



appellant armed with a pistol came there and made a fire shot, which pierced through the left eye of Mst. Kausar Bibi, who succumbed to the injury at the spot. The appellant fled away from the crime scene while brandishing his pistol, abusing and extending threats.

Motive behind the occurrence was that the appellant had been making demand of a motorcycle in dowry of Mst. Kausar from the complainant.

4. Shaukat Ali, SI (PW-8) had inspected the place of occurrence, prepared rough sit plan Ex.PH, secured blood stained earth (Ex.PF), secured one crime empty (Ex.PG, escorted the deadbody to the mortuary through constable, prepared injury statement Ex.PK and inquest report Ex.PL. He recorded the statement of witnesses under Section 161 Cr.P.C. He had arrested the appellant on 25.07.2011, who got recovered pistol P-4 alongwith two live bullets on 28.07.2011. Upon completion of the investigation, a challan was submitted before the learned trial Court.

5. Dr. Shagufta Shehzad (PW-5) had conducted autopsy of deceased Kausar Bibi and observed an entry wound and exit thereof on her body which was declared fatal. Probable duration between injuries and death was immediate and between death and post mortem 12-hours.

6. At the commencement of trial, the learned trial Court had framed a charge against the appellant to which he pleaded not guilty and claimed to be tried.

7. The prosecution had produced nine witnesses besides the reports of Chemical Examiner Ex.PP, report of Serologist Ex.PQ and that of Punjab Forensic Science Agency Ex.PO. The appellant, in his statement under Section 342 Cr.P.C. had denied and controverted all the allegations leveled against him, however he opted neither to make statement under Section 340(2) Cr.P.C. nor produced evidence in his defence.

8. Learned trial Court, upon conclusion of the trial had convicted and sentenced the appellant supra. Hence, the present appeal as well as the connected Murder Reference.

9. Learned counsel for the appellant has contended that the prosecution had miserably failed to prove its case against the appellant beyond reasonable doubt and, thus, they are entitled to be acquitted by this Court;

that the eye witnesses were related and chance witnesses; that the place of securing crime empty had not been mentioned in the scaled site plan; that there is material contradiction between the ocular account as well as the scaled site plan where the appellant had been shown to be sitting on a cot whereas the eye witnesses had deposed that the appellant murdered the deceased while entering into the house; that motive was not proved beyond reasonable shadow of doubt; that the medical evidence does not coincide the ocular account as no blackening, burning or tattooing had been observed by the medical expert; that the prosecution had failed to prove the charge against the appellant, therefore, he is entitled to be acquitted.

10. Learned Deputy Prosecutor General has controverted the aforementioned arguments maintaining that the prosecution had succeeded in establishing the charge against the appellants beyond any shadow of doubt; that it was a broad day light occurrence and the matter was reported to the police with sufficient promptitude containing the name of the appellant and the role played by him during the occurrence; that the appellant, who had committed brutal and callous murder of his grown-up newly wedded wife, does not deserve any leniency and a prayer for dismissal of his appeal has been made.

11. We have heard learned counsel for the appellant, learned Deputy Prosecutor General appearing for the State and have perused the record.

12. This occurrence had taken place in the broad day light on 15.07.2011 at 11:00 a.m. in the house of the complainant and the crime report in respect of the same had been lodged with a reasonable promptitude at 01:00 p.m. The appellant was the sole perpetrator of the occurrence, who had specifically been saddled with the responsibility of causing firearm injury on the left eye of his newly wedded wife just for non-fulfillment of his immoral wish of a motorcycle in dowry. The firearm weapon had been used by the appellant and he had chosen the vital part of his wife's body with the intention to do her away once for all. The place of occurrence was a house of the complainant where the presence of eye witnesses was natural, which could not be doubted. The appellant was son-in-law of the complainant and his involvement in the alleged occurrence had not been highlighted to be

unknown or unidentified. It is noticeable that the appellant was also resident of the same compound/Haveli at a short distance as highlighted by the defence itself by putting a specific suggestion to the complainant during cross-examination, which shows that the appellant had no restraint to enter into the Haveli and his presence in the house of his in-laws could not be considered mysterious. Rehmat Ali, complainant (PW-6) and his brother Abdul Khaliq (PW-7) had furnished the ocular account, who had unanimously reiterated the averments of the crime report as what they had stated before the police in their statements recorded under Section 161 Cr.P.C. The complainant was real father of deceased Kausar Bibi and he absolutely had no reason to falsely involve his son-in-law with the regard to the murder of his daughter by letting off the real culprit. The deceased was hardly 19-years of age and a grown up girl, who had been callously and brutally murdered by her husband. Both the eye witnesses had made consistent statements before the learned trial Court regarding the mode of occurrence and had categorically raised their accusing fingers towards the appellant without any hesitation and doubt. Nothing inconsistent or major discrepancy has been found by us in the deposition of both the eye witnesses. The consistent and straight forwardness of statements of both the eye witnesses had not only inspired confidence of the learned trial Court but also has impressed this Court. They were cross-examined by the defence at considerable length but nothing favourable could be extracted by the defence from their mouths to shatter their credibility with regard to the time, place, mode and manner of the occurrence and the role played by the appellant. The ocular account furnished by both the aforesaid witnesses finds full support of the medical evidence as well as the scaled site plan (Ex.PB) prepared by Nasrullah, draftsman (PW-4) with regard to the date and time of occurrence and the distance between the perpetrator and the deceased, the kind of weapon of offence used during the occurrence, locale of injuries as deposed about by the prosecution witnesses. The main emphasis of the learned counsel for the appellant was that the ocular account does not coincide with the scaled site plan wherein the appellant had been shown to be sitting on another cot where the deceased was laying. This argument has

