JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

JAIL APPEAL NO. 367 OF 2024
MUHAMMAD ZOHAIB AKHTAR SATTI
VS.
THE STATE

Appellant by	**:**	**Dr. Babar Awan and Rai Tajammul Hussain, Advocates.**
Respondents by	**:**	**Raja Rizwan Abbasi and Mr. Yasir Irfan, Advocates for the complainant.** **Rana Hassan Abbas, ADPP.** **Mr. Gulzar, S.I., P.S Ramna, Islamabad.**
Date of hearing	**:**	**04.03.2026**

MUHAMMAD AZAM KHAN, J.

1. Through this judgment, I intend to decide the captioned jail appeal No.367/2024 arising out of the judgment dated 30.09.2024 **("Impugned Judgment")** passed by the learned Additional Sessions Judge, Islamabad-West **("Trial Court")** in case F.I.R No.51/2022 dated 13.01.2022 under Sections 302/324/148/149 Pakistan Penal Code **("PPC")** registered at P.S Ramna, Islamabad **("Subject F.I.R")** whereby the appellant namely Muhammad Zohaib Akhtar Satti was convicted and sentenced to imprisonment for life as Tazir. He was also ordered to pay an amount of Rs.3,00,000/- as compensation under section 544-A Cr.P.C to the legal heirs of the deceased. In case of default in payment of compensation, the convict was ordered to further undergo simple imprisonment for six months. The benefit of section 382-B Cr.P.C was also extended to him.

2. The brief facts of the case, as reflected from the record, are that Moeez (hereinafter referred to as the "complainant") reported to the police that on 12.01.2022 at about 07:37 p.m., he received a call on his mobile phone bearing No. 0309-5179849 from mobile No. 0309-9975555. The caller informed him that his younger brother, namely Maaz, was in their custody and threatened that if he wished to save the life of his brother, he should come to Allah Wali Market, F-8. The caller also used abusive language during the conversation. The complainant intended to proceed to the said place; however, his friends restrained him from

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doing so and instead asked the callers to come to the Multi-Purpose Ground situated in Sector G-11. Consequently, the complainant along with his friends, namely Mikal Tanvir, Wasif Meer, and Hamza Qureshi, reached the said ground. It is further alleged that thereafter Shah Sultan, along with about twenty accomplices, arrived at the Multi-Purpose Ground in three vehicles. They were also accompanied by Haider Saeed, Saad Nasir, and Satti. The accused persons were armed with firearms, knives, and dandas and raised a *lalkara* proclaiming that no one should be spared alive. Upon the said *lalkara*, accused Satti made a straight fire at the complainant; however, fortunately, the complainant remained unhurt. Satti then made another fire, which hit Ayyan Khan in the abdomen, resulting in injuries to him. Thereafter, the accused persons fled from the spot while brandishing their weapons. On the basis of the above allegations, the complainant sought initiation of legal proceedings against the accused persons, whereupon the F.I.R. u/s 324/148/149 PPC was registered against the appellant/convict and others. Later on, the injured Ayyan Khan succumbed to injuries, hence, offence u/s 302 PPC was added, vide zimni No.2 dated 14.01.2022.

3. After necessary investigation, the Appellant/Convict along with another namely Syed Muhammad Haider Saeed, were sent up to the Trial Court to face deeds of his culpability, where on commencement of the trial, the Appellant/Convict entered the plea of denial, thus, the prosecution in order to bring home the charge, produced as many as seventeen (17) witnesses, and after close of the prosecution side, the Appellant/convict refuted the allegations so brought and confronted with the allegations as envisaged under section 342 of Cr.P.C., where after, the Appellant/Convict neither opt to appear into the witness box to depose on oath nor produced defense evidence. On conclusion of the trial, the Appellant/Convict was convicted and sentenced in the terms mentioned in the paragraph supra. Being aggrieved by the Impugned Judgment, the Appellant/Convict has filed the instant Jail Appeal.

