

**IN THE COURT OF IMRAN SHAFI KHAN, ADDL. SESSIONS  
JUDGE, MULTAN.**

**Sessions Case No. 45/S of 2016/2019.  
Sessions Trial No. 24-T of 2016/2019.  
Date of Decision: 27.09.2019**

**STATE Versus.**

1. Muhammad Waseem s/o Muhammad Azeem, caste Baloch, r/o Shah Saddar Din, D.G. Khan.
2. Haq Nawaz s/o Ghulam Sarwar, caste Baloch, r/o Shah Saddar Din, D.G. Khan.
3. Abdul Basit alias Basu s/o Abdul Haq, caste Qurshi, r/o Saddar Din D.G. Khan.
4. Aslam Shaheen s/o Muhammad Azeem, caste Baloch, r/o Shah Saddar Din, D.G. Khan.
5. Muhammad Abdul Qavi s/o Abdul Qadir, caste Syed Qadri, r/o Mohallah Qadeer Abad, Multan.
6. Muhammad Zafar Hussain s/o Allah Bakhsh, caste Baloch, r/o Shah Saddar Din, D.G. Khan.

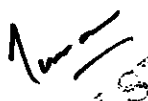
**CASE FIR NO.439/2016, DATED: 16.07.2016  
OFFENCES U/Ss 302, 311, 109, 404/34 PPC  
POLICE STATION: MUZAFFARABAD, MULTAN.**

**27.09.2019:**

**Present:** Accused Muhammad Waseem under custody.  
Accused Haqnawaz, Muhammad Abdul Qavi, Abdul Basit alias Basu, Muhammad Zafar and Aslam Shaheen on bail.  
Accused Muhammad Arif (since P.O.).  
Mr. Sardar Mehoob, advocate on behalf of accused Muhammad Waseem and Aslam Shaheen.  
Mr. Khalid Mehmood, advocate-on behalf of accused Abdul Basit alias Basu.  
Mr. Riaz Hussain Khosa, advocate on behalf of accused Haqnawaz.  
Haji Muhammad Aslam, advocate on behalf of accused Muhammad Abdul Qavi.  
Mr. Manzoor Ahmad Qureshi, advocate on behalf of accused Muhammad Zafar Hussain.  
Syed Saleem Bahar, learned DDPP for the State.

**JUDGMENT.**

SHO, Police Station Muzaffarabad, Multan prepared report under Sec.173 Cr.P.C. against the accused persons namely Muhammad Waseem, Haqnawaz, Abdul Basit alias Basu, Muhammad Abdul Qavi, Muhammad Zafar Hussain, Aslam Shaheen and Muhammad Arif (since P.O.). The accused persons were sent to face the trial for the murder of Fouzia Azeem alias Qandeel Balouch/daughter of the complainant after

  
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collecting the incriminating evidence against them with the allegation that in the intervening night of 15/16.07.2016 in the area of P.S. Muzaffarabad they committed the murder of Fouzia Azeem alias Qandeel Balouch in connivance with each other by way of smothering/strangulation.

2. The facts of the case in brief as narrated by the complainant Muhammad Azeem (PW-29) in his complaint Ex-PAT are that his daughter Qandeel Balouch worked in Showbiz. On the eve of Eid-ul-Fitar, she came from Karachi and was living with him and her mother Anwar in a rented house. On 14.07.2016, his son Waseem, aged 24/25-years came to meet them who used to forbid Qandeel to work in Showbiz. In that night, he and his wife slept upstairs while Qandeel slept in a room down stairs. When they got up in morning, Waseem was not present at home. The inside lock of the house was opened. They thought that Qandeel was sleeping. After sufficient time when they removed the cloth from her mouth, Qandeel was found in dead condition. The signs of strangulation were apparent on her body. It is further contended that his son Waseem has committed the murder of his daughter in the name of honour. Waseem has committed this murder for the sake of money on the asking of his son Muhammad Aslam Shaheen who is Naib Sobedar in military.

