JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
(JUDICIAL DEPARTMENT)

Criminal Appeal No. 19 of 2018

Khan Afzaal
Vs
The State & another

Appellant By:	Mujeeb-ur-Rehman Kiani, Advocate.
Complainant By:	Raja Muhammad Farooq, Advocate
State by:	Mr. Zohaib Hassan Gondal, State Counsel and Malik Mazhar Javed, Advocate with Arshad, Inspector.
Date of Hearing:	11.02.2020

Ghulam Azam Qambrani, J.: This Criminal Appeal is directed against judgment, dated 14.12.2017 passed by the learned Additional Sessions Judge (East) Islamabad, whereby the appellant was convicted under Section 302(B) P.P.C and sentenced to imprisonment for life and to pay Rs.2,00,000/- (two lac) to the legal heirs of the deceased under Section 544-A of Cr.P.C., in default whereof, further undergo simple imprisonment for a period of six months. The appellant/convict was further convicted and sentenced with rigorous imprisonment of seven (07) years for the commission of offence under Section 337-D P.P.C, and to pay Arsh of Rs.6,45,198/-, being one-third of the notified Diyat of that year to the injured Asnan. The benefit of Section 382-B Cr.P.C was extended to the appellant/convict. It was held that all the sentences shall run concurrently.

2. Briefly stated facts of the case are that on application of Sajjad Ahmad son of Mushtaq Ahmad a case was registered against the appellant vide F.I.R No.90, dated 09.03.2016 under sections 302/324 P.P.C with Police Station Bhara Kahu, District Islamabad, stating therein that on 09.03.2016 at about 07:00 p.m. he alongwith

his real brother Shahzad Ahmad and Asnan s/o Irfan were coming from khaliqdad chowk towards their house. As soon as they reached in front of clinic of Dr. Arshad, suddenly, Khan Afzaal alias Hasnain alias Trotki s/o Muhammad Ashraf r/o Dhoke Morhi, armed with Churri came before them and raised Lalkara that he would teach lesson to the complainant and his accomplice for an altercation and inflicted Churri blow on the abdomen of the brother of the complainant, namely Shahzad Ahmad, who fell down. Thereafter, the accused gave repeated Churri blows on his arm, shoulder and back side. Asnan intervened to save the brother of complainant and to stop the accused Khan Afzaal but accused Khan Afzaal gave a Churri blow to Asnan at his throat, who also fell down due to the injury. On hue and cry of the complainant, his uncle namely Javed Ahmed came at the crime scene. However, in the meanwhile accused Khan Afzaal succeeded in fleeing away from the crime scene while waiving the Churri. The complainant with his paternal uncle took Shahzad Ahmed and Asnan injured to the Polyclinic Hospital, but as soon as they reached at Hospital, brother of the complainant Shahzad Ahmad succumbed to his injuries and PW Asnan/ injured was admitted in the hospital.

3. The motive behind the occurrence was that about two days prior to occurrence, some hot words were exchanged between the deceased and Asnan with the appellant/ convict. The appellant was nourishing grudge against the deceased and in order to take the revenge, he assaulted the deceased and murdered him. Besides complainant the occurrence was also seen by the paternal uncle of the complainant, namely Muhammad Javed/PW.8.

4. After registration of FIR, investigation was carried out and, thereafter, report under section 173 Cr.P.C. was submitted before the learned trial Court. After fulfilling codal formalities, charge was framed against the appellant/convict, to which he pleaded not guilty and claimed trial. In order to prove the guilt against the appellant, prosecution examined the following witnesses;-

(i)	PW.1	Muhammad Usman- S.I,
(ii)	PW.2	Sikandar Hayat- 5804/C,
(iii)	PW.3	Dr.Tanveer Afsar Malik- Medical Officer,
(iv)	PW.4	Malik Amir Shahzad- Draftsman,
(v)	PW.5	Muhammad Okab- Head Constable,
(vi)	PW.6	Dr. Muhammad Naseer,
(vii)	PW.7	Sajjad Ahmad s/o Mushtaq Ahmad,
(viii)	PW.8	Javed Ahmad s/o Barkhurdar,
(ix)	PW.9	Muhammad Asnan Abbasi s/o Muhammad Irfan Abbasi,
(x)	PW.10	Arshad Ali- SI.

