THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
Mr. Justice Yahya Afridi, CJ
Mr. Justice Shakeel Ahmad
Mr. Justice Ishtiaq Ibrahim

Crl.A. 96 of 2020
(against the Judgment dated 17.09.2015 passed by Hon'ble Lahore High Court, Lahore in Crl.A. No. 145-J/2009 & Murder Reference No. 152/2009)

Umar Draz
Liaqat Ali
...Appellant(s)

VERSUS

The State etc.
...Respondent(s)

For the Appellants	:	Mr. Abdul Hameed Khan Rana, ASC
For Complainant	:	Mr. Ghulam Mustafa Ch. ASC
For the State	:	Mirza Abid Majeed, DPG Punjab
On Court Notice	:	Dr. Aneel Shafi, Asst.Prof. Psychitary, PIMH Lahore Dr. Samina Qambar Bokhari, Ex-HOD/Prof. Psychitary Dept, SIMS/SHL, Lahore Dr. Regina Mahmood, Chief Consultant Psychiatrist, PIMH Lahore.
Assisted by	:	Ms. Tayyaba Munir, Law Clerk
Date of hearing	:	06.07.2026

JUDGMENT

ISHTIAQ IBRAHIM, J.- The appellants, Liaqat Ali and Umar Draz (real brothers), were tried by the learned Sessions Judge, Jhang, in FIR No. 166/2006, dated 21.03.2006, registered under Section 295-C of the Pakistan Penal Code ("**PPC**") at Police Station Sadar Jhang. Vide judgment dated 27.03.2009, the learned trial court found both appellants guilty, convicted them under Section 295-C PPC, and sentenced them to death and were also directed to pay a fine of Rs. 500,000/- (Rupees five hundred thousand) each, or in default thereof, to undergo 5 years' Rigorous Imprisonment (R.I.). Aggrieved by their conviction and sentence, the appellants challenged the trial court's judgment before the Learned Lahore High Court which dismissed the appellants' appeal, and upheld the judgement of the Learned Trial Court. Being aggrieved by the judgment of the High

Court, the appellants approached this Court through J.P.400 of 2015 which was converted into appeal on 06.02.2020.

2. Briefly, on 17.03.2006, the complainant, Hafiz Ghulam Hussain (PW-1) was visited by Dr. Mulazim Hussain (PW-2) along with Ahmad Nawaz. Mulazim Hussain-PW-2 informed the complainant that his neighbor, Muhammad Saeed (PW-3), had married his daughter, Mst. Khalida Saeed (CW-1), to the appellant Umar Draz three years prior to the ocurrence. However, in last three to four months, Appellant Umar Draz had begun uttering explicit blasphemous statements due to which a marital dispute arose between Appellant Umar Draz and his wife/CW-1, culminating in divorce on 13.03.2006, wherein Appellant Umar Draz explicitly affirmed, in writing, his conversion from Islam within the Talaqnama. During the return of Mst. Khalida Saeed's dowry articles, a written document authored by the co-appellant Liaqat Ali was recovered, which contained blasphemous assertions. Subsequently, on 18.03.2006, when the complainant and the witnesses confronted both appellants regarding the said written blasphemous material; both the appellants not only acknowledged and verified the contents of the documents but also unequivocally declared their readiness to reiterate their assertions before any forum. Following a written complaint, FIR No. 166/2006 was registered on 21.03.2006 at P.S. Sadar Jhang against the appellants. During trial, when confronted, both appellants openly reiterated and affirmed their blasphemous belief. After completion of the proceedings, the trial court convicted the appellants and sentenced them to death which was upheld by the learned High Court.

3. Without going into the merits of the case, the learned counsel for the appellants at the very onset stated that he will confine his submissions to the plea of mental unsoundness of the appellants. The central question that presents itself for our consideration, therefore, is whether the appellants were laboring under a state of permanent mental unsoundness at the time of the commission of the alleged offense, such that they were incapable of forming the requisite *mens rea*, necessary to establish criminal culpability or not.

