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

PRESENT:

RAZA ALI KHAN, J.
KHALID YOUSAF CHAUDHARY, J.

CRIMINAL APPEAL NO. 34 OF 2022
(On appeal from the judgment of the Shariat Appellate Bench of the High Court dated November 24, 2022, passed in Criminal Appeals No. 45,47 & Reference No. 46 of 2017)

Ejaz Ahmed s/o Muhammad Younas, caste Gujjar, r/o Khaksar Street Mian Muhammad Town Mirpur.

…Convict-Appellant

VERSUS

The State through Manzoor Hussain s/o Imam Din & 2 others.

…Respondents

Appearances:

For the Convict-Appellant:	Mr. Reaz Ahmed Alam, Advocate.
For the Respondents:	Raja Inamullah Khan, Advocate, Sheikh Masood Iqbal, Advocate General and Mr. Ahmed Saad Khan, Asst. Advocate General.
Date of hearing:	28.01.2026

JUDGMENT:

***Raza Ali Khan, J*:-** This criminal appeal has been preferred against the judgment rendered by the Shariat Appellate Bench of the High Court (hereinafter to referred as "High Court"), in appeals No. 45 and 47 of 2017 and Reference No. 46 of 2017.

2. The facts giving rise to the captioned appeal, stated concisely, are that on April 12, 2010, Manzoor Hussain, the complainant, a resident of Mian Muhammad Town, lodged a written report (*Exh. PA*) at Police Station City Mirpur. He alleged that at about 4:15 p.m. on the same date, he received a telephonic call from Hassan Waqas son of Maqbool Hussain, proprietor of a general store, informing him that his son, Zaheer Abbas, by profession a motor mechanic, was present in the said shop and had been injured by gunshot in the hands of the accused, Ejaz. Upon receiving this information, the complainant immediately rushed to the place of occurrence and found his son lying in a pool of blood inside the shop. It was further alleged that, at the relevant time, Hassan Waqas, Arzoo, (sister of Hasan Waqas), and Sharafat Ali, the real brother of the complainant, were also present at the spot and witnessed the occurrence. After committing the act, the accused allegedly fled the scene, while injured Zaheer Abbas was shifted to the hospital where he succumbed to the injuries. The motive attributed to the crime was a minor altercation between the deceased and the accused approximately two months prior to the incident, which had reportedly been resolved through the intervention of local notables.

3. On the basis of the aforesaid report, FIR No. 120/2010 (Exh. PV) was registered on April 12, 2010 at Police Station City Mirpur for an offence punishable under section 302 of Azad Penal Code (APC). During the course of investigation, section 13 of the Arms Act, 1965 was added on the allegation that the accused had failed to produce a valid licence for the 30-bore pistol, alleged to be used in the commission of offence. Upon completion of investigation, a report under section 173, Cr.PC was presented in the Court of competent jurisdiction on June 14, 2010, sending the accused to stand trial for offences under section 302 APC and section 13 of the Arms Act, 1965. The accused pleaded not guilty in his statement recorded under section 265-D of the Cr.P.C., whereupon the prosecution was directed to lead evidence in support of the charge. After the closure of the prosecution evidence, the accused again denied the allegations in his statement recorded under section 342, Cr.P.C.; however, he neither opted to make a statement on oath under section 340(2) Cr.P.C. nor produced any evidence in defence. Upon the conclusion of the trial, the learned trial Court convicted the accused and sentenced him to death as *Tazir* under section 302(b), APC, and three years' rigorous imprisonment under section 13 of the Arms Act, 1965, the learned trial Court further directed for payment of compensation in the sum of Rs. 500,000 to the legal heirs of the deceased under section 544-A Cr.P.C. Aggrieved by aforesaid conviction and sentence, both, the convict and the complainant, filed separate appeals before the learned High Court, and the learned trial Court also sent a reference for confirmation of the death sentence. Vide the impugned judgment dated November 11, 2022, the learned High Court dismissed the appeal preferred by the convict-appellant, while

allowing the appeal filed by the complainant, thereby converting the sentence of death from *Tazir* to *Qisas* for the murder of Zaheer Abbas. The remaining sentences awarded by the learned trial Court, including the sentence under section 13 of the Arms Act, 1965, and the direction for payment of compensation in the sum of Rs. 500,000 to the legal heirs of the deceased, were maintained. The reference submitted by the learned trial Court was also answered in the affirmative.