5. Statement of the accused under section 342 Cr.P.C was recorded wherein all the incriminating evidence recorded in his presence was put to him, he claimed innocence, however he neither deposed on oath as per Section 340 (2) Cr.P.C nor produced defence evidence, but in reply to a question why the case has been registered against him and why the prosecution witnesses deposed against him, he replied as under.-

> *"The prosecution implicate me in the instant case with malafide intention and ulterior motive and the entire story of the prosecution is baseless and they have falsely implicated me in the instant case. The motive set out by the prosecution is of no significance and that no such incident took place prior to date of the occurrence and the prosecution also failed to produce any witness regarding the said incident. On 29.02.2016 I was present at Jillani Bus Stop, meanwhile a Car FX Registration No.OK-818 came on the same stop, injured Asnan was sitting on driving seat and one Romi was sitting on the front seat with the Asnan, whereas Shahzad s/o Mushtaq was also sitting on rear seat. They said to me let come with them but I refused, they again forced me to come with them and also told me that they would return to home as soon as possible after the completion of some personal work. They all are my close relatives upon their insistence, I unwillingly agreed with them and sat with them, thereafter on the same day they committed sodomy with me forcibly, however, I managed my escape from the hands of the said accused. They came after me but failed to find me due to this incident, I kept mum and did not tell/disclose about the said incident to anyone, but on 09.3.2016, the above mentioned three persons after the prayer of Maghrib came near the Dr. Arshad clinic and again forcefully compelled me to go with them, for the fulfilment of their lust, they also used the force, upon which a fight started between us. I am working in a hotel in Islamabad*

> *and a minor size knife which I use for cutting vegetables was also with me. I held the same knife in my hand and asked them to leave me, otherwise I will not spare them and during the said fight suddenly the knife landed on belly of Shahzad upon which they all started to beat me severely. I tried to save my life, but in the meanwhile Shahzad received other injuries and instantly the Romi snatched the said knife from my hand and tried to hit me but I changed my position to save myself and the same knife landed at the Arslan's throat and my finger was also cut, which resulted into bleeding, thereafter, I left the place of occurrence and regarding this incident I also submitted an application to the concerned Police Station on 17.03.2016 at 09:00 O'clock which is Ex.DA, but the prosecution deliberately did not incorporate the name of Romi as a prosecution witness, just to achieve their illegal designs and the I.O also prepared the report under section 173 Cr.PC to save/secure the real culprit namely Romi and did not investigate the matter to the extent of Romi. The story set out by the prosecution completely negate the version of the complainant."*

6. After recording evidence and hearing arguments of the learned counsels for the parties, the learned Addl. Sessions Judge-V (East) Islamabad, passed impugned judgment, dated 14.12.2017, hence this appeal.

7. The learned counsel for the appellant/convict has contended that; the judgment of the learned trial Court suffers from legal infirmities, therefore, conviction and sentence awarded to the appellant is not sustainable; there are glaring discrepancies and inconsistencies in the statements of the prosecution witnesses which are fatal to prosecution case; the judgment of the learned trial Court is result of misreading and non-reading of evidence and passed on flimsy grounds; the learned trial Court has not appreciated the evidence in proper perspective, resulting in grave miscarriage of justice; the appellant is innocent, wrongly implicated in the instant case, hence the conviction and sentence awarded to the appellant is liable to be set aside.

8. On the other hand, the learned counsel for the complainant assisted by the learned State Counsel supported the impugned

judgment passed by the learned trial Court and contended that; the ocular account prevails over medical reports; the parties were already knowing each other; the eye witnesses of the crime scene and the injured have nominated and implicated the appellant in the commission of the offence; the prosecution has proved the case against the accused/ appellant beyond any shadow of doubt; hence prayed for dismissal of the instant appeal.

9. I have heard the arguments of the learned counsels for the parties and have perused the available record with their able assistance.

10. PW-3, Dr. Tanveer Afsar Malik, Medical Officer, Polyclinic Hospital, Islamabad, who conducted the post-mortem of the deceased Shahzad Ahmed, opined as under.-

> "*the deceased sustained multiple stab and incised wounds on the different parts of the body while injury No.1 on the abdomen and wound shoulder caused excessive primary internal and external haemorrhage in the abdomen and left pleural cavity causing haemorrhage shock and cardiac temponadae leading to death. All the injuries were ante-mortem in nature and were sufficient to cause death, in ordinary course of nature."*

11. PW-6, Dr. Muhammad Naseer, Medical Officer, Principal and Head of the Medico Legal Department of PIMS, examined the injured Asnan and in view of rupture of the trachea by a sharp weapon declared injury on his body under Section 337-D, PPC and issued MLC Ex.PG.

