IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Athar Minallah
Mr. Justice Irfan Saadat Khan
Mr. Justice Malik Shahzad Ahmad Khan

Criminal Appeal No.172 of 2023
Against the judgment dated 03.12.2020 of the Lahore High Court, Lahore passed in Crl.A. No. 81407-J/2017 and MR 364/2017

Muhammad Bilal ...Appellant(s)

VERSUS

The State ...Respondent(s)

For the Appellant(s): Syed Rifaqat Hussain Shah, ASC

For the State: Rai Akhtar Hussain, Addl. P.G. Punjab

For the Complainant: Nemo

Date of Hearing: 05.05.2025

JUDGMENT

Irfan Saadat Khan, J.- Muhammad Bilal (the **"appellant"**) was tried by the learned Sessions Judge, Sargodha (*Trial Court*), in a criminal case based on FIR No. 319 dated 27.06.2015, registered at Police Station Sillanwali, District Sargodha, under section 302 of the Pakistan Penal Code, 1860 (**"PPC"**). After concluding the trial, the learned Sessions Judge convicted the appellant for the offence under section 302(b) PPC, sentencing him to death and directing him to pay Rs. 200,000/- (two *lac*) as compensation to the legal heirs of the deceased and, in default thereof, to further undergo six months of simple imprisonment *vide*: judgment dated 24.05.2017.

2. Aggrieved by the conviction and the sentence awarded to him by the Trial Court, the appellant preferred an appeal before the Lahore High Court, Lahore (*High Court*). The appellant's Criminal Appeal No. 81407-J of 2017

corresponding to Murder Reference No. 364 of 2017 sent by the Trial Court was disposed of by the learned High Court, through its judgment dated 03.12.2020, whereby the appellant's conviction and sentence as well as the compensation ordered to be paid were maintained in the following terms:

> *"14. In this backdrop of the situation, we hold that the prosecution has fully proved its case against the appellant beyond any shadow of doubt, therefore, there is no merit in this appeal, which is hereby dismissed and the conviction and sentence awarded to the appellant under Sections 302 (b) PPC by the learned trial court is maintained.*
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> *15. Murder Reference No.364 of 2017 is answered in the **AFFIRMATIVE** and the sentence of death awarded to Muhammad Bilal (convict) is **CONFIRMED**"*

3. Again aggrieved, the appellant preferred Jail Petition No. 411 of 2020 before us and leave was subsequently granted converting the petition into the instant appeal. The order of this Court granting leave provides some context for the forthcoming discussion and is therefore replicated below for ease of reference:

> *"The petitioner seeks leave to appeal against the judgment of the learned High Court dated 03.12.2020 by which the sentence of death inflicted by the learned Trial Court in case registered vide FIR No. 319 dated 27.06.2015 under Section 302 PPC at Police Station Sillanwali, Sargodha was upheld.*
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> *2. At the very outset, it has been argued by the learned counsel for the petitioner that the occurrence has taken place early in the morning and the claimant of the occurrence (real son) has narrated the contents of the crime report with a motive that the ailing mother, who was bedridden, was repeatedly asked by the assailant to give him money to meet requirement of his intoxication.*
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> *3. The story narrated in the crime report though was accepted by two courts below but it still requires re-appraisal. Consequently, leave to appeal is granted to re-evaluate the entire evidence available on record in the interest of safe administration of criminal justice."*

4. Briefly stated, the facts of the case are that an incident involving a murder occurred on 27.06.2015 at approximately 07:45 AM in Chak No. 64 SB, Tehsil Sillanwali, District Sargodha. The matter was reported to the police

the same day at 9:30 AM by Muhammad Irfan (PW-6 /the **"complainant"**) real son of Mst. Kalsoom Bibi (the **"deceased"**). According to the complainant, his mother was unwell and was bedridden, resting on a cot in her room. He had returned home from his job in Mianwali the day prior, i.e. 26.06.2015, to visit her. At around 7:45 AM on 27.06.2015, Muhammad Imran[1] (**"PW-7"**) and Muhammad Arshad[2] also arrived at the house in connection with some work. While they were present in the house's courtyard, the complainant's brother, Muhammad Bilal (the appellant), arrived armed with a wooden stick (*Sotta*). Upon entering, the appellant allegedly shouted a *Lalkara* (threatening declaration) that he would not let Mst. Kalsoom Bibi alive. In front of the complainant and the other visitors, the appellant allegedly struck a forceful blow to the head of Mst. Kalsoom Bibi with the *Sotta*, causing her skull to fracture. Mst. Kalsoom Bibi succumbed to the injury, dying on the spot. After the assault, Muhammad Bilal fled from the scene, while still brandishing the weapon. The alleged motive, as stated in the FIR, was that on the same morning the appellant, who was reportedly addicted to narcotics, had demanded money from his mother for the purchase of drugs and when Mst. Kalsoom Bibi refused to give him the money, the appellant, Muhammad Bilal, attacked and killed her out of anger.

