JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

CRIMINAL APPEAL No. 106 of 2025

INAAM RAUF ABBASI

Vs.

THE STATE & ANOTHER

Appellant by	**:**	**Ch. Muhammad Uffan Iftikhar, Advocate.**
Respondents by	**:**	**Mr. Iftikhar Ahmed Bajwa, Advocate for the Respondent No.2/Complainant.** **Rana Hassan Abbas, ADPP.** **Mr. Ashfaq Warraich S.I, P.S Sabzi Mandi, Islamabad.**
Date of hearing	**:**	**07.07.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Criminal Appeal filed under Section 410 of the Criminal Procedure Code, 1898 **("Cr.P.C.")**, Inaam Rauf Abbasi ("**Appellant**") has assailed the Judgment dated 26.02.2025 **("Impugned Judgment")** passed by the learned Additional Sessions Judge, Islamabad-West **("Trial Court")** in case FIR No. 517 dated 10.06.2024, registered under Section 302 of the Pakistan Penal Code, 1860 **("PPC")** with Police Station Sabzi Mandi, Islamabad **("Subject F.I.R.")**. Vide Impugned Judgment, the Appellant has been convicted for the offence of Qatl-e-Amd of Muhammad Akhlaq and sentenced to life imprisonment as Tazir under Section 302(b) PPC. In addition, the Trial Court directed the Appellant to pay Rs. 500,000/- (five hundred thousand) as compensation under Section 544-A Cr.P.C. to the legal heirs of the deceased, recoverable as arrears of land revenue, with a further stipulation that in case of default in payment, the Appellant shall undergo simple imprisonment for a period of six (6) months. The benefit of Section 382-B Cr.P.C. was also extended to the Appellant.

2. The brief facts of the case, as per the contents of the F.I.R., are that on 09.06.2024 at approximately 11:40 PM, Muhammad Iqbal Khan **(the "Complainant")**, upon receiving information that his younger brother, Muhammad Akhlaq (deceased), had been shifted to PIMS Hospital in an injured condition, immediately proceeded to the hospital. Upon arrival, he found his brother's dead body. Police officials present at the emergency ward informed him that the deceased

had sustained dagger injuries and had succumbed to them. Based on the Complainant's application, the Subject F.I.R. was registered.

3. After necessary investigation, the Appellant/Convict was sent up to the Trial Court to face trial, wherein he pleaded not guilty. The prosecution, in order to establish the charge, produced ten (10) witnesses. Upon closure of the prosecution's evidence, the Appellant/Convict refuted the allegations so brought and confronted as envisaged under section 342 of Cr.P.C., whereafter, the Appellant/Convict neither stepped into the witness box to depose on oath nor produced any evidence in his defense, hence on conclusion of the trial, the Appellant/Convict was convicted and sentenced in the terms mentioned in the paragraph 1 above. Being aggrieved by the Impugned Judgment, the Appellant/Convict has filed the instant Appeal.

4. The learned counsel for the Appellant/Convict argued that the Impugned Judgment is legally flawed and factually unsustainable. The Trial Court failed to properly evaluate contradictory and insufficient evidence that did not meet the standard required in a case based on circumstantial evidence. Key prosecution claims, particularly regarding CCTV Footage, were unproven. The CCTV Footage was neither produced nor authenticated in accordance with the Qanoon-e-Shahadat Ordinance, 1984. The Complainant (PW-8) did not nominate the Appellant/Convict in the FIR and failed to explain how he knew the Appellant/Convict's identity, which the Investigating Officer (PW-9) also could not justify. Contradictions between witnesses were ignored, and the Trial Court misread critical aspects of the record. The prosecution's case appeared fabricated, relying on inadmissible and unreliable evidence, and the Trial Court based its decision on conjecture. Counsel concluded that the Appellant/Convict, a young man with a promising future, was falsely implicated due to biased investigation and prayed for the Appeal to be allowed, the conviction be set aside, and the Appellant/Convict be acquitted.

