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Crl. PLA No. 467 of 2023**Zahid Zakir Jaffar****Vs.****The State through Advocate General Islamabad**

ADDITIONAL NOTE

I had a privilege of going through the majority view to which I agreed in toto, however, the following is the additional note of the judgment signed by me on 20.05.2025.

1. As already mentioned in the majority judgment that the FIR was registered on the complaint of Shaukat Ali Muqaddam (PW-8) that his daughter went missing on 19.07.2021 and on the same day at 10.00 p.m., he received a call from the police station that his daughter has been found dead at the residence of the petitioner. The petitioner was therefore nominated as a single accused but later in the supplementary statement, Muhammad Jamil etc., were also implicated. The petitioner was concurrently sentenced to death by the trial court as well as the Appellate Court under section 302(b) PPC as Tazir and also under section 376 PPC by the trial court against which he filed this petition by taking various grounds.

2. As far as delay in lodging the FIR at 11.30 p.m. of an occurrence at 9.00 p.m. is concerned, it has been rightly

held in the impugned judgment that on 20.07.2021 Abid Latif (PW-2) had reached the place of occurrence at 10.00 p.m. and Basharat Rehman (PW-3) reached the place of occurrence at 9.30 p.m. after when he received a call at 9.00 p.m. Likewise, Mst. Aqsa Rani (PW-4) also stated at about the same time she reached the place of occurrence and, therefore, the statement of the complainant of receiving the information that he was informed about the murder of his daughter is well corroborated. Obviously, the occurrence in which a lady was beheaded in a posh area of Islamabad, the police was required to be extra conscious and had rightly waited for her dear and near to come forward. It is the prosecution version that the therapy workers had arrived at 8.00 p.m. who had tried to overpower the petitioner during which one of them was seriously injured but it is natural that after reaching the place of occurrence the complainant (PW-8) being the real father of the victim required some time and extra ordinary nerves to absorb the extreme shock of his life and then draft the complaint for registration of FIR (Exh.PA/ 1). In this background there is no element of concoction and deliberation to falsely implicate the petitioner.

3. As far as the delayⁱⁿ autopsy of deceased is concerned, the perusal of the postmortem report (Exh.PAC) shows conducting the postmortem on 20.07.2021 at 9.30 a.m.

suggesting the approximate time between death and postmortem as 8/9 hours which report was signed by Dr. Shazia Nazir (PW-10). Dr. Hammad Hussain (PW-13), Dr. Anam Shahzadi (PW-14) and Dr. Sara Ali Hashmi (PW-16) who had helped and assisted the signatory for taking essential steps during the postmortem as envisaged under section 25.37 of the Police Rules, 1934 and emphasized by this court in **Muhammad Rafiq's case**¹. The death was found unnatural. This delay of conducting postmortem of about 12 hours is not fatal as the autopsy is to be conducted after when the inquest report and injury statement were prepared. We are also mindful of the fact that in a high-profile case like the present one the doctors always try to go by the book and, therefore, had preferred to conduct the autopsy in the morning in the normal office hours in the daylight. There was no delay in conducting the FIR.

4. So far as the status of DVR and CCTV footages are concerned, it had been already explained in the majority view of this court, suffice it to say that Mudassar Alam (PW-17) had produced report (vide Exh.P-13 and Exh.P-14) which have been watched by the appellate court and in the relevant part of the recording it was visible that Noor Muqaddam (deceased) jumped out of the window/opening

¹ Muhammad Rafique alias Feeqa Vs. The State (2019 SCMR 1068)

from the first floor and landed on the railing and then she came limping towards main gate to escape when Muhammad Iftikhar Chowkidar locked the door and proceeded towards the basement ignoring the condition of the said lady. Meanwhile, the petitioner jumped and landed on the floor of the porch and snatched the mobile phone of deceased, locked her in the outer cabin along with the main gate of the house meant as guard room. He then opened the cabin and physically assaulted her whereas Muhammad Jan did not make any effort to stop the petitioner. She was then dragged back into the house of the petitioner which was her last glimpse in the CCTV footages. The unseen occurrence was therefore seen with the eye of camera and the scene was recorded. It was not mere seeing the petitioner with the deceased before the unnatural death caused in most brutal manner, but there are circumstantial evidence which connect the petitioner with crime as held in **Muhammad Abid's case**.² Besides, the said snatched mobile phone by the petitioner had been recovered from his possession vide recovery memo (Exh.PBE).

5. In his defence recorded under section 342 Cr.P.C. the petitioner had admitted that he and the deceased were good friends and on the insistence of deceased a drug

² Muhammad Abid Vs. The State and another (PLD 2018 SC 813)

party was arranged at his house in which she consumed excessive drug and become out of mind and when he regained conscious, he found himself tied in a room. This version was found incorrect for the reason; that no intoxicant was identified in the medical evidence either of the deceased or of the petitioner, and no any guest of drug party was seen in the said CCTV footage.

6. As far as the plea of insanity is concerned, the petitioner has taken a plea in the application under section 465 Cr.P.C. that he is a lunatic/unsound mind at the given time and relied on **Safia Bano's case**³. We have noticed that such plea was never raised at the time of remand and that no evidence was produced in defence to fortify the contention that the petitioner was suffering from any psychiatric problem or mental disorder. Even otherwise there was no evidence on record that the petitioner used to consult any psychiatrist, therapy workers or consume any drug in the absence of which, or due to which, he became infuriated and went out of mind.

7. So far as absence of motive is concerned, the prosecution had not set up any motive against the petitioner for the commission of offence by the petitioner is concerned, needless to observe that it was not their

³ Mst. Safia Bano Vs. Home Department Govt. of Punjab (PLD 2021 SC 488)

bounded duty to prove as such as held in **Talib Hussain's case⁴**.


8. As far as the commission of offence under section 376 PPC is concerned, the medical evidence of the deceased shows the presence of semen matched with DNA of the petitioner but keeping in view the other evidence the death sentence has been converted into life imprisonment under section 376 PPC for the reason given in the majority judgment.

9. In my view as well the no mitigating circumstances existed in the present case, the minor discrepancies in the time of occurrence, the delay in postmortem, absence of the finger prints on the knife but matched with the DNA of the petitioner, minor delay in lodging the FIR would not affect the credibility of the prosecution evidence which had proved the guilt of the petitioner beyond any reasonable doubt to award a capital punishment. In this case of circumstantial evidence, one end of the rope is found tied with the dead body of Noor Muqaddam and the other end tied with the neck of the petitioner.

10. I also observed that the present case is a direct result of a vice spreading in the upper society which we know as "living relationship" in which societal compulsions are

⁴ Talib Hussain Vs. The State (1995 SCMR 1776)

ignored so as to defy not only the law of the land but also the personal law under Islam Sharia which is a direct revolt against Almighty Allah. The young generation must note its horrible consequences such as in the present case which is also a topic for the social reformist, to discuss in their circles.



(ALI BAQAR NAJAFI)
JUDGE

Islamabad
20.05.2025
A.Qadoos*