4. The learned counsel for the convcit-appellant, Mr. Reaz Ahmed Alam, assailed the impugned judgments rendered by the learned trial Court and affirmed by the learned High Court on the ground of patent misreading and non-reading of the evidence. He contended that the prosecution case is riddled with material contradictions, inherent improbabilities, and grave evidentiary deficiencies which cumulatively generate serous and irreconcilable doubt, mandatorily attracting the benefit of doubt in favour of the convict under settled criminal jurisprudence. It was argued that the FIR and the earliest version merely alleged that the deceased had been fired upon, without specifying either the number of shots or precise manner of firing. In contrast, the subsequent statements of alleged eyewitnesses, namely Sharafat Ali, Hassan Waqas, and Arzoo, are mutually inconsistent regarding the manner, sequence, and locus of the occurrence, rendering their testimonies unreliable. The learned counsel further argued that the site plan unequivocally depicts all the said witnesses as standing outside the shop on the street, making it highly improbable that they could have witnessed the actual firing by convict within the premises, particularly when none of them disclosed the number of shots allegedly fired. It was further contended that there exists a fundamental discord between the

ocular and medical evidence, while the injury sheet and the condition of the clothing allegedly indicate multiple wounds suggestive of repeated firing, the post-mortem report records only three entry and three exit wounds, thereby introducing material uncertainty regarding the actual number of shots fired and undermining the prosecution narrative. Learned counsel emphasized that although five empties and two live bullets were allegedly recovered from the place of occurrence on April 12, 2010, and a pistol was recovered from the accused on April 13, 2010, none of these articles was subjected to ballistic examination. This omission, it was argued, completely ruptures the forensic chain and depriving the recoveries of any probative value. It was submitted that the prosecution failed to examine or even cite in the challan the alleged independent witnesses referred to in the FIR as well as in the statements of the complainant and Sharafat Ali pw. The testimonies of Hassan Waqas and Arzoo pws, it was contended, do not credibly establish their presence at the scene of occurrence thereby, further intensifying the doubt. Learned counsel criticized the reasoning adopted by the learned High Court that some bullets may have fallen into bags of edibles inside the shop, terming such reasoning speculative, conjectural and unsupported by any investigative or evidentiary foundation, particularly when the deceased was allegedly seated in a chair and any exiting projectile would ordinarily land in close proximity. Attention was also drawn to the unexplained arrests of the brothers of Hassan Waqas, the contradictory assertions regarding the presence of Arzoo, and the pervasive inconsistencies between ocular, medical, and recovery evidence all of which, according to learned counsel, collectively demolish the credibility of the prosecution case and strongly suggest post-occurrence

fabrication of eyewitnesses. He concluded that the prosecution failed to establish its case beyond reasonable doubt, as multiple serious doubts unmistakably emerge from the record concerning the place of occurrence, the manner of firing, the identity and presence of witnesses, and the alleged recoveries. Despite of this, the Courts below erroneously extended the benefit of such doubts to the prosecution rather than the convict, in stark contravention of the settled principle that even a single reasonable doubt must operate to the benefit of the convict. Lastly, the learned counsel contended that although proof of motive is not an indispensable requirement, once a motive is alleged, the burden squarely rests upon the prosecution to establish the same. In the present case, the alleged motive remained wholly unproved, thereby, entitling the convict to acquittal on this additional ground as well. In support of his submissions, reliance was placed upon the judgments reported as PLJ 2012 SC 234, 2022 SCR 705, 2022 SCR 1653, 2016 SCR 1176, 2016 SCR 1150, 2016 SCR 373, 2014 SCR 1441, 2014 SCR 1564, 2000 PCr.LJ 175, 2025 SCR 496, 2025 SCR 204, 2025 SCR 193, and 2025 SCR 167.

