

THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

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

J.P. 495 of 2021 & CrI.P.L.A 1483-L of 2021

*(against the Judgment dated 23.09.2021 passed by
Lahore High Court, Lahore, in Murder Reference 555/17
& CrI. Appeal No. 93317-J/17)*

Ghulam Shabbir (in J.P. 495/21)

Mazhar Abbas (in CrI.P.L.A. 1483-L/21)

...Petitioner(s)

VERSUS

The State & another

...Respondent(s)

For the Petitioner(s) : Mr. Ajmal Kanju, ASC *(state counsel)*
(in J.P. 495/21)

Zafar Mahmood Chaudhry
(in CrI.P.L.A. 1483-L/21)

For the State : Mr. Tariq Siddique, APG Punjab a/w
Mr. Hamayoun Aslam, DPG Punjab

Assisted by : Ms. Tayyaba Munir, Law Clerk

Date of hearing : 29.09.2026

JUDGMENT

ISHTIAQ IBRAHIM, J. Petitioner Ghulam Shabbir was charged in FIR No. 71 dated 15.02.2017 registered at Police Station Sadar, District Jhang under Section 302 of the Pakistan Penal Code (PPC) for committing the Qatl-i-Amd of Mst. Tasleem Akhtar. Upon conclusion of the trial, the learned Sessions Judge, Jhang, vide judgment dated 25.09.2017, convicted the petitioner under Section 302(b) PPC and sentenced him to death as tazir, along with a direction to pay Rs. 100,000/- as compensation to the legal heirs of the deceased under Section 544-A Cr.P.C. and in default to undergo 6 months S.I. Imputing error to the trial court's verdict, the petitioner preferred an appeal before the High Court which vide impugned judgment, maintained the petitioner's conviction under Section 302(b) PPC but altered his sentence from death to

imprisonment for life with benefit under Section 382-B Cr.P.C. Aggrieved, the petitioner filed the instant petition for leave to appeal before this Court.

2. The facts of the case, as stated by the prosecution, are that on 15.02.2017 at about 'Isha' prayer time, the complainant Haji Mazhar Abbas (PW-4) left his house to offer prayers at a nearby mosque, leaving his wife, Mst. Tasleem Akhtar (deceased), alone at home. While returning from the mosque alongside his brother Haji Muhammad Nawaz (PW-5) and Ghulam Abbas (given up PW), the complainant heard the screams of his wife emanating from his residence. The complainant and the accompanying witnesses rushed inside the courtyard and allegedly saw the petitioner, Ghulam Shabbir, inside a room strangulating Mst. Tasleem Akhtar with a rope placed around her neck, after having physically beaten her. Upon the witnesses raising a lalkara, the petitioner pulled the rope with force and fled the scene by scaling over the courtyard wall, leaving the victim behind. Mst. Tasleem Akhtar succumbed to her injuries at the spot. The motive behind the occurrence was stated to be that a few days prior to the incident, the deceased had complained to her husband that the petitioner was keeping a bad eye on her, leading the complainant and PW-5 to reprimand and curse the petitioner, who subsequently committed the murder out of revenge.

3. Arguments heard, record perused.

4. We will first discuss the account of the eyewitnesses. According to the record, three men namely Haji Mazhar Abbas/ PW-4 (aged 38), Haji Muhammad Nawaz/ PW-5 (aged 53-53), and Ghulam Abbas were present at the spot at the time of the occurrence who allegedly saw the petitioner strangulating the deceased. It was alleged that upon seeing them, the petitioner pulled the rope forcefully around the neck of deceased and fled the scene. We are of the view that this is not possible that three adult men witness such an incident happening and do absolutely nothing especially when the victim was related to them. They failed to either intervene to stop the assault or to make any attempt to apprehend the petitioner. Furthermore, according to the site plan, the petitioner purportedly scaled and escaped over a 7-ft wall. It is highly improbable that the petitioner

could successfully execute such an escape in the presence of three men without being intercepted. While the conduct of the husband (PW-4) in lodging the FIR and participating in the investigation is otherwise understandable, his conduct at the exact time of the occurrence is entirely unnatural. It is not convincing that a husband would stand passively by, watching his wife being strangled, without taking any action to subdue the petitioner especially when the weapon of offence is a rope. Even if we accept that the petitioner managed to scale the wall and escape the immediate enclosure, the witnesses could still have pursued and apprehended him outside. Given that three men were present, even if just one had chased the petitioner, it would be in line with natural human behavior. Therefore, the conduct of the eyewitnesses appears to be highly unnatural and contrary to ordinary human conduct.

