SUPREME COURT OF AZAD JAMMU AND KASHMIR
(Shariat Appellate Jurisdiction)

PRESENT:
Raja Saeed Akram Khan, J.
Ghulam Mustafa Mughal, J.

Criminal Appeal No.17 of 2018
(Filed on 28.06.2018)

Iftikhar Khan alias Khari son of Sardar Khan, caste Mangral, r/o Sainla, Tehsil Sehnsa, District Kotli.

…. CONVICT-APPELLANT

VERSUS

1. The State
2. Raja Muhammad Asif son of Gulzar Khan (complainant),
3. Mst. Hameeda widow of Muhammad Sharif,
4. Mst. Saima Sharif d/o Muhammad Sharif, caste Mangral, r/o Sainla, Tehsil Sehnsa, District Kotli.

…. RESPONDENTS

(On appeal from the judgment of the Shariat Appellate Bench of the High Court dated 01.06.2018 in criminal appeals No.17 and 19 and reference No.18 of 2017)

FOR THE CONVICT:	Raja Fiaz Haider Nawabi and Hafiz Arshad Mehmood, Advocates.
FOR THE COMPLAINANT:	Mr. Abdul Majeed Mallick, Advocate.
FOR THE STATE:	Raja Saadat Ali Kiani, Addlitional Advocate-General.

Criminal Appeal No.23 of 2018
(Filed on 17.07.2018)

1. Hamida Sharif, widow,
2. Sajjad Sharif, son,
3. Saima Sharif, daughter of Muhammad Sharif, caste Rajput, r/o village Sainla, Tehsil Sehnsa, District Kotli.

….COMPLAINANT-APPELLANTS

VERSUS

1. Tariq Mehmood son of Sardar Khan,
2. Liaqat son of Ismail, caste Mangral Rajput,

3. Naseer alias Sairo s/o Barkat, caste Karoal, r/o Sainla, Tehsil Sehnsa, District Kotli.
4. Iftikhar alias Khari son of Safdar Khan, caste Mangral Rajput, r/o village Sainla, Tehsil Sehnsa, District Kotli.
5. The State

….RESPONDENTS

(On appeal from the judgment of the Shariat Appellate Bench of the High Court dated 01.06.2018 in criminal appeals No.17 and 19 and reference No.18 of 2017)

FOR THE APPELLANTS: Mr. Abdul Majeed Mallick, Advocate.

FOR THE RESPONDENTS: Raja Fiaz Haider Nawabi and Hafiz Arshad Mehmood, Advocates.

FOR THE STATE: Raja Saadat Ali Kiani, Addlitional Advocate-General.

Date of hearing: 18.02.2020

JUDGMENT:

***Raja Saeed Akram Khan, J*.—** Through the appeals (supra), the common judgment of

the Shariat Appellate Bench of the High Court (High Court) dated 01.06.2018, has been called in question, whereby the appeals filed by both the contesting parties have been dismissed and the reference sent by the trial Court for confirmation of the death sentence awarded to the convict has been answered in affirmative. As the titled appeals are outcome of one and the same judgment and matter, hence, these are being disposed of through this single judgment.

2. The facts necessary for disposal of these appeals are that a case in the offences under sections 109, 324, 337H(2) and 341, APC read with section 13 of the Arms Act, 1965, was registered against the convict-appellant and the co-accused on the complaint of Raja Muhammad Asif at police station Sehnsa on 27.05.2001. It was reported by the complainant that his cousin, Raja Sharif Khan,

had come from England 3/4 days prior to the occurrence. Today, he along with his daughter, Saima Sharif and niece, Saiqa Zaffar went to visit his native home. After visiting home, at about 12:00 am, they were in the way to home and the complainant also proceeded to join them but in the meantime the accused, Iftikhar alias Khari, armed with a rifle/Kalashnikov stopped them and while pointing out rifle at his cousin said that today he will be done to death. Thereafter, the accused fired a burst with the gun, one bullet hit him at right arm and two hit him at right side of rib cage and he fell on the ground. The accused, Tariq Mehmood armed with 12-bore gun, the accused, Naseer Khan and Liaqat Khan armed with 30 bore pistols, who were hiding themselves in the nearby bushes, also started aerial firing. The occurrence was witnessed by the complainant, Saima Sharif

