

**IN THE PESHAWAR HIGH COURT,**  
**PESHAWAR,**  
**[Judicial Department].**

**Cr.A. No.970-P/2021**  
**With M.R No.21-P/2021**

1. Fazal Qadar son of Abdur Rehman; and
2. Fazal Hussain son of Fazal Qadar,  
Both residents of Mohallah Majian,  
Peshawar City.

Appellant (s)

**VERSUS**

The State etc

Respondent (s)

For Appellant (s) :-	<u>Mr. Muhammad Saeed Khan, Advocate.</u>
For State :-	<u>Mr. Mujahid Ali Khan AAG.</u>
For complainant :-	<u>Syed Abdul Fayaz, Advocate.</u>
Date of hearing:	<u>24.03.2022</u>

**JUDGMENT**

**ROOH-UL-AMIN KHAN, J:-**This criminal appeal has been filed by Fazal Qadar and Fazal Hussain, the appellants-convicts, against the judgment dated 30.10.2021, passed by the learned Sessions Judge, Peshawar, whereby they having been found guilty of committing murder of Mst. Rani, Mst. Samreen, Mst. Ruqia and Mst. Farhana deceased, respectively, and making an attempt at the life of complainant Muhammad Iqbal (PW.16) and injured Ubaid Ali (PW.15) have been convicted and sentenced as under:-

**Under Section 302(b) PPC:** Sentence of death on four counts to each appellant and each one of them to pay rupees five lacs, on each count, as compensation to legal heirs of the deceased in

*For Mst. Samreen*

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terms of section 544-A Cr.P.C. and in default thereof to further undergo six month simple imprisonment each on each count.

**Under Section 324 PPC:** To undergo five years rigorous imprisonment on three counts by each appellant and to pay rupees fifty thousand each to injured Obaid Ali and in default thereof to further undergo two months simple imprisonment and also to pay a fine Rs.10,000/- to complainant or in default thereof to further undergo two months simple imprisonment.

All the sentences shall run concurrently.

Benefit of Section 382-B Cr.P.C. has been extended to them.

2. The learned Trial Court has sent **Murder Reference No.21-P of 2021**, under section 374 Cr.P.C. for confirmation of death sentences of the convicts.

3. Since, the appeal filed by the appellant and the Murder Reference sent by the Trial Court are the outcome of one and the same judgment dated 30.10.2021, therefore, we propose to decide and answer the same through this common judgment.

4. The prosecution's case as unfolded in the First Information Report (FIR) Exh.PA is that some three months prior to the occurrence, a house situated in Mohallah Majian, owned by one Fida Muhammad (PW.8) was sold out to one Iqbal Hussain on his assurance and guarantee. Out of total sale consideration of

*As per Sanjiv*

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rupees forty lacs, rupees twenty lacs were paid by Iqbal Hussain to Fida Muhammad, whereas, the balance amount was promised to be paid after delivery of possession. As per version of complainant, the house was in possession Fazal Qadar alias Bashy, Fazal Hussain alias Patay (appellants-convicts), Fazal Karim alias Kaney and Bilal (absconding co-accused), therefore, whenever he (complainant) demanded delivery of possession of the house to Iqbal Hussain, the accused would start brawl/altercation with him and he faced the said situation on so many occasions prior to the occurrence.

On 27.06.2015 complainant Muhammad Iqbal (PW.16) along with Muhammad Ibrar and Shabir Hussain, was present in Mohallah Majian near Ziarat Shah Rasool Baba, when at 1720 hours Fazal Qadar alias Bashy, Fazal Hussain alias Patay (appellants-convicts) along with Fazal Karim alias Kaney and Bilal (absconding co-accused) came there. The complainant when demanded delivery of possession of the house, the accused started altercation with him. On hue and cry, daughters of complainant, namely, Mst. Rani, Mst. Samrin, Mst. Ruqaya and Mst. Farhana along with Ubaid Ali (PW.15) grandson of the complainant came out of the house and the accused opened fire at them, as a result, they all except complainant got hit, who were shifted to Lady Reading Hospital (LHR), Peshawar, where death of the ladies injured named above was confirmed by the Medical Officer. A dispute over possession of the house has been advanced as a