4. To address this pivotal issue, a thorough scrutiny of the medical evidence available on record is necessary. The record reveals that the mental status and cognitive capacity of the appellants were

subjected to formal psychiatric evaluation on three distinct occasions as outlined below.

First Assessment	Report dated 07.03.2007	Three Member Medical Board at DHQ Hospital, Faisalabad
Second Assessment	Report dated 31.08.2023	Eight Member Board of Certification including DG Health Services Punjab and senior professors
Third Assessment	Report dated 18.09.2025,	Nine Member Board of Certification including DG Health Services Punjab and senior professors

We deem it appropriate to examine each evaluation in detail.

5. The initial assessment of the appellants' mental health was initiated pursuant to the directions of the learned trial Court vide order dated 07.12.2006. Owing to the non-availability of a Consultant Psychiatrist at the District Headquarter (DHQ) Hospital, Jhang, a Medical Board was duly constituted at the DHQ Hospital, Faisalabad. Upon completion of their assessment, the Board furnished reports dated 07.03.2007 (exhibited as Ex.PK and Ex.PL) in which it was concluded that both appellants were mentally sound, stable, and not suffering from any psychiatric illness.

6. After leave to appeal was granted in this case on 06.02.2020, this Court, vide order dated 02.02.2023, deemed it expedient in the interest of justice to order a fresh evaluation of the appellants' mental health. The relevant para of the said order is reproduced hereinbelow:

> *During the course of proceedings, it transpired that though both of the petitioners were medically examined by a medical board but the findings of the board are evasive, which do not commensurate with the requirement of law. Further, the same are not maintainable in its present form. Therefore, in the interest of justice and in the fitness of the things we deem it appropriate to order for re-examination of the petitioners as far as their mental health is concerned. The Superintendent of the concerned Jail is, thus, directed to produce both the condemned petitioners in proper security before the Medical Superintendent, Mayo Hospital, Lahore; who shall constitute a medical board and send a comprehensive report along with lab reports/tests essential for determining the mental health of the petitioners.*

7. In compliance with the directives issued by this Court on 02.02.2023, the designated board submitted its report dated

22.02.2023 in the light of which this Court, vide order dated 01.06.2023, directed that the appellants be referred to the Board of Certification at the Punjab Institute of Mental Health (PIMH), Lahore as a result of which a Board comprising eight members was formed including the Director General Health Services Punjab, Senior Professors of Psychiatry, and the Executive Director of PIMH, Lahore. Upon examining both appellants, the Board in its report dated 31.08.2023 found the appellants to be suffering from **"Bipolar Affective Disorder with Psychotic Symptoms".** It is interesting to note that the opinion rendered by this 8-member Board departs from the conclusions previously arrived at by the initial Medical Board at DHQ Hospital, Faisalabad.

8. The record was holistically re-visited when the matter was again placed before this Court on 19.05.2025. It was observed that while the report dated 31.08.2023 indicated that the appellants were diagnosed with Bipolar Affective Disorder with Psychotic Symptoms, and had been undergoing treatment. Considering that a period of nearly two years had elapsed since their last comprehensive evaluation in August 2023, this Court observed that it was indispensable to ascertain their present mental state, and the efficacy of the ongoing treatment. Accordingly, vide order dated 19.05.2025, this Court directed the Executive Director, Punjab Institute of Mental Health (PIMH), Lahore, to re-constitute a Medical Board to examine the appellants fresh and submit an updated report. Furthermore, this Court specifically required clarification on whether the appellants' condition was of a permanent nature or whether it developed subsequent to the commission of the offence, and, whether a patient suffering from such a condition would be capable of understanding the nature and wrongfulness of their acts. In response to this, a 9-member Board of Certification was assembled at the Punjab Institute of Mental Health (PIMH) on 15.09.2025 which was headed by the Director General Health Services, Punjab, and comprised eminent Professors of Psychiatry from renowned medical institutions. Following their evaluation, the board submitted its report dated 18.09.2025, concluding that the appellants were suffering from Bipolar Affective Disorder, Current Episode Manic. The opinion of the Board of Certification is reproduced hereinbelow:

Report No. 22626/PC/PIMH for criminal patient named Liaqat Ali s/o Muhammad Ramzan.