and Saiqa Zaffar and on hue and cry his brother, Ajaib Khan and other people of the locality also reached the place of occurrence and identified the accused. It was further reported that prior to the occurrence, the accused have also been extended the threats to the complainant party. The accused committed the occurrence with the connivance and abetment of Muhammad Ilyas, Ghazi Allah Ditta, Muhammad Abbas Khan and Muhammad Nisar Khan. The motive behind the occurrence was stated to be a family dispute. During the course of investigation, the injured succumbed to the injuries, whereupon, the offence under section 302, APC was added while omitting section 324, APC. The police apprehended the accused and on the completion of the investigation while exonerating the other accused of the charge under the provisions of section 169, Cr.P.C., presented the *challan* in

the Court of Additional District Court of Criminal Jurisdiction Sehnsa against the convict-appellant and the accused, Tariq Mehmood, Naseer and Liaqat. The trial Court on the conclusion of the trial while convicting the appellant, Iftikhar Khan, awarded him death sentence as *tazir* in the offence under section 302 (b), one month simple imprisonment was awarded to him under section 341, APC and in the offence under section 13 of the Arms Act, 1965, he was awarded three years' rigorous imprisonment, whereas, the other accused were acquitted of the charge. Feeling dissatisfied from the judgment of the trial Court both the parties filed separate appeals before the High Court and the trial Court also sent a reference to the High Court for confirmation of death sentence. The learned High Court vide impugned judgment dated 01.06.2018, dismissed both

the appeals and answered the reference in affirmative which is the subject matter of instant appeals.

3. Raja Fiaz Haider Nawabi, Hafiz Arshad Mehmood, Advocates, the learned counsel for the convict argued that the impugned judgment is against law and the facts of the case which is not sustainable in the eye of law. They contended that the case against the convict is full of doubt and under law a single doubt is sufficient to acquit the accused of the charge but the Courts below failed to adhere to the relevant law on the subject. They contended that there is a delay of almost 1½ hours toward lodging the FIR which has not been explained satisfactorily, but the Courts below failed to consider this aspect of the case. They maintained that initially the complainant enroped a number of accused in the case and during investigation the police

discharged many of them from the case under the provisions of section 169, Cr.P.C., which clearly shows that a false story was invented by the prosecution. They contended that no independent person of the locality has been cited as a witness and only the related witnesses have been produced which also makes the case doubtful. Moreover, the prosecution has also withheld some witnesses; therefore, inference can be drawn that they have been abandoned only for the reason that they were not supportive to the prosecution. They added that Ch.Sabir, DSP, a witness, was abandoned by the prosecution and he was later on, produced before the Court by the defence and while recording his statement he negated the prosecution's version. The Doctor in his statement categorically stated that he did not recover or handover any bullet to the police, whereas, a fake recovery of bullet has

been made by the police while showing that the same was recovered from the body of the deceased during surgery and the doctor handed over the same to the police. The learned counsel contended that in the postmortem report, the cause of death of the deceased has been shown as 'massive bleeding'; the convict remained alive 14 days after the occurrence and during this period the deceased undergo to two different surgeries; therefore, it cannot be said that the deceased succumbed to the injuries allegedly inflicted by the convict as the excessive bleeding during the course of surgery cannot be ruled out. They further stressed that the deceased died in the result of improper treatment and negligence of the doctor as the doctor who provided the first aid to the deceased had got some personal grudge with him. They added that the recovery of alleged weapon of offence

is also doubtful as according to the recovery memo, Exh.PG, when the rifle was recovered, the words 'Made in China' were mentioned on its body, but when the same was put to the recovery witnesses during the course of trial they after examining the same stated that nothing has been mentioned on it. They submitted that it is a blind murder and the witnesses have been planted just to strengthen the case. While referring to the statement of one of the eyewitnesses namely, Asif, they contended that from the statement of this witness it becomes clear that he reached the spot after the happening of occurrence but in the prosecution story he has been shown as an eyewitness. The statement of the deceased is also fake and forged signature has been affixed on the same, in support of this contention they placed on record a photocopy of the *nikah nama* of the

son of the deceased and submitted that the signature of the deceased on the *nikah nama* and the signature made on the dying declaration are quite different. They forcefully contended that the convict remained in jail since 2001, meaning thereby that he has already served out the sentence of life imprisonment and under law two punishments cannot be awarded; thus, the principle of expectancy for life is fully attracted in the case. The learned counsel referred to and relied upon the case law reported as *Ansar Mehmood and another v. Manazir Hussain and another* [2014 SCR 770], *Saadulla Jan v. State and another* [2002 P.Cr.L.J 1463], *Muhammad Ashraf Khan Tareen v. The State* [1995 P.Cr.L.J 313] and *Muhammad Shafi v. The State* [1987 P.Cr.L.J 1163].