5. Another incriminating piece of evidence heavily relied upon by the prosecution is the alleged blood-stained jersey. The findings of the PFSA Forensic DNA Analysis Report [Ex.PO] state as follows:

Item No.	Sub-Item no.	Description
1		Three vaginal swabs from Tasleem Akhtar
2		Cotton, from place of occurrence
3	3.1.	Rope from place of occurrence Stain section from the Rope
4	4.1.	Qameez of Tasleem Akhtar Stain section from Qameez
5	5.1.	Shawl of Tasleem Akhtar Stain section from Shawl
6		Shalwar of Tasleem Akhtar
7	7.1.	Qameez of Ghulam Shabbir Stain section from Qameez
8	8.1.	Jersey of Ghulam Shabbir Stain Section from Jersey
9	9.1.	Shalwar of Ghulam Shabbir Stain section of Shalwar

The report shows that blood which was recovered from the spot on cotton (Item 2), as well as on the *qameez* (Item 4.1) and shawl (Item 5.1) of the deceased, matched with the victim. The DNA profile from the rope (Item 3.1) is a mixture of three individuals of which the major component matches with the DNA profile of the victim. However, the source of DNA from two additional individuals is of unknown origin. This raises concerns as to who these two unidentified individuals were whose DNA was found on the alleged

murder weapon. Turning to the alleged clothes of the petitioner, on his *qameez* (Item 7.1) blood was detected but its source is not mentioned, while the DNA profile from his *shalwar* (Item 9.1) is a mixture from two individuals, however the victim was explicitly excluded as a contributor, leaving its origin also unknown.

6. The most crucial piece of evidence is the jersey attributed to the petitioner (Item 8.1) which contained a blood stain matching the victim's DNA. Now we have to assess whether recovery of this piece of evidence confidence inspiring and whether conviction can be maintained on grounds of blood DNA match solely.

7. We will start with the assessment of recovery of the blood stained jersey, which in our view is unconvincing due to number of reasons. First, the eyewitnesses never described the clothes worn by the accused at the time of the occurrence. Therefore, it cannot be conclusively established that the recovered clothes belong to the petitioner, as such jerseys and garments are mass-produced, readily available in the market, and not unique to the petitioner. There is nothing on record to prove that the clothes recovered were indeed those of the petitioner. Second, as per the recovery memo (Ex.PE), the clothes were allegedly recovered from an iron trunk inside the house of the petitioner. However, neither the house nor the trunk were in the exclusive possession of the petitioner as it was explicitly stated by PW-9/IO that both the house and the trunk were unlocked at the time of recovery. Besides, no independent private witnesses were associated with the recovery, nor were any other occupants of the house present at the time of recovery. Third, the occurrence took place on 15.02.2017, whereas the accused was arrested on 02.03.2017 which is a gap of 15 days. It defies ordinary human prudence that a person who committed a murder would flee the crime scene, return to his residence fully aware that the complainant and victim were related to him and could easily reach his home and then place the blood-stained clothing used during the offense in an unlocked iron trunk. As the petitioner remained unarrested for 15 days, it is highly improbable that he would fail to dispose of such incriminating evidence and instead preserve it unsecured at his residence. Fourth, the complete absence of evidence regarding the condition and storage, of the recovered garments prior to forensic testing. For over 15 days, the alleged

clothing of the petitioner lay inside an unlocked trunk, yet the record is entirely silent regarding the condition of the garments at the time of recovery that whether they were wet, damp, or dry. Also, it was not explained how they were subsequently kept in the police *malkhana* prior to their dispatch to the laboratory. In our view, for a recovery of clothes to become relevant especially when accused is seen by eyewitnesses in such clothes while committing the offence, it is necessary that the clothes were described in advance so that when recovered, they can be identified as the exact garments worn during the occurrence. Furthermore, they must be recovered from a place that is in the exclusive possession of the accused and not in the open access of other people or the general public. Additionally, details regarding the condition of the recovered clothes should also be meticulously recorded and presented to properly assess their evidentiary value.