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motive behind the occurrence. Report of the complainant was recorded in the shape of Murasila Exh.PA/1 by Imran ud Din SI (PW.5), who also prepared injury sheet of injured Ubaid Ali Exh.PW.5/1 and injury sheets and inquest reports of deceased Mst. Farhana, Mst. Rani, Mst. Ruqia and Mst. Samreen, Exh.PW.5/2 to Exh.PW.5/9, respectively. He sent the dead bodies of the deceased to the mortuary under the escort of Constables Waqas and Inam Ullah.

5. On 27.06.2015 at 06.15 P.M., Dr. Samuel Pervaz (PW.9), examined injured Ubaid Ali, found him conscious and well oriented in time and space. He observed a single wound on his left cervical region superior aspect 2x2 cm.

6. On 27.06.2015 at 08.30 PM Lady Dr. Yasmeen Orakzai (PW.14), conducted autopsy on the dead body of Mst. Farhana deceased and found the following injuries on her body vide postmortem report Exh.PW.14/1:-

1. Firearm entry wound on right front chest 0.5 cm diameter, 6 cm below clavicle and 6 cm above nipple.
2. Firearm exit wound on left back chest 2x1 cm in size, 4 cm from mid line and 10 cm below top of the shoulder.
3. Firearm entry wound on right front chest 0.5 cm into diameter, 7cm from mid line and 6 cm below nipple.
4. Firearm exit wound on back left chest 2x1 cm in size, 5 cm from mid line and 2 cm below lower end of scapula.

*Yasmeen Orakzai*

5. Firearm entry wound on right front chest 0.5 cm in diameter, 3 cm from mid line and 9 cm below nipple.
6. Firearm exit wound on back left chest 2x1 cm in size, 05 cm from mid line and 3 cm below lower end of scapula.
7. Firearm entry wound on right front outer abdomen 0.5 cm in diameter, 16 cm from mid line and 5 cm below last rib.
8. Firearm exit wound on left back abdomen 2x1 cm in size, 7 cm from mid line and 5 cm above iliac crest.
9. Firearm entry wound on back left leg, 5 cm in diameter, 12 cm below knee joint.
10. Firearm exit wound on inner side of left leg 2x1 cm in size, 14 cm below knee point.

**Opinion:** According to her opinion the deceased died due to injuries to heart, lungs, small and large intestines due to firearm.

On the same day at 9.00 p.m. she also conducted autopsy on the dead body of Mst. Ruqia deceased and observed the following injuries on her body.

1. Firearm entry wound on right back outer chest, 0.5 cm in diameter, 12 cm below top of the shoulder, 4 cm before axilla.
2. Firearm exit wound on right outer front chest 2x1 cm in size, 7 cm below clavicle and 11 cm from mid line.
3. Firearm entry wound on back outer right abdomen 0.5 cm in diameter, 5 cm above iliac crest, 3 cm below last rib.

*Leah Sam*

4. Firearm exit wound on left outer front chest 2x1 cm in size, 14 cm below axilla and 16 cm from mid line.
5. Firearm entry wound on outer side of left elbow joint, 0.5 cm in size.
6. Firearm exit wound on inner side of left elbow joint 2x1 cm in size.

**Opinion:** According to her opinion the deceased died due to injuries to lungs, intestines, liver and pancreas due to firearm.

On the same day at 09.30 P.M., the same lady doctor also conducted postmortem examination on the dead body of deceased Mst. Rani deceased and noticed the following injuries on her person:-

1. Firearm entry wound on mid line front skull 0.5 cm in diameter, 7 cm from eye brow.
2. Firearm exit wound on back skull 3x2 cm in size on mid line, 5 cm above base of neck.
3. Firearm entry wound on left back chest 0.5 cm in diameter, 3 cm from mid line and 1 cm below lower end of scapula.
4. Firearm exit wound on left nipple 2x1 cm in size.
5. Firearm entry wound on right back abdomen, 0.5 cm in diameter, 10 cm from mid line and 2 cm below last rib.
6. Firearm exit wound on mid line front abdomen 2x1 cm in size, 3 cm below umbilicus.
7. Firearm entry wound on right buttock 0.5 cm in diameter, 15 cm below iliac crest.

