

Wife's Death at Home: Supreme Court Explains Article 122 QSO

In Habib Ullah v State, the Supreme Court upheld a husband's conviction and explained Articles 122 and 129 QSO in a wife's domestic homicide.

Supreme Court judgment commentary
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The ruling in one sentence

The Supreme Court of Pakistan refused leave to appeal and maintained Habib Ullah's conviction for murdering his wife inside their home, holding that the prosecution's proved circumstances, his failure to explain facts especially within his knowledge, and his conduct in absconding for nearly seven years formed a complete chain of guilt.

The judgment was delivered in Habib Ullah v The State, Jail Petition No. 41 of 2023, by Justice Muhammad Hashim Khan Kakkar and Justice Ishtiaq Ibrahim on 3 August 2026. It was approved for reporting.

What happened

Aqeela Bibi was killed inside her matrimonial home in Karachi on the night of 14 September 2011. Her skull had been fractured by a heavy, hard and blunt object. The prosecution alleged that a continuing domestic dispute had led to intense quarrels between the spouses over a mobile phone during the three days before the killing.

The couple's minor daughter, Fazeela Bibi, stated that she had seen her father bring a hammer home. She also saw both parents retire to their shared bedroom. The next morning, the children found their mother dead on the floor in a pool of blood and their father absent.

FIR No. 339 of 2011 was registered at Police Station Mobina Town, Karachi. The trial court convicted Habib Ullah under section 302(b) of the Pakistan Penal Code and sentenced him to imprisonment for life. It also ordered payment of Rs 500,000 as compensation to the deceased's legal heirs under section 544-A of the Code of Criminal Procedure. The Sindh High Court dismissed his criminal appeal on 29 November 2022.

Why the Supreme Court upheld the conviction

The case depended on circumstantial rather than direct eyewitness evidence. The Supreme Court identified the following circumstances as an unbroken chain:

- The spouses had quarrelled during the days immediately before the occurrence.
- Their daughter saw the petitioner bring a hammer into the house that night.
- The children last saw both parents together in the shared bedroom.
- The medical evidence showed fatal skull fractures caused by a heavy, hard and blunt object, consistent with a hammer.
- The petitioner did not report the incident, seek medical help, notify the deceased's family or attend her final rites.
- He abandoned four small children in the house with their mother's body and remained an absconder until his arrest on 26 February 2018.
- He offered no plausible explanation for his wife's death in circumstances especially within his knowledge.

Taken together, the Court held that these facts proved guilt beyond reasonable doubt. Leave to appeal was therefore refused and the jail petition was dismissed.

A domestic homicide as a crime of difficult proof

The Court described offences committed within the secrecy of a home as crimes of difficult proof. A private residence gives an offender control over the location and an opportunity to remove evidence, clean the scene or portray a homicide as an accident, suicide or intrusion. The victim and offender may be the only adults present, while any other witnesses may be children or close relatives reluctant to testify.

The judgment treated the killing of a wife inside her matrimonial home as falling within this category. It linked the evidentiary difficulty to the vulnerability of a married woman living in a predominantly patrilocal family setting, where she may be surrounded by and dependent on her husband and his relatives.

This description does not create a separate criminal offence or a reduced standard of proof. Its function is to explain why direct evidence is often unavailable and why courts must evaluate circumstantial evidence, special knowledge and post-occurrence conduct in their proper setting.

Article 122 QSO and facts within special knowledge

Article 122 of the Qanun-e-Shahadat Order, 1984 places the burden of proving a fact especially within a person's knowledge upon that person. The Supreme Court held that when the prosecution first establishes foundational circumstances reasonably pointing to facts within the accused's exclusive knowledge, the accused must provide a plausible explanation.

In this case, the prosecution first proved the death inside the spouses' shared home, the last-seen circumstance, the recent quarrels, the hammer brought home, the corresponding medical evidence and the petitioner's disappearance. How the wife then met a violent death in that private setting, and why the petitioner left, were matters requiring an explanation from him.

The sequence is legally important. Article 122 does not permit conviction merely because a husband lived with the deceased or failed to prove innocence. The prosecution must first establish the foundational chain. The absence of a credible explanation can then operate as an additional link; it cannot repair a prosecution case that has no reliable foundation.

Article 129 QSO and post-offence conduct

The Court also relied on Article 129 of the Qanun-e-Shahadat Order, under which a court may draw appropriate inferences from proved facts and ordinary human conduct. The petitioner's failure to alert anyone, abandonment of his children, absence from the funeral and prolonged abscondence were treated as corroborating circumstances reflecting a guilty mind.

Abscondence alone is not conclusive proof of murder. People may flee for different reasons, including fear of false implication. Here, however, the Court did not use flight as a free-standing substitute for evidence. It evaluated the nearly seven-year absence with the last-seen evidence, motive, medical findings and failure to explain the occurrence.

The evidentiary framework stated by the Court

The judgment brought together four provisions of the Qanun-e-Shahadat Order:

- Article 2(4), concerning when a fact is proved through the prudent-person and probability standard.
- Article 17(2)(b), governing the competence and number of witnesses in matters other than financial or future obligations reduced to writing.
- Article 122, concerning facts especially within a person's knowledge.
- Article 129, permitting the Court to presume the existence of facts by reference to natural events, human conduct and the common course of business.

