

THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Muhammad Hashim Khan Kakkar
Mr. Justice Salahuddin Panhwar
Mr. Justice Ishtiaq Ibrahim

J.P. 424 of 2021 a/w CrI.P.L.A 1567-L of 2021

*(against the Judgment dated 13.09.2021 passed
by Lahore High Court, Bahawalpur, in Murder
Reference 06/18 & CrI. Appeal Appeal. 125-J/18)*

Muhammad Azhar (in J.P. 424/21)

Muhammad Shahzad (in CrI.P.L.A. 1567-L/21)

...Petitioner(s)

VERSUS

The State & another

...Respondent(s)

For the Petitioner(s) : Mr. Rehan Iftikhar, ASC *(in J.P. 424/21)*

Nemo *(in CrI.P.L.A. 1567-L/21)*

For the State : Rana Tasawar Ali Khan, APG Punjab

Assisted by : Ms. Tayyaba Munir, Law Clerk

Date of hearing : 01.10.2026

JUDGMENT

ISHTIAQ IBRAHIM, J. The petitioner, Muhammad Azhar son of Muhammad Mushtaq along with co-accused Muhammad Abbas (since acquitted by the Trial Court), were charged under Section 302 of the Pakistan Penal Code, 1860 (PPC) in FIR No. 20 of 2017, dated 11.01.2017, registered at Police Station Minchinabad, District Bahawalnagar, for allegedly committing the Qatl-i-Amd of Mst. Sakhian Bibi. Upon completion of the trial, the learned Additional Sessions Judge, Minchinabad, vide judgment dated 28.02.2018, convicted the petitioner under Section 302(b) PPC as Tazir and sentenced him to death along with a direction to pay rupees 200,000/- as compensation under Section 544-A Cr.P.C. to the legal heirs of the deceased (or in default, to undergo six months of simple imprisonment), while co-accused Muhammad Abbas was acquitted. Aggrieved thereby, the petitioner preferred an appeal, which was dismissed by the High Court, however the sentence was

modified from death to life imprisonment. Hence this petition for leave to appeal before us.

2. The brief facts of the prosecution case, as set forth in the crime report lodged by Muhammad Shahzad (PW-7), are that on Wednesday, 11.01.2017, at about 01:45 PM, the complainant was present inside his house alongside his sister, Sadia Azam, and his mother, Mst. Sakhian Bibi (deceased). Complainant heard a motorcycle stop outside his house and the petitioner, Muhammad Azhar, entered the house armed with a .30-bore pistol and inquired about the complainant's uncle, Muhammad Riaz. Upon being informed by Mst. Sakhian Bibi that Muhammad Riaz had left for Liaquat Pur, the petitioner became enraged, accused her of lying, and hurled abuses and death threats against Riaz over an ongoing civil litigation involving co-accused Muhammad Abbas. When Mst. Sakhian Bibi intervened to stop him from abusing, the petitioner opened direct fire at her from close range, discharging five shots 2 of which struck her chest, 1 her belly, and 2 her right arm. Upon hearing the gunfire, PW-8 Muhammad Ashraf and one Muhammad Nadeem rushed to the spot. However, the petitioner fled on his motorcycle while brandishing his firearm. The victim succumbed to her injuries shortly.

3. Arguments heard, record perused.

4. The prosecution's case primarily rests upon the ocular account provided by two eyewitnesses, namely Muhammad Shahzad (PW-7) and Muhammad Ashraf (PW-8), who are respectively the son and the brother-in-law of the deceased. Both witnesses lives within the same house where the tragedy occurred. PW-7 was present inside the house, while PW-8 was right outside the door of his adjacent dwelling. Being ordinary residents of the premises, their presence at the scene during the afternoon at about 01:45 PM is completely natural, and expected. Although they are close relatives of the victim and technically fall within the category of interested witnesses, their testimony remains fully reliable and trustworthy. In cases of domestic occurrences taking place inside a residential dwelling, the presence of close family members is standard, and relationship alone cannot be a ground to discard otherwise credible evidence. Furthermore, both eyewitnesses remained consistent and material on all essential facts, including the sequence of events, and the manner of execution. The incident occurred in broad daylight in clear visibility, leaving no room for misidentification. Also, the petitioner was

already known to the witnesses due to an ongoing litigation between the families which rules out any possibility of mistaken identity or substitution. PW-7 stated that the petitioner was approximately 5–6 feet away from the deceased when the shots were fired. This account is corroborated by the blackening and burning present around the wounds, as noted in the post-mortem report and explained by the doctor/PW-12 in his statement which further support the prosecution witnesses' account regarding the petitioner's presence and proximity at the time of firing. Given that a specific role of direct firing was assigned to the sole accused in a daylight occurrence, the testimony of these natural eyewitnesses inspires full confidence and is worthy of reliance.