He is found to be suffering from "Bipolar Disorder current episode manic"

The Board is of the opinion that "it is a chronic illness, most likely permanent in acute illness, insight is absent and the patient is unable to understand the acts, he committed at that time".

Report No. 22633/PC/PIMH for criminal patient named Umar Draz s/o Muhammad Ramzan.

He is found to be suffering from "Bipolar Disorder current episode manic"

The Board is of the opinion that "it is a chronic illness, most likely permanent in acute illness, insight is absent and the patient is unable to understand the acts, he committed at that time".

9. It is further pertinent to note that on 06.07.2026, three distinguished members of the Board of Certification namely Dr. Aneel Shafi (Assistant Professor Psychitary, PIMH, Lahore), Dr. Samina Qambar Bokhari (Ex-HOD/Professor Psychitary Department, SIMS/SHL, Lahore), Dr. Regina Mahmood (Chief Consultant Psychiatrist, PIMH Lahore), appeared before this Court acting upon directions vide order dated 30.06.2026. They rendered invaluable assistance on the dynamics of this illness and submitted a comprehensive report according to which, Bipolar Affective Disorder is an episodic psychiatric illness characterized by symptom-free intervals of variable duration from patient to patient. They also confirmed that this disorder carries a genetic component, and where an individual is suffering from the manic phase of Bipolar Affective Disorder at the time of the commission of an offence, such person is rendered completely incapable of understanding the nature, quality, or wrongfulness of the acts they commit.

10. We deem it necessary to address the contradiction between the initial medical opinion and the findings of the subsequent medical boards. A deep examination of the record reveals that the initial evaluation of the appellants dated 07.03.2007, which had declared them mentally sound, was conducted by a three-member board at DHQ Hospital, Faisalabad, which included only a single Consultant Psychiatrist. In stark contrast, the subsequent reports that diagnosed the appellants with Bipolar Affective Disorder dated 31.08.2023 and 18.09.2025 both were rendered by Boards of Certification comprising eight and nine members respectively, including senior Professors of Psychiatry and eminent Neurologists in the province. We are of the view that the unanimous opinion of a

specialized board comprising multiple experts of a discipline carries far greater weight and legal sanctity than findings rendered by a board containing only one subject specialist. We cannot lightly brush aside or discard the findings of such expert medical boards in favor of a lone psychiatric assessment conducted years earlier. Where a medical board consisting of experts in the field of Psychiatry have concurred not in one, but in two exhaustive evaluations, any residual doubt regarding the appellants' mental unsoundness stands completely dispelled. For these reasons this Court is firmly persuaded to accept the findings of the Medical Boards that declared the appellants to be suffering from Bipolar Affective Disorder.

11. It is a principle of criminal jurisprudence, encapsulated in the legal maxim *actio non facit reum nisi mens sit rea,* that a criminal offence is comprised of two indispensable components: the physical act (*actus reus*) and the guilty mind (*mens rea*). An unlawful act, without a guilty mental state, cannot constitute a crime in the eyes of the law and vice versa. To erect the edifice of criminal liability, both elements must co-exist in unison at the precise moment of the commission of the offence. The report of the eight and nine member Board of Certification dated 31.08.2023 and 18.09.2025 establishes that the appellants suffer from bipolar disorder. It deprives the individual of the capacity to comprehend the nature, or lawfulness of their actions during active manic episodes. The expert opinion conclusively establishes that Bipolar Disorder is inherently episodic in nature, thereby rendering it highly probable that the appellants were laboring under an active manic episode at the time of the commission of the alleged offence. This conclusion is further fortified by the undisputed medical evidence that Bipolar Disorder possesses a strong *genetic component.* The fact that both appellants are real brothers and both have been independently diagnosed with the exact same psychiatric condition cannot be dismissed as a mere quirk of fate or post-trial coincidence. Rather, this shared genetic predisposition provides compelling scientific corroboration that their mental unsoundness was an inherited, pre-existing illness that predated the occurrence. The appellants have spent around twenty years behind the bars. In the light of the opinion of Medical Board which raises doubts regarding the culpability of the appellants, the benefit of doubt cannot be withheld from the appellants.