8. Another significant aspect emerging from the FSL report (Ex.PO) further casts doubt upon the prosecution's reliance on the alleged recoveries. The report reveals that the rope [item 3.1] contained a DNA mixture of three individuals, one of whom was the deceased and sources of the other two remained unidentified. The bloodstains on the jersey (item 8.1) comprised a mixture of two individuals, with the deceased being the major contributor and the source of the minor component remaining unidentified. Similarly, the sources of the bloodstains detected on the petitioner's *qameez* (item 7.1) and *shalwar* (item 9.1) were not identified, whereas the deceased was expressly excluded as a contributor to the bloodstains found on the petitioner's *shalwar*. The presence of unidentified DNA contributors, though not conclusive of the involvement of any other person in the crime, raises legitimate questions regarding the origin of the biological material and the circumstances in which it came to be deposited on the recovered articles. Of further significance is the note appended to the FSL report requiring the collection and submission of reference samples from the deceased's husband and the petitioner at PFSA, Lahore. It is reproduced below:

Note: The result(s) in this report relates only to the item(s) tested. Please submit buccal swab standards of suspect(s) and husband of victim for subsequent DNA comparison. Buccal swab standards will be taken at Punjab Forensic Science Agency, Lahore as per policy.

Despite this, neither sample was subsequently facilitated. This omission left material questions concerning the identity and attribution of the biological traces unresolved. Considered cumulatively, these deficiencies, coupled with the doubtful circumstances of recovery already discussed, materially undermine the evidentiary value of the alleged bloodstained clothes and rope and render it unsafe to place implicit reliance upon them as incriminating evidence against the petitioner.

9. Now coming towards the appraisal of the strength of blood-stain DNA match as sole ground of conviction in the case at hand where the eyewitness testimony has been disregarded. It has not been sufficiently explained that how the blood-stained clothes were preserved and secured in the *malkhana*. Even otherwise, the mere presence of the victim's blood on the petitioner's alleged clothes – recovery of whom is not confidence inspiring - even if confirmed through DNA analysis report, cannot, in isolation, be treated as conclusive incriminating evidence in the absence of other independent, cogent and corroborative evidence connecting the petitioner with the commission of the offence. Observing similar jurisdictions, we came across the case having similar facts namely *Pooranmal v. State of Rajasthan* [2026 INSC 217] in which the clothes of accused were stained with victim's blood and were kept by him in the iron trunk. Indian Supreme Court discarded the recovery of the blood-stained shirt because despite being a free bird the conduct of accused to not discard the shirt or wash the blood away was not reasonable in the Court's view. The Court also held that even in presence of FSL report matching blood from petitioner's shirt with blood of victim, such evidence cannot solely serve as an incriminating piece of evidence in absence of other corroborative evidence establishing the incriminating chain. Indian Supreme Court, also, in case of *Mustkeem v. State of Rajasthan* [Mustkeem v. State of Rajasthan, (2011) 11 SCC 724 : (2011) 3 SCC (Cri) 473] held that:

“The AB blood group which was found on the clothes of the deceased does not by itself establish the guilt of the appellant unless the same was connected with the murder of the deceased by the appellants. None of the witnesses examined by the prosecution could establish that fact...”

This discussion therefore, concludes that bloodstain DNA match is a strong piece of evidence when corroborated by other piece of evidence establishing a chain that links the accused with the victim

and offence. However, such evidence cannot be taken in isolation as an incriminating evidence. In the present case, although the bloodstains on the clothes that are allegedly associated with the petitioner yielded a positive DNA match with the deceased (confirmed by the FSL report), the recovery itself remains doubtful for the reasons discussed in paragraph 6 which renders the evidentiary chain unreliable. The evidentiary value of such evidence necessarily depends not only upon the scientific reliability of the DNA match but also upon the integrity of the recovery and the circumstances connecting the recovered articles with the accused. Consequently, we are of the view blood matching DNA report cannot be taken as incriminating evidence in isolation.

10. In view of the above discussion, this petition is converted into an appeal and is allowed; the appellant is acquitted of the charge and shall be released forthwith, if not required in any other case. No case of enhancement is made out therefore Crl.P.L.A 1483-L of 2021 is also dismissed and leave is refused.

Judge

Judge

Judge

Announced in Open Court at Islamabad _____

Judge

Approved for Reporting

Tayyaba Munir, Law Clerk