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4. Learned counsel for the Appellant/Convict argued that the time of occurrence is not mentioned in the FIR; that there is delay of 5 hours and 40

minutes in registration FIR whereas the police station is located only ½ km away from the alleged place of occurrence; that no satisfactory explanation has been provided by the prosecution for delay in registration of FIR; that according to eye witnesses, police arrived immediately at 08:45 pm as Ayyan (deceased) received fire shot, however, the FIR was registered at 03:25 a.m.; that the investigation/inquiry allegedly conducted prior to the registration of FIR; that there is no mention in hospital documents that who brought the deceased to hospital; that appellant/convict is not nominated in the FIR; that no identification parade of appellant/convict was conducted; that no effort was made to trace the other 16 unknown accused; that no recovery witness was associated from locality which is violation of section 103 Cr.P.C.; that the name of the appellant/convict is not mentioned in FIR, and no supplementary statement of the complainant has been recorded attributing identification to him, the holding of an Identification Parade become indispensable to establish identity of the accused; that the accused was arrested on 18.01.2022, empties were recovered from the place of occurrence on 13.01.2022, however, the empties were sent for forensic on 19.01.2022 which was after the arrest of accused and empties were kept in malkhana till arrest of the accused and then pistol was planted; that the timing of recovery of pistol makes the entire recovery doubtful; that the alleged pistol recovery is planted to falsely implicate the accused; that the ocular account contradicted by medical and documentary evidence; that no motive has specifically been attributed to appellant/convict; that there are glaring contradictions and dishonest improvements in the statements of prosecution witnesses which have been neglected by the learned trial Court; that the prosecution has failed to prove its case against the Appellant and learned trial Court instead of giving benefit of doubt to the Appellant, has wrongly favored the prosecution; that there are material contradictions in the statements of PWs and the whole case of prosecution is full of doubts but learned trial Court while convicting the Appellant has committed patent illegalities which caused grave miscarriage of justice; that the prosecution has miserably failed to bring home guilt of the Appellant, and as such, the conviction order has been passed without application of mind and without taking into consideration the relevant provisions of law, hence, the

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impugned sentence has been passed in utter disregard of the material on record and relevant provisions of law which is against the administration of criminal justice. Lastly, the learned counsel requested that the instant jail appeal may kindly be accepted, the Impugned Judgment may be set aside, and the Appellant/Convict may kindly be acquitted in the instant case.

5. Conversely, learned ADPP assisted by learned counsel for the complainant contended 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 passed keeping in view the evidence available on the record; that there is no illegality or irregularity in the impugned judgment; that the learned trial Court has rightly appreciated the overall circumstances of the case and sentenced the Appellant in accordance with law. Lastly, he prayed for dismissal of the instant jail appeal.

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6. I have heard the learned counsel for the parties at length and have carefully gone through the record of the case with their able assistance.

7. Before adverting to the merits of the arguments raised by the learned counsel for the appellant, it would be appropriate to examine the prosecution evidence produced during the trial and evaluate whether the same inspires confidence and proves the guilt of the appellant beyond a reasonable doubt.

8. The prosecution's case primarily rests upon the ocular account furnished by the complainant and other eye-witnesses who allegedly witnessed the occurrence at the Multi-Purpose Ground, Sector G-11, Islamabad. According to the prosecution's story, after receiving a threatening call regarding the alleged kidnapping of Maaz, the complainant, along with his friends, proceeded to the Multi-Purpose Ground where the accused persons arrived armed with firearms and other weapons. It is alleged that upon the lalkara raised by the accused persons, the appellant, namely Muhammad Zohaib Akhtar Satti, fired a shot at the complainant, which did not hit him, and thereafter made another fire, which struck Ayyan Khan in the abdomen, ultimately resulting in his death.

9. The eye-witnesses supported the prosecution's case to the extent that a fire shot was made by the appellant, which hit the deceased in the abdomen. The ocular version of the prosecution witnesses remained consistent on the material aspects of the occurrence, particularly with regard to the firing attributed to the appellant. The learned trial Court also placed reliance on the testimony of the eye-witnesses and found their statements to be trustworthy insofar as the role of the appellant is concerned.

10. The defense has pointed out certain aspects that require careful examination, including the delay in registration of FIR, non-mentioning of the appellant in the FIR, and certain investigative lapses.

11. It is well established that statements recorded under Section 162 Cr.P.C., including supplementary statements, are primarily for the purpose of investigation and are not substantive evidence. The complainant’s failure to specifically refer to the supplementary statement in his examination-in-chief does not invalidate his testimony. What matters is whether the complainant, based on personal knowledge, can reliably identify the accused and describe the sequence of events. In this case, the complainant clearly identified the appellant as having fired the fatal shot, and his account was corroborated by independent police witnesses, the recovery of the pistol, and other documentary evidence. Therefore, the non-mention of the supplementary statement does not create reasonable doubt in the appellant’s favor.

12. It has been argued by the learned counsel for the appellant that there is a delay of about five hours and forty minutes in the registration of FIR despite the fact that the police station was located very close to the place of occurrence. According to the defense, the incident occurred around 08:45 p.m., whereas the FIR was lodged at 03:25 a.m.