no force for the reason that it was not case of the prosecution that the appellant had made a fire shot while in standing position rather as per crime report, the appellant entered into the house and then made a fire shot at the deceased. This minor discrepancy on part of the prosecution had been got clarified by the defence itself during cross-examination upon Abdul Khaliq (PW-7) by putting suggestions that the appellant had come at the complainant's house at 11:00 a.m., he sat on the cot near Kausar Bibi and made a fire shot with his pistol upon Kausar Bibi at about 11:00 a.m. In other words by putting these suggestions, the defence had made an admission with regard to the mode and manner of the occurrence. Even otherwise, a young grown up daughter of the complainant had been murdered in his house by her newly wedded husband/appellant, who was the sole perpetrator of the occurrence and, thus, the complainant had no reason to substitute the real culprit with the appellant. To consider the question of substitution, there must be some reason to let off the real culprit and to involve an innocent person on account of some enmity. The complainant was under grief as his young grownup daughter had been murdered by her husband and the invariable requirement is that he should not be expected to draw a photographic picture of the occurrence in slow-motion rather he is expected only to firmly explain the mode, manner and role played by the appellant during the occurrence.

13. The complainant had specifically averred in the crime report that the appellant had been making demand of motorcycle in the dowry from him since his marriage with his (complainant's) daughter Kousar Bibi, the deceased but the same was not fulfilled and due to that reason, he had committed the murder of Mst. Kousar Bibi. Though, the complainant somehow had omitted the same while recording his examination-in-chief before the learned trial Court, yet we have noticed that the defence by itself had tinted the motive part of the occurrence by putting a specific suggestion to the complainant during cross-examination that whether the demand of motorcycle was the bone of contention behind the occurrence to which the complainant had replied as under:-

“It is correct that accused present in the court was demanding motorcycle from us.”

The motive suggested by the defence itself during cross-examination upon the complainant (PW-6), had been clarified in positive. Abdul Khaliq (PW-7) had also supplemented the same before the learned trial Court. We are of the considered view that the motive part of the occurrence had not only been proved by the prosecution beyond reasonable shadow of doubt but also admitted by the defence itself by putting the aforementioned specific suggestion to the complainant. There is no doubt in our mind that the deceased had been done to death by the appellant for nothing but due to the aforesaid reason, which has successfully been proved through reliable and confidence inspiring evidence by the prosecution.

14. An empty of pistol 30-bore had been secured by the investigator at the time of his first visit of the place of occurrence on 15.07.2011, which was transmitted to the office of the Punjab Forensic Science Agency on 22.07.2011 through Nazir Sabir, constable (PW-3). A pistol P-4 recovered at the instance of the appellant on 28.07.2011 was sent to the said office for its comparison with the crime empty on 09.08.2011 through Nazir Sabir, constable. As per report of Punjab Forensic Science Agency (Ex.PO), the pistol was found wedded with the crime empty, hence the positive report of the Ballistic Expert lends full support to the ocular account.

15. Dr. Shagufta Shehzadi (PW-5) had conducted post mortem examination of the deceased at 7:50 p.m. and observed a firearm entry wound and an exit thereof. The post mortem examination of the deceased was conducted at 7:50 p.m., after about 9 hours of her death, which shows that the police papers were ready prior to the conducting of post mortem examination and the FIR had already been registered and the eye witnesses were present at the venue of occurrence. The deposition of the medical officer coupled with site plan (Ex.PM), prepared on pointation of the eye witnesses, had confirmed the date and time of occurrence, distance between the perpetrator and the deceased, kind of weapon used and the locale and number of injuries deposed about by the prosecution witnesses. The medical evidence lends full support to the ocular account.

16. It is noticeable that during cross-examination upon the complainant, the appellant had taken a specific defence that the complainant was cleaning the pistol and suddenly the fire was shot, which hit deceased Kausar Bibi but while recording his statement under Section 342 Cr.P.C., he had stated that the complainant wanted to get married his daughter Kausar Bibi, the deceased with Majeed, a real son of his brother Abdul Khaliq (PW-7) but she married with the appellant with her free consent. The divergent stances taken by the appellant at different stages show his guilty conscious and, thus, the same is repelled.

17. Learned counsel for the appellant, in the alternate, has prayed to visit the appellant with alternate penalty of imprisonment for life, as according to him, the solitary fire shot coupled with a vaguely formulated motive, cumulatively constituted a mitigating circumstance; position taken by the learned counsel is beside the mark. Selection by the appellant of a most vital part of the body left no space or occasion to attempt a second shot. Similarly, interregnum of three months between marriage and the death does not admit any space to entertain hypothesis of any other motive than the one assigned by the complainant. There is no earthly reason for the complainant to swap his son-in-law with the real culprit and for the motive other than the one cited in the crime report. Given the brutality inflicted upon the deceased within the safety of her father's home and repugnance of demand, death penalty awarded by the learned trial Court does not warrant any interference.

18. Having scanned the entire evidence from all the four corners, we have found that the prosecution had successfully proved the charge leveled against the appellant through reliable and confidence inspiring evidence.

19. The nutshell of above discussion is that this appeal is without any merit, the same stands dismissed.

**Murder Reference No.27 of 2014** is answered in **POSITIVE** and the Death Sentence awarded to appellant Riasat Ali alias Kali is **confirmed**.

(Qazi Muhammad Amin Ahmed)  
Judge

(Asjad Javaid Ghural)  
Judge

Asif\*

APPROVED FOR REPORTING.

JUDGE