

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Mushir Alam

Mr. Justice Yahya Afridi

Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Appeal No.277 OF 2020**

*(Against judgment dated 20.10.2010 passed by the  
Lahore High Court Multan Bench in Crl. Appeal  
Nos.173 of 2008 with M.R. No.375/2005)*

***Zulfiqar Ali***

*...Appellant(s)*

**Versus**

***The State***

*...Respondent(s)*

For the Appellant(s): Mr. Rizwan Ejaz, ASC.

For the State: Mirza Abid Majeed,  
Deputy Prosecutor General Punjab.

Date of hearing: 12.11.2020.

**JUDGMENT**

**Qazi Muhammad Amin Ahmed, J.-** The appellant stands convicted for committing Qatl-i-Amd of her sister-in-law Fareeda alias Pappa, 30, her brother Shabbir Ahmed, 25 and mother Jameela, 55/60 at 3:30 p.m. on 1.9.2004 within the precincts of Police Station City Dera Ghazi Khan. The learned Sessions Judge Dera Ghazi Khan vide judgment dated 09.06.2005 sentenced him to death on three counts of homicide within the contemplation of clause (b) of section 302 of the Pakistan Penal Code, 1860, altered into imprisonment for life on each vide impugned judgment dated 20.10.2010, vires whereof, are being assailed on a variety of grounds through leave by the Court.

The incident was reported by Sagheer Ahmed (PW-9) related to each deceased in first degree; according to him, her sister Fareeda alias Pappa was happily married with appellant's brother Umar Ali for past 8/9 years; she complained appellant's indecent overtures to her husband who shifted the family to another premises. On the fateful day, Fareeda alias Pappa had come to visit her mother when the appellant arrived at the scene; he took a razor (*ustra*) from his pocket and dealt multiple blows to Fareeda on her face and head after exhorting revenge; deceased's mother Jameela and brother Shabbir

Ahmed tried to intervene; the appellant picked a wooden plank (*mohli*) and hit them both in their heads. This happened, as per the complainant, within his view as well as those of Muhammad Ashraf and Muhammad Kashif (given up PWs), residents of Block-C, attracted to the venue that situated in Block-H. The witnesses tried to apprehend the appellant but were kept at bay by his threats. Appellant again dealt blow to Fareeda in her head, already fallen on the ground and severed her trachea. Resistance by Fareeda alias Pappa to appellant's carnal designs is cited as a motive for the crime.

The casualties were shifted to D.H.Q. Hospital D.G. Khan; upon arrival the females were pronounced dead, however, Shabbir Ahmed, being unconscious with a solitary wound on top of skull, briefly struggled for life, however, lost the battle on 3.9.2004. Police recovered wooden plank (*mohli*) P-12 and razor (*ustra*) P-13, both stained with blood of human origin. Abandoned by the witnesses named in the crime report, Sagheer Ahmed (PW-9) and his sister Muniran Mai (PW-10) entered the witness box to drive home the charge.

Though the leave was primarily granted to consider the implication of consecutive commutation of sentence in the absence of any direction to the contrary by the High Court, however, in the peculiar facts and circumstances of the case and with a view to ensure safe administration of criminal justice, we have allowed the learned counsel for the convict, appointed at State expense, to argue at full length all the available grounds. According to the learned counsel, the case set up in the crime report hopelessly fails to inspire confidence; he has taken us to the statement of Sagheer Ahmed (PW-9) to demonstrate that it was the very first day of the family in the house of occurrence as they had shifted there same day and, thus, there was no occasion for the appellant or for that matter anyone else to know about the presence of Fareeda alias Pappa at the venue, according to the prosecution, the prime targeted chased by the appellant; he next argued that, be that as it may, the appellant had no axe to grind against Shabbir Ahmed and Jameela Bibi who too were brutally murdered while identically placed Sagheer Ahmed (PW-9) remained unscathed. A razor/*ustra*, hardly a choice weapon for an assassin covering long distance to engage his victim, is yet another intriguing aspect of the case inasmuch as it certainly could not allow the appellant to accomplish the task with any degree of ease under the shadow of witnesses, six in number, two deceased inclusive. Similarly,

there appears no earthly reason as to why the appellant almost slit the neck of Fareeda alias Pappa when she was already lying dead on the ground; there is far more than what meets the eye, concluded the learned counsel. Highlighting the horrors of the incident, the learned Law Officer has faithfully defended the impugned judgment; he has referred to the promptitude in recourse to law and medical examination as well as autopsy shortly thereafter to argue that there was hardly any time for the prosecution to put up a false case with a view to swap the real offender.

2. Heard. Record perused.

3. Though the human response/reaction, in a sudden crisis, particularly one striking awe and terror, cannot be gauged or assessed with any degree of empirical certainty as fear impacts differently upon faculties of the onlookers, nonetheless, despite maximum latitude, in the given scenario, it really appears hard for the appellant who operated with impunity in the face of heavy presence of the witnesses; deceased being herself "*a young female with average-built*" could not be expected a static target offering no resistance. Razor (P-13), commonly used by the barbers, given its moving handle instead of a fixed grip, is an instrument to be managed with some difficulty against a moving object; it risks the handler more than the intended target and as such unless the victim is stunned as a stone, a possibility beyond contemplation for the witnesses standing nearby to foil the attempt; they included three able-bodied males in their youth; their inaction is mindboggling and explanation far from being plausible, circumstances that in retrospect insinuate their absence at the scene; two of them, named conspicuously in the crime report failed to come forward to support the prosecution. Muniran Mai (PW-10), the next eye witness, has substituted them with Jan Muhammad and Eisa PWs; they too opted to stay away. Amongst others, Fareeda alias Pappa was survived by four children; their ages are not on the record, however, given the family composition and magnitude of brutality inflicted upon their near and dear, they wouldn't have countenanced their father's abstention to facilitate offender's escape from justice. The above circumstances, cumulatively confirm that despite colossal loss of lives, the prosecution has not come forward with the whole truth and that unmistakably presents a situation that does not allow, in the absence of evidentiary certainty, to maintain conviction without potential risk of error. Consequently, by extending benefit of the doubt, criminal appeal is

allowed; impugned judgment dated 20.10.2010 is set aside; the appellant is acquitted of the charge; he shall be released forthwith if not required by law.

Judge

Judge

Judge

Islamabad, the  
12<sup>th</sup> November, 2020  
Not approved for reporting  
Azmat/-