

JUDGMENT SHEET
IN THE LAHORE HIGH COURT,
RAWALPINDI BENCH, RAWALPINDI
JUDICIAL DEPARTMENT

Murder Reference No.57 of 2022

The State Versus Adil Zaib

Criminal Appeal No.699 of 2022

Adil Zaib Versus The State, etc.

Date of hearing: **27.03.2024**

Appellant by: M/s. Ayesha Sultana and
Haider Mehmood Mirza,
Advocates.

State by:- Mian Imran Rahim, DPG
with Ameer SI.

Complainant by:- Mr. Ibrar Qureshi, Advocate
with complainant.

SADAQAT ALI KHAN, J. Appellant (**Adil Zaib**)

has been tried by the trial Court in case FIR No.143, dated 14.02.2022, offences under Sections 302/452 PPC read with Section 13-2(a) The Punjab Arms Ordinance, Police Station Ratta Amral, District Rawalpindi, and was convicted and sentenced vide judgement dated 30.08.2022 as under:-

Adil Zaib (appellant)

U/S 302(b) PPC	Sentenced to <u>DEATH</u> as <i>Ta'zir</i> for committing <i>Qatl-i-Amd</i> of Barira Zahid (deceased) with compensation of Rs.500,000/- payable to legal heirs of the deceased u/s 544-A Cr.P.C. (recoverable as arrears of land revenue) and in default whereof to further undergo simple imprisonment for 6-months.
U/S 449 PPC	Sentenced to <u>Rigorous Imprisonment for 10-years</u> with fine of Rs.100,000/- and in default whereof to further undergo two months SI.

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Benefit of Section 382-B Cr.P.C was also extended in his favour.

2. Appellant has filed this Criminal Appeal against his conviction and the trial Court has sent Murder Reference for confirmation of his death sentence or otherwise, which are being decided through this single judgment.

3. Heard. Record perused.

4. Barira Zahid aged about 13 years was done to death at the hands of her Islamic teacher (appellant) in the *Baithak* of her tutor Zahida Parveen^{PW-8} when she was teaching the students on 14.02.2022 at 4:00 p.m, whereafter FIR was lodged on the same night at 08:35 p.m, on the statement of her father Zahid Naseer^{PW-6/complainant}. Appellant was apprehended red-handed at the spot with “*Churra*.”

5. Anshra Zahid real sister of the deceased was with the deceased at the time of occurrence and appeared before the trial Court as PW-7 but it was declared by the trial Court that she being a tender age is not a competent witness to testify under Article 3 of the *Qanun-Shahadat* Order, 1984 and her statement was not recorded.

6. Zahida Parveen^{PW-8} (**tutor of the deceased**) while appearing before the trial Court stated in her statement that on 14.02.2022, she was in the *Baithak* of her house for tuition, it was leave time, students were coming and going, Barira Zahid (**deceased**) and her sister Anshra Zahid (**discussed above**) were sitting in front of her on mat, Adil Zaib (**appellant**) armed with *Churra* came there, she asked him as to why he entered in the *Baithak*, appellant (**Adil Zaib**) told her to go aside otherwise she would be killed, then he (**appellant**) caused injuries on the person of Barira Zahid (**deceased**) with repeated blows of *Churra*, on hue and cry of her as well as students present there, *Mohalladars* attracted there, Zahid Naseer^{PW-6} and his brother Shahid Naseer (**given up PW**) also

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reached there to take their daughters back (**Anshra Zahid and others**) to their house, appellant was apprehended with *Churra* at the spot by them.

7. Zahid Naseer^{PW-6} (**real father of deceased**) while reiterating the abovesaid story before the trial Court further stated that Adil Zaib (**appellant**) had been teaching the Holy QUR'AN to his daughters Anshra (**discussed above**), Barira Zahid (**deceased**) and son (**Mobiz Zahid**) in his house at Maghrib time, on 08.02.2022 Barira Zahid (**deceased**) told him that her teacher (**appellant**) had a bad eye on her, when on the following day i.e 09.02.2022, Adil Zaib (**appellant**) came to his house at Maghrib time for teaching the Holy QUR'AN to her daughters and son, he (**Zahid Naseer^{PW-6}**) told him that he (**appellant**) has betrayed his trust and hurt him, then appellant infuriated and went away while extending threats. He further submits that appellant was apprehended at the spot with blood stained "*Churra*" and has been handed over to Muhammad Riaz, SI^{PW-12} with "*Churra*" on his arrival who while appearing before the trial Court has supported this evidence.

8. Both the eye-witnesses (**Zahid Naseer^{PW-6}** and **Zahida Parveen^{PW-8}**) have absolutely no grudge or ill-will to falsely implicate the appellant in the present case. They were cross-examined at length but their evidence could not be shaken during the process of cross-examination. They have corroborated each other on all material aspects of the case. They have also established their presence at the time of occurrence at the place of occurrence with their stated reasons. Their evidence is straightforward, trustworthy, confidence inspiring and cannot be discarded mere on probabilities.

9. The discrepancies in the statements of the PWs pointed out by learned counsel for the appellant, are minor and general in nature, occur in every case when witnesses (**who are human-beings**) are cross-examined after a long time of

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the occurrence as in present case, are not fatal to the prosecution case.

10. The medical evidence has been furnished by Dr. Musarrat Batool^{PW-3} who during post-mortem examination on the dead body of Barira Zahid (**deceased**) observed 22-injuries caused with sharp edged weapon on her person attributed to Adil Zaib (**appellant**) which were ante-mortem in nature and were sufficient to cause death in ordinary course of nature, therefore, the medical evidence has fully supported the ocular account discussed above.

11. Report (**Exh.PT**) of PFSA shows that blood stained *Churra* recovered from the possession of the appellant has matched with DNA profile of Barira Zahid (**deceased**).

12. Appellant has denied his involvement in this case in his statement recorded u/s 342 Cr.P.C. and stated that he is innocent and has falsely been involved in this case. He has neither opted to appear as witness u/s 340 (2) Cr.P.C. nor produced any defence evidence except Exh.DA in support of his defence plea which is neither plausible nor believable and is discarded.

13. In view of the above discussion, we are of the view that the prosecution has proved its case beyond shadow of doubt against the appellant through the evidence discussed earlier.

14. Coming to the quantum of sentence of the appellant (**Adil Zaib**), having considered all the pros and cons of the case, an irresistible conclusion drawn by this Court is that the appellant (**Adil Zaib**) being an Islamic teacher has committed shocking and callous murder of his student Barira Zahid aged about 13 years with repeated *Churra* blows causing 22-injuries on her person, only to quench his lust without her fault. We are unable to find any mitigating circumstance in favour of appellant (**Adil Zaib**) and are of the considered view that there is no extenuating circumstance

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in favour of the appellant for extending him any benefit with regard to his sentence who does not deserve any leniency.

15. For the foregoing reasons, the convictions and sentences of the appellant (Adil Zaib) awarded by the trial Court are maintained. The compensation, fine and sentence in default thereof are also maintained. Resultantly, **Criminal Appeal** filed by the appellant (Adil Zaib) is **dismissed** and **death sentence** awarded to him is **CONFIRMED.** **Murder Reference** is answered in **AFFIRMATIVE.**

(CH. ABDUL AZIZ)
Judge

(SADAQAT ALI KHAN)
Judge

Approved for reporting.

JUDGE

JUDGE

*Inaam Sandhu**