The Court held that these provisions allow a conviction based on circumstantial evidence and reasonable inference where the totality of proved facts would lead a prudent person to conclude that the accused caused or abetted the death.

The Court nevertheless reaffirmed the presumption of innocence and the prosecution's burden to prove guilt.

It warned against allowing protective doctrines to become a mechanical shield in sexual violence, domestic violence and offences against vulnerable persons, but it also stated that abandoning those doctrines would invite arbitrary conviction on suspicion.

Pakistan and India: an important distinction

The judgment discussed Indian statutory presumptions relating to dowry death under section 80 of the Bharatiya Nyaya Sanhita, 2023 and section 118 of the Bharatiya Sakshya Adhiniyam, 2023. It also referred to Indian decisions applying the special-knowledge rule to a wife's unnatural death in the matrimonial home, including Trimukh Maroti Kirkan v State of Maharashtra.

Pakistan has no equivalent provision creating an automatic statutory presumption of guilt for matrimonial homicide. The Pakistani analysis rests instead on the ordinary rules of circumstantial evidence and Articles 122 and 129 of the Qanun-e-Shahadat Order. The Court referred to Waris Masih v State, Jail Petition No. 787 of 2018, as Pakistani authority for requiring an explanation where a wife dies unnaturally within the husband's domestic domain.

The comparative discussion should therefore not be read as importing India's dowry-death presumption into Pakistani law. The conviction in Habib Ullah rested on the particular circumstances proved in his case.

Serious investigative lapse

The investigating officer recovered a blood-stained hammer and a blood-stained bedsheet but did not produce either item before the trial court. The Supreme Court called this a serious lapse and said it could identify no plausible justification for withholding plainly relevant evidence.

The omission did not create reasonable doubt on the total record before the Court, but the criticism matters. Domestic homicides are already difficult to prove. Negligent collection, preservation or production of physical evidence can destroy a meritorious prosecution and prevent reliable adjudication.

The Court said provincial governments must ensure that police receive training to recognise and overcome gender and patriarchal bias. It called for a genuinely gender-sensitive investigative approach and accountability where evidence is lost or withheld through negligence or a casual attitude.

Institutional reforms suggested by the judgment

The Court referred to women-led police stations in Argentina and Brazil as examples of specialised responses to gender-based violence. It also discussed the United Kingdom's Domestic Homicide Reviews under the Domestic Violence, Crime and Victims Act 2004.

The judgment suggested that Pakistan consider a similar review mechanism. Each domestic homicide could be examined after the event to identify failures in investigation, inter-agency coordination and institutional response. The purpose would be preventive: one prosecution should generate lessons capable of reducing the risk of another death.

These observations are significant policy guidance, but the operative order in the case was the refusal of leave and dismissal of the petition. The judgment did not itself enact a new review system.

Dignity after death and character assassination

The Court condemned the tendency to attack a woman's character after killing her in an attempt to excuse the crime or transfer blame to the deceased. It observed that a woman should not be denied peace in life and dignity after death.

Referring to the Human Rights Commission of Pakistan's State of Human Rights Report 2025, the Court reproduced reported provincial and Islamabad figures for domestic violence, honour killing, rape, acid crime and murder. It stressed that the real scale is likely greater because many incidents remain unreported.

The broader message is that gender bias can affect not only social attitudes but also the seriousness with which police investigate a woman's death. The criminal justice response must protect both the accuracy of the investigation and the dignity of the victim.

What the judgment does not decide

The judgment does not establish that every unnatural death of a wife inside a matrimonial home automatically proves the husband's guilt. It does not abolish the presumption of innocence, reverse the prosecution's initial burden or authorise conviction on suspicion.

It also does not hold that abscondence by itself completes a murder case. Flight becomes relevant only when assessed with other proved circumstances.

Nor does the judgment create in Pakistan the mandatory dowry-death presumption found in Indian legislation. The Court expressly noted that Pakistan has no comparable direct statutory presumption.

Practical effect for criminal trials

For the prosecution, the decision underlines the need to prove the foundational chain before invoking Article 122. Scene evidence, medical findings, last-seen testimony, motive, electronic or communication material, the accused's conduct and every available forensic exhibit must be collected and presented coherently.

For the defence, a challenge should test each link separately and then the chain as a whole. Counsel should examine whether the prosecution proved the location and time of death, exclusive opportunity, reliability of child or related witnesses, medical compatibility, recovery and forensic linkage of the alleged weapon, and the true explanation for post-occurrence conduct.

For trial courts, the judgment supports a contextual assessment of domestic homicide while preserving the criminal standard of proof. Special knowledge may require an explanation only after reliable foundational facts exist. A missing explanation can strengthen an otherwise complete circumstantial case; it should not become a shortcut around proof.

Conclusion

Habib Ullah v The State is an important Supreme Court judgment on a wife's murder inside the matrimonial home, circumstantial evidence, last-seen evidence, Articles 122 and 129 of the Qanun-e-Shahadat Order, abscondence and gender-sensitive investigation.

Its soundest reading is sequential. The prosecution must establish a reliable foundation. Facts exclusively within the accused's knowledge may then require a plausible explanation. The court must finally assess every proved circumstance together and determine whether the chain excludes reasonable doubt.

On the facts of this case, the Supreme Court held that the chain was complete. It found no illegality, material irregularity or jurisdictional defect in the Sindh High Court judgment, refused leave to appeal and dismissed the jail petition.

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