronic Crimes Act, 2016

Seven years rigorous imprisonment alongwith fine of Rs. 100,000/- and in default thereof to undergo simple imprisonment for six months. Benefit of section 382-B of Cr.P.C is given to the convict Usman Liaqat.

Sentences of imprisonment were ordered to run concurrently with benefit of section 382-B of the Code of Criminal Procedure. Vires of the impugned judgment have been challenged by the convicts through Crl. Appeals Nos. 574, 587, 588, 738, 926 of 2023 whereas Criminal Appeal No. 1063 of 2024 seeks reversal of acquittal of respondents from Section 29-A, PPC; whereas Capital Sentence Reference No.3-T of 2023 is directed towards confirmation of death penalty; bearing a common thread, these are being decided through this single judgment.

2. Prosecution case is anchored upon complainant (**Ex.PA/Exh.PA/1** of Umer Nawaz (**PW-1**), registered by Syed Haider Abbas, Deputy Director (**PW-13**), on 12.09.2022 at 06.00; his narrative for convenience of reference is reproduced in extenso:-

“Stated that on 14.12.2021, I moved application Ex.PA bearing my thumb impression and signature as Ex.PA/1 to the Cyber Crime Circle FIA. I mentioned 13 WhatsApp numbers in my application (Ex.PA), whereby blasphemous material was transmitted in different WhatsApp groups. Five accused persons present in the Court were arrested by the FIA being involved in the commission of offence. Different types of blasphemous material Le. disrespect of the Allah Almighty, Holy Quran, Holy Prophet, Sahaba Ikram, Al-Bait, Umhat-Ul-Momineen were being shared in said blasphemous groups. I produced printouts of 25 screen shots ie. Ex. PA/2-26 and one CD ie. Ex.PA/27 to the FIA alongwith my application (Ex.PA). At the very outset, learned counsel for the accused persons raised objection that printouts of 25 screen shots (Ex.PA/2-26) and CD (Ex.PA/27) are inadmissible in evidence. Objection of learned counsel for the accused persons has been recorded and they are directed to cross-examination with reference said objection, thereafter, said objection will be decided at the time of appraisal of evidence.”

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3. In order to establish its case, the prosecution examined thirteen witnesses in all. Umar Nawaz (**PW-1**) is the complainant of the FIR. PW-2 to PW-4 produced the forensic analysis reports, while Syed Haider Abbas, Deputy Director (**PW-13**), along with PW-2 to PW-12, conducted the investigation of the case. During the course of investigation, the accused Faizan Razzaq, Muhammad Amin Raees, and Muhammad Rizwan were arrested on 26.10.2022. Upon the personal search of Muhammad Rizwan, two mobile phones one Motorola Moto E-5 (**P-1**) and one Q-Mobile X-32 (**P-2**) were recovered and taken into possession through recovery memo Ex.PJ. From the possession of accused Muhammad Amin Raees, one Mobile Infinix Note 8i (**P-3**) along with two SIM cards (**P-4 and P-5**) was recovered and secured vide the same memo. Accused Wazeer Gull was apprehended earlier on 13.09.2022. During his personal search, one Infinix X682B mobile phone (**P-6**) along with SIM No. 0325-9846197 (**P-7**), and one copy of the Holy Qur'an wrapped in pink cloth (**P-8**), were recovered and taken into possession. Accused Faizan Razzaq was arrested on 12.09.2022, and during interrogation he led to the recovery of one Infinix Zero X Pro (Model X6811) mobile device (**P-9**) Telenor SIM No.0344-2802504 along with Zong SIM No. 0349-5052029 (**P-11**), one Nokia 107 mobile phone (**P-12**) along with SIM No. 0349-9699513 (**P-13**), and one Telenor SIM jacket bearing No. 0349-9699513 (**P-14**). These articles were taken into possession vide recovery memo Ex.PN. The last arrest was of accused Usman Liaqat on 18.09.2022. Pursuant to his disclosure, one Huawei Y7 Prime mobile phone (**P-15**) along with two SIM cards Jazz No. 0300-0830496 (**P-16**) and Zong No. 0318-7414220 (**P-17**) was recovered and secured through recovery memo Ex.PO. Recoveries from the spot as well as the accused constitute yet another plank to support the charge. Hailing from different backgrounds, accused rallied behind a unanimous denial; blamed their prosecution as abuse of process of law on account of sectarian divide

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4. Thereafter, the statements under section 342 Cr.P.C. of the accused were recorded wherein they refuted the allegations leveled against them and professed their innocence. They neither opted to appear as their own witnesses on oath as provided under Section 340(2) of the Code of Criminal Procedure, 1898 in disproof of the allegation leveled against them, nor produced any defence evidence.