12. For the reasons discussed above, the instant appeal is allowed; the impugned judgment of the High Court dated 17.09.2015 as well as the judgment of the learned trial Court dated 27.03.2009 are

hereby set aside, and the appellants are acquitted of the charge. They shall be released from custody forthwith, if not required to be detained in any other case; however, it is expected that the Executive Director, Punjab Institute of Mental Health (PIMH), Lahore, shall ensure that the requisite medical treatment of the appellants is not discontinued.

I Concur in the findings & measures recorded by my brother Colleague, however, I have given a Seperate note on the issue in hand.

Announced on 7 Oct, 26 in Open Court at Islamabad

Approved for Reporting

M. Siraj SPS/ Tayyaba Munir, Law Clerk

Shakeel Ahmad, J.- I have had the privilege of going through the judgment authored by my learned brother, Ishtiaq Ibrahim, J. I fully concur with the conclusion arrived at therein. However, while agreeing with the ultimate conclusion, I deem it appropriate to add my own note in support of the said conclusion.

2. Under the Pakistani criminal law regime, the defence of insanity is governed by Section 84 of the Pakistan Penal Code ("**PPC**"). The provision does not make the mere existence of a psychiatric disorder determinative. Rather, the crucial inquiry is whether, at the time of the commission of the alleged offence, the accused, by reason of unsoundness of mind, was incapable of knowing the nature of the act, or that what he was doing was either wrong or contrary to law. This statutory test draws a fundamental distinction between medical insanity and legal insanity. Medical insanity relates to the existence of a psychiatric illness or disorder, such as bipolar disorder, schizophrenia, depression, or another recognised mental disorder. Legal insanity, on the other hand, is concerned with the accused's mental capacity at the very time of the occurrence and requires the existence of such unsoundness of mind as renders him incapable of understanding the nature of his act, or of knowing that what he was doing was wrong or contrary to law. Accordingly, a psychiatric diagnosis, by itself, does not bring a case within the protection of Section 84 PPC. The accused must establish the requisite mental incapacity at the time of the alleged act and demonstrate that such incapacity was attributable to the unsoundness of mind from which he was then suffering.

3. The distinction assumes particular significance where the defence rests upon the opinions of Medical Boards. In the present case, the Medical Boards constituted by this Court unanimously found that the accused are presently suffering from bipolar disorder and further opined that the possibility of their having suffered from the same disorder at the time of the occurrence could not be ruled out. The Board's observations that bipolar disorder is a chronic condition, which may, during an acute episode, significantly affect a person's ability to understand the nature and consequences of his acts, are relevant to the assessment of the defence. However, these observations, while explaining the nature and possible effects of the disorder, do not by themselves establish that either accused was in fact experiencing an

acute manic or psychotic episode at the precise time of the alleged act. For Section 84 PPC, it is therefore necessary to distinguish between the existence and general characteristics of the disorder and proof of the specific mental state of the accused at the time of the occurrence.