12. PW-1, Muhammad Usman (S.I) stated that on 09.03.2016, he was functioning as duty officer, he received written complaint Ex.PA sent by Arshad Ali (S.I) and that he chalked out FIR Ex.PA/1 without any addition or deletion.

13. PW-7, Sajjad Ahmad, eye-witness of the occurrence, deposed that on 09.03.2016 at about 07.00 pm, he along with his real brother Shahzad Ahmed and friend of his brother Asnan son of Irfan were

coming from market towards their house, when they reached in front of clinic of Dr. Arshad, suddenly the accused Khan Afzaal alias Hasnain alias Trotki son of Muhammad Altaf, armed with *Churri* came in front of them, raised Lalkara that he would teach them a lesson for altercation and inflicted *Churri* blow on the back of his brother Shahzad Ahmed, who fell down; thereafter the accused gave Churri blows on the abdomen of Shahzad Ahmed when Asnan intervened, the accused gave Churri blow on the throat of Asnan, who fell down and became unconscious. On raising alarm, his uncle Javed Ahmed reached at the crime scene, on seeing him, the accused fled away from the spot waiving Churri. He further deposed that they took the injured persons to Poly Clinic Hospital, Islamabad, where Shahzad Ahmed succumbed to the injuries. He further deposed that motive of the occurrence was exchange of some hot words two days prior to the occurrence between the deceased and the accused and due to that grudge, the accused caused the murder of Shahzad Ahmed and injured Asnan. Nothing material could be extracted from the said PW during his cross-examination.

14. PW-8, Javed Ahmed, eye-witness of the occurrence, deposed that on 09.03.2016 at about 07.00 pm, he was present at a store to purchase cigarettes and saw that accused Khan Afzaal alias Hasnain alias Trotki son of Muhammad Altaf, armed with Churri came out from the street, in front of "*Karyana Store*", adjacent to the clinic of Dr. Arshad. He further deposed that the accused inflicted Churri blows on his nephew namely Shahzad Ahmed and that his another nephew Sajjad Ahmed raised alarm; he went there, and sat down due to pain in heart. He further deposed that Asnan received Churri blow and fell down, they took the injured persons to Poly Clinic Hospital, Islamabad, where Shahzad Ahmed succumbed to the injuries. He also deposed that motive of the occurrence was that about two days prior to the occurrence, some hot words were exchanged between the deceased and the accused and due to that grudge the accused caused the murder of Shahzad Ahmed and

injured Asnan. Nothing material could be extracted from the said PW during his cross-examination.

15. PW-9, Muhammad Asnan Abbasi (eye witness), stated that on 09.03.2016, he along with the complainant Sajjad Ahmed, his real brother Shahzad Ahmed were coming from Khaliqdad Chowk towards market, when they reached in front of the clinic of Dr. Arshad, suddenly accused Khan Afzaal came before them and inflicted three-four Churri blows on the back of Shahzad Ahmed, thereafter, the accused gave Churri blows to Shahzad Ahmed from the front, the accused also gave him a Churri blow on his neck, he fell down on the ground and became unconscious.

16. PWs-8 & 9 fully corroborated the statement of PW-7, Sajjad Ahmed/complainant on all material facts and circumstances. They remained firm during the cross-examination and nothing favourable could be extracted by the defence apart from minor discrepancies. The presence of PW-9 Asnan/ injured, place of occurrence, causing injuries by Churri blows to the deceased Shahzad Ahmed on his belly are admitted. The ocular account is further corroborated through the evidence led by PW-3 and PW-6.

17. PW-10, Arshad Ali the Investigating officer, corroborated the evidence recorded by the other prosecution witnesses, who while appearing before the learned trial Court in a categorical manner, reiterated the steps taken by him during the investigation from receiving of complaint (Exh-PA), preparation of injury statements (Exh-PN), submission of application seeking permission/opinion of the CMO (Exh-PO), preparation of inquest report (Exh-PC), drafting of application for post-mortem (Exh-PB), recording of proceedings at the back of compliant (Exh-PA), handing over of the dead body to complainant Sajjad Ahmed and his paternal uncle Javed Ahmed through memo (Exh-PJ), identification of the dead body through (Exh-PH), receiving of last worn clothes of the deceased through recovery memo (Exh-PK), taking possession of blood secured from the place of occurrence through sealed parcels vide recovery memo

(EXH-PL), preparation of rough site plan (Exh.PQ), receiving of the post-mortem report through (Exh-PD), submission of application (Exh-PR) for sending parcels to the laboratory, filing of application to the medical officer (Exh-PS) for determination of the age and commission of sodomy, with regard to the verification of the stance of accused, taking of scaled site plan into possession from the draftsman vide memo (Exh-PF), taking into possession Churri (Exh-P4) recovered on the pointation of accused vide recovery memo (Exh-PM), preparation of the rough site plan for the recovery of Churri (Exh-PD), taking of MLC into possession with regard to the injury of PW-09/ Asnan (Exh-PG) to the recording of the statement of the witnesses u/s 161 Cr.P.C and preparation of the report u/s 173 Cr.P.C.