5. Now coming to the assessment of ocular and medical corroboration, the complainant (PW-7) stated in the FIR and his statement that the petitioner fired five shots at the victim, specifying that the first and second shots landed on the chest, the third on the belly, and the fourth and fifth on her right arm. Similar account was also stated by PW-8 (Muhammad Ashraf), who deposed to the same sequence and locale of injuries inflicted by the petitioner. On the other hand, the post-mortem report and statement of the doctor/PW-12 reveals seven firearm entry wounds upon the body of the deceased. The relevant portion of the post mortem report giving the details of injuries on the deceased is as follows:

Following injuries were noted:-

i. Three lacerated wounds on the right side of the chest. 1 1/2 cm their margins were inverted and burning and blackening was present oval in shape making a root inward the left chest with blind depth. All were entry wounds 1 1/2 inch away from the right breast nipple. One firearm wound about 6/7 inch away from right breast nipple (entry wounds).

ii. An oval shaped lacerated wound seized 1 1/2 cm. Its margins were inverted burning and blackening was present seems to be entry wound 7cm away from right breast near to right axilla making a track outwards the chest and exit the inner side of right arm. Seize about 2 1/2 cm its margins were everted (exit wound)

iii. A lacerated oval shape wound present above the umbilicus near to scar of paraumbilical hernia 1 1/2 cm, superficial to skin blackening and burning was present.

iv. A through and through lacerated wound oval in shape 1 cm skin and partial muscle cut seems to be entry wound making a track outer to inner side of right forearm, 2 1/2 cm lacerated wound its margins were everted seemed to be exit wound. 1/2

v. A lacerated oval shape 2 1/2 cm partially skin and muscle cut its margins are everted blackening and burning present index and middle finger of right hand seems to be entry wound.

- vi.** Two lacerated wound in size 1/2 meter. Its margins were everted on the back of left side of chest at lower portion one exit and other in the center of chest.
- vii.** Two lacerated wound one size is 1 1/2 cm, skin and muscle cut making a track inward with exit on the upper part of the chest near to left shoulder.

This shows a numerical discrepancy of two injuries between the ocular account and the medical evidence. Whether such a discrepancy could ordinarily be fatal to the credibility of the eyewitnesses as the testimony must be evaluated through the lens of ordinary human conduct and natural reaction under the given circumstances. In criminal jurisprudence, human behavior cannot be subjected to a fixed formula, nor can every witness be expected to react, observe, or retain events in an identical manner. Every individual reacts differently to sudden traumatic situation as where one person may observe details, another may freeze or lose perception of the occurrence. To expect mathematical precision regarding number of firearm shots or exact locale of injuries from eyewitnesses exposed to a horrific event is both unnatural and impractical. In our view it is important to recognize that in a sudden traumatic event - where multiple gunshots ring out in a span of few seconds and a mother is murdered in cold blood right before the eyes of her son - a minor divergence regarding the exact count of firearm shots or the precise entry point of every bullet on the body is an evidence of natural and reasonable human limitation. In such panic, the human mind cannot be expected to function like a high speed camera. The ocular evidence given by the eyewitnesses cannot be discarded just because of a slight variation in wound mapping, especially when the core firearm injuries described by them are present on the body of the deceased. The witness provided what was best known and perceived by him in those horrific seconds. It is a classic hallmark of a genuine observer acting under traumatic distress as instead of showing fabrication, this discrepancy actually shows the honesty of the witness. Had he intended to fabricate a dishonest statement, he would have tailored his statement to align perfectly with the medical report. In the present case, the victim's body bore multiple firearm injuries, making it unreasonable to expect the witnesses to state the exact number of injuries. In our social and cultural context, a grieving son who just witnessed the murder of his mother cannot reasonably be expected to conduct a physical inspection of her body at the crime scene merely to count each firearm wound before reporting the occurrence to the authorities. Minor variations in the number of injuries stated by such a witness, therefore, cannot by

themselves be treated as a material contradiction, particularly when the nature and extent of the injuries are subsequently established through the post-mortem examination and medical evidence. The complainant stated in his cross-examination that the occurrence took place in 5-6 seconds. He simply stated what he honestly believed had occurred during those few seconds and hence reliability of testimony given by both eyewitness cannot be discarded. Again, this evaluation is purely to the extent of the case at hand and is not to be applied as it is on other cases.

