

IN THE SUPREME COURT OF PAKISTAN
(Review Jurisdiction)

PRESENT: Justice Muhammad Hashim Khan Kakar
Justice Salahuddin Panhwar
Justice Ishtiaq Ibrahim

Criminal Review Petition No. 73/2025
in Criminal Appeal No. 91/2024
(Against the judgment/order dated 16.5.2025
passed by this Court in CrI. A. No. 91/2024)

Muhammad Kamran Petitioner(s)

Versus

The State and another Respondent(s)

For the Petitioner(s): Mr. Basharatullah Khan, ASC
Syed Rifaqat Hussain Shah, AOR

For the State: Mr. Tariq Siddique, APG Punjab
(on Court's call)

Assisted by: Mr. Muhammad Qasim Najam and
Ms. Tayyaba Munir, Law Clerks

Date of Hearing: 21.09.2026

JUDGMENT

Muhammad Hashim Khan Kakar, J. The petitioner, Muhammad Kamran, has filed the instant review petition, *inter alia*, on the basis that the petitioner had already served the substantive part of the sentence, which was 15/16 years in the death cell. Consequently, the resultant murder should be subject to a lesser sentence in accordance with the principles established by this Court in the cases of *Dilawar Hussain v. State* (2013 SCMR 1582) and *Hassan v. State* (PLD 2013 SC 793). He also argued that the petitioner's marriage proposal was rejected by the deceased and her parents, which allegedly led the petitioner to commit the murder of Mst. Memoona Shaheen. This led to the argument that the motive, which was personal and emotive in nature, should be considered a mitigating circumstance and that the death sentence should be converted to life imprisonment. The learned counsel has stated that the

judgment under review, which is dated 16.05.2025, by this Court, requires a review, as the aforementioned issues have not been addressed by the Court.

2. In brief, the petitioner was put on trial for the homicide of the deceased Mst. Memoona Shaheen by means of gunfire within the deceased's residence. The prosecution established the motive that the petitioner harbored animosity toward the deceased due to the fact that she and her family had declined his proposed marriage. He was sentenced to death under section 302(b) of the Pakistan Penal Code (**PPC**) and was also ordered to pay compensation. The High Court upheld his conviction and sentence, and this Court also dismissed his appeal vide judgment dated 16.05.2025. Consequently, the present review petition was filed.

3. We have heard the learned counsel for the petitioner as well as learned APG and have perused the record with their valuable assistance. We appreciate the detailed assistance provided by the Learned APG on principle of life expectancy. Now the question before us is that whether a case for review is made out and whether the petitioner deserves commutation of his death sentence to life imprisonment on the basis of principle of life expectancy.

4. As the case at hand is that of a review hence at the outset we will discuss the scope of Supreme Court's review jurisdiction under Article 188 of the Constitution of the Islamic Republic of Pakistan, 1973 ("the **Constitution**"), read with Part IV, Order XXVIII of the Supreme Court Rules, 2025. A review petition is not a second appeal or a vehicle for reopening issues that have already attained judicial determination. Unless the petitioner points to a patent error or omission evident from the record, or demonstrates circumstances warranting interference in the interest of justice, the Court cannot revisit its earlier conclusions. As the impugned judgment reflects due consideration of the matters raised and discloses no such apparent legal or jurisdictional defect, no case for review is made out.

5. Regarding the plea for commutation of the death sentence to life imprisonment on the ground of life expectancy, the current jurisprudence on this subject was thoroughly discussed by this Court in recent case of *Sher Afzal v. State* (Crl. R. P. No. 166/2025 in Crl. A. No. 229/2021). In the said judgment, after considering the relevant precedents, including *Dilawar Hussain* and *Hassan* [supra] and *Zafar Iqbal v. State* (PLD 2015 SC 307), this Court concluded that the benefit of the life expectancy principle cannot be extended across the board to all death-row petitioners. This judgment established that for the condemned convict to invoke this principle:

- i. He must have spent a minimum lifetime threshold of twenty-five (25) years behind bars;
- ii. There must be presence of additional compelling mitigation; and
- iii. The nature of the offence is not among the most aggravated.