5. Conversely, the learned Assistant District Public Prosecutor **("ADPP")** vigorously resisted the arguments advanced by the learned counsel for the Appellant/Convict and submitted that the prosecution has proved the case against the Appellant/Convict beyond any shadow of doubt; that the prosecution witnesses remained consistent on material aspects of the case; that there is sufficient evidence available on record which connects the Appellant/Convict with the commission of the offence; that the Impugned Judgment is well reasoned and has been passed while keeping in view the evidence available on record; and that the instant Appeal may kindly be dismissed.

6. I have heard the learned counsel for the parties and have also perused the record with their able assistance.

7. **PW-1 Muhammad Mubashar 386/C** deposed that on 10.06.2024, on receipt of information of the occurrence, he along with Naeem ASI/Duty Officer reached PIMS Hospital where Complainant Iqbal Khan presented a written application to Naeem Khan, A.S.I who converted the same into complaint and handed over the same to him which he took to Police Station, where Manzoor Elahi S.I registered the F.I.R. He brought original complaint and copy of F.I.R and handed over the same to Ishfaq Ahmed Warraich, S.I who completed the documents.

8. **PW-2 Malik Aamir Shahzad, Draftsman** deposed that on 14.06.2024, he along with Ishfaq Ahmed S.I visited the place of occurrence. Upon direction of Ishfaq Ahmed S.I and pointation of Complainant Iqbal Khan, he took rough notes for site plan from the place of occurrence and prepared two copies of scaled site plan Ex.PA. On 16.06.2024, he handed over scaled site plan to Investigating Officer who recorded his statement u/s 161 Cr.P.C.

9. **PW-3 Naeem A.S.I** deposed that on 10.06.2024, on receipt of information of the occurrence, he along with Muhammad Mubashar Constable reached PIMS where dead body of Muhammad Akhlaq was lying in emergency on stretcher. He inspected the dead body, drafted application for postmortem Ex.PB, inquest report Ex.PC and application for keeping the dead body in mortuary Ex.PD. He received those documents from the Doctor. Muhammad Iqbal Khan, real brother of deceased presented written application to him upon the back of which he drafted his proceedings Ex.PE and sent the same to the P.S through Muhammad Mubashar Constable for registration of case.

10. **PW-4 Manzoor Elahi S.I** deposed that on 10.06.2024, on receipt of complaint sent by Naeem A.S.I through Muhammad Mubashar Constable, he registered formal F.I.R Ex.PF from Computer Operator of front desk without any addition or omission.

11. **PW-5 Dr. Huzzeffa Tahir, Incharge MLO, PIMS,** deposed that on 10.06.2024 at about 05:30 AM, he conducted postmortem of Muhammad Akhlaq son of Muhammad Rafiq aged about 26-year years, brought by Ashfaq SI/HIU P.S Sabzi Mandi, identified by Muhammad Iqbal Khan son of Muhammad Rafiq (brother). He stated that the deceased was brought dead on 10.06.2024 at 12:25 AM from Aziz Plaza, I-10 Markaz, Islamabad. He further stated that clothes were soaked with blood, with corresponding holes present. PM staining was present on the back,

rigor mortis was fully developed. He observed two injuries. Walls ruptured, ribs fractured at the site of injury, pleura damaged, pleural cavity was filled with blood. Left lung ruptured, pericardium damaged and ruptured, heart damaged, blood vessels were damaged at the site of injury. Rest of organs were found healthy. He deposed that in his opinion, the death occurred due to cardiopulmonary arrest due to cardiogenic shock and respiratory failure, caused as result of injuries to vital organs (heart and lungs) as a consequence of penetrating injury to the chest cavity due to stab wound injury. All injuries were ante-mortem that were sufficient to cause death. He deposed the time between injury and death as 02 to 03 minutes approximately and time between death and postmortem as more than 04 hours approximately.

12. PW-6 Taimoor Khan deposed that on 13.06.2024, Inaam Rauf accused while in police custody on physical remand disclosed that he could get recover churri like dagger from bushes service road I-10/1. In pursuance of said disclosure, accused voluntarily led the police party to the above stated place and got recovered churri like dagger P-1. Investigating Officer put the churri into sealed parcel with monogram MA, drawn its sketch on memo and took the same into possession through recovery memo Ex.PH, attested by him and Kazim Ali Constable.