4. On the other hand, Mr. Abdul Majeed Mallick, Advocate, the learned counsel for the

complainant-appellants strongly controverted the arguments advanced by the learned counsel for the convict-appellant. He submitted that it is a daylight occurrence, FIR has been lodged promptly and a specific role has been attributed to the convict. He added that it is a case of direct evidence and the prosecution produced all the 3 eyewitnesses before the Court who made the statements in line with each other and there is no material contradiction among their statements. Admittedly, in the instant case, the witnesses had got no enmity towards the convict to falsely implicate him in the commission of offence. He submitted that the recovery of crime weapon on the pointation of the convict further corroborates the prosecution story. The seats of injuries are the same as narrated in the prosecution story. The motive in the instant case is admitted and the defence

witnesses also supported the prosecution story. He maintained that in presence of direct evidence and the dying declaration, the minor discrepancies in the corroborative evidence have no value in the eye of law and the same can be ignored. He added that when a case is proved beyond any shadow of doubt then under law major punishment should be awarded. He submitted that although, the appeal of the convict remained pending for a longtime before the High Court but there was no fault on the part of the prosecution. He lastly submitted that in the instant case none of the mitigating factors is available and mere on the ground that the convict remained in jail since 2001, the death sentence cannot be altered into the sentence of life imprisonment. He referred to and relied upon the case law reported as *Abrar Hussain Shah v. The State* [1992 SCR 294], *Shabbir Ahmad v. The State*

and another [1997 SCR 206], *Muhammad Khurshid Khan v. Muhammad Basharat and another* [2007 SCR 1], *Muhammad Tahir Aziz v. The State an another* [2009 SCR 71], *Muhammad Zaman v. The State and others* [2014 SCMR 749] and *Jawed Malik v. The State* [2005 SCMR 49].

5. Raja Saadat Ali Kiani, the learned Additional Advocate-General while appearing on behalf of the State adopted the arguments advanced by the learned counsel for the complainant-appellant.

6. We have heard the arguments and gone through the record along with the impugned judgment and also considered the case law referred to by the learned counsel for the parties. As per prosecution story, the convict and the deceased are relatives to each other and due to a family dispute the convict

inflicted him the firearm injuries which resulted into his death. The perusal of the record shows that in the instant case the prosecution has proved the motive by producing the evidence and even during the course of arguments, the learned counsel for the convict admitted that 3 to 4 years prior to the occurrence the son of the deceased had divorced the sister of the convict, meaning thereby that the motive is admitted in the case. It is a broad daylight occurrence and the convict is the only person against whom the allegation of inflicting firearm injuries to the deceased has been leveled. The learned counsel for the convict submitted that there is an unexplained delay of 1½ hours towards lodging the FIR. We do not agree with this version as in the case in hand, the deceased was not died at the spot rather he was died later on in the hospital and in such a situation when he was seriously

injured the first priority for the family members of the deceased was to secure his life. It is clear from the record that at first they shifted him to the hospital and thereafter they approached the police for registration of the case; thus, in such state of affairs, the consumption of such time in lodging the FIR appears to be natural.

7. The learned counsel for the convict are of the view that it is a blind murder and the convict has been implicated in the case falsely and the witnesses have been planted just to strengthen the case. The perusal of the record shows that the names of the eyewitnesses are duly mentioned in the FIR and nothing is available on record to show that the witnesses had any enmity towards the convict to falsely implicate him in the commission of offence. Even otherwise, it does not appeal to a prudent mind that the

deceased as well as his heirs by letting off the real culprit implicated an innocent person in the case. In the FIR, it has categorically been mentioned that on the fateful day the deceased along with his daughter and niece on returning to home when reached near to the house, the convict was standing in the way who at first raised a *lalkara* and thereafter fired the shots which hit the chest and right arm of the deceased. The relevant portion of the FIR reads as under:-

> "۔۔۔۔مورخہ 27.05.2001 کوراجہ شریف مع اپنی بیٹی صائمہ شریف اپنی بھتیجی مسماۃ صائقہ ظفر کے اپنے پرانے مکان کو دیکھنے کے لئے گئے ہوئے تھے۔ مکان کو دیکھنے کے بعد بوقت 12 بجے دن نزد اپنے رہائشی مکان پہنچے سائل چچازاد بھائی شریف خان کو آتے دیکھ کر اُن کی طرف جانے لگاتو ملزم افتخار عرف خاری جسکے ہاتھ میں کلاشنکوف نمارائفل تھی نے راستہ روکارائفل کلاشنکوف راجہ شریف کی طرف سیدھی تان کر کہا کہ آج تمھاری زندگی کا فیصلہ کرنا ہے پھر ملزم نے بانیت قتل راجہ محمد شریف پر کلاشنکوف سے برسٹ مارا ایک گولی دائیں بازو پر لگی جبکہ دو گولیاں دائیں جانب وکھی پر لگیں راجہ محمد شریف زخمی ہو کر گر پڑا۔۔۔۔"