3. On receiving information of the occurrence, Muhammad Ilyas Haider, PW/20 alongwith other police officials reached at the place of occurrence on official vehicle MLN/244 where Muhammad Azeem got recorded his statement Ex.PAT to him. He endorsed the same and sent it to the police station for registration of FIR through Muhammad Rashid, 992/C (given-up PW). He informed Forensic Crime Scene Unit of PFSA, Multan, CRO and I.T-team of CPO office. Team of Forensic Crime Scene Unit of PFSA, Multan reached immediately at the spot headed by Tahir Ismail, Forensic Scientist and collected evidence from the place of occurrence as well as from the dead body of the deceased i.e. two swabs

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from nail finger of victim, two buccal swabs, two swabs from neck, one suspected hair, two swabs from bruises on the face and neck of victim, four swabs from palm and wrist. SALAN was taken from kitchen into a Jar. Tahir Ismail, Forensic Scientist made the above samples into sealed parcels and handed over to him. He took the same into his possession through recovery memo Ex-PA, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He cordoned-off the place of occurrence, in the meanwhile, Muhammad Rashid 992/C returned with the file of this case alongwith the FIR No.439/2016 and he started investigation.

He inspected the dead body and prepared injury statement Ex-PAU, inquest report Ex-PAV and sent the dead body for post mortem examination through Muhammad Kashif 3880/C alongwith police papers to Nishtar Hospital, Multan. He inspected the place of occurrence and took wooden Cot P/1 from the place of occurrence through recovery memo Ex-PB, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He also took two pieces of cigarette P2/1-2 from the place of occurrence through recovery memo Ex-PC, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He also took Wallet P/27 alongwith currency notes with denomination of five notes of Pakistani Rupees of Rs.1000/- P28/1-5 and one note of UAE-currency 500-Dharam P29/1 and eight notes of 50-Dharam P30/1-8 through recovery memo Ex-PD, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He took bed sheet P/3 from Cot of Qandeel Baloch through recovery memo Ex-PE, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He also took into his possession Safaa P/4 from the Cot of Qandeel Baloch through recovery memo Ex-PF, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He took Pillow cover of red colour P/5 in his possession through recovery memo Ex-PAW, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He also took into possession USB P/7, CD P/6, which were

lying on the table near the Cot of Qandeel Baloch, through recovery memo Ex-PG, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He took into possession lock of gate of the house P/31 through recovery memo Ex-PH, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He also took into possession mobile phone Sumsang P/8 and Nokia P/9 of Qandeel Baloch lying near the dead body through recovery memo Ex-PJ, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. CRO prepared photographs of dead body and after developing the same Khalil Ahmad 2278/C CRO-Branch handed over to me 07-photographs P20/1-7, which he took into possession through recovery memo Ex-PZ/1, attested by Khalil Ahmad 2278/C. Muhammad Kashif 3880/C after post mortem examination of deceased handed over to him post mortem report, police papers and last worn clothes of the deceased i.e. Kameez light greenish (Angori) colour P/14, trouser (Pajama) black colour P/15, one underwear black colour P/16, brazier pink colour P/17, two sealed envelopes for DNA, one sealed envelope for chemical examinations and two ear tops gold colour P32/1-2. He took the same into possession through recovery memo Ex-PO, attested by Muhammad Kashif 3880/C, Muhammad Azeem and Anwar Bibi and recorded statements of witnesses of above said recovery memos at the spot u/s 161 Cr.P.C.

He prepared rough site plan of place of occurrence Ex-PAY and summoned Irfan Hayat, draftsman for taking rough notes to prepare scaled site plan who attended on his call and took rough notes on his direction and on the pointation of witnesses. After making the proceedings at the place of occurrence he returned to the police station and handed over the above said parcels/articles to Moharrir of police station for keeping in Malkhana as well as for onward transmission to the office of PFSA, Lahore. Complainant Muhammad Azeem also came at Police Station

