JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

CRIMINAL REVISION NO.152 OF 2025

MUHAMMAD SHOAIB HASSAN
VS
THE STATE & ANOTHER

Petitioner by	**:**	**Raja Ikram Ameen Minhas, Advocate.**
Respondents by	**:**	**Raja Muhammad Shafat Khan, Advocate for the Respondent No.2.** **Rana Hassan Abbas, ADPP.**
Date of hearing	**:**	**17.11.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Criminal Revision Petition filed under Section 435 read with Section 439 of the Code of Criminal Procedure, 1898 ("Cr.P.C"), the Petitioner, Muhammad Shoaib Hassan, is assailing the order dated 18.10.2025 **("Impugned Order")** passed by the learned Additional Sessions Judge-VI, East-Islamabad whereby his request for confronting the investigation officer (PW-12) with a video clip obtained from the mobile phone of one of the accused, has been declined.

2. The brief facts of the case, as per the contents of the instant petition, are that FIR No. 554/20, dated 17.09.2020, under Sections 302/34 of the Pakistan Penal Code (PPC), was lodged against the Petitioner by Respondent No. 2/complainant, namely Syed Uzair Naqvi, at Police Station Koral, Islamabad. The complainant alleged that on 17.09.2020, at approximately 08:30 AM, he dropped his elder brother, Syed Raza Naqvi, at his office located at Ranjha Arcade, Service Road, Gulberg. After leaving, the complainant heard gunshots and, upon looking back, saw a person sitting on the rear seat of a motorcycle firing directly at his brother. As a result, his brother fell down the stairs of the office, sustaining serious injuries, and later succumbed to his injuries at PIMS Hospital.

3. After the registration of the FIR, the Petitioner was arrested. The case proceeded to trial, where, during the cross-examination of PW-12/I.O., DSP Ghulam Rasool, the Petitioner's counsel sought to confront a video clip allegedly

showing a press conference concerning the arrest of the Petitioner. The video was said to contradict the investigation and statements made by the investigating officers. However, the trial court did not allow the Petitioner's counsel to present or confront the video with the witness, as it had not been offered during the course of the investigation. This refusal has now led to the filing of the instant petition.

4. The learned counsel for the Petitioner/accused argued that the impugned order is ex-facie illegal, factually incorrect and contrary to the settled principles of law; that the facts disclosed in the said press conference are in direct contradiction to the official investigation and the statements of PW-10 Inspector Munir Ahmed and PW-12 DSP Ghulam Rasool, the Investigating Officers; that said press conference directly pertains to the arrest, investigation, and evidentiary aspects of the case and is thus material for the just decision of the matter; that the video of the press conference constitutes relevant material evidence, which, if allowed to be put to the witness, would assist the court in arriving at just conclusion; that learned trial court without appreciating the right of cross examination and fair trial, disallowed the defense to put the video/press conference; that the learned trial court has violated the Petitioner's right to cross-examination and fair trial guaranteed under Article 10-A of the Constitution of Islamic Republic of Pakistan, by disallowing the confrontation of the said video; that it is well settled right of the accused to put any relevant question, document or evidence to the prosecution witnesses during cross examination to impeach their credibility or confront contradictions; that question of admissibility or relevancy of any such question, documents or evidence is secondary and can be determined subsequently, however, denial of confrontation altogether is impermissible in law; that refusal to permit such confrontation has caused prejudice to the defense case and is in violation of the principles of natural justice and fair trial. Lastly, learned counsel prayed for acceptance of instant petition, setting aside of impugned order, for issuance of direction to learned trial court to allow the playing of the video/press conference in court and to permit the defense to confront the same to PW-12 Ghulam Rasool DSP/Investigating Officer.

5. On the other hand, learned Assistant District Public Prosecutor **("ADPP")** duly assisted by learned counsel for the Respondent No.2, opposed the petition and argued for its dismissal. They contended that the trial court had correctly

disallowed the video, as it had not been offered during the investigation and lacked clarity regarding its authenticity and source.

6. I have heard the arguments advanced by learned counsel for the parties and perused the available record with their able assistance.