18. As regards the stance of the accused regarding commission of sodomy with him by the deceased, Romi and Asnan/injured PWs is concerned, the accused filed an application (Exh-DA) before the police on 17.03.2016 mentioning the occurrence as of 29.02.2016, whereas the instant occurrence of the murder of Shahzad Ahmed took place on 09.03.2016, as such, the said application moved by the accused with regard to commission of the sodomy with him after considerable delay, seems to be an afterthought as no application regarding the said incident filed prior to the occurrence of present incident has been brought on record. Furthermore, the accused/convict failed to prove the plea of sodomy through cogent evidence and by examining himself under oath. It is also added that above said version of the accused also do not corroborate with the medico legal report of the accused (Exh-PE).

19. Perusal of the record further reveals that place of occurrence, identity of the accused Khan Afzaal, injuries on the deceased and on the injured Asnan caused by the accused with Churri blows are corroborated by statement of PW-3 and PW-6. The prosecution has fully proved the case against the accused beyond any shadow of doubt, whereas the accused has failed to prove his plea of sodomy.

20. PW-7, Sajjad Ahmed, is a natural witness of the crime scene. He has specifically nominated the accused and assigned him a specific role of inflicting Churri blows on the deceased Shahzad Ahmed, though he is real brother of the deceased, but his statement cannot be brushed aside on the sole ground that he has a relationship with the deceased.

21. Perusal of the record/evidence reflects that there was no chance of substitution of the appellant/convict. Apart from it, the appellant/convict himself has admitted the place of occurrence, manner and use of crime weapon. It is important to mention that the appellant while recording statement under Section 342 Cr.P.C in reply to a question reproduced above has admitted the commission of murder of the deceased, he has also admitted possession of crime weapon i.e. *churri*, therefore, it needs no further evidence to prove the guilt of the appellant by the prosecution. It is worth mentioning that it is the case of prosecution that on the pointation of appellant, the crime weapon/ *churri* was recovered from a place which was not known to the police. This piece of evidence also becomes admissible in evidence under Articles 39 and 40 of the Qanoon-e-Shahadat Order, 1984. The record further reveals that Exh-PV shows that blood test of knife was found negative which fact goes against the prosecution but the appellant himself admitted in his statement the commission of murder of the deceased with a crime weapon i.e. churri. The appellant has taken the plea of self defence in his statement recorded under section 342 of the Cr.P.C. It is not the case of appellant that the deceased was holding a firearm weapon in order to apprehend or had reason to believe that there was imminent danger or threat of being fired upon. There is nothing on record to show that the deceased was armed with a firearm weapon at the time of the commission of the offence. In the case titled *'Muhammad Javed v. The State'* [1996 SCMR 962], the petitioner in that case had admitted his presence and causing injuries to the deceased in his statement recorded under section 342

of the Cr.P.C. The august Supreme Court observed that since the petitioner could not prove the plea of self defence, therefore, the High Court had rightly discarded the said defence. In the case titled *'Navid Akhtar and others v. Muhammad Saeed Khan and another'* [2004 SCMR 1469], the plea of self defence was taken by the accused but he had failed to discharge the onus by bringing on record cogent and reliable evidence. He had also preferred not to be examined under oath under section 340(2) of the Cr.P.C. in order to disprove the charges or allegations against him.

22. The reappraisal of entire prosecution evidence has established that the prosecution has succeeded in proving the charge against the appellant through direct, circumstantial and medical evidence. Incident was reported with remarkable promptitude; no major contradictions or discrepancies have been pointed out by the learned counsel for the appellant in the statements of the prosecution witnesses. Recovery of Churri Exh-P4, at the pointation of the appellant/convict has further strengthened the case of prosecution. PWs- 7 & 9, who being natural witnesses, have directly witnessed the occurrence and there is no ulterior motive for false implication/ involvement of the appellant in the commission of the offence.