and submitted his supplementary statement in written form Ex-PAZ and nominated the other accused persons. In the night of 16.07.2016 he went to PFSA, Lahore with the parcels given to him by the Crime Scene Unit of PFSA, Multan and the parcels given by the doctor. He deposited the above said parcels to the PFSA on 17.07.2016, intact and returned to police station on the same day. Accused Muhammad Waseem was arrested and confined in the police lock-up of police station Muzaffrabad, Multan. He took accused Muhammad Waseem out from police lock-up and interrogated him. In the meantime, Moharrir of police station handed over to him the mobile phone of accused Muhammad Waseem recovered at the time of his arrest from his possession. He took mobile phone of accused Muhammad Waseem Nokia company P/10 through recovery memo Ex-PK, attested by Karam Hussain, ASI and Muhammad Azhar 1961/C. He recorded the statements of witnesses in this regard. Irfan Hayat, draftsman came to him at police station and handed over to him four copies of scaled site plan. He made notes with red ink on scaled site plan and made signatures over there. He also recorded the statement of Irfan Hayat, draftsman under Sec.161 Cr.P.C. and recorded the statement of Moharrir of police station u/s 161 Cr.P.C. During interrogation from accused Muhammad Waseem, he admitted that he alongwith his co-accused Haqnawaz committed the murder of his sister Fozia Azeem alias Qandeel Baloch because she had bad character being social media model. Muhammad Waseem accused also confessed during investigation that he committed the murder of Fozia Azeem alias Qandeel Baloch in the name of Gairat. Accused Muhammad Waseem also confessed that he took I-phone of Qandeel Baloch and destroyed with high voltage electricity in anger because the password of the mobile was not opened. The accused Muhammad Waseem was brought before the learned Area Magistrate for obtaining physical remand. He inserted Sec.311 PPC in the light of

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 Irfan Hayat, Draftsman  
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investigation as accused Muhammad Waseem alongwith his co-accused committed the murder of Qandeel Baloch in the name of honour declaring her bad character. The physical remand of accused Muhammad Waseem was granted. During investigation while on physical remand accused Muhammad Waseem confessed that he committed the murder of his sister and he has no guilt and he wanted to get record his statement u/s 164 Cr.P.C. voluntarily.

On 18.07.2016 accused Muhammad Waseem was produced before Mr. Muhammad Sarfraz Anjum, the then learned Area Magistrate Ist Class, Multan. He submitted application Ex-PAZ before the learned Area Magistrate for recording statement of accused Muhammad Waseem u/s 164 Cr.P.C. Muhammad Waseem accused got recorded his statement u/s 164 Cr.P.C. voluntarily. Original statement of accused Muhammad Waseem u/s 164 Cr.P.C. is Ex-PAZ/1, Ex.PAZ/2. Learned Judicial Magistrate sent the accused Muhammad Waseem in judicial lock-up. After that he was separated from the investigation of this case.

4. On 19.07.2016 the investigation of instant case was entrusted to Attiya Naheed Jaferi, Inspector/PW-24. After recording of the statement under Sec.164 Cr.P.C. of accused Muhammad Waseem, the learned Area Magistrate sent the accused Muhammad Waseem to judicial lock-up. She filed revision against the order of learned Area Magistrate before the learned ASJ, Multan on 19.07.2016. The learned ASJ, Multan suspended the order of the learned Area Magistrate regarding judicial remand of accused Muhammad Waseem. On the same day, she wrote a letter to Garrison Commander, Multan Core Head Quarter regarding arrest of accused Aslam Shaheen. On 20.07.2016 physical remand of accused Muhammad Waseem was obtained. She obtained CDR of mobile Nos.0308-5499191, 0343-6128484 and 0346-7345824, which she took into possession through recovery memo Ex-PAM, attested by Muhammad

Ramzan, ASI. She recorded his statement u/s 161 Cr.P.C. On 21.07.2016 the accused Muhammad Waseem pointed the place of occurrence in presence of witnesses. She prepared Fard Nishan Dehi Ex-PT and prepared site plan of place of Nishan Dehi Ex-PT/1. On 22.07.2016 she took accused Muhammad Waseem for polygraph test and DNA to the office of PFSA, Lahore. On 24.07.2016 on the pointation of accused Muhammad Waseem a mobile phone Samsung golden colour P/17 and two intoxicant tablets P18/1-2 were recovered from his house situated at Shah Saddar ud Din from an iron box lying in the eastern corner of the room of his house. She took the same into my possession through recovery memo Ex-PU, attested by witnesses. She recorded their statements u/s 161 Cr.P.C. in this regard. On 25.07.2016 further physical remand of accused Muhammad Waseem was obtained. On 26.07.2016 report of PFSA was received, which was placed with the file. On the same day, accused Muhammad Waseem was confronted with his mother Anwar Mai. On 27.07.2016 accused Muhammad Waseem made disclosure that his brother Arif who is in Saudi Arabia said to him to commit the murder of Qandeel because Arif is feeling ashamed due to conduct of Qandeel. Accused Muhammad Waseem further disclosed that his brother Arif said to him that after committing the murder of Qandeel he would fly to Saudi Arabia and that on the asking of Arif accused (since P.O.) he deposited his passport to the office of Qais Travel, DG Khan for Visa. He also disclosed that he can get recovered said passport and he led the police party to the office of Qais Travels D.G. Khan situated at Committee Chowk D.G. Khan. On the pointation of accused Waseem they entered into the office of Qais Travels and on the asking of Waseem accused, the owner of Qais Travels namely Sarfraz Khan handed over her the) passport P/19 of accused Waseem in presence of accused and witnesses, which she took the same into her possession through recovery memo Ex-PV, attested by Bashir