4. The expression "cannot be ruled out" is significant in assessing the evidentiary value of the Medical Boards' opinions. It does not constitute a categorical medical finding that, at the relevant time, either accused was experiencing an acute episode of the disorder of such severity as to deprive him of the capacity to understand the nature of his act or to know that what he was doing was wrong or contrary to law. Rather, the opinion acknowledges only the possibility that such a condition may have existed at the time of the occurrence. The question, therefore, is whether that possibility, either by itself or when considered alongside the other evidence on record, is sufficient to bring the case within the protection of Section 84 PPC. For the purposes of Section 84 PPC, however, the relevant inquiry is not merely whether the accused may have been suffering from a particular disorder at the time of the occurrence, but whether, by reason of that disorder, he was then incapable of the mental faculties specified in the provision. Thus, an opinion which merely leaves open the possibility of the relevant mental condition, without establishing or sufficiently connecting it to the specific incapacity contemplated by Section 84 PPC at the time of the alleged act, cannot, standing alone, be regarded as sufficient to satisfy the statutory test. This, however, does not mean that the medical evidence must establish the accused's mental condition with absolute or mathematical certainty. Criminal law equally recognises the fundamental principle of benefit of the doubt. Although the accused bears the burden of bringing his case within the ambit of Section 84 PPC, that burden is not as onerous as the burden resting upon the prosecution to establish guilt beyond reasonable doubt. Accordingly, where the material available on the record, considered as a whole, creates a reasonable doubt as to the accused's mental capacity at the time of the commission of the offence, such doubt may enure to his benefit. The Court must, therefore, consider not merely an isolated sentence in a Medical Board's report, but the medical opinion as a whole, together with the surrounding circumstances bearing upon the accused's mental condition at the relevant time.

5. Evidence directly connected with the period immediately before, during, and after the occurrence may assume considerable importance in this regard. Such evidence may include the accused's previous psychiatric history; hospitalisation or treatment around the relevant time; testimony of relatives, treating psychiatrists, doctors, or other witnesses regarding abnormal or irrational behaviour; evidence of acute manic, psychotic, or other disabling symptoms; and the accused's conduct immediately before and after the occurrence. The Court may also consider whether the accused engaged in planning, demonstrated motive, attempted to conceal his conduct, fled from the scene, attempted to destroy or conceal evidence, made rational statements after arrest, or otherwise behaved in a manner indicating an awareness of the nature or wrongfulness of his conduct. The nature and severity of the accused's bipolar disorder, including whether it was accompanied by psychotic features at the relevant time, may also be relevant. Similarly, the fact that an accused subsequently expresses repentance is not, by itself, conclusive of either criminal responsibility or its absence. Repentance may demonstrate remorse or a subsequent appreciation of the wrongfulness of the conduct, but it does not necessarily establish the accused's mental state at the time the offence was committed. The same principle applies to conduct occurring after the incident generally. Such conduct may constitute relevant circumstantial evidence, but it cannot displace the central inquiry, namely whether the accused possessed the mental capacity contemplated by Section 84 PPC at the time of the occurrence. No single circumstance is necessarily conclusive. Rather, the Court must assess the evidence cumulatively to determine whether, at the time of the occurrence, the accused possessed the mental capacity required by Section 84 PPC. It follows that the surrounding circumstances may either support or negate the applicability of Section 84 PPC. Where the evidence demonstrates that the accused appreciated the nature and consequences of his conduct, the protection of Section 84 PPC may not be available notwithstanding the existence of a psychiatric diagnosis. Conversely, where the medical evidence, previous psychiatric history, contemporaneous behaviour, testimony of persons acquainted with the accused, and other circumstances, considered cumulatively, give rise to a reasonable doubt as to whether the accused possessed the requisite mental capacity at the time of the occurrence, that doubt cannot be disregarded merely because the medical evidence does not contain an absolute or categorical finding of incapacity. The

decisive consideration remains the accused's mental condition at the time of the act and its connection with the statutory test prescribed by Section 84 PPC.

6. Having regard to the foregoing principles, an accused cannot ordinarily be acquitted solely on the basis that a Medical Board has observed that the possibility of bipolar disorder having existed at the relevant time cannot be ruled out. A diagnosis, by itself, is insufficient, and a bare possibility, standing alone, cannot ordinarily satisfy the requirements of Section 84 PPC. Such an opinion is materially different from a categorical medical finding that, at the time of the commission of the offence, the accused was suffering from an acute manic or psychotic episode which rendered him incapable of knowing the nature of his act or that what he was doing was wrong or contrary to law. At the same time, the absence of such a categorical finding does not, by itself, conclude the matter. Where the reports of the Medical Boards, read as a whole and considered together with the surrounding evidence, provide a substantial basis for concluding that the accused may have been experiencing such a disabling condition at the relevant time, and the evidence as a whole gives rise to a reasonable doubt as to his legal capacity, the protection of Section 84 PPC may become applicable, and the conviction may consequently become legally unsustainable. Ultimately, the question must be determined on the totality of the psychiatric evidence and the surrounding circumstances connecting the accused's mental condition with the time of the alleged offence. The prosecution, notwithstanding the accused's reliance upon Section 84 PPC, remains under the fundamental obligation to establish guilt beyond reasonable doubt.