5. Conversely, the learned counsel for complainant-respondents Raja Inamullah Khan, submitted that the appeal is wholly devoid of merit and is liable to dismissal, as the impugned judgment rendered by the learned High Court is founded upon a correct, lawful, and judicious appreciation of the entire evidence available on record, resulting in concurrent findings of fact which do not call for any interference by this Court. He argued that the convict was specifically and unequivocally nominated in a promptly lodged FIR by the father of the deceased, a natural, aggrieved, and competent complainant who had no

conceivable motive to falsely implicate the convict, thereby lending intrinsic credibility to the prosecution version. Learned counsel further contended that the convict-appellant repeatedly fired shots directly at the deceased with a clear, deliberate, and premeditated intention to commit murder, a fact duly established by the prosecution through trustworthy, natural, and independent eye-witnesses, whose testimonies inspired confidence and stood fully corroborated by the medical evidence. It was argued that the place of occurrence, the presence of the convict-accused as well as the eye-witnesses at the spot, and the manner of occurrence were conclusively established and, in material respects, even admitted by the defence, thus constituting a case of direct evidence supported by strong corroborative material. According to the learned counsel the weapon of offence was recovered at the instance of the convict-accused and was subsequently confirmed through a positive forensic report, thereby conclusively linking the appellant with the commission of the offence. According to the learned counsel, the grounds taken in the appeal are mutually inconsistent, self-contradictory, unsupported by the record, and deserve outright rejection. It was emphatically asserted that the prosecution proved the guilt of the convict-accused beyond reasonable doubt, that the convict-appellant justly deserves for capital punishment, and that the appeal merits no indulgence. Addressing the question of motive, the learned counsel submitted that the prosecution set up a specific motive arising out of an altercation at the cricket ground, which was duly proved through cogent evidence. He contended that the learned counsel for the convict-appellant deliberately twisted the factual matrix by projecting an

incorrect and alien motive never alleged by the prosecution, with a view to mislead the Court. Referring to the relevant portion of the statements of prosecution witnesses, the learned counsel for the complainant-respondents asserted that there is not even a minor discrepancy or contradiction in their testimonies which are consistent, coherent, and confidence inspiring. He concluded that, in view of the settled and unimpeachable evidence on record, the learned High Court rightly awarded the sentence of death as Qisas. In support of his contentions, reliance was placed upon the precedents reported as *2025 SCR 496, 2009 SCR 273, 2015 SCR 1042, 2009 SCR 71, 2007 SCR 39, PLD 2001 SC 107, 200 SCMR 424, PLD 1982 SC AJK 212, 2001 SCMR 988, 1998 SCR 71, 1998 SCR 47, 2025 SCR 496, 2001 SCR 240, 2007 SCR 01, 1992 SCR 01, 2001 SCR 319, and 2001 PCr.LJ 827*, and prayed that the appeal be dismissed accordingly.

6. Mr. Ahmed Saad Khan, the learned Assistant Advocate-General for the State, supported the impugned judgment and submitted that the occurrence stood conclusively proved through reliable, tangible, and confidence-inspiring ocular evidence, which was in complete harmony, and consonance with the medical evidence. He argued that six firearm injuries were found on the body of the deceased, comprising three entry wounds and three corresponding exit wounds, thereby fully corroborating the prosecution version in all material particulars. He argued that the prosecution successfully proved its case beyond any shadow of reasonable doubt and fully satisfied the statutory as well as Shariah requirements for award of death as Qisas under section 26 of the Islamic Penal Laws, as the intentional murder of Zaheer Abbas by the convict Ejaz Ahmed was

firmly proved through the consistent and trustworthy testimony of three eye-witnesses, including two male witnesses and one female witness, further reinforced by recoveries and unimpeachable medical evidence. The learned Assistant Advocate-General contended that the award of death sentence as Tazir by the learned trial Court amounted to a clear deviation from the mandate of divine law as well as the settled principles enunciated by the superior courts, which justifiably necessitated modification of the sentence by the learned High Court through awarding the sentence of death as Qisas, while maintaining the direction for payment of compensation amounting to Rs. 5,00,000/- to the legal heirs of the deceased under section 544-A, Cr.P.C.