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Ahmad, ASI and Asmatullah, HC. She recorded their statements u/s 161 Cr.P.C.

On 28.07.2016, accused Muhammad Waseem made disclosure that he took milk from the shop of Ismail situated at Muzaffrabad, Multan and he can point out the said shop and then he led the police party to the shop of Muhammad Ismail. She recorded the statement of Muhammad Ismail u/s 161 Cr.P.C. On 30.07.2016, she was present at District Courts, Multan and she received spy information regarding the presence of accused Haqnawaz at Sadda Bahar Bus Stand D.G. Khan. She alongwith her police party reached at D.G. Khan on the said Bus Stand and arrested the accused Haqnawaz on spy information and interrogated him who disclosed that he alongwith accused Muhammad Waseem committed the murder of Qandeel Baloch. He further disclosed that he alongwith accused Waseem committed the murder of Qandeel Baloch in the name of Gairat (honour). Haqnawaz accused further disclosed that he had thrown his mobile phone into the Canal. On 31.07.2016 he got sent the accused Muhammad Waseem to judicial lock-up while found him connected with the commission of offence. During her investigation the accused Muhammad Waseem confessed that he murdered his sister Qandeel Baloch in the name of honour because she had become stigma for the whole family.

On the same day, the physical remand of the accused Haqnawaz was obtained. On 01.08.2016 she alongwith her police party was present in the police station and during investigation of accused Haqnawaz while on physical remand, he made disclosure that at the time of commission of occurrence he took I-Phone of Qandeel and he has concealed the same into his house and then the accused Haqnawaz led the police party to his house situated at Shah Saddar ud Din and accused Haqnawaz got recovered I-phone P/23 from an iron box lying in his



western corner of the room of his house. She took the same into her possession through recovery memo Ex-PAA, attested by Shehzad, constable and Bashir Ahmad, ASI. She prepared site plan of place of recovery Ex-PAA/1 and recorded the statements of witnesses u/s 161 Cr.P.C. On 03.08.2016 she got conducted the polygraph test of accused Haqnawaz and three parcels mobile phone Samsung, Nokia E-5 and I-Phone were deposited to the office of PFSA, Lahore and recorded the statement of Moharrir Sohail Akhtar u/s 161 Cr.P.C. On 06.08.2016 accused Haqnawaz was interrogated and during interrogation the accused Haqnawaz disclosed that he alongwith the accused Muhammad Waseem on the instigation of Arif accused (since P.O.) made plan to murder Fozia Azeem alias Qandeel Baloch because the whole family was facing humiliation due to conduct of Qandeel Baloch. Accused Haqnawaz further disclosed that he alongwith Muhammad Waseem accused gave intoxicant tablets to Qandeel Baloch while mixing into milk and when she became unconscious she was murdered. Accused Haqnawaz further disclosed that while committing the murder of Fozia Azeem alias Qandeel Baloch accused Waseem caught hold the hands of Qandeel Baloch and he (Haqnawaz) pressed the throat of Qandeel Baloch and accused Waseem also gave him help in throttling to Qandeel Baloch. On 08.08.2016, she alongwith police party was present at police station in the investigation of this case. Accused Haqnawaz took out from police lock-up and joined in investigation. Accused Haqnawaz made disclosure that he had the passport of Fozia Azeem alias Qandeel Baloch, deceased, which he had taken after the occurrence and now he has concealed in his house situated at Shah Saddar ud Din and he took the police party to Shah Saddar ud Din and got recovered passport P/24, which was placed in the draw of Almirah lying in the room of his house. She took the same into possession through recovery memo Ex-PAB, attested by the witnesses. She prepared the site

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plan of place of recovery Ex-PAB and recorded their statements u/s 161 Cr.P.C.