7. The foregoing conclusion is also consistent with the foundational principles of Islamic jurisprudence. In Islamic law, the imposition of legal responsibility (*taklīf*) presupposes the existence of the requisite legal capacity (*ahliyyah*) and the ability to understand and comprehend the nature of one's conduct. Soundness of intellect (*'aql*) is therefore recognised as a fundamental basis of legal accountability. While the Holy Qur'an does not prescribe a detailed rule corresponding in terms to Section 84 PPC, it lays down the broader principle that legal obligations are conditioned upon a person's capacity and ability to bear them. Allah Almighty declares:

> *"Allah does not burden any soul beyond its capacity".*
>
> (Surah *Al-Baqarah*, 2:286)

This principle reflects a fundamental rule of Islamic jurisprudence, namely that an obligation cannot be imposed without the capacity to discharge it. The Qur'anic recognition of capacity is further evident in the following verse:

> *"Do not entrust the incapable (among your dependents) with your property which Allah has made a means of support for you."*
>
> (Surah *An-Nisa*, 4:5)

The verse, although concerned with the management and protection of property, reflects the broader juridical recognition that a person's capacity to understand and manage his affairs is relevant to the exercise of legal rights and the assumption of legal responsibilities. Thus, the concept of legal capacity in Islamic jurisprudence is not confined to physical ability, but extends to the mental capacity necessary for the proper exercise of rights and performance of obligations. This principle finds more direct expression in the authentic Sunnah of the Holy Prophet Muhammad (PBUH), wherein it is reported:

> *"The pen has been lifted from three: from the sleeping person until he awakens, from the child until he reaches puberty, and from the insane person until he regains his sanity."*

This Hadith is reported in Sunan Abi Dawud (Hadith No. 4403), Jami' al-Tirmidhi (Hadith No. 1423), and Sunan Ibn Majah (Hadith No. 2041). It is regarded as a foundational textual basis for the Islamic law of legal capacity and *taklīf*. Its juridical significance lies in the recognition that legal accountability is dependent upon the existence of the requisite capacity to understand and bear responsibility. Where that capacity is absent, legal responsibility is suspended to the extent contemplated by Islamic law, and where the capacity is restored, responsibility correspondingly resumes. Accordingly, the underlying principle is not that the existence of a mental disorder, in itself, removes legal responsibility. Rather, as in the law of *taklīf* generally, the decisive consideration is whether the condition has affected the person's requisite capacity at the relevant time. In this respect, the Islamic

jurisprudential principles of *'aql* and *ahliyyah* are consistent with the statutory inquiry under Section 84 PPC, which likewise focuses upon the accused's mental capacity at the time of the commission of the act.

8. Consistent with these primary sources, the four principal schools of Islamic jurisprudence recognise the legal significance of insanity in determining criminal responsibility. A person suffering from complete and continuing insanity (*Majnūn*) is not held criminally responsible in the same manner as a person possessing sound reason and legal capacity during the period in which such incapacity persists, subject to the particular rules applicable to the relevant category of offence. Criminal responsibility therefore depends upon the mental condition of the accused at the time of the relevant act. This fundamental relationship between intellect and legal responsibility is also reflected in established juristic maxims, including:

> العقل مناط التكليف
>
> *"Intellect is the basis (or determining criterion) of legal responsibility."*

and,

> لا تكليف إلا بعقل وفهم خطاب واختيار [1]
>
> *"There is no legal responsibility without intellect, understanding of address (divine communication/scripture), and free choice ."*

These maxims encapsulate the broader juristic principle that legal accountability presupposes the requisite reason, understanding, and capacity. They therefore reinforce the proposition that a person who, at the relevant time, lacks the mental capacity necessary for legal responsibility cannot be treated in the same manner as a person who possesses such capacity.