23. I have taken into consideration the defence plea of appellant into juxta-position with the prosecution evidence and have come to the conclusion that the plea of appellant is not worth of credence due to the reasons that FIR was lodged promptly, the role assigned to the appellant in the commission of offence was admitted by the appellant in his statement recorded under Section 342 Cr.P.C, therefore, false involvement of appellant, in the crime does not appeal to a prudent mind.

24. Perusal of record reveals that unnatural death of the deceased Shahzad Ahmed is not disputed. After the occurrence, the dead body was shifted to hospital, where PW-3 Dr.Tanveer Afsar Malik, Medical Officer, Poly Clinic Hospital, Islamabad, has examined the

dead body of deceased Shahzad Ahmed and opined that the deceased died unnatural death. On examination, PW-3 found multiple stabs and incised wounds on different parts of the body while injury No.1 on the abdomen and wound shoulder caused excessive primary internal and external haemorrhage shock and cardiac temponadae leading to death, were sufficient to cause death, in ordinary course of nature which confirms the unnatural death of deceased. PW-6, Dr. Muhammad Naseer, MO, examined the injured PW-9, Muhammad Asnan Abbasi, and in the medical certificate has mentioned rupture of trachea caused by a sharp edged weapon.

25. Adverting to ocular testimony produced by the prosecution, which is in the shape of direct, circumstantial and medical evidence, the medical evidence has already been discussed above, hence it would be appropriate to discuss the direct evidence produced by the prosecution through statements of PWs-7 & 9, who are the star witnesses of the prosecution. PW-7, Sajjad Ahmad is the complainant of the case and was accompanying the deceased and the injured Asnan, at the time of alleged occurrence. PW-7 has recorded his statement accurately, correctly and in line with his earlier deposition contained in the application (Ex-PA), whereupon identified his signatures (Exh-PA/1). PW-7 has correctly mentioned the time, date, the place of occurrence and the manner in which the alleged occurrence has taken place. The defence despite lengthy cross examination has failed to create any dent, jolt or shaken the testimony of the prosecution witnesses.

26. Adverting to the statement of PW-9, Muhammad Asnan Abbasi, suffice to observe here that PW-9 has recorded his statement in line to the statement of complainant of the case. The appellant was also known to him, this is a natural and trustworthy witness of the prosecution. His presence cannot be rebutted in any way, as he received an injury on his trachea by the hands of the appellant for which he remained hospitalized thus, his presence at the relevant time was natural and in no manner the defence can

claim that he was not a witness to the occurrence. The occurrence had taken place at about 7:00 p.m. The appellant was known to the witnesses, therefore, the identification of the appellant is not disputed. Besides, this witness has also been cross examined at sufficient length, but he remained firm in his deposition and throughout in examination-in-chief or during cross examination, he remained in same track and nothing advantageous or beneficial has come on record favouring the defence.

27. The objection taken by the defence is that only the interested witnesses have been produced and thus the case of prosecution is lacking independent corroboration. Suffice it to state here that all the witnesses are not interested witnesses, rather PW-9 is the most natural witness of the occurrence, who has also received serious injuries on his trachea at the hands of the appellant. If for the sake of arguments, it is admitted that PW-7, have any relationship with the deceased, even then his evidence cannot be discarded from consideration merely on such ground because his testimony was found entirely independent and truthful, therefore, his deposition without looking for any other corroborative evidence, despite of the fact both the witnesses have corroborated each other on all material counts, their statements are sufficient to establish the charge. The evidence of related witness, who is not found inimical and is confidence-inspiring, would hardly need any corroboration. It is necessary to mention here that PW-9 luckily survived from the death, thus under the circumstances, it would not be justified to declare him as interested witness or to believe that he may involve innocent persons leaving the real culprits, who made extreme attempts to also take his life. The statement of an injured witness cannot be challenged. Reliance in this regard is placed on the case reported as *"Farooq Khan v. State"* [2008 SCMR 917], wherein it has been held as under.-

> *"We have heard learned counsel for the parties and have perused the available record with their assistance. There is no denying the fact that it was a broad-daylight occurrence. … Farooq Khan, appellant injured the deceased with Chhuri hitting him on the left side of his chest. The presence of the injured*