On the same day, at Shah Saddar ud Din, she received information regarding the presence of accused persons namely Basit and Zafar in the area of Shah Saddar ud Din. She arrested the accused persons Basit and Zafar. On personal search of accused Basit a mobile phone Nokia 206 P/20 through recovery memo Ex-PW and on the personal search of accused Zafar a mobile phone Samsung 530-E P/25 were recovered, which were taken into possession through recovery memo Ex-PAC, attested by witnesses. She recorded their statements u/s 161 Cr.P.C. On the pointation of accused Basit a car bearing registration No.MNA-07/38 P/21 was recovered from Taxi Stand Shah Saddar ud Din, which was taken into possession through recovery memo Ex-PX, attested by the witnesses. She prepared the site plan of place of recovery Ex-PX/1 and recorded the statements of the witnesses in this regard. After making proceedings at Shah Saddar ud Din she returned to the police station and handed over all the case property to Moharrir Police Station.

On the same day, accused Mufti Abdul Qavi alongwith respectable of the Area appeared before her to join in investigation. She joined Mufti Abdul Qavi in investigation. Accused Mufti Abdul Qavi himself produced before him his two mobile phones, one of Q-company P/11 and one of company Club P/12, which she took into possession through recovery memo Ex-PC, attested by the witnesses. She made the same into parcels and recorded the statements of witnesses u/s 161 Cr.P.C.

On 09.08.2016 she interrogated the accused persons namely Basit and Zafar. During investigation the accused Basit disclosed that accused Zafar gave him the greed of huge amount and asked him to take Haqnawaz accused to Multan for committing the murder of Qandeel. Accused persons namely Zafar and Basit were in contact with accused

Muhammad Waseem. Accused Basit disclosed that while coming from D.G. Khan to Multan for committing the occurrence he filled petrol in his car from PSO Karmani Filling Station Ghazi Ghat Pull and he also filled air in the tyre of the car upon this accused Basit took police party to Karmani Filling Station Ghazi Ghat. She checked CCTV footage of said petrol pump in presence of accused Abdul Basit. Accused Abdul Basit himself pointed out his car in CCTV footage and also disclosed that accused Haq Nawaz was sitting in the car. The recording of CCTV was secured in USB P/26 and the same was taken into possession through recovery memo Ex-PAE, attested by the witnesses. She recorded their statements u/s 161 Cr.P.C. in this regard. On 10.08.2016 she got conducted the polygraph test of accused persons Basit and Zafar from the PFSA, Lahore. On 11.08.2016 accused Haq Nawaz was sent to Judicial lock-up while finding him connected with the commission of crime. Further physical remand of accused Basit and Zafar was obtained. On 17.08.2016 she recorded the statements of Karama Hussain, ASI and Sohail Akbar, Moharrir regarding parcels. On 22.08.2016 she got sent the accused persons namely Basit and Zafar to judicial lock-up while finding them fully involved in the commission of offence. During investigation the facts came on the record that accused Basit on the asking of accused Zafar in the greed of huge amount took Haq Nawaz accused to Multan and accused Haq Nawaz alongwith Basit and Zafar were found involved in the murder of Qandeel Baloch. Accused Zafar sent the accused Basit to Multan and he remained in contact with Haq Nawaz accused before the occurrence and after the occurrence and this fact has been proved through CDR. During investigation the facts came on the record that accused Zafar present in court and Arif (since P.O.) instigated the accused Haq Nawaz and Waseem to commit the murder of Fozia Azeem alias Qandeel Baloch in the name of honour. During the investigation this fact came on record that all the planning

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regarding the murder of Fozia Azeem alias Qandeel Baloch made after the selfies of Qandeel Baloch with Mufti Abdul Qavi and after their on air in T.V. programme of Mubashir Luqman, Anchor. During investigation this fact also came on the surface that Qandeel Balch was receiving threats from different numbers from the day when her scandal/selfies with Mufti Abdul Qavi was exposed on the social media and Qandeel Baloch had expressed this thing in her press conference on 28.06.2016 with the words that the day since she exposed Mufti Abdul Qavi, her life is in danger. Mother of Qandeel Baloch also gave her statement that from the day since Qandeel Baloch came at Multan she was frightened/under threat. During investigation this fact also came on record that after the scandal of Qandeel Baloch with Mufti Abdul Qavi exposed on social media, Qandeel Baloch had become censure for her family and this thing became the reason of her murder.