*Verina Sam*

8. Firearm exit wound on left thigh 2x1 cm in size, 15 cm above knee joint.
9. Firearm entry wound on right side of neck 1x0.5 cm in size, 7 cm below right ear.
10. Firearm exit wound on left outer side of neck, 2x1 cm in size, 1 cm below left ear.

**Opinion:** According to her opinion the deceased died due to injuries to brain, left lung, intestines and neck structure and vessels due to firearm.

On the same day at 10.00 P.M. she also conducted autopsy on the dead body of Mst. Samren deceased and found the following injuries on her person:-

1. Firearm entry wound on right front chest 1 x 0.5 cm in size, 2 cm from mid line and 3 cm below clavicle.
2. Firearm exit wound on back left chest 2x1 cm in size, 4 cm from mid line and 8 cm below base of hair ending.
3. Firearm lacerated wound on left side of chest 5x2 cm in size, starting from outer end of left eye and 7 cm in front of left ear.
4. Firearm entry wound on left front abdomen 2x1 cm in size, 5 cm from mid line and 1 cm below coastal margin.
5. Firearm exit wound on right back abdomen 2x1 cm in size, 3 cm from mid line and 6 cm above iliac crest.
6. Firearm lacerated wound on left front shoulder joint, 3x2 cm in size.
7. Firearm entry wound on left outer side of hand, 1 x 0.5 cm in size at the base of thumb.
8. Firearm exit wound on left outer side of base of little finger 1x0.5 cm in size.

*Lashmi*

**Opinion:-**According to her opinion, the deceased died due to injuries to her lungs, intestines and pancreas due to firearm.

7. Muslim Khan Circle Officer City (COC) (PW.17), conducted investigation in the case, who on receipt of copy of FIR, proceeded to the spot and prepared site plan Exh.PB on the pointation of complainant and eyewitness Ubaid Ali. During spot inspection, he secured blood through cotton from the places of Mst. Ruqia, Mst. Samreen, Mst. Rani and Mst. Farhana deceased, respectively, as well as blood from the place of injured Ubaid Ali vide recovery memo Exh.PW.6/1. Vide recovery memo Exh.PW.6/2, he took into possession twelve empties of 30 bore from the spot and through recovery memo Exh.PW.6/5 he took into possession weapons of offence produced by Moharrir of Police Station Badh Ber as case property of FIR No.543 dated 29.06.2015 under sections 324/353/224/216/34 PPC, read with section 15 KP Arms Act, recovered from appellants. Vide recovery memo Exh.PW.3/1 he took into possession motorcar Suzuki Alto bearing registration No.9592-BA Peshawar, case property of FIR No.362 dated 01.07.2015 registered under section 212 PS Shaheed Gulfat Hussain, used by the accused for decamping from the spot. Vide recovery memo Exh.PW.6/3 and Exh.PW.6/4 he took into possession the last worn bloodstained garments of the ladies deceased and that of injured Obaid. Appellants were arrested by Police Station Badh Ber in case FIR No.543 dated 29.06.2015 (ibid), who were requisitioned from jail