> *P.Ws. at the place of occurrence is intrinsic and could not be doubted because it was unchallenged. Statement of P.W.8 is consistent, straightforward and trustworthy with no cogent reason in evidence to disbelieve the same.*
>
> *The defence has also not doubted or challenged the injuries sustained by the injured P.W. in cross-examination. The injuries sustained by P.W.8 have been duly supported by medical evidence furnished by P.W.10 Dr. Humayun Khan who ruled out that the injuries on person of Namoos Khan P.W.8 were self-inflicting injuries.*
>
> *As to the argument of learned counsel for the appellant that the solitary statement of injured P.W.8 was the basis of conviction, suffice it to observe that the injured prosecution witness had given the number of injuries caused to the deceased in the incident by attributing the responsibility to the appellant. Evidence of this witness has been supported by medical evidence furnished by Dr. Muhammad Maqsood P.W.6 who conducted post-mortem examination on the dead body of the deceased Zahir Khan. The evidence of injured witness is worthy of credence, independent and natural and there was no lawful justifiable cause to discard his evidence. The credence of statement of solitary witness has already been examined by this Court in a number of cases. In this context reference can be made to 'Mali v. The State'* [1969 SCMR 76], *'Muhammad Ashraf v. The State'* [1971 SCMR 530], *'Muhammad Siddique alias Ashraf alias Achhi and 3 others v. The State'* [1971 SCMR 659] *and 'Muhammad Mansha v. The State'* [2001 SCMR 199]*".*

28. Similar view has been taken by the Hon'ble Supreme Court of India, in the case of *"Nallamsetty Yanadaiah v. State of Andra Pradesh"* [1994 SCMR 588], wherein it has been held as under.-

> *"Learned counsel also submits that the eye-witnesses were all interested witnesses and they tried to implicate many innocent persons and that it would be highly unsafe to accept their evidence. We see no substance in his submission. Here is a case where a large number of persons armed with deadly weapons, like guns and other cutting weapons, participated in the occurrence during which four persons were killed and many of the witnesses who were present were also injured. It may be that they are all interested witnesses. But on that ground alone their evidence cannot be rejected. Their evidence is to be subjected to close scrutiny. As a matter of fact, the learned Sessions Judge, as well as the High Court have considered evidence of each of the witnesses with great care and caution. Both the Courts below have acquitted such of those accused against whom the Court felt the prosecution case is not good beyond all reasonable doubt."*

29. It is settled law that mere relationship of the deceased with a witness is not sufficient to discard his testimony unless the latter falls within the expression of an 'interested witness'. An interested witness is a person who has a motive to falsely implicate another person or in other words has an animus for false charge against an accused. Reliance is placed on the case of *'Anar Gul v. The State through Advocate-General, N.W.F.P. and another'* [1999 SCMR 2303].

30. In view of above referred judgments and according to settled norms of justice, I, at my utmost care, caution and by applying judicious mind analyzed the statements of above both the eyewitnesses including others and found the same reliable. Their presence at the time of incident is natural. Thus, in my view the witnesses are independent and are credible. Although, learned counsel for the appellant endeavoured to discredit the case of prosecution on the basis of some minor discrepancies in the statements of prosecution witnesses, but in my opinion, those are not substantive enough to justify or create reasonable doubt in the case of prosecution about the involvement and guilt of the appellant.

31. The reappraisal of entire prosecution evidence establishes that the prosecution has succeeded in proving the charge against the appellant through direct evidence coupled with medical and circumstantial evidence. No major contradiction or dishonest improvement has been pointed out by the learned defence counsel in the statements of prosecution witnesses. The learned trial Court has discussed and dilated upon each and every aspect of the case and has rightly found the appellant as guilty of the offence,

32. In view of the above, it is proved that the accused Khan Afzaal alias Hasnain alias Trotki s/o Muhammad Altaf has committed Qatl-e-Amd of deceased Shahzad Ahmed and also inflicted severe injury on the throat of Asnan/PW-9, therefore, the appellant has rightly

been held guilty and convicted for the commission of the offences under Sections 302 & 337-D P.P.C. Since the appellant was declared as Juvenile vide order, dated 30.06.2016 by the learned trial Court and the said order was not assailed before any higher forum, as such, the learned trial Court has rightly held that the accused cannot be awarded death penalty and, therefore, awarded him sentence u/s 302(b) PPC, imprisonment for life.

33. The learned counsel for the appellant has failed to point out any illegality, irregularity, misreading, non-reading or any infirmity or defect in the impugned judgment passed by the learned trial Court, calling for interference by this Court. The convictions and sentences awarded to the appellant are therefore, upheld.

34. For the foregoing reasons, this appeal being devoid of merits, is hereby **dismissed.**

Ghulam Azam Qambrani
Judge

Announced in Open Court, on this 19th day of March, 2020.

Judge

**Rana.M.Ift*

"Approve for Reporting."

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