

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

**PRESENT:**

Mr. Justice Sardar Tariq Masood  
Mr. Justice Mazhar Alam Khan Miankhel  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Appeal No.585 of 2020**

*(Against the judgment dated 06.05.2015 passed by the Lahore High Court  
Multan Bench in Jail Cr.A. No.606 /2003)*

***Shaukat Hussain***

*...Appellant(s)*

**Versus**

***The State***

*...Respondent(s)*

For the Appellant(s):

Mr. Aftab Alam Yasir, ASC  
Syed Rifaqat Hussain Shah, AOR

For the State:

Mirza Abid Majeed,  
Deputy Prosecutor General Punjab

Date of Hearing:

14.02.2022.

**ORDER**

**Qazi Muhammad Amin Ahmed, J.:-** Through leave of the Court impugned herein is judgment dated 06.05.2015 by a learned Judge-in-Chamber of the Lahore High Court Multan Bench Multan whereby guilty verdict returned by a learned Additional Sessions Judge at Rajanpur in a case of homicide vide judgment dated 30.06.2003 was maintained.

It is alleged that the appellant, suspecting illicit liaison, strangled Afshan Batool, no other than his better half, inside his home, at 10:00 p.m. on 15.11.2000. Incident was reported shortly after midnight by deceased's paternal uncle Ghulam Shabbir (PW-7); according to him, the deceased, in the backdrop of above acrimony, was staying with her parents wherefrom the appellant after mediation took her to his home; complainant and his companion followed him and allegedly witnessed the assault at 10:00 p.m; it is their case that the appellant along with his brother Mushtaq Hussain, since acquitted, placed a noose around the neck with

*Dopatta* (P-7) and wire (P-8) and it is through constriction that the deceased was done to death within their view.

2. Learned counsel for the appellant contends that prosecution case on the face of it is extremely improbable inasmuch as not only the father of the deceased abstained from the witness box but medical evidence is also inconsistent with the ocular account. Arrival of the witnesses exactly at the fateful point of time when the deceased was allegedly being strangled is a coincidence that seldom occur, argued the learned counsel. According to him, the position taken by the appellant sounds more convincing so as to let off him, particularly after prosecution's failure qua identically placed co-accused. The learned Law Officer has faithfully defended the impugned judgment.

3. Heard. Record perused.

4. In incidents of domestic violence more so in the event of homicidal death of a wife in the house of her husband a heavy onus is cast upon the latter to satisfactorily explain circumstances leading to the tragedy. See Article 122 of the Qanun-i-Shahadat Order, 1984. However, in the present case, explanation furnished by the appellant, when juxtaposed with the prosecution evidence, warrants a serious reconsideration; according to him, the deceased had happily rejoined him, albeit to the annoyance of the complainant who otherwise harboured a grudge and desired to see the marriage on the rocks; in the nutshell, he shifted the blame on the complainant. What puts us on caution is absence of deceased's father from the scene; he neither joined the investigative process nor opted to be in the witness-box; he would have been prosecution's best choice to prove both desertion as well as calamity that struck her daughter; his silence is most intriguing, lending support, in retrospect, to the position taken by the appellant. Prosecution story is further negated by the autopsy report wherein on the neck a ligature mark is conspicuous by its absence; there is one bruise accompanied by four abrasion marks with an intact hyoid bone; though the death is opined as asphyxial, nonetheless, it does not appear to have occurred in the manner suggested in the crime report. It is also hard to believe that the witnesses four in number could not have intervened to rescue the deceased, statedly struggling to resist the assault within their view, close distanced at the crime

scene. Acquittal of co-accused, without challenge, is yet another predicament confronting the prosecution. Fraught with doubts, position taken by the appellant cannot be dismissed without being imprudent. Appeal is allowed; impugned judgment dated 06.05.2015 is set aside; the appellant is acquitted from the charge and shall be released forthwith if not required to be detained.

**Judge**

**Judge**

**Judge**

Islamabad, the  
14<sup>th</sup> February, 2022  
Azmat/-