*Ushar Sami*



by the I.O. and arrested them in the instant case vide arrest Card Exh.PW.17/4 and Exh.PW.17/5. He placed on file copy of recovery memo vide which the weapons of offence were recovered from the appellants by Police Station Badh Ber which is Exh.PW.10/1. He sent the pistols along with crime empties to the FSL, report whereof is Exh.PZ. Similarly, he also sent the bloodstained articles to the FSL for chemical analysis, report whereof is Exh.PZ/3, initiated proceedings against absconding co-accused Karim and Bilal under sections 204 and 87 Cr.P.C. On his transfer, he handed over investigation to Ghani ur Rehman Khan Circle Officer City, Peshawar (PW.18), who recorded statements of the PWs and placed on file record of case FIR No.543 (ibid), recorded statement of Fida Muhammad, owner of the disputed house, under section 161 Cr.P.C. as well as statement of PWs Jamil Ahmad deed writer under section 161 Cr.P.C. PW Jamil Ahmad also recorded his statement under section 164 Cr.P.C. On completion of investigation, he handed over case file to the SHO who submitted challan against the appellants before the learned trial Court.

8. It is worthy to mention here that initially section 7 Anti-Terrorism Act, 1997 was also included in the FIR, therefore, *challan* was submitted against the appellants before the learned Anti Terrorism Court-I, Peshawar, where they were tried and convicted under section 7(a) of the Act of 1997 and sentenced to death on four counts and to pay a fine of Rs.2,00,000/- and in

*look Sami*

default thereof to undergo 01 year simple imprisonment each. Similarly, each of appellant was further convicted under section 7(c) of the Act of 1997 and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,00,000/- and in default thereof to undergo 06 months S.I. vide judgment dated 02.10.2019, passed by the learned Anti Terrorism Court-I, Peshawar, in case FIR No.356 dated 27.06.2015 registered under sections 7(a)&(c) of the Act of 1997 & section 34 PPC at Police Station Shaheed Gulfat Hussain, Peshawar. The appellants questioned their conviction and sentences before this Court by filing Cr.A. No.1216-P/2019 and the learned trial sent Murder Reference No.39-P/2019. Appeal of the appellants was allowed, resultantly, conviction and sentences of the appellants were set aside and Murder Reference was answered in the Negative. The case was remanded to court of ordinary jurisdiction i.e. Sessions Judge, Peshawar for trial afresh under the provisions of the Code of Criminal Procedure. Operative part of the judgment of this court is reproduced below:-

“In view of the consensus developed between the learned counsel for the parties coupled with the ratio of judgment (*ibid*), the impugned judgment dated 02.10.2019 of the learned Anti-Terrorism Court-I, Peshawar and the conviction and sentence of the appellants recorded therein are hereby set-aside. The case is remanded to the Court of an ordinary jurisdiction i.e. the learned Sessions Judge, Peshawar, for trial a fresh under the provisions of the Code of Criminal Procedure Code. During fresh trial, the appellants shall



remain as under trial prisoners. Considering the age of the case, the learned trial Court shall conclude the trial expeditiously. Parties are directed to appear before the learned Sessions Judge, Peshawar on 05.06.2021. Office shall immediately transmit record of the case to the learned Sessions Judge, Peshawar.

On setting aside of the impugned judgment, Murder Reference No.39-P of 2019, is answered in the Negative.

9. On receipt of record by the learned Sessions Judge, Peshawar, fresh charge was framed against the appellants on 12.06.2021 to which they pleaded not guilty and claimed trial, hence, prosecution was invited to adduce evidence. On 10.07.2021, learned counsel for the parties recorded joint statement to the effect that they rely on the evidence of prosecution and statements of accused already recorded in by the learned Anti-Terrorism Court, Peshawar. On conclusion of trial, the learned trial Court after hearing both the sides, convicted and sentenced the appellants as mentioned above.

10. We have heard the exhaustive submissions of learned counsel for the parties advanced at the bar and perused the record and evidence with their valuable assistance.

11. It appears from record that this untoward incident has taken place on 27.06.2015 at 1720 hours in *Mohallah Majian* near *Ziarat Shah Rasool Baba*, Peshawar, which has been reported by complainant Muhammad Iqbal (PW.16) at 1805 hours, wherein he has directly charged appellants Fazal Qadar and Fazal Hussain along with absconding co-accused Fazal

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Karim and Bilal for committing murder of his four daughters, namely, Mst. Rani, Mst. Samreen, Mst. Ruqia and Mst. Farhana deceased and an attempt at his life and the life of his grandson Ubaid Ali (PW.15) with firearms. According to his report, besides him, the incident is witnessed by his injured grandson Ubaid Ali (PW.15). A dispute over possession of the house has been advanced as a motive behind the occurrence. The complainant and PW Ubaid Ali have furnished ocular account of the occurrence.