5. Mr. Syed Rifaqat Hussain Shah, ASC, has entered appearance on behalf of the appellant and stated that the appellant was falsely implicated by the complainant. He argued that the complainant's allegation — that the appellant demanded money and killed his mother upon refusal — was not substantiated by any independent or corroborative evidence; i.e., no history of addiction, threats, or past demands was established by the prosecution. On the contrary, the learned counsel introduced an alternate motive, suggesting that the case was bogus and was the result of a property dispute over the division of the

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[1] The deceased and complainant's neighbour.
[2] The complainant's brother in law.

father's estate, which the complainant and his witnesses deliberately suppressed. It was argued that neither of the witnesses offered a credible or satisfactory explanation for their presence at the relevant time. In particular, the defence pointed out contradictions in their accounts regarding the number of blows inflicted by the appellant and even inconsistencies regarding each other's presence at the scene. The learned counsel further submitted that there were material contradictions between the ocular account and the medical evidence. While PW-6 stated that only one blow was struck, PW-7 claimed four or five blows were delivered. However, the post-mortem examination revealed only two injuries, creating a serious conflict between the eyewitness testimony and medical findings. He stressed that the recovery of the alleged weapon (*Sotta*) was inconsequential and legally deficient, asserting that the recovery was planted and that the requirements of Section 103 of the Code of Criminal Procedure, 1898 (**"Cr.P.C."**), had not been complied with. The absence of independent witnesses to the recovery further eroded its evidentiary value. Finally, the learned counsel contended that the appellant's version was more plausible and consistent with the facts and that the prosecution has failed to discharge its burden of proof. It was urged that the entire case was riddled with serious doubts, which, under settled principles of criminal jurisprudence, ought to be resolved in favour of the accused. Accordingly, the appellant was entitled to an honourable acquittal.

6. Mr. Rai Akhtar Hussain, Additional Prosecutor General for the province of Punjab (**"APG"**), has appeared on behalf of the State and submitted that the case against the appellant was proved beyond reasonable doubt through prompt reporting, credible eyewitness testimony, medical corroboration, and the recovery of the weapon of offence. It was argued that the FIR was lodged without undue delay and that both the complainant, i.e. Muhammad Irfan (PW-6), and Muhammad Imran (PW-7) naturally and credibly explained their

presence at the scene. Their testimony was said to be internally consistent, unshaken in cross-examination and free from any motive for false implication, particularly as PW-6 was the appellant's real brother. The medical evidence, showing blunt force injuries to the head fully supported the eyewitness account. The motive — that the appellant, a drug addict, killed his mother after she refused to give him money — was also reaffirmed by the learned counsel as credible. The recovery of the *Sotta* made upon the appellant's disclosure was presented as further corroboration. In conclusion, the learned APG argued that the evidence overwhelmingly established the appellant's guilt, and that no mitigating circumstances existed to justify a lesser sentence for the brutal matricide committed.

7. Nobody has appeared on behalf of the complainant.

8. We have heard both the learned counsel at some length and have also perused the record with their able assistance.

9. Examining the record and the evidence marshalled by the learned counsel for the appellant reveals that although the statements of the complainant (PW-6) and the alleged eyewitness PW-7 were consistent to the extent that the deceased was assaulted by the appellant with a *Sotta*, they deposed conflictingly with regards to the number of times the appellant struck the deceased. After gleaning the complainant's depositions as well as the FIR registered upon his complaint, it can be gathered that the appellant statedly inflicted one blow on the deceased's head. If we then examine PW-7's depositions, it is clear that he stated having seen the appellant deliver four or five blows to the deceased's head. Both PWs, claiming to have witnessed the event from a distance of four to six feet, *vide*: scaled site plan **Ex.PE**, evidently deposed in clear contradiction to one another. It is pertinent to note here that the third alleged eyewitness to the occurrence namely Muhammad Arshad who may have provided necessary clarification in this regard, was "given up" by the

prosecution. This being the case, the testimonies of PWs 6 and 7 are rendered quite doubtful.