13. Delay in lodging the FIR by itself is not always fatal to the prosecution's case, however, it assumes significance when such delay remains unexplained or creates doubt regarding the authenticity of the prosecution's version. From the record, it appears that immediately after the occurrence, the injured was shifted to

the hospital for medical treatment. In cases of such nature, priority is usually given to saving the life of the injured rather than rushing to the police station for lodging the report. Therefore, the delay in lodging the FIR, though noticeable, does not by itself appear sufficient to discard the entire prosecution case, particularly when the ocular account otherwise finds support from medical evidence.

14. The prosecution examined Dr. Muhammad Farrukh Kamal, who conducted the medico-legal examination and later post-mortem examination of the deceased. The medical evidence reveals that the deceased sustained a firearm injury on the abdomen, which ultimately proved fatal. The doctor opined that the injury was sufficient in the ordinary course of nature to cause death. The medical evidence, therefore, corroborates the ocular account of the prosecution witnesses who stated that the appellant fired a shot which struck the deceased in the abdomen. The consistency between the ocular version and the medical evidence lends support to the prosecution's case.

15. The prosecution also produced several police officials and formal witnesses to establish the chain of investigation. One of the witnesses deposed that photographs of the place of occurrence were taken and later handed over to the Investigating Officer for the purpose of investigation. During cross-examination, however, the witness admitted that he had not mentioned the exact time of receiving information about the occurrence, nor the time of reaching the hospital or conducting other proceedings. Similarly, certain witnesses relating to the custody and transmission of case property admitted during cross-examination that they had not mentioned specific timings of receiving or dispatching the parcels containing crime empties or other exhibits. These omissions clearly demonstrate that the investigation was not conducted with the degree of precision expected in a criminal case of such seriousness. Nevertheless, such lapses in investigation cannot by themselves demolish the prosecution's case if the substantive evidence otherwise inspires confidence.

16. The Investigating Officer claimed that during the investigation, the appellant was arrested and subsequently the crime weapon, i.e., a 30-bore pistol,

was recovered on his pointation. The defense has challenged the credibility of this recovery by arguing that the empties were recovered earlier and sent for forensic examination only after the arrest of the appellant, thereby creating a possibility that the weapon was planted subsequently. The trial Court itself noted that the recovery of the pistol was of little consequence and could not independently establish the guilt of the accused. Therefore, even if the recovery of the weapon is excluded from consideration, the case of the prosecution still depends upon the ocular account supported by medical evidence.

17. Another argument raised by the learned counsel for the appellant is that the appellant was not nominated in the FIR, and no test identification parade was conducted. Ordinarily, where the accused is not nominated in the FIR, and his identity is in dispute, holding a test identification parade becomes necessary to establish the identity of the accused. However, if the witnesses already know the accused or identify him during the course of the investigation and trial without any ambiguity, the absence of an identification parade may not be fatal. In the present case, the prosecution witnesses attributed a specific role to the appellant and identified him during trial proceedings.

18. The prosecution has not been able to establish any specific motive for the commission of the offence. Even the learned trial Court observed that the motive was not proved. Absence of motive, however, is not always fatal where the ocular account is otherwise trustworthy and confidence-inspiring.

19. After carefully examining the entire evidence on record, it appears that the prosecution witnesses consistently attributed a specific role of firing to the appellant, which resulted in the fatal injury to the deceased. The medical evidence fully supports the ocular account regarding the nature and seat of injury. Although certain investigative deficiencies and procedural irregularities have been pointed out by the defense, the same do not appear sufficient to discard the otherwise reliable testimony of the eyewitnesses. It is also pertinent to note that the learned trial Court, after evaluating the evidence, found the participation of co-accused Syed Muhammad Haider Saeed to be doubtful and consequently acquitted him by

extending the benefit of doubt. This approach demonstrates that the trial Court did not blindly accept the prosecution's case but rather assessed the role of each accused independently.

20. In view of the above discussion, the prosecution evidence, particularly the ocular account corroborated by medical evidence, sufficiently establishes that the appellant fired the shot which resulted in the death of Ayyan Khan. The learned trial Court has properly appreciated the evidence and rightly convicted the appellant under section 302(b) PPC while awarding the sentence of imprisonment for life along with compensation. Resultantly, the instant jail appeal is ***dismissed***. The judgment dated 30.09.2024, passed by the learned Additional Sessions Judge, Islamabad-West, convicting the appellant, is upheld in all respects. The appellant/convict shall continue to serve the sentence awarded by the trial court. Benefit of section 382-B Cr.P.C shall remain extended to the appellant/convict.

(MUHAMMAD AZAM KHAN)
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Announced in the open Court on this _____ day of March, 2026.

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