12. Complainant Muhammad Iqbal while appearing as PW.16 deposed that prior to the occurrence he had purchased a house to Iqbal Hussain from one Fida Muhammad in lieu of sale consideration of rupees forty lacs. He stood surety/middle man in the said bargain. Out of the total sale consideration, rupees twenty lacs were paid to Fida Muhammad, owner of the house, whereas the remaining amount was promised to be paid in three months and thereafter possession of the house shall be handed over to Iqbal Hussain. The house was in possession of the accused and Iqbal Hussain was demanding its possession from him or to return the amount of rupees twenty lacs already paid by him. Whenever he (complainant) demanded possession of the house from the accused they use to start altercation with him. On the fateful day on his demand of delivery of possession of the house, the accused started quarreling with him in presence of Ibrar and Shabbir, who separated them. On the commotion his

*Lawyer*

daughters, namely, Mst. Ruqia, Mst. Rani, Mst. Samreen and Mst. Farhana along with his grandson Ubaid Ali attracted to the spot for rescuing them from the aggression of the accused, but the accused opened fire at them, as a result, his daughters and grandson got hit, who were shifted to the hospital where death of his daughters was confirmed by the lady doctor. He charged the appellants and the absconding co-accused for commission of the offence. He stated that site plan was prepared at his instance by the I.O.

13. Injured Ubaid Ali is a child witness aged 13 years. Before recording his statement, certain questions were put to him by the learned trial Court, who after giving its rational answers was examined as PW.15. He deposed that on the fateful day he along with his father and brothers had visited the house of his maternal grandfather, namely, Muhammad Iqbal (complainant). At about 05.00 p.m. an altercation took place between his maternal grandfather and the accused, on which he along with his mother Mst. Farhana and maternal aunts, namely, Mst. Samreen, Ruqayia and Rani came out from the house. During altercation the accused drew their pistols and started firing at them, as a result, he, his mother and his aunts named above got hit.

14. Both the above-named eyewitnesses, have been subjected to lengthy and taxing cross-examination, but nothing beneficial to defence could be extracted from their mouths. Both remained consistent with each other on the mode and manner of the

occurrence and have charged the appellants and absconding co-accused Fazal Karim and Bilal for commission of the offence. As per site plan Exh.PB, the occurrence has taken place in a street, situated in front of house of the complainant. In this view of the matter, presence of the complainant and PW Ubaid Ali is quite natural. Besides, Ubaid Ali being injured witness his presence at the spot cannot be excluded. He being a child witness has furnished a straightforward ocular account of the occurrence and has corroborated the testimony of complainant on all material aspects of the incident. We are mindful of the fact that PW Ubaid Ali is not merely a witness who has seen the occurrence, but he has also received firearm injury at the hands of the accused. The occurrence has been reported by complainant with promptitude i.e. within 45 minutes, eliminating the possibility of consultation and deliberation on his part in charging the accused. In the circumstances there is no compelling reason for discarding the ocular account of above named witnesses or warranting false implication of the appellants. Even otherwise, no reason exists to be believed that a father has charged innocent persons for murder of his four daughters by letting of the real culprits. Similarly, it also does not appeal to a prudent mind that a child aged 12/13 years, will charge innocent persons for murder of his real mother and three maternal aunts. Recovery of blood from the places of four deceased (daughters of the complainant) and that of injured Ubaid Ali and the last worn bloodstained garments of the

*Justice S. J. Khan*

deceased as well as that of injured coupled with positive Serologist report Exh.PZ/3 corroborate the ocular account furnished by complainant and PW Ubaid Ali and prove the place of occurrence to be the same as alleged by them.