All the three eyewitnesses, i.e., Muhammad Asif, Saima Sharif and Saiqa Zafar, in their statements fully supported the contents of FIR and the defence despite making a lengthy cross-examination failed to shake their confidence. The statement of the deceased recorded before the police is also part of the record in which he himself stated the same facts as are narrated in the FIR. Even during the course of arguments, the learned counsel for the convict also failed to point out any contradiction in the ocular account they only submitted that the eyewitnesses are related witnesses and they have been planted just to strengthen the case; thus, it can simply be stated that no weight can be given to such a rootless plea. Moreover, it is also settled principle of law that the related witnesses cannot be disbelieved as interested witnesses unless and until it is proved that they had a

motive to falsely implicate the accused; hence, when nothing is available on record to believe that the witnesses were so inimical that they falsely implicated an innocent person then mere on the ground of relationship their testimony cannot be discarded. In a large number of pronouncements this Court time and again has discussed this celebrated principle of law, for instance reference may be made to a recent unreported judgment delivered in the case *titled Waqas Abid & others v. Sajid Hussain* (criminal appeal No.25 of 2019, decided on 20.02.2020), wherein it has been held that:-

> "8. The learned counsel for the convict forcefully submitted that the eyewitnesses are related witnesses and no independent person has been cited as witness, therefore, on the strength of the statements of the related witnesses

> the conviction cannot be recorded. This argument is also not convincing in nature as nothing is available on record to show that the witnesses ever had any enmity towards the convict to falsely implicate him in the commission of offence and it is settled principle of law that mere on the ground of relationship the testimony of the witnesses cannot be discarded when no ill-will or animosity of the witnesses against the accused comes on the record.”

The learned counsel for the convict are of the view that the prosecution withheld a number of witnesses due to the reason that they were not supportive to the prosecution’s version. It may be stated that this Court has held in a number of cases that it is a sole prerogative of the prosecution to examine the witnesses of its own choice and the prosecution cannot be compelled to produce each and every witness cited in the calendar of the witnesses. In the

instant case the prosecution produced all the material witnesses cited in the *challan* and out the abandoned witnesses, two were produced before the Court by the defence, but they did not utter a single word which may be helpful to the case of the convict. One of the said witnesses, Sabir Hussain, DSP (Retd.) stated in his statement that the witnesses examined by him, during investigation, had adopted the version that the convict was the only person who inflicted firearm injury to the deceased. The relevant portion of his statement reads as under:-

"جن گواہان کو مظہر نے سماعت کیا تھا اُن گواہان نے کہا تھا کہ ایک ہی ملزم افتخار نے گولی ماری تھی۔"

As in the instant case all the eyewitnesses coupled with some other material witnesses have been produced before the Court and they fully supported the prosecution story; furthermore, the defence witness also agreed

to the prosecution's version, therefore, keeping in view the peculiar facts and circumstances of the case no relief can be granted to the convict on such ground that the prosecution withheld the available evidence. In the case in hand, the statement of the deceased is also available on record which is in line with the ocular account and the Courts always consider such dying declaration as an importance piece of evidence. The learned counsel for the convict during the course of arguments submitted that the signature affixed on the dying declaration are forged and in support of this version placed reliance on a copy of *nikah nama* of the son of the deceased and submitted that there is a lot of difference between the signatures affixed on both the documents; however, when they were asked; whether such plea had ever been taken before the trial Court or any application was moved

for getting the opinion of the expert, they admitted that neither such objection was raised before the trial Court nor any effort for getting the opinion of the expert was ever made. Thus, in such state of affairs we do not intend to accept such plea at this stage; even otherwise, it is not necessary that a person always bears one and the same signature.