5. The learned trial court *vide* judgment dated 04-09-2023 found the appellants guilty, convicted and sentenced them as mentioned above, hence, these criminal appeals for convictions, Crl. Appeal No. 1063 of 2024 seeks reversal of acquittal of respondents under Section 295-A and connected capital Sentence Reference before us.

6. Arguments heard and record perused.

7. Perusal of the record, evidence, and statements produced before this Court indicates that the complaint (**Ex.PA**) filed by Umer Nawaz (**PW-1**) alleged that the appellants had posted and transmitted blasphemous material regarding the Holy Prophet Muhammad (**PBUH**) and Ummul Mumineen Hazrat Ayesha (**R.A**) through 13 WhatsApp numbers. The complainant provided 26 screenshots (**Ex.PA/2-26**) and a CD (**Ex.PA/27**) purportedly containing blasphemous content, asserting that the accused shared nude/objectionable images with superimposed verses of the Holy Quran, the name of Allah Almighty, Kalma Tayyaba, and Durood-e-Pak. Following approval from the competent authority, the FIR was registered under Section 11 of the Prevention of Electronic Crimes Act, 2016, read with Sections 295-A, 295-B, 295-C, 34, and 109 of the Pakistan Penal Code (**Ex.PP**).

8. Upon scrutiny, it emerges that the mobile numbers cited in the FIR were registered in the names of third parties and not the accused. Learned Law Officer conceded that these third-party owners were neither made accused nor cited as witnesses. Recovery operations under the supervision of Deputy Director FIA (**PW-13**) revealed multiple devices from appellants,

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including laptops, mobile phones, SIMs, SD cards, and routers, such material cannot form the basis of evidence against the appellants.

9. Furthermore, the complainant's mobile device, on which the blasphemous material was allegedly observed, was neither forensically examined nor presented before the trial Court. The testimony of the inquiry officer confirms that the device was temporarily in custody but returned to the complainant without proper forensic analysis. The complainant had also supplied the alleged content in hardcopy form. In the absence of independent verification, this electronic evidence lacks probative value.

10. The complainant's prolonged silence for nearly three years, despite being a member of the relevant WhatsApp groups, coupled with his failure to produce the mobile device for forensic examination, constitutes a grave procedural lapse, directly attracting the mandate of Article 73-A of the Qanun-e-Shahadat Order, 1984. The statutory framework governing electronic evidence further reinforces this deficiency. Article 46-A requires proof that the relevant automated information system was functioning properly at the material time. Under Article 73 and its Explanation, screenshots or printouts can attain the status of primary evidence only when generated, transmitted, and preserved through verified security procedures. Article 78-A imposes the additional burden that where authorship or reliability of an electronic document is denied as in the present case the party relying on such material must affirmatively prove that requisite security protocols were applied. The prosecution has failed to satisfy any of these indispensable evidentiary conditions.

11. Authoritative law, particularly in "*Ali Raza v. State*" (2019 SCMR 1982) unequivocally requires production of the very information system through which electronic material was generated, received, or stored. In the instant matter, no such evidence was presented. The solitary assertion of the complainant regarding membership in certain social media groups, without

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establishing date, time, place, and mode of transmission, is legally insufficient. The charge framed against the appellants, devoid of particulars relating to date, time, place, and manner of occurrence, is vague and incapable of enabling an effective defence. Cumulatively, these deficiencies render the prosecution case legally insufficient, factually sketchy, and incapable of sustaining a criminal conviction.

12. The Court has considered procedural compliance under Sections 196 and 156-A Cr.P.C. No prior permission was obtained under Section 196 Cr.P.C. for taking cognizance under Section 295-A PPC and the defence objection in this regard is legally sustainable. However, investigation under Section 295-C PPC, which must be conducted by an officer not below the rank of Superintendent of Police (Section 156-A Cr.P.C.), was carried out under supervision of Deputy Directors of FIA Cyber Crime Reporting Centre, Rawalpindi, instead of officers of the rank statutorily mandated.

An offence under Section 295-C PPC attracts a mandatory statutory protocol regarding investigation. Section 156-A Cr.P.C., reproduced hereunder, prescribes the rank competent to investigate such an offence:

“156-A. Investigation of offence under section 295-C, Pakistan Penal Code.—Notwithstanding anything contained in this Code, no police officer below the rank of a Superintendent of Police shall investigate the offence against any person alleged to have been committed by him under section 295-C of the Pakistan Penal Code, 1860 (Act XLV of 1860).”

13. This provision, couched in negative and prohibitory language, leaves no room for discretion or derogation. Its purpose is to ensure that allegations carrying capital consequences are investigated with the requisite seniority, independence, and responsibility envisaged by the Legislature.