15. Record depicts that appellants were arrested by Riaz Ali Inspector (PW.11), who recovered a 30 bore pistol No.37000841 with three magazines and bandolier containing eleven live rounds of the same bore from appellant Fazal Hussain alias Pattay and a 30 bore pistol without number with two chargers and a bandolier containing 07 live rounds of the same bore from appellant Fazal Qadar vide recovery memo Exh.PW.10/1 and the pistols and ammunitions etc are Exh.P.8 and Exh.P.9. In this regard separate FIR was registered against the appellants. The said pistols being the weapons of offence in the instant case were taken into possession by the I.O. through recovery memo. Both the pistols along with 12 crime empties of 30 bore were sent to the FSL and as per FSL report Exh.PZ/1 eight crime empties out of the twelve matches with the crime pistols recovered from the appellants. The mentioned pieces of circumstantial evidence coupled with positive FSL report Exh.PZ/1 further corroborates the ocular account furnished by the eyewitnesses.

16. In his initial report the complainant has stated that some three months prior to the occurrence a house situated in Mohallah Majian, owned by one Fida Muhammad (PW.8), was sold out to one Iqbal Hussain on his assurance and guarantee. Out of the sale

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consideration an amount of rupees twenty lacs was paid by Iqbal Hussain, whereas, the balance amount was promised to be paid after delivery of possession of the house. As the house was in possession appellants Fazal Qadar alias Bashy, Fazal Hussain alias Patay and Fazal Karim alias Kaney and Bilal (absconding co-accused), therefore, whenever he would demand delivery of its possession, the appellants along with absconding co-accused would started brawl/altercation with him and he (complainant) faced the said situation on so many occasions prior to the occurrence. To prove the motive, prosecution has examined Jameel Ahmad Deed Writer as PW.7. He deposed that on 05.03.2015, he executed a sale deed in between Fida Muhammad and Iqbal Hussain which is Exh.PW.7/1 and extract of the relevant register is Exh.PW./7/2. Similarly, Fida Muhammad, owner of the house, while appearing as PW.8 deposed that he was owner of the house which he sold out to Iqbal Husain in lieu of sale consideration of Rs.40,50,000 vide sale deed Exh.PW.7/1. An amount of rupees twenty lacs was paid to him as down payment and balance amount was promised to be paid within two months. Fazal Hussain alias Patay was the middle man in the said transaction and had received the commission. After expiry of the stipulated period, possession of the house was returned to him as the balance amount was not made to him. From the statement of Jameel Ahmad Deed Writer (PW.8) and Fida Muhammad (PW.8), the motive alleged by the complainant is proved upto the

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hilt that there was dispute on delivery of possession of a house. Due to non-payment of the remaining amount the house was returned to Fida Muhammad. In this view of the matter, the prosecution has proved motive behind the occurrence through cogent and confidence inspiring oral and documentary evidence.

17. Medical evidence in the shape of autopsy reports of the deceased, medico legal report of injured PW Ubaid Ali coupled with statements of Dr. Samuel Pervaz (PW.9) and statement of Dr. Yasmeen Orakzai (PW.14), who have examined the injured and conducted postmortem examination on the dead body of the deceased, support ocular account of the prosecution's case. As per autopsy reports, deceased Mst. Farhana had received five firearm entrance wounds with corresponding exist on vital parts of her body. Three firearm entrance wounds with corresponding exit were noticed on the person of deceased Mst. Ruqia. Similarly, as per autopsy report of deceased Mst. Rani she had sustained five firearm entrance wounds on various parts of her body whereas as per postmortem report Mst. Samreen deceased she had sustained three firearm entrance wounds with corresponding exist. The unnatural death of all the deceased has been opined by the Lady doctor due to firearm injures. The numbers of firearm entrance wounds on the person of each deceased speak about the brutality of the appellants/accused as to how they have dealt with the ladies deceased.