8. One of the arguments of the learned counsel for the convict is that according to the postmortem report the cause of death of the deceased has been shown as massive bleeding and prior to the death he was undergone the surgery twice, therefore, possibility cannot be ruled out that he died due to massive bleeding during the course of surgery. Another ground taken by the learned counsel for the convict is that the doctor who provided the first medical aid to the deceased had some grudge towards him and due to the carelessness of the doctor

the deceased was died. It may be observed here that the convict inflicted injuries to the deceased with firearm weapon at his vital parts and he is the only person who put the deceased in such a condition due to which the surgeries were conducted and all this happened to the deceased after the occurrence and in the result of the act done by the convict, thus, the convict cannot held responsible to any other person for the death of the deceased on such flimsy ground.

9. The recovery of the crime weapon on the pointation of the convict, recovery of empties, the report of Forensic Science Laboratory coupled with the seats of injuries shown in the postmortem report, fully corroborate the prosecution story. The learned counsel for the convict only pointed out that according to the prosecution story during the course of surgery, a bullet was recovered from

the body of the deceased, whereas, the doctor stated in his statement that during surgery he did not find any bullet in the body of the deceased; moreover, in the recovery memo Exh.PG, it has been mentioned that on the crime weapon allegedly recovered on the pointation of the convict the words 'Made in China' were printed but on the body of the weapon put to the recovery witnesses during the course of trial no such words were found mentioned. It may be observed here that in the case in hand, the recovery witnesses during the course of trial have testified that the gun put to them in the Court was the gun which was recovered in their presence on the pointation of the convict and any discrepancy in respect of the recovery of bullet from the body of the deceased is also not of worth consideration as if a case is proved through direct reliable evidence the minor

discrepancies in the corroborative pieces of evidence become immaterial which can be ignored. Reference may be made to a case reported as *Said Akbar and another v. Sardar Ghulam Hussain Khan through legal heirs and another* [2017 P.Cr.L.J 731], wherein this Court while dealing with the proposition has held as under:-

> "10. While appreciating the recovery part, it may be stated that we are in agreement with the argument of the learned counsel for the convict-appellants that recovery of pistol appears to be doubtful as the same has been made five days after the arrest of the accused. No explanation has been offered regarding the non-recovery of empties/cartridges, moreover, the report of Forensic Science Laboratory is also not available on the record. In such situation, much reliance cannot be placed on the recovery. As we have observed in

the earlier paragraph that ocular account furnished by the prosecution is reliable and no material contradictions came on the record, thus, in this scenario, the recovery which is one of the corroborative pieces of evidence, has become immaterial, as laid down by this Court in a case titled *Muhammad Shabir v. Ch.Muhammad Rashid & others* (criminal appeal No.14 of 2013 decided on 20.02.2014) that:-

> '13. The argument of the learned counsel regarding recovery of weapon of offence is also immaterial as the recovery evidence also is of corroborative nature, therefore, much importance cannot be given to the recovery in presence of the other overwhelming evidence.' "

10. Another point forcefully agitated by the learned counsel for the convict was that the convict is in the jail since 2001, therefore,

at this stage the death sentence cannot be maintained as under law only one punishment can be awarded, whereas, in the instant case the convict has already served out a legal sentence of life imprisonment. The perusal of the record shows that the trial Court awarded the death sentence to the convict vide its judgment dated 29.12.2006, and he challenged the said judgment before the High Court by filing appeal on 10.01.2007 and the learned High Court decided the appeal on 01.06.2018, after a period of more than 11 years, which is very unfortunate. For early disposal of the cases directions have already been issued to all the Courts below in the different cases and it is in our notice that the said directions are being complied with. In the instant case, the perusal of the interim orders shows that mostly the adjournments have been given by the High Court due to the non-

availability of the counsel for the convict or on the request of the counsel for the convict. Thus, in such a situation mere on the ground of delay in the disposal of appeal by the High Court the sentence cannot be reduce when this Court after examination of the record has reached the conclusion that no mitigating factors are available in the case and the convict is the only person who murdered an innocent person in a brutal manner in presence of his daughter. In the case reported as *Maqbool Ahmad and others v. The State* [1987 SCMR 1059], on the similar ground, as raised before this Court, same relief was sought; the trial Court had awarded the death sentences to the convicts and the High Court maintained the same and during the pendency of appeal up to the Supreme Court the convicts had served out the sentence equal to life imprisonment and the plea of expectancy

of life was raised before the Court and prayer was made for modification of the sentence of death into life imprisonment but the same was refused while observing that modification of death sentence into life imprisonment mere on the sole ground of delay in the disposal of appeals would amount to release almost all the murderers and letting them loose on the public, endangering human life and destroying whatever is left of peaceful existence of the ordinary citizen. The relevant paragraphs of the referred pronouncement are reproduced here which read as under:-