10. The foregoing discussion makes an appraisal of the medical evidence crucial. The postmortem examination of the deceased was conducted by Dr. Kalsoom, WMO THQ Hospital Sillanwali, who entered the witness box as PW-4. In her report she noted only two injuries on the deceased's head, the remaining report being regular. She described exactly "*A contused swelling measuring 3 cm x 3 cm x 3 cm on upper part of right side of forehead*" and "*A lacerated crushed injury with depressed fracture of occipital bone (Back bone of head) measuring 11 cm x 9 cm on back of head, 8 cm from nephee of neck, 7 cm from the left ear*". This description neither corroborates the complainant's account of only one blow being delivered by the appellant on the deceased's head nor does it support PW-7's version of four or five blows being inflicted upon the deceased. Thus, it cannot safely be said that the medical evidence supports the ocular account.

11. The most important aspect in the current case is the conduct of the eyewitnesses to the occurrence. The FIR and ocular account deposed by the complainant and PW-7 both mention that the appellant entered the home and raised a *Lalkara* (threatening declaration) that he would not let the deceased, Mst. Kalsoom Bibi, alive. During cross-examination while the complainant remained silent when asked how much time had cumulatively elapsed in between the appellant's arrival at the place of occurrence, his commission of the offence and his eventual escape, the complainant did betray that the altercation between the appellant and the deceased spanned across five minutes. Immediately after, the complainant stated:

> *"I and the PWs did not restrain the accused when he was indulged into the altercation with my mother but we sat into courtyard."*

The obvious question then arises that why did the eyewitnesses not monitor the appellant or follow him into the deceased's room as he crossed them in the courtyard despite the clear threat he posed to the deceased having made his intentions clear, while armed with a wooden stick/*Sotta*. What is even more alarming is the fact that the eyewitnesses did not intervene once the altercation had begun. This is especially disturbing where the eyewitnesses had ample opportunity to intervene given the drawn-out five-minute duration of the altercation and where the site map states that the eyewitnesses saw the appellant perpetrate his assault from a distance of four to six feet. Filial duty would naturally cause the complainant to intervene, however, him and the eyewitnesses who were also close to the deceased did not even launch an abortive attempt at preventing the appellant's alleged grievous assault. Equally important is the fact that the appellant was not armed with a formidable weapon, having only a wooden stick measuring 1 foot 4 inches. The eyewitnesses' conduct is then manifestly unnatural and this failure to intervene raises serious doubts regarding both the veracity of their account as well as their presence at the scene. A similar situation was decisively dealt with by this Court in the case of *Pathan v. The State* (**2015 SCMR 315**) wherein it was held that:

> *"The presence of witnesses on the crime spot due to their unnatural conduct has become highly doubtful, therefore, no explicit reliance can be placed on their testimony. They had only given photogenic/photographic narration of the occurrence but did nothing nor took a single step to rescue the deceased. The causing of that much of stab wounds on the deceased loudly speaks that if these three witnesses were present on the spot, being close blood relatives including the son, they would have definitely intervened, preventing the accused from causing further damage to the deceased rather strong presumption operates that the deceased was done to death in a merciless manner by the culprit when he was at the mercy of the latter and no one was there for his rescue. In similar circumstances, the evidence of such eye-witnesses was disbelieved by this Court in the case of Masood Ahmed and Muhammad Ashraf v. The State (1994 SCMR 6)."*

Reliance may also be placed upon the cases of *Zafar v. The State* (**2018 SCMR 326**) and *Liaqat Ali v. The State* (**2009 SCMR 95**) in this regard. The further aspect that the eyewitnesses failed to apprehend the appellant after he had allegedly murdered the deceased again raises serious doubts about their presence at the scene. The complainant explained during cross-examination that the eyewitnesses had made an attempt to apprehend the appellant but he was able to escape. Moreover, the complainant admitted that the eyewitnesses were well-built in contrast to the weaker appellant. Here, once more, it could reasonably be expected that eyewitnesses should have overpowered the appellant. Surprisingly, however, the appellant managed to slip away from the eyewitnesses, making his way out of the room where the deceased was murdered despite there being only one doorway and the site map describing the eyewitnesses as standing in that doorway.[3]

12. There is an additional fact that when the complainant (PW-6) was asked during cross-examination whether it was correct that he was not present at the place of the occurrence when it happened – and that he had been informed of it telephonically by the police, only thereafter arriving from Mianwali to Sillanwali to lodge the complaint – he answered: "*I do not know*". Although this one answer cannot be read in isolation or used to disregard his repeated claim that he was present at the scene, it certainly creates doubt as to why the question was not answered in categorical terms affirming his presence.[4] Again, while responding to a question, he stated that he did not know whether the occurrence had taken place during the night hours, which contradicts the timing mentioned in the FIR — i.e., 7:45 AM in the morning.