6. We are of the view that in criminal jurisprudence, every case must be evaluated and decided on its own distinct factual matrix. The testimony of every witness, as well as each surrounding fact and circumstance, must be dealt with on a case-to-case basis, as two criminal cases do not share exact identical factual settings, nor can human behavior and conduct under stress be reduced to a fixed or uniform standard. Our opinion is that eyewitness behavior in criminal cases is subjective and varies significantly from person to person as such human responses are shaped by an individual's psychological resilience, environmental influences, and personal life experiences. While questions of law can be settled through fixed principles and made into binding precedents, pure questions of fact cannot be rigidly standardized across different trials as they require an independent, and objective assessment adapted to the unique evidentiary material available on record. Therefore in the case at hand, this slight divergence does not impair the truthfulness of the natural eyewitnesses, whose accounts remain thoroughly consistent regarding the identity of the assailant, the weapon used, the close range of firing, and the primary target areas on the victim's body.

7. In the view of the above, we found no ground for interference therefore J.P. 424/2021 is dismissed and leave is refused. The reasons given by High Court for converting death to life are also plausible. No case for enhancement is made out therefore CrI.P.L.A. 1567-L of 2021 is also dismissed and leave is refused.

8. Before parting with this judgment, we feel compelled to express our observations and concern regarding a prevalent practice in criminal trials which, in our view, defies normal human capability and natural perception. We frequently observe prosecution witnesses deposing with microscopic precision as if watching events in slow motion, describing the exact trajectory and anatomical landing site of each individual bullet discharged from a firearm. It is humanly impossible for an eyewitness,

placed under the sudden terror and high stress of a deadly attack, to track a high-velocity bullet in mid-air and confirm with precision where each shot strikes the victim's body. It can be considered a possibility in case of single shot and single perpetrator as such a perception can be coupled with observation of perpetrator's body language as to where they pointed the firearm among other factors. However, when a single assailant unleashes a volley of shots within a span of a few seconds or when multiple assailants simultaneously shower bullets, no human mind or eye can observe, let alone retain and recount, which exact bullet, shot by which specific perpetrator struck which particular part of the body. As courts may presume existence of certain facts in regards to common course of natural events, human conduct and their relation to the facts of the particular case such minute detail in human testimony might seem unnatural and concocted to a prudent mind. Due to elements such as exposure, personal life experiences of similar nature, demographical factors, and estimator variables, a person can, to some extent, make a precise observation regarding number of fire shots, its shooter and corresponding injuries. However, the scrutiny of a similar account given by an ordinary observer/witness with microscopic accuracy surrounded by stress situation is up to the court and is expected to be done in light of the circumstances of each case as under the golden principles of criminal jurisprudence, any piece of evidence is not to be taken in isolation and is appraised cumulatively with other available evidence.

9. It is common knowledge that most individuals are not frequently exposed to dangerous, life-threatening situations, and any sudden brandishing of a weapon induces an atmosphere of shock, and fear for them. In such stressful encounters, human cognitive and perceptual capacities are severely impacted. Under the *Weapon Focus Effect* given by the renowned cognitive psychologist Elizabeth Loftus¹, a witness faced with an assailant brandishing a firearm involuntarily fixes their attention almost exclusively upon the weapon itself. This cognitive "attentional tunneling" limits the observer's capacity to process, or recall, surrounding details. Furthermore, given the extremely high

¹ Loftus, E. F. (1979). Eyewitness testimony. Cambridge, MA: Harvard University Press.

velocity and fraction-of-a-second flight time of firearm projectiles, it is a physical and physiological impossibility for the human eye to see a bullet from barrel to impact site in real time. We strongly discourage this practice and urge that eyewitness account should be in a way that reflect genuine human observation regarding occurrence.

Judge

Judge

Judge

Announced on _____ in Open Court at Islamabad.

Judge

Approved for Reporting
Tayyaba Munir, Law Clerk