7. We have heard the learned counsel for the parties and have carefully examined the record available before us. It is manifest from the record that the learned trial Court awarded the convict-appellant the sentence of death as Tazir, whereas the learned High Court converted the same into death as Qisas. It is a settled proposition of law that for sustaining a conviction and sentence under Qisas, the prosecution is required to establish its case beyond any shadow of doubt through unimpeachable, independent, and direct evidence, wholly free from material inconsistencies or contradictions. The legal parameters and evidentiary thresholds governing the award of punishment under *Qisas* stand authoritatively settled by this Court in the judgment titled *M. Yaseen and another v. The State and 07 others*[1]. In view of the binding nature of the said pronouncement, a reiteration of those principles is neither necessary nor

[1] [2025 SCR 496]

warranted. However, for proper appreciation and contextual clarity, the relevant portion of the said judgment is reproduced hereunder.

> 10. It is a settled principle that for a conviction under *Qisas*, the prosecution must establish its case beyond a shadow of doubt through unimpeachable, independent, and direct evidence, free from inconsistencies or contradictions. The learned counsel for the convict-appellants contended that the testimonies of the eyewitnesses lacked credibility and failed to meet this high threshold. In this regard, we must scrutinize whether the available evidence satisfies the stringent standard required for *Qisas*.
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> 11. The prosecution's case primarily rests on the statements of two key witnesses, Muhammad Aslam Cheema (PW-3) and Ch. Bilal Ali (PW-4). Muhammad Aslam Cheema, the complainant, as alleged by the defense, is a chance witness with no plausible reason for his presence at the crime scene, while the latter, being the son of the deceased, is alleged to have a vested interest in securing the conviction of the accused. Before reaching a determination, it is imperative to assess the consistency, reliability, and corroborative strength of their testimonies in light of other material evidence, including forensic reports, recoveries, and circumstantial factors. We shall now proceed to examine whether the prosecution has succeeded in proving its case to the level required for a conviction under Qisa*s*.
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> 12. The first argument presented by the learned counsel for the convict-appellants is that the evidentiary threshold required for Qisas has not been met. It is contended that the trial court, without comprehensively evaluating the entire body of evidence, awarded the death sentence under Qisas despite the absence of the requisite standard of proof, which demands a high degree of certainty. To determine whether the conviction and sentence should have been recorded under the doctrine of *Qisas* or whether the case falls within the ambit of *Tazir*, it is necessary to meticulously examine the relevant statutory provisions,

particularly those outlining the parameters of *Qisas* and *Tazir*. This requires a thorough assessment of the evidentiary prerequisites prescribed under the law and, in light of these principles, a careful evaluation of the prosecution's case.