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[3] The sitemap describes only one exit from the house.

[4] Furthermore, none of the PWs explain how the police were informed of the occurrence except a voluntary statement made by the Investigating Officer (PW-9) during cross-examination where he stated that he received the information through "15".

13. Adverting now to the recovery of the alleged weapon of offence, a *Sotta*. The prosecution claims that the recovery was made upon the appellant's disclosure and conclusively proved his guilt. There are, however, certain deficiencies in the recovery proceedings as well as the claim that the recovered *Sotta* was actually linked to the appellant. Foremost amongst these flaws is that the *Sotta* was recovered from an open and public place, i.e. an empty plot adjacent to the deceased/complainant's home. The complainant's cross-examination also highlights that the spot from where the *Sotta* was recovered happened to be a public thoroughfare. The established doubtfulness of this recovery further undermines the prosecution case. We were able to lay our hands on the decision rendered by this Court in the case of *Mian Sohail Ahmed and others v. The State and others* (**2019 SCMR 956**) wherein it was observed as under:

> *"The Investigation Officer (PW-15) deposed that the recovery of pistol was effected from a house whose ownership he failed to ascertain. According to him it was a double storied house and recovery was effected from the ground floor where other family members also resided. The memorandum of recovery (Ex-PG) shows that the pistol was recovered from an open room lying under rough clothes. It would be unsafe to rely on this recovery for a conviction on a capital charge. The ocular account of the sole eye-witness (PW-8) does not inspire confidence in the absence of any corroboration from the identification evidence or the recovery."*

The undeniable fact that the crime weapon, i.e. the *Sotta*, was recovered from a place open and accessible to all makes it unsafe to place reliance upon such recovery. Reference in this regard may also be to the decision rendered in the case of *Muhammad Saleem v. Shabbir Ahmed and others* (**2016 SCMR 1605**).

14. Prominently also, although the blood-stained articles worn by the deceased had been taken into possession, the police neither claimed that the recovered weapon, the *Sotta*, was covered in the deceased's blood nor was the *Sotta* subjected to any chemical or serologist examination for traces of human

blood. In the absence of such testing, the weapon recovered by the police does not advance the prosecution case.

15. The motive alleged by the prosecution was that the appellant was addicted to narcotics and had demanded money from the deceased for the purchase of drugs and that when the deceased refused to pay, the appellant murdered her out of anger. The complainant (PW-6), Muhammad Irfan, however admitted during his cross-examination that the appellant was never booked in any case of narcotics. Likewise, Muhammad Imran (PW-7) stated during his cross-examination that he did not know the amount that was demanded by the appellant from his mother, the deceased. No evidence was produced to show that the appellant ever remained under medical treatment for drug addiction. No cogent evidence was produced to prove the alleged motive. We are, therefore, of the view that the motive alleged by the prosecution also has not been proved in this case.

16. The preceding paragraphs highlight material flaws in the prosecution case, rendering it doubtful. Considering the doubtfulness of the ocular account and even the very presence of the eyewitnesses at the scene due to their unnatural conduct; the inconsistency of the ocular account with the medical evidence; and the doubtful recovery of the weapon of offence, it cannot be denied that these doubts are reasonable and significant. It is a settled proposition of law that where even a single doubt exists in the prosecution case, let alone the plethora highlighted above, the benefit of such doubt accrues as of right in the accused's favour and may form the basis for an acquittal. Reference may be made to the cases *Muhammad Hassan v. The State* (**2024 SCMR 1427**); *Abdul Samad v. The State* (**2025 SCP 31**); *Tariq Parvez v. The State* (**1995 SCMR 1345**); *Muhammad Akram v. The State* (**2009 SCMR 230**); and *Muhammad Imran v. The State* (**2020 SCMR 857**).

17. In view of what has been discussed above, we are of the considered view that the appellant's case is one meriting acquittal. The judgments of the Trial Court and the High Court are therefore set aside and the appellant, Muhammad Bilal, is acquitted of the charge levelled against him by extending the benefit of doubt. He is ordered to be released from captivity forthwith, if not required to be incarcerated in any other matter.

18. These are the reasons for our short order dated 05.05.2025 which is reproduced below for ease of reference:

> *"For reasons to be recorded later, the appeal is allowed and, consequently, the appellant is acquitted from the charge framed against him by extending the benefit of doubt. The judgments of the Trial Court dated 24.05.2017 and the High Court dated 03.12.2020 are hereby set aside. In case the appellant is not required to be incarcerated in any other matter then he shall be released forthwith."*

ISLAMABAD
05.05.2025
Naseer/Mustafa Kundi L.C.

"Approved for Reporting"