13. PW-7 Muhammad Javed Khan deposed that on 10.06.2014, Ishfaq Ahmad Warraich, SI inspected the place of occurrence in his presence, collected blood through cotton from the spot, converted the same into sealed parcel and took the same into possession through memo Ex.PH attested by him and Iqbal PW. That on the same day, at the time of postmortem examination, he identified dead body of Akhlaq Khan in mortuary vide identification memo Ex.PJ. After postmortem examination, the doctor handed over last worn clothes of deceased i.e. shalwar P-2, Qameez P-3, Bunian P-4 blood stained, to the Investigating Officer who took the same into possession through memo Ex.PK attested by him. Investigating Officer recorded his statement u/s 161 Cr.P.C.

14. PW-8 Muhammad Iqbal Khan deposed that on 09.06.2024, he was present at place of his job ahead of Rawat when he received information of the occurrence. He came to PIMS Hospital Islamabad where he saw his brother Muhammad Akhlaq, lying dead in the hospital. Police told him that someone had committed murder of his brother by inflicting dagger blow and he was shifted to hospital through 1122. He presented written application Ex.PL to the police. At the time of postmortem examination, he identified dead body of his brother in mortuary vide identification memo Ex.PJ. After postmortem examination, the doctor handed over last worn clothes of deceased to the Investigating Officer who took the same into possession

through memo Ex.PK attested by him and Javed Khan. He received dead body of his brother vide receipt Ex.PM. Thereafter, he along with Ishfaq Ahmed Warraich, SI went to the place of occurrence. The Investigating Officer inspected the place of occurrence in his presence, collected blood through cotton from the spot, converted the same into sealed parcel and took the same into possession through memo Ex.PH attested by him and Javed Khan. On the same day, he came to know through CCTV Footage that the accused who committed murder of his brother is Inam Rauf Abbasi. That on 14.06.2024, he produced USB P-5 to the Investigating Officer who took the same into possession through memo Ex.PN attested by him. Investigating Officer recorded his statement u/s 161 Cr.P.C.

15. PW-9 Ishfaq Ahmad Warraich, S.I, deposed that on 10.06.2024, he along with Tahir Kazim Constable reached PIMS Hospital where dead body of Akhlaq Ahmad was lying in the mortuary. Muhammad Iqbal Khan, brother of the deceased along with Muhammad Javed Khan identified dead body of the deceased vide identification memo Ex.PJ. After postmortem examination of the deceased by Dr. Huzifia Tahir, last worn clothes of deceased were handed over to him by the Doctor which he took into possession through memo Ex.PK. After postmortem examination, he handed over dead body of the deceased to Muhammad Iqbal Khan through receipt Ex.PM. Thereafter, he along with the Complainant and other went to the place of occurrence, inspected the place of occurrence, collected blood through cotton from the spot, converted the same into sealed parcel and took the same into possession through memo Ex.PH. He prepared rough site plan Ex.PP. He sent Bashir Ahmad Khokhar SI, present at the spot, for arrest of the accused. He recorded supplementary statement of the Complainant u/s 161 Cr.P.C wherein he nominated the accused. Thereafter, Muhammad Mubashar Constable came to the place of occurrence with copy of FIR and original complaint upon which he recorded his statement and completed the documents. On the same day, on receipt of spy information, he along with other police officials conducted raid and apprehended the accused. He joined the accused into investigation and interrogated him. He also deposed that on 13.06.2024, on disclosure of Inam Rauf accused, accused led the police party to Service Road I-10/1 and got recovered Churri like Dagger P-1. He placed the Churri into sealed parcel with Monogram “MA”, drew its sketch on the memo and took the same into possession through memo Ex.PH. He prepared rough site plan Ex.PH/1 of the place of recovery of Churri. He came back to the police station and handed over the case property to Moharrar. On 14.06.2024, he sent the accused to the judicial lock-up. On the same day, he along with the Draftsman went to the place of occurrence. The draftsman took rough notes from the place of