13. The security of human life has, since time immemorial, remained a sacred trust, deeply rooted in customary practice, statutory law, and divine principles. The sanctity of life is recognized as a fundamental right, as enshrined in the Azad Jammu and Kashmir Interim Constitution. The doctrine of *Qisas* embodies both divine commandments and principles of justice, ensuring that punishment is proportionate to the crime committed. The *Qisas* and *Diyat* laws, as incorporated into the legal framework of Azad Jammu and Kashmir, are derived from Islamic jurisprudence and aim to maintain justice, deter crime, and uphold the sanctity of human life. Under these laws, *Qisas* refers to retributive justice, where punishment mirrors the severity and nature of the offence. However, its application in murder cases is strictly governed by statutory provisions, requiring a high standard of proof. A conviction under *Qisas* demands direct, unequivocal, and unimpeachable evidence, free from inconsistencies, doubt, or contradictions. Witness testimonies must fulfill the criteria of *Tazkiyah al-Shuhood*, ensuring absolute credibility and moral integrity. Moreover, the evidence must establish the guilt of the accused beyond any reasonable doubt, leaving no room for conjecture or speculation. Conversely, if the strict evidentiary standards for *Qisas* are not met, the case may be adjudicated under *Tazir*, allowing for discretionary punishment based on corroborative or circumstantial evidence. *Tazir* sentences are imposed when the prosecution fails to fulfill the strict conditions of *Qisas* yet presents sufficient evidence to establish guilt beyond a reasonable doubt. Given these principles, it is essential to determine whether the present case meets the evidentiary requirements for *Qisas* or whether it falls within the domain of *Tazir*.

Keeping in view the aforesaid legal position and the strict evidentiary standards required for the award of punishment under Qisas, it is now incumbent upon this Court to examine whether the prosecution has been able to meet the said threshold through the evidence on record.

8. There are three ocular witnesses to the incident, namely Sharafat Ali son of Imam Din, Hassan Waqqas son of Maqbool Hussain, and Arzoo daughter of Maqbool. P.w 1, Sharafat Ali, has furnished a lucid, coherent, and chronological narration of the events, demonstrating both his presence at the locus of the occurrence and the antecedent animosity between the convict and the deceased. His testimony attributes the act of firing directly to the convict and delineates the sequence and manner of the incident with precision. The account of Sharafat Ali finds full corroboration from the independent testimonies of Hassan Waqqas and Arzoo pws, reinforcing the consistency and veracity of the prosecution case. His conduct during and immediately after the occurrence, including his participation in the execution of the inquest and recovery of the deceased's personal effects, reflects natural behaviour and procedural propriety, which further enhances the evidentiary worth of his deposition. His account, when read in conjunction with the corroborative statements of the other eye-witnesses, constitutes compelling direct evidence admissible under the applicable legal standards and was rightly relied upon by the learned trial Court while determining the culpability of the convict-accused and conviction.

9. Equally material is the testimony of this witness the recovery of the weapon of offence, which was effected

pursuant to the disclosure and pointation made by the convict while in lawful police custody. The recovery proceedings were conducted strictly in accordance with statutory requirements, meticulously documented, and duly attested by independent witnesses, thereby ensuring procedural integrity. During cross-examination, the defence failed to elicit any material contradiction, inconsistency, or circumstance capable of undermining the witness's presence at the locus of occurrence or the authenticity of the recovery. No evidence was adduced that could render the prosecution version improbable or impeach the legitimacy of the recovery process. In consequence, the testimony of this witness commands full confidence and constitutes both reliable ocular and corroborative evidence, which was rightly relied upon by the learned trial Court while judging the guilt of the convict.

10. A careful scrutiny of the statement of pw No. 3, Hassan Waqqas, establishes that he is a credible, independent, and direct eye-witness to the occurrence. He has furnished consistent and confidence inspiring account of the incident, encompassing the antecedent circumstances, the pre-existing animosity between the convict and the deceased, and the precise manner in which the convict discharged the firearm. His testimony also affirms the presence of other eye-witnesses, namely Arzoo and Sharafat Ali, thereby reinforcing the reliability and consistency of the ocular evidence. Furthermore, his deposition corroborates the timing and sequence of events and the immediate responsive measure taken, including informing the father of the deceased and facilitating his transportation to the hospital. His account regarding the reconciliation deed executed approximately two months prior

to the occurrence provides cogent evidence relating to the motive underlying the commission of offence.