> "The cases under decision are, however, not the cases where the accused-appellants had been once acquitted by any court. In the present cases the convicts have come up in appeal against their conviction and sentences of death, on the only ground that they had acquired expectancy of life because

of the delay in the disposal of their appeals before the High Court and the Supreme Court. This as observed by this Court in some of the cases referred to above, cannot now be considered as a mitigating circumstance in view of the situation prevailing today, enormous backlog of appeals in the High Courts, make delay in their disposal almost inevitable. As such, to reduce the sentences of persons convicted under section 302, P.P.C. from death to imprisonment for life merely on the ground of delay in the disposal of appeal would result in releasing almost all the murderers and letting them loose on the public, endangering human life and destroying whatever is left of peaceful existence of the ordinary citizen.

9. The net result of the discussion is that the plea raised on behalf of the appellants is rejected and all the four appeals are dismissed."

Similarly in another case reported as *Raheem Bakhsh v. Abdul Subhan and another* [1999 SCMR 1190], the plea of expectancy of life was raised but the apex Court of Pakistan held that the principle of expectancy of life per se is not a valid ground now for awarding lesser punishment in the cases involving capital punishment.

In the case reported as *Muhammad Mumtaz Hussain and another v. Muhammad Arshad and 2 others* [2001 SCR 231], this Court while relying on a number of reports has held that the protracted trial and expectancy of life are not valid grounds for not awarding the accused normal penalty of death in a case of murder. The relevant portion of the judgment (supra) is reproduced here which reads as under:-

> "It may be observed that there is a ring of authorities in support of the

> view that the protracted trial and 'the expectancy of life' are not valid grounds for not awarding the accused normal penalty of death in a case of murder."

Although, in some cases while applying the principle of expectancy of life, the sentence of death has been converted into life imprisonment, but each case has its own peculiar facts and circumstances; for instance in the case reported as *Dilawar Hussain v. The State* [2013 SCMR 1582], the apex Court of Pakistan in a review petition altered the death sentence into life imprisonment while applying the principle of expectancy of life but coupled with the same also considered some factors, i.e. the accused did not repeat fire, chose lower part of body and the accused and the deceased being closely related to each other incident having taken place on some abrupt altercation between them etc.; whereas, the

situation in the present case is dissimilar, the convict committed the offence of murder with preplanning, hit the chest of the deceased and case against him is fully proved through direct as well as corroborative evidence.

Same like, this Court in a case reported as *Muhammad Khurshid Khan v. Muhammad Basharat and another* [2007 SCR 1], awarded the life imprisonment to the accused while applying the principle of expectancy of life, but in that case the accused had been acquitted of the charge and this Court held that the accused was acquitted by the Shariat Court and is at liberty, therefore, he developed expectancy of life; whereas, the situation in the present case is quite different. In the instant case the act of *Qatl-e-Amd* has been proved against the convict beyond any shadow of doubt and superior Courts time and again have held that when a case of *Qatl-e-Amd* is

proved against the accused then normal sentence of death should be awarded. In this regard the learned counsel for the complainant-appellants has rightly relied upon the case law reported as *Jawed Malik v. The State* [2005 SCMR 49], wherein, it has been held that:-

> "9. The judgment of the learned Judge, who modified the death sentence to life imprisonment, is neither based on sound and cogent reasons, nor any mitigating circumstance was available warranting a lesser punishment in the case of heinous crime of brutal murder of the deceased. In our considered view, the prosecution evidence is confidence inspiring, A cold-blooded murder was committed by the appellant, which was fully supported by the ocular and circumstantial evidence as well as the medical evidence. This Court time and again has held that when

> a case for Qatl-e-Amd is proved against accused, normal sentence of death should be awarded, and this is the case in which the learned High Court has rightly awarded the death sentence under the law, which does not warrant interference. We do not find any mitigating circumstance for modifying the sentence from death to imprisonment for life.”

11. To the extent of cross-appeal filed by the complainant, against the acquittal order of the co-accused, during the course of arguments, neither the learned counsel for the complainant nor the learned Advocate-General raised any point. Even otherwise, the examination of the record shows that such a strong material against the co-accused is not available on record on the strength of which they may be convicted; thus, the trial Court rightly acquitted them of the charge and the

learned High Court has not committed any illegality while upholding the order passed by the trial Court.

In view of the above, the instant appeals are sans merit and are liable to be dismissed. Order accordingly.

Mirpur, **JUDGE** **JUDGE**
26.02.2020