14. Compliance with Section 156-A Cr.P.C. is also a constitutional imperative. Article 4(1) of the Constitution mandates that every person shall be dealt with in accordance with law, which includes procedural safeguards

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expressly provided by the Code. Article 4(2)(a) further stipulates that no action detrimental to the life, liberty, body, reputation, or property of any person shall be taken except in accordance with law. In the present matter, investigation was admittedly conducted by officials below the rank contemplated under Section 156-A Cr.P.C., including Sub-Inspectors and Deputy Directors of FIA, thereby constituting a material illegality striking at the root of the investigative process. Reliance is placed on “Zubair Saeed Sabri / Sain Zubair Shah v. The State through A.G., Islamabad and another” (PLD 2024 Supreme Court 681) wherein non-compliance with Section 156-A Cr.P.C. was held to render the investigation legally defective.

15. Regarding admissibility and authenticity of electronic evidence, Articles 164, 46-A, and 78-A of the Qanun-e-Shahadat Order, 1984 and the Electronic Transactions Ordinance, 2002, provide that evidence derived from modern devices or automated information systems is admissible provided the integrity and security of such systems are demonstrated. The prosecution failed to prove the electronic documents through verified security procedures, nor was any forensic validation of the complainant’s or accused’s devices undertaken. Reliance on printouts or screenshots alone does not satisfy the standard required for primary evidence. Reference is made to the case laws titled as “Ishtiaq Ahmed Mirza and 2 others v. Federation of Pakistan and others” (PLD 2019 SC 675) and “Ali Raza alias Peter and others v. The State and others” (2019 SCMR 1982), which hold that the authenticity of electronically generated material must be established through the system that received, stored, or transmitted such material.

16. On a thorough review, multiple material contradictions, omissions, and discrepancies are evident. The mobile numbers were not registered to the accused; the complainant remained a member of the relevant WhatsApp groups for three years without raising any complaint; the SIMs and devices alleged to have transmitted the content are not conclusively linked to the

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appellants; and critical technical details such as IMEI numbers were not recorded in recovery memos. These inconsistencies critically undermine the prosecution's case.

17. The appellants, including Faizan Razzaq, provided statements under Section 342 Cr.P.C., denying all allegations. Faizan Razzaq specifically stated that *“The complainant has moved a baseless and frivolous application. In said application, he did not mention any WhatsApp group link or any other source of information regarding Admins of said WhatsApp groups. FIA authorities illegally involved me in this baseless case just to protect the real culprits. I am totally innocent and have never joined any blasphemous WhatsApp group.”* The other appellants similarly denied participation. These categorical denials, in the absence of corroborative and reliable evidence linking them to the offences, carry substantial weight.

18. It is further observed that the appellants are entitled to constitutional protections, including equality before the law, due process and protection of life and liberty (Articles 4(1) and 4(2)(a) of the Constitution of Pakistan, 1973). The settled principle in criminal jurisprudence is that the burden lies on the prosecution to prove guilt beyond reasonable doubt, and suspicion or moral satisfaction cannot replace evidentiary certainty. *Guidance is sought from case law titled as “Muhammad Mansha v. The State” (2018 SCMR 772)*, wherein it was held that even a single circumstance creating reasonable doubt entitles the accused to benefit of doubt. Similar principles were reiterated in *“Tariq Pervez v. The State” (1995 SCMR 1345)*, *“Mst. Asia Bibi v. The State” (PLD 2019 SC 64)*, and *“Najaf Ali Shah v. The State” (2021 SCMR 736)*. The present case, with multiple procedural lapses, contradictions in evidence and inadequate forensic verification, clearly falls within this principle.

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19. The complainant's delayed reporting, coupled with failure to surrender his mobile device for independent forensic examination, renders the electronic evidence inherently unreliable. Through the Electronic Transactions Ordinance and subsequent amendments, Articles 46-A, 73, and 78-A collectively mandate that electronic material be verified for proper system functioning, security procedures, and authorship. In the instant matter, the prosecution has failed to satisfy any of these statutory requirements, rendering the electronic evidence legally inadmissible.

20. Except for these pieces of evidence referred to above, there is no evidence focused upon the appellants, as they are confronting capital charge, they cannot be convicted and sentenced upon moral satisfaction alone in the absence of evidentiary certainty to sustain the charge in a manner so as to exclude every hypothesis of innocence in order to ensure safe administration of criminal justice. It would be grievously unsafe to maintain the convictions. Consequently, by extending benefit of the doubt, Crl. Appeal Nos. 574, 588, 587, 738, 926 of 2023 are **allowed**; impugned judgment dated 04.09.2023 is set aside; the appellants are acquitted from the charge; they shall be released forthwith if not required in any other case. Death sentence awarded to appellants is **NOT CONFIRMED**. Capital Sentence Reference No.3-T of 2023 is answered in the **NEGATIVE**.

21. As a necessary corollary of the findings above, Crl. Appeal No.1063-of 2024 stands **dismissed**.

(Jawad Hassan)
Judge

(Ch. Sultan Mahmood)
Judge

Approved for Reporting

Judge

Judge