11. During cross-examination, the witness unequivocally repelled all suggestions advanced by the defence aimed at discrediting intended to impugn the prosecution case, expressly denying any allegation of collusion, misrepresentation, or ulterior motive on his part or that of other prosecution witnesses. His testimony remained consistent, and unshaken throughout cross-examination, thereby inspiring full confidence. The witness further deposed regarding the preparation of the site plan by the patwari on April 22, 2010, which was prepared on the identifications of this witness and others, further fortifying the substratum of prosecution case. Viewed in its entirety, his deposition constitutes independent, direct, and trustworthy ocular evidence, substantially corroborating the prosecution version in respect to both the occurrence and attendant circumstances.

12. The testimony of pw. 4, Arzoo, a young girl aged about thirteen years at the time of the occurrence is also confidence inspiring. She provides independent corroboration of the ocular account furnished by Hassan Waqqas and Sharafat Ali. Despite tender age, she has given a clear straight forward and unembellished narration of occurrence, unequivocally identifying the convict, Ejaz Ahmed, and describing his conduct inside the shop, including the act of firing upon Zaheer Abbas and his subsequent escape from the scene. Her evidence substantiates material aspects of the prosecution case, including the timing of the incident, the presence of other witnesses, the immediate reaction of bystanders. No material contradiction pointed out in her

testimony so as to detract from its evidentiary worth and nothing has surfaced on the record to suggest that she was tutored or that her statement was the product of imagination of extraneous influence.

13. It is further evident from her statement that her explanation regarding the closure of the neighbouring shops due to death in locality, coupled with her detailed account of the milk delivery, serves to place the occurrence in its proper factual context, setting enhancing the naturalness and credibility of deposition. Taken as a whole, the testimony of pw Arzoo constitutes independent, direct, and unimpeachable ocular evidence that materially corroborates the prosecution's version of events and was rightly relied upon by the learned trial Court in convicting the appellant.

14. It is manifest from the record that Pw Arzoo Maqbool and Pw Hassan Waqqas bear no familial relationship with the complainant, nor are they related to his siblings, and no enmity whatsoever with the convict, Ejaz Ahmed, has been established on record. The occurrence took place in broad daylight at about 4:15 p.m., inside a shop in the main bazaar. The convict-appellant, being a resident of the same locality, was identified without any ambiguity. Sharafat Ali Pw who arrived at the scene and personally witnessed the occurrence; he is the real brother of the complainant and no previous animosity between him and the convict-accused, has been shown. The ocular version furnished by the witness firmly establishes the presence and role of the convict, leaving no reasonable doubt in this regard.

15. The recovery of the weapon of offence, a .30 bore pistol, was effected on the pointation of the convict-accused

while he was in lawful police custody. The recovery proceedings were conducted in accordance with law, duly documented through recovery memo Exh. PB, and attested by witnesses, Pw Manzoor Hussain and Pw Sharafat Ali, who identified the pistol as P-1 and the magazine as P-2, in addition thereto, five empties recovered from the place of occurrence, were taken into possession vide recovery memo, Exhibit PL. The testimony of Pw Raja Iftikhar Ahmed, read in conjunction with that of the Investigating Officer, fully corroborates the recovery proceedings, which further find support from the forensic report of the FSL. Although the prosecution did not examine the second witness of recovery memo, Exhibit PL, the said recovery stands independently proved through the available witnesses and the forensic evidence, no adverse inference can be drawn on this score.

16. The site plan, Exh. PG, prepared and verified by the Pw. Mujib-ur-Rehman, patwari, corroborates that the occurrence took place inside the shop and substantiates the presence of the ocular witnesses at the locus, thereby lending further support to the prosecution narrative. The postmortem report Exh. PR duly proved by the Pw. Dr. Javed Jarral, Medial Officer who conducted the autopsy conclusively established the death occurred due to massive hemorrhage resulting from firearm injuries. The medical evidence is fully consistent with the ocular account and unequivocally corroborates the prosecution version with respect to the occurrence and the actus reus of the offence. When considered cumulatively, the ocular testimony, recovery of the weapon, site plan and medical evidence, furnish independent, direct and compelling proof of the guilt of the convict, rightly relied upon by the Courts below in convicting the appellant.