7. As far as the principle of confrontation is concerned, it generally relates to the cross-examination to a witness as to his previous statements in writing as enshrined under Article 140 of the Qanun e Shahadat Order, 1984, which is reproduced hereunder for ready reference: -

> *"140. Cross-examination as to previous statements in writing.— A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him."*

Additionally, a witness can also be confronted with other relevant documents which are admittedly authored or signed by the said witness in order to contradict him. However, in the present case, let alone being the maker/author of the video in question, the witness is not even himself visible in the alleged press conference video which the defense is aspiring to present and confront to the witness. Moreover, the witness has also denied having any knowledge regarding the contents of the subject video.

8. While interpreting the principle of confrontation under Section 162 Cr.P.C read with Article 140 QSO, the Hon'ble Supreme Court of Pakistan in case "*PLD 2019 SC 196*" in a matter related to audio-video recording of statements of witnesses held that although the statements of witnesses can be video recorded but the video itself cannot be used to confront the witness rather the statement in writing can only be used for that purpose under section 162 Cr.P.C. The relevant portion is reproduced below: -

> *"While reading of Section 162 Cr.P.C. would reveal that no statement made by any person to a police officer in the course of an investigation shall, if reduced to writing, be signed by the person making it nor shall any such statement or any record thereof whether in a police diary or*

> *otherwise or any part of such statement or record, be used except for the purpose of contradicting its maker in terms of Article 140 of the Qanun-e-Shahadat Order. Signing of such statement by its maker is prohibited because it tends to bind its maker and impair his freedom to speak truth in the Court. Recording of such statement by audio video electronic means could be treated at par with a statement which has been signed by its maker, inasmuch as it hampers his freedom to testify in the Court. But in any case use of audio or video devices to facilitate the recording of such statement cannot be said to have been prohibited by any interpretation of the provisions reproduced above when the finished product to be used in the Court to confront the witness is the statement reduced to writing and not its audio or video recording."*

9. Another point which needs consideration is that the trial court, while passing the impugned order has rightly pointed out that the defense never bothered to present the video in question before the investigation officer in order to enable him to test its veracity and the defense now attempted to show and confront the video from the mobile phone of one of the accused without any explanation of its source. The video presented in this case was not verified or authenticated. The defense failed to provide any explanation regarding how the video was obtained or what was its source. Furthermore, the video was presented directly from the mobile phone of one of the accused without any forensic report or other forms of verification to confirm its authenticity. Needless to say that in this era of scientific and technological advancement, it has become need of the hour to exercise caution while entertaining an unverified digital evidence. Keeping this in view, the Hon'ble Supreme Court of Pakistan laid down 21 guidelines for the admissibility of audio or video evidence in case titled *"Ishtiaq Ahmed Mirza Case" (PLD 2019 SC 675)*. Recently, the Hon'ble Supreme Court of Pakistan narrowed down the list to only two mandatory requirements in case titled *"Zahir Zakir Jaffar Case" (Criminal Petition No. 467 of 2023),* relevant portion whereof is being reproduced here: -

> *"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."

Reverting to the instant case, not only the authenticity of the video purportedly to be shown and confronted to the witness is under question but also the source of the video in the mobile of one of the accused remains unclear. Thus, the two-step verification as provided in the case supra is not there. However, the defense retains alternate remedies of establishing its plea while entering in defense evidence at the relevant stage accordingly if it considers the video in question supports its case.

10. In view of the above discussion, the trial court correctly disallowed the confrontation of the video with the Investigating Officer, as the video was neither part of the investigation nor authenticated. The video evidence does not meet the necessary legal requirements for admissibility, as it was not verified or sourced, and no forensic report was provided to confirm its authenticity. The refusal to allow the video confrontation at this stage does not constitute a violation of the Petitioner's constitutional rights. Resultantly, the instant Criminal Revision Petition is hereby ***dismissed***, and the learned trial court is directed to proceed with the trial in accordance with the law.

(MUHAMMAD AZAM KHAN)
JUDGE

Approved for Reporting
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