6. The said judgment establishes the legal distinction between a convict serving a sentence of life imprisonment and a condemned prisoner facing the death penalty. We are of the considered view that a prisoner sentenced to imprisonment for life and a condemned prisoner cannot, in law, be placed in the same category and, therefore, cannot be intermixed merely by reference to the period which a prisoner has spent behind bars. To hold that because a condemned prisoner has remained incarcerated for fourteen or fifteen years - the period which, owing to remissions and the prevailing computation of a life sentence, a lifer may ordinarily undergo - they has thereby acquired an entitlement to have his sentence converted into imprisonment for life would amount to a serious distortion of the sentencing scheme. The proposition becomes particularly unsustainable as the death sentence has been maintained by the courts after conscious consideration of the relevant facts. The condemned prisoner cannot claim, as a matter of right, that completion of 14 or 15 years in custody has placed him in the same position as a person upon whom the court, in the first instance, imposed imprisonment for life. The latter entered prison

under a sentence of life imprisonment; the former entered it under a sentence of death. The distinction does not lie in the number of years already spent in prison, but in the sentence which the court actually imposed. Prolonged incarceration of death row prisoner may, in an appropriate situation as integrated by judicial precedents, become a relevant circumstance for commutation of sentence to life and is a matter of judicial consideration. In this regard, the principal emerging from the case of *Sher Afzal* (supra) assumes significance. Once the period of 25 years is completed, the question assumes an altogether different complexion, particularly when examined in the context of the principle of life expectancy. At that stage, the argument is no longer on the basis of artificial comparison between 14 or 15 years ordinarily associated with a lifer and the incarceration of a condemned prisoner, rather it engages with the much more substantial question whether continued incarceration in death cell without execution of death penalty is against human dignity and thus bringing principle of life expectancy to become justifiable in the circumstances of that particular case. The petitioner in the case at hand is not eligible for the benefit of life expectancy as the record reflects that the petitioner was arrested on 05.09.2012 and he has spent 14 years only.

7. Now reverting to the element of additional mitigating circumstances and whether or not the case at hand is an aggravated one or not to determine applicability of life expectancy. Discussing motive, the learned counsel contended that the deceased and her family had declined the petitioner's marriage proposal, and such refusal allegedly prompted the petitioner to commit the murder. On this basis, it was argued that the motive, being personal and emotional in nature, should be treated as a mitigating circumstance and the sentence of death should be converted into imprisonment for life. The contention is absolutely misconceived and untenable for the reason that such a motive does not soften the offence but serves to aggravate the same. The act was not the result of any sudden, grave and immediate provocation because the evidence shows that the petitioner was aggrieved merely because his marriage proposal was declined.

Such a grievance cannot, by itself, be elevated to the status of mitigation so as to dilute the normal penalty of death. This, in our view, is a result of ego-driven impulse of men in our society. The present case provides us with the opportunity to investigate this malaise of ego-driven customs and violence perpetrated by men against women in greater detail which will also help in understanding the nature of present case as having mitigating circumstance or not being one of aggravated nature.

8. We are aware that sentencing is a judicial discretion that must be exercised with consideration for the nature of the act, the manner of its commission, the vulnerability of the victim, and the social message that the criminal justice system is required to convey. The murder of an innocent girl solely because she declined a marriage proposal is a grave offense. There are numerous victims of such offences around the globe who are now suffering from life long trauma as a result. One such victim is Inteha Bibi, and the said trauma is explicitly depicted in her words as follows:

“I have no life, I am traumatized, I have anxiety, and cannot sleep without medication. I am a human, and I have all the rights to get engaged and married to whoever I want. I am a woman, not a toy, and I don’t want to be married to someone forcibly.”

(Inteha Bibi, The Guardian, 19 December 2023)

9. It is a matter of profound shame to the conscience of any civilized society when a man fails to gain a woman’s affection and responds to her refusal with violence instead of acceptance. The sole reason he takes her life is to appease his wounded ego, as he was unable to secure her hand and marry her. Marriage is a mutual, voluntary covenant that necessitates the free consent of both parties. However, in a variety of patriarchal systems, it is accepted that men have the exclusive right to select, demand, and enforce possession over a woman, irrespective of her wishes. A woman challenges the suitor’s perceived ownership when she exercises her fundamental right to say “no”. Under a patriarchal mindset, this rejection is taken by that man as a blow to his “*honor*” (*ghairat*) which results in stalking, home invasion, acid violence, or femicide.

10. In the context of our country, the practices of “*ghag*” among others for example, is a manifestation of this mindset. *Ghag* (literally “*call*” or “*proclamation*” in Pashto) is an archaic customary practice where a man unilaterally claims a woman as his bride without her or her guardians’ consent. Historically, executed by firing gunshots outside the woman’s residence or making a public declaration. *Ghag* acts as an informal seal or taboo intimidating other perspective suitors away, holding the woman’s marital status hostage as if she is a territory, which is now marked by this man. If she or her family resists, the suitor frequently employs violence to enforce his claim. As a result, a woman may remain unmarried for years, or even decades, solely due to a declaration that was never followed by a legal or religious ceremony, engagement, or marriage. The Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013, was enacted by the provincial legislature in recognition of the severity of this issue. This Act declared *ghag* to be a cognizable, non-bailable, and non-compoundable criminal offense.