17. The principal contention advanced by the learned counsel for the convict-appellant was that the motive in the present case remained unproved. It was argued that the motive narrated in the FIR referred to a minor quarrel between the convict and the deceased about two months prior to the occurrence, whereas the challan suggested alternate motive related to the alleged harassment of the accused's sister, Tanzila. It was contended that the prosecution failed to substantiate either version. A careful appraisal of the record, however, reveals that the prosecution consistently set up the motive as a dispute arising at the cricket ground, which was subsequently settled through a compromise effected by local elders. All prosecution witnesses, particularly the independent ocular witnesses, uniformly narrated this motive, and not a single word was elicited in their cross-examination to discredit the same. Regarding the alternate motive suggested by the defence, no material could be brought on record to substantiate it. In these circumstances, the prosecution successfully established the motive as pleaded. The contention raised on behalf of the convict is devoid of merit and is accordingly repelled.

18. It was next contended that there was a delay of eight days in the recovery of the weapon of offence from the convict, namely, a 30 bore pistol. This argument is equally misconceived. Mere delay in recovery does not, by itself, render the same suspicious, particularly where the prosecution's case is supported by direct and independent ocular evidence. Likewise, no infirmity in the medical evidence or the post-mortem report has been pointed out which could be pressed into service to the advantage of the convict.

19. It has also been argued on behalf of the learned counsel for the convict-appellant that during cross-examination it was suggested that the occurrence was, in fact, committed by Waqas or his brother Shahzad, and that the prosecution witness, Arzoo, was allegedly engaged in inappropriate conduct at Waqas's shop, which led her brothers to commit the offence and falsely implicate the convict. These suggestions were categorically denied by the prosecution witness, significantly, the convict neither produced any defence evidence nor made any statement explaining the circumstances under which he was allegedly falsely implicated. In the face of consistent and confidence-inspiring prosecution evidence, the plea of false implication stands completely negated.

20. Certain minor discrepancies and variations have been pointed out in the statements of the prosecution witnesses; however, these are neither material nor sufficient to discredit their testimonies as a whole. It is well settled that minor contradictions are inherent in human recollection and, rather than detracting from credibility, often indicate spontaneity and truthfulness, particularly in cases involving sudden and traumatic events.

21. Notwithstanding the strength and consistency of the prosecution evidence, this Court remains mindful of the settled principle that the punishment of death as *Qisas* stands on a footing distinct from that of *Ta'zir* and demands exceptionally strict standards of proof. While the ocular account in the present case is confidence-inspiring and sufficiently corroborated to sustain the conviction of the accused beyond reasonable doubt. The award of *Qisas* requires evidence that is wholly free from even the slightest degree of doubt or

hesitation. The presence of a related witness, the reliance upon a minor eyewitness (though competent), and certain minor discrepancies, which are not sufficient to undermine the conviction, collectively introduce a level of judicial circumspection that cannot be ignored in matters of Qisas.

22. In view of the authoritative pronouncement of this Court in *Muhammad Yaseen and another v. The State and others*[2]*'s case*, and applying the strict evidentiary parameters governing the imposition of *Qisas*, we are persuaded that while the guilt of the convict stands firmly established, the prosecution evidence does not meet the exceptionally high threshold required for sustaining the sentence of death as *Qisas*. The benefit arising from this strict standard must, therefore, ensure to the convict to the extent of the nature of punishment.

23. Consequently, the conviction of the accused-appellant is maintained; however, the sentence of death as *Qisas*, as awarded by the learned High Court, is set aside, and the sentence of death as *Ta'zir*, as originally imposed by the learned trial Court, is hereby restored and upheld.

The appeal is partly accepted in the above terms.

JUDGE **JUDGE**

Muzaffarabad:
11.02.2026.

[2] [2025 SCR 496]