occurrence. On the same day, Muhammad Iqbal handed over to him USB P-5, which he took into possession through a memo Ex.PN after converting the same into a sealed parcel. He handed over the USB to the Moharrar. On 15.06.2024, the doctor handed over to him the Postmortem Report, which he appended to the file. On 22.06.2024, Draftsman handed over to him a scaled site plan on which Investigating Officer recorded his statement. On 27.06.2024, he received sealed parcels of USB and Churri from the Moharrar and deposited the same in the office of the PFSA Collection Centre, Rawalpindi. He recorded statement of the Moharrar u/s 161 Cr.P.C.

16. **PW-10 Sher Ali 7458/HC** deposed that on 12.06.2024, he handed over sealed parcel said to contain blood-stained cotton through Road Certificate No.494/2024 to the Investigating Officer for onward transmission to the office of PFSA Lahore. That on 13.06.2024, the Investigating Officer handed over to him sealed parcel said to contain Churri for safe custody in Malkhana. That on 14.06.2024, Investigating Officer handed over to him a sealed parcel of USB which he kept in Malkhana. On 27.06.2024, he handed over sealed parcel of blood stained Churri and sealed parcel of USB to the Investigating Officer through Road Certificate No.525/2024, 526/2024 dated 27.06.2024 for onward transmission to the office of PFSA intact. After deposit of sealed parcel in the said office, Investigating Officer handed over to him Road Certificate which he affixed in the relevant register. Investigating Officer recorded his statement u/s 161 Cr.P.C.

17. On perusal of the evidence recorded during trial, the record of the case and the Impugned Judgment of the learned Trial Court, it transpires that the whole case of murder of the deceased namely Muhammad Akhlaq is based on CCTV Footage, which was produced by PW-8, who is the Complainant and brother of the deceased, to the Investigating Officer. However, he did not mention from whom he procured the USB containing the crime scene footage. Furthermore, the Impugned Judgment does not reflect that the learned Trial Court ever played the said CCTV Footage saved in USB Ex.P-5. This indicates that it was not examined during trial. Accordingly, this Court considered it essential to view the CCTV Footage to ascertain the facts.

18. A khaki envelope Ex.P-5 was found attached to the judicial record, bearing PFSA No.24-735649-AV-009194 dated 11.07.2024. Upon opening, it contained a white sealing cloth enclosing a USB. The USB was played on the Computer System of this Court and revealed that neither the faces of the accused and the deceased nor the act of stabbing was clearly visible. Furthermore, it is also not found that the

accused or anyone else, in the said Footage, was holding in his hand any dagger. Two persons descended the stairs while running and both of them went behind the stairs, which is not a visible place. In the said CCTV Footage, no such stabbing of deceased by the accused is seen. At the alleged place of occurrence, apart from the accused and deceased, there were four other persons present. After playing the said CCTV Footage, the alleged crime scene CCTV Footage, the USB is again sealed in an envelope duly signed by this Court.

19. As for the source of the CCTV Footage, the requirement laid down by the august Supreme Court in Criminal Petitions No. 467/2023 titled *"Zahir Zakir Jaffar v. The State and another"* is not satisfied. The Investigating Officer failed to collect the DVR or produce any witness such as the plaza manager or CCTV operator to authenticate the CCTV Footage. The following excerpt from the Supreme Court judgment is relevant:-

> "9. Reverting to question No. (ii) it is worth mentioning that **in the case of *State v Ahmed Omar Sheikh* (2021 SCMR 873), this Court has established a two-step test for the verification of digital evidence regarding CCTV footage.** This examination necessitates that the evidence in question be both authentic and pertinent, and that it has been acquired from a trustworthy and dependable source. The list of conditions comprises:
>
> "i) **providing an explanation of how the video was obtained or its source**, and
>
> ii) **presenting a forensic report to show that the video has not been altered**."
>
> (Emphasis added)