5. On 23.11.2016, the investigation of instant case was entrusted to Noor Akbar, SI. On 27.12.2016, accused Muhammad Aslam Shaheen joined in investigation before him on pre-arrest bail. On 15.01.2017, he collected the CDR Data consisting of 11 pages P-27/1-11 of accused persons namely Muhammad Waseem and Muhammad Aslam Shaheen from Saeed TASI Incharge IT Center Multan. He took the same into possession vide recovery memo Exh.PAP duly attested by PWs. He also recorded the statements of PWs in this regard. During his investigation accused Muhammad Aslam found involved in this case. On 28.02.2017, he received reports of PFSA and made them part of the file. He further conducted investigation to the extent of remaining accused persons including Muhammad Abdul Qavi and collected incriminating material against them.

6. On 18.10.2017 the investigation of instant case was entrusted to Asif Shehzad, SI who arrested the accused Abdul Qavi and interrogated

him. He collected bank statements of accounts of Muhammad Abdul Qavi and also secured press clippings and USB of the programme and the selfees of Abdul Qavi with Qandeel Balouch. During his investigation, he also conducted the polygraph test of Muhammad Abdul Qavi, received the report and made it part of the file. He also collected other incriminating material against the accused Abdul Qavi and found him involved in the crime to the extent of abetment.

7. After due process of law, challan/report u/s 173 Cr.P.C. against the accused persons was submitted in the court and copies as required u/s 265-C Cr.P.C. were delivered to the accused persons. At first, charge against the accused persons namely Muhammad Waseem, Haq Nawaz and Abdul Basit alias Basu was framed on 05.12.2016 and after inclusion of remaining accused persons by the complainant and submission of challan, finally the charge against all the accused persons was framed dated 12.12.2018 to which they pleaded not guilty and claimed their trial under the law.

8. The prosecution in order to prove its case produced as many as thirty five PWs. Learned DDPP assisted by learned counsel for the complainant gave-up PWs namely Muhammad Shahzad, 1504/C, Karam Hussain, ASI, Adnan 3895/3892/C, Muhammad Rashid, 992/C, Ayaz, 686/C, Saba Akram, Taimoor Shehzad being unnecessary and after tendering in prosecution evidence the documents i.e. 10-photographs P37/1-10, Crime Scene report of PFSA, Ex.PAAG/1 and Ex.PAAG/2, application for remand judicial of accused Waseem, Ex.PAAH, application of Attiya Naheed regarding summoning of accused Waseem from jail, Ex.PAAJ, application of Attiya Naheed, Inspector Ex.PAAK regarding further physical remand of accused Waseem alongwith order of learned Magistrate Ex.PAAK/1, certified copy of order dated 19.07.2016 regarding summoning of accused Waseem in revision Ex.PAAL and certified copy of

order of revision dated 20.07.2016 Ex.PAAM, Ex.PAAM/1, Ex.PAAM/2, Ex.PAAM/3 and Ex.PAAM/4 closed the prosecution evidence.

9. The accused persons were examined under u/s 342 Cr.P.C. who made bare denial of all the incriminating material brought on record against them. In answer to the specific question that why this case was registered against them and why the PWs deposed against them, accused persons replied as under:

**Accused Muhammad Waseem replied:**

"I have been falsely implicated in this case. According to information when police came to know about the murder of my sister they pressurized my father to implicate someone otherwise they will be involved. The police also asked my father and mother to tell the names of my brothers and other family members. Later-on I and my brothers have been falsely implicated due to intervention of High-ups, which is in the prosecution case. In present case there is no direct evidence against me and as I have already stated that my alleged judicial confession was obtained after torturing me. I am innocent."

**Accused Haq Nawaz replied:**

"I have been falsely implicated in this case. According to information when police came to know about the murder of Fozia Azeem alias Qandeel Baloch they pressurized the father and mother of deceased to implicate someone otherwise they will be involved. The police also asked from the father and mother of deceased to tell the names of his sons and other family members. Later-on I have been falsely implicated due to intervention of High-ups, which is in the prosecution case. In present case there is no direct evidence against me. CDR was produced against me, which is concocted as I being family member of the same family used to remain in contact with other family members. I have no concern whatsoever in this case. I am innocent."