9. The principles of Islamic jurisprudence thus substantially correspond with the defence of insanity embodied in Section 84 PPC. Section 84 similarly recognises that a person who, by reason of unsoundness of mind, is incapable of knowing the nature of his act, or that what he is doing is wrong or contrary to law, is not criminally responsible for that act. Both regimes consequently attach fundamental

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[1] تلقيح الأفهام العلية بشرح القواعد الفقهية - وليد راشد السعيدان,دار اللؤلؤة للنشر والتوزيع في مصر , p129,2021

importance to the mental capacity of the accused at the time of the commission of the act. The Qur'anic principles, the Sunnah, and the established doctrines of Islamic jurisprudence therefore provide a substantial Islamic foundation for the proposition that criminal responsibility presupposes the requisite capacity to understand and appreciate one's conduct.

10. Justice is the bedrock of every civilised society and a cornerstone of the rule of law. Its object is not merely to punish wrongdoing, but to ensure that legal consequences are imposed upon those who, in accordance with law, bear responsibility for their acts, while protecting rights and maintaining social order. Justice, therefore, cannot be reduced to the mechanical application of legal rules without regard to those circumstances which the law itself recognises as relevant to responsibility. This conception finds deep support in Islamic teaching. Allah Almighty commands:

> *"Indeed, Allah commands justice, excellence (ihsan), and giving to relatives."*
>
> (Surah *An-Nahl*, 16:90)

The Qur'anic conjunction of *adl* (justice) with *ihsān* (excellence and benevolence) reflects a conception of justice that is neither harsh nor divorced from humane considerations. Likewise, the Holy Prophet Muhammad (PBUH) said:

> *"The merciful are shown mercy by the Most Merciful. Show mercy to those on the earth, and the One above the heavens will show mercy to you."*
>
> (Jami' al-Tirmidhi, Hadith No. 1924).

These teachings demonstrate that justice and mercy are not necessarily competing values; rather, mercy, when exercised within the bounds of law, may form part of the proper administration of justice. This does not mean that mercy permits the Court to disregard the law, excuse conduct merely on grounds of sympathy, or dispense with accountability. Rather, where the law itself recognises circumstances affecting a person's capacity and consequent responsibility, giving effect to those circumstances is itself an application of justice. In this sense, the humane administration of criminal law requires that accountability be determined not only by reference to the act complained of, but also

by those circumstances which the law recognises as relevant to the attribution of criminal responsibility.

11. The relationship between justice and mercy has also been recognised in broader jurisprudential and philosophical thought. Thomas Aquinas is attributed with the observation: "*Mercy without justice is the mother of dissolution; justice without mercy is cruelty.*" Likewise, Shakespeare, in *The Merchant of Venice*, observed that "*Earthly power doth then show likest God's when mercy seasons justice.*" These observations reflect the broader principle that justice and mercy are not necessarily antithetical; rather, mercy, when exercised within the bounds of law, may temper the administration of justice without displacing accountability or the rule of law.

12. Mercy, however, cannot be invoked independently of law, nor can it be permitted to dilute the requirements of criminal responsibility. Its proper place is within the framework of law, particularly where the law itself recognises circumstances affecting an accused's capacity and consequent responsibility. In such circumstances, giving effect to the law is not an act of indulgence but an essential component of justice. The principles of *'aql*, *ahliyyah*, and *taklīf* in Islamic jurisprudence, read with the statutory protection embodied in Section 84 PPC, reflect the same underlying principle that criminal responsibility must correspond with the mental capacity of the person at the time of the act. The Court is, therefore, required to determine the applicability of Section 84 PPC strictly on the basis of the law and the evidence, ensuring that accountability is imposed where the requisite capacity is established, but not where the law itself recognises its absence.

13. The facts and circumstances discussed above, therefore, lean in favour of acquittal of the appellants.

"Approved for reporting"

Zia/ Rameen Shahram Khan*