Therefore, it can be said that the source or the explanation as to how the CCTV Footage was obtained still remains a mystery in the instant case, which has not been properly explained by the prosecution. The Complainant has also failed to apprise the Trial Court regarding who prepared and handed over the USB to him. It is also important to mention herein that the Investigating Officer should have collected the CCTV Footage on the night of the occurrence when he firstly visited the crime scene, however, he waited for four days for the Complainant to come back and handover the CCTV Footage in a USB, which further makes the case suspicious. Hence, the two-fold test as provided in the judgment of august Supreme Court of Pakistan in case titled *"The State through P.G. Sindhu and others Vs. Ahmed Omar Sheikh and another"* **(2021 SCMR 873)** is not complete when the first standard, i.e., the source of the CCTV Footage, remains in mystery. In such a situation, the Forensic Report

regarding the genuineness of the CCTV Footage cannot solely make the CCTV Footage reliable evidence, as the threshold of the two-fold test remains incomplete.

20. Furthermore, it is not explained by the prosecution that how the matter was reported at the first instance. The Complainant in the F.I.R., as well as his statement, mentions that he went to the PIMS Hospital after receiving the information of the occurrence. Similarly, the Duty Officer also reached the PIMS Hospital after receiving the information of the occurrence. However, it has not been explained as to from which source they had received the information of the occurrence and who called rescue 1122 and shifted the injured/dead body of the deceased to PIMS Hospital at the first instance.

21. In the CCTV Footage, it could be seen that four persons were present at the crime scene, however, the Investigating Officer had failed to record their statements and join them in the investigation of the instant case. Moreover, there is no motive in the instant case mentioned by the prosecution that could suggest that the accused facing trial has murdered the deceased. The recovery of the dagger on the pointation of the accused will carry no weightage when there is no independent eyewitness produced by the prosecution, and even from the CCTV Footage, it is not clear that the accused facing trial has committed the murder of the deceased.

22. In these circumstances, this Court is of the view that the prosecution has failed to bring home the charge against the accused, namely Inam Rauf Abbasi, who faced the trial. There is no independent eye-witness, no motive, and importantly, the sole evidence upon which the learned Trial Court convicted the Appellant is CCTV Footage, in which there is nothing regarding the commission of murder of the deceased, even the face of the alleged offender is not visible. It is well settled that even if a single circumstance creates reasonable doubt in a prudent mind regarding guilt of an accused then the accused shall be entitled to such benefit, not as a matter of grace and concession, but as a matter of right and such benefit must be extended to the accused person by the Courts without any reservation. Reliance can be made upon the case of *"Muhammad Mansha v. The State"* **(2018 SCMR 772)** in which this Court held as under:-

> *"Needless to mention that while giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of such doubt, not as a matter of grace and concession, but as a matter of right. It is based on the maxim, "it is better that ten guilty persons be acquitted rather than one innocent person be convicted". Reliance in this behalf can be made upon the*

cases of Tariq Pervez v. The State (1995 SCMR 1345), Ghulam Qadir and 2 others v. The State (2008 SCMR 1221), Muhammad Akram v. The State (2009 SCMR 230) and Muhammad Zaman v. The State (2014 SCMR 749)."

23. Moreover, it is a well-established principle of criminal justice that there is no need of so many doubts in the prosecution case, rather any reasonable doubt arising out of the prosecution evidence pricking the judicial mind is sufficient for acquittal of the accused. Reliance is placed on the case titled *"Tariq Pervez v. State"* **(1995 SCMR 1345)**.

24. For the reasons stated above, this Court finds that the prosecution has failed to establish its case against the Appellant/Convict beyond reasonable doubt. Resultantly, the instant Criminal Appeal is **allowed,** and the Appellant/Convict, namely Inam Rauf Abbasi, is acquitted of the charge by extending him the benefit of doubt. He shall be released forthwith if not required in any other case. The case properties shall remain preserved until final decision of appeal or revision. Any articles of personal search, if recovered, shall be returned to the Appellant.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in open Court on: **11.07.2025**.

JUDGE

Sajid/--