*Hashim Sami*

18. On reappraisal of the prosecution's evidence we are firm in our view to hold that complainant Muhammad Iqbal (PW.16), has proved his presence at the spot at the time of occurrence through his testimony corroborated by strong circumstantial evidence and supported by medical evidence as discussed above as well as motive. The argument of learned counsel for the appellants that as no firearm injury has been sustained by the complainant, therefore, he was not present at the scene of occurrence, is not tenable in light of ratio of judgment of Hon'ble Supreme Court in case titled, **Noor Muhammad Vs the State and another**" (2006 SCMR 1958), wherein identical argument has been dealt with by the Hon'ble Supreme Court in Para No.9 of the judgment which is reproduced below:-

*"Relative to the contention that presence of two eyewitnesses namely Niaz Muhammad and Pervez Khan is highly doubtful as in spite of indiscriminate firing by the petitioner and two absconding accused they did not receive any injury is without any substance. It is not the first case of its kind wherein some of the persons who were under attack by the opposite party did not receive any firearm injury whereas others received one or more than one firearm injuries. There cannot be a presumption or rule that all the persons who were under attack from firearms ought to have received injuries and the mere fact that some of them did not receive injuries would not make their presence at the place and time of incident doubtful. This contention is also devoid of force*

*Justice Sanaullah*

*and is repelled. In support of the above proposition judgment in the case of Mehboob Sultan and 02 others vs the State 2001 SCMR 163 is referred."*

19. As regards injured PW Ubaid Ali, he having stamp of firearm injury on his person, his presence at the spot cannot be doubted. When he was examined by the Medical Officer he noticed him conscious and oriented in time and space. It is settled law that evidence of the stamped witness must be given due weightage as his presence on the place of occurrence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present at the time of occurrence. Thus, the testimony of an injured witness is accorded a special status in law. Such a witness comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. Convincing evidence is required to discredit an injured witness. In the instant case as stated earlier the testimony of injured PW Ubaid Ali is corroborated by strong circumstances evidence and supported by medical evidence, therefore, the same is sufficient for recording conviction of the appellants.

20. It is proved from the prosecution evidence that the occurrence has not taken place at the spur of moment, rather

there was a controversy between complainant and the accused on delivery of possession of a house sold by Fida Muhammad to Iqbal Hussain. The complainant and accused party were middle men in the bargain. Rupees twenty lacs were paid by Iqbal Hussain to Fida Muhammad and the remaining sale consideration was agreed to be paid within three months. The complainant was demanding delivery of possession of the house for Iqbal Hussain. It has been categorically mentioned by the complainant in his initial report that prior to the occurrence whenever he demanded delivery of possession of the house from the accused, the accused would start altercation with him, meaning thereby that the accused had already made up their mind for the occurrence. Arrival of the accused with deadly arms to the spot and the numbers of firearm injuries sustained by four deceased daughters of the complainant prove the intention and premeditation of the accused. In this view of the matter, there exists no ground to warrant lesser punishment than the one already awarded by the learned trial Court to the appellants to which no exception can be taken except with slight modification in the sentence of fine imposed upon the appellants under section 324 PPC which instead of its payment to the complainant and injured Ubaid Ali shall be deposited by the appellants in favour of the State as fine under section 324 PPC.

21. The learned trial Court has appreciated the evidence in its true perspective and has arrived at a right

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conclusion by holding the appellants guilty of the offence to which no exception can be taken. Similarly, keeping in view the peculiar facts and circumstances of the case coupled with the brutality demonstrated by the appellants, the sentence of death already awarded by the learned trial Court to the appellants shall meet the ends of justice.

22. For the reasons discussed above, this appeal stands dismissed. Murder Reference No.21-P of 2021 sent by the learned trial Court is answered in the affirmative, resultantly, the death sentences of the appellants-convict are hereby confirmed.

**Announced:**  
**24.03.2021**  
 M.Siraj Afridi PS

*Rooh ul Amin*  
 Senior Puisne Judge

**DB of Mr. Justice Rooh ul Amin Khan Hon'ble Senior Puisne Judge; and**  
**Hon'ble Mr. Justice Ishtiaq Ibrahim.**