11. In the same vein, “*swara*” (also known as *vani* or *badal-e-sulh*, “*exchange for peace*”) operates differently from *ghag*, despite the fact that both portrays situations where the decision to marry a woman is made by others for a purpose that is not in accordance with her own desires nor benefit. It involves a girl or young woman from a family that has committed an offense, such as homicide, given in marriage to a man from the victim’s family as a form of compensation through decision made by a *jirga*, and serves as a substitute for a criminal proceeding or financial compensation. The practice was criminalized through Criminal Law (Amendment) Act, 2004 and further solidified by Prevention of Anti-Women Practices Act, 2011.

12. Similarly, the custom of “*watta-satta*” is another such example where the setting of marriage is at the cost of the bride’s well being. *Watta-satta*, which translates to “*give-take*”, is a reciprocal marriage that is prevalent in our country involving a brother and sister from one family marry a sister and brother from another family in a single

arrangement. Practices like *Swara* and *Watta Satta* rejects women as autonomous individuals and promote their commodification within patriarchal power structures. In *Swara*, an innocent woman is sacrificed literally as compensation to settle a blood feud or criminal offense committed by a male relative, forcing her to bear the punitive weight of a crime she never committed. In *Watta Satta*, she is bartered as a biological surety or a living hostage ensuring that any suffering inflicted on one side triggers retaliatory violence on the other.

13. Such practices are not limited to Pakistan as the mindset behind cannot be caged by borders. *Ala Kachuu* (translating to grab and run) in Central Asia is a bride abduction practice where a man abducts a woman and takes her to his home, and his female relatives force a white headscarf on her to signify forced consent. Her or her family's refusal results in social ostracization under the pretense that her "honour" is already tainted. Similar practice is also found in African region known as *Telefa* which is also forcible abduction of young women to negotiate a post-facto marriage settlement with elders, using sexual violence or public abduction as a tool of coercion. While the relevant state laws have formally criminalized these practices, the underlying motivation - that is the belief that a man can claim a woman by force or right - remains active in everyday social conduct.

14. A renowned anthropologist, Gayle Rubin gave the concept of the "traffic in women" in her foundational 1975 essay, "*The Traffic in Women: Notes on the 'Political Economy' of Sex*", describing how women are treated as gifts, currency, or objects of exchange between men to build social and kinship ties. This elaborates the fact that for a very long time women have been treated by men across different regions as a commodity and despite modernization of civilizations this deep-rooted believe is still existing in the minds of men which result in a woman's will to be treated as subordinate to male entitlement. It is from this very notion of ownership that the most extreme forms of violence emerge when a woman refuses to submit, chooses her own life, or asserts her independence, her refusal is perceived not as an

exercise of equal human agency but as a challenge to an assumed entitlement over her. In such a mindset, she ceases to be regarded as an equal human being and is instead reduced to a commodity that can be exchanged, bought, possessed, or when necessary, snatched.

15. The common thread that unites all of the customs previously mentioned is that in this male-dominant society having patriarchal customs and traditions, a woman's assent to her own marriage is considered irrelevant. It is impossible to reconcile this mindset with Islam, which requires the woman's free assent as a prerequisite for a valid nikah. Any adult person, either a man or a woman, is equally entitled to decide whether, when, and with whom they will marry. That entitlement is not a concession that her family, tribe, or society as a whole has granted to her. She possesses this privilege in her own right. There is no excuse for such behavior, regardless of whether it is committed in the name of honor, custom, injured pride, or emotions. It would also be pertinent to mention here that our country is party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Article 16 whereof obliges States to ensure that a woman has the same right freely to choose a spouse and to enter into marriage only with her free and full consent. A domestic custom or such prevalent mindset that nullifies this choice by force cannot be permitted to survive under the guise of local practice. This discussion sheds light on what made the petitioner commit the said act of murdering a young female in cold blood. In the case at hand, the petitioner seems to be suffering from the mindset which led to beliefs that a woman is a commodity and it is the right of the suitor to have her, with no possibility of refusal because commodities cannot express. This attempt to present a woman's lawful refusal as "*provocation*" or as a mitigating circumstance is a very absurd ground because no human has the right to deprive another human of their life just because of refusing a marriage proposal. Accepting such an argument would constitute judicial endorsement of the notion that a woman's will is subordinate to a man's preference. Hence, in the light of above discussion, we have come to the conclusion that the case at hand

presents no mitigating circumstance, rather is a situation exhibiting a very grave and aggravated form of offence thereby strengthening the non-applicability of the life expectancy principle.

16. For the foregoing reasons, we find that the petitioner has failed to point out any error apparent on the face of the record, or any ground otherwise falling within the narrow compass of this Court's review jurisdiction under Article 188 of the Constitution. The submissions advanced are, in substance, a request to reargue and reweigh matters, which this Court, sitting in review, cannot undertake. Accordingly, the review petition is dismissed and leave is refused.

Announced in open Court at Islamabad on 13/10/26

Approved for Reporting

(Farrukh, SPS/ Tayyaba Munir, Law Clerk)