**Accused Abdul Basit replied:**

"I am a Taxi driver, which is my sole business for bread and butter of the family. I have no nexus with any of co-accused. I know nothing about the occurrence. I do not remember that I have ever transported one Haqnawaz to Multan from Shah Saddar Din. However, occasionally I visit Multan City for pick and drop of my passengers. There is no oral account of the prosecution against me. I have been involved in this case as the local police has shown the efficiency due to Media pressure."

**Accused Aslam Shaheen replied:**

"Infact it is a blind murder. There is no direct allegation against me as at the time of alleged occurrence I was in Karachi in my Unit. I am serving in Pak Army as Sobedar."

police in league with High-ups has falsely involved me and my brother in this case.”

**Accused Muhammad Abdul Qavi replied:**

“The allegations against me are incorrect. Admittedly, some mobiles were taken from my possession but no objectionable photographs were on the mobiles. Admittedly, my polygraph test was conducted during investigation and according to polygraph test I was not connected with this crime. Neither Qandeel Baloch nor any of my co-accused is my relative or friend. There was no occasion to instigate the co-accused to commit the murder of Qandeel Baloch. Neither I knew or saw any objectionable picture of Qandeel Baloch nor I sent any obnoxious pictures and there is no evidence against me in this regard. In the circumstances, no instigation for honour killing of deceased on behalf of me. I have falsely implicated in this case and police arrested me only on this ground that I was present at Crown Palace Hotel in connection of program of “Alim on-Line” and deceased also attended that program. As I have stated that neither Qandeel Baloch nor any co-accused of this case is my relative there was no occasion to instigate them for honour killing and as such I have been falsely involved in this case.”

**Accused Muhammad Zafar replied:**

“There is no oral account against me in persecution evidence. During investigation I.O. of the case tried to connect me with the said offence but the local police has no incriminating material against me. I am innocent.”

The accused persons neither opted to appear as their own witnesses as required under Sec. 340(2) Cr.P.C. nor produced evidence in their defence.

10. It is well settled that the prosecution is required to prove its case beyond reasonable doubt against the accused on the strength of its own evidence irrespective of the defence plea, if any, raised by the accused. In view of the above perspective, the brief sketch and analysis of the prosecution witnesses would be necessary here in order to have a clear picture of the trial.

11. The statements of Noor Akbar, SI/I.O. (PW-19), Ilyas Haider, Inspector/I.O. (PW-20), Muhammad Asif Shahzad, SI/I.O. (PW-23), Attiya Naheed, Inspector (now DSP), PW-24 have generally been discussed in the preceding paragraphs of this judgment. Hence, there is no need to re-

iterate their evidence again. However, the gist of evidence of remaining prosecution witnesses is as under:

**PW-1, Muhammad Azhar, 1961/C** is the witness of recovery memos Ex.PA, Ex.PB, Ex.PC, Ex.PD, Ex.PE, Ex.PF, Ex.PG, Ex.PH, Ex.PJ, Ex.PK, Ex.PL, Ex.PM, Ex.PN, Ex.PO, Ex.PP, Ex.PQ, Ex.PR and Ex.PS. I.O. recorded his statement u/s 161 Cr.P.C. in this regard.

**PW-2, Tahir Ismail, Forensic Scientist** inspected crime scene and took two swabs from finger nails of deceased, two buckle swabs, three swabs from her neck, one suspected hair, two swabs from the bruises on the face and neck of victim, four swabs from palm and wrist, salan/cooked vegetable from a plastic plate lying in the kitchen, white coloured liquid from steel glass and handed over the same to Ilyas Haider/I.O.

**PW-3 Asmat Ullah, 2765/HC** is the witness of recovery memo Ex.PT, Ex.PU, Ex.PV, Ex.PW and Ex.PX. I.O. recorded his statement in this regard.

**PW-4, Irfan Hayat, Draftsman** visited the place of occurrence and prepared scaled site plan Ex.PY, Ex.PY/1 and Ex.PY/2.

**PW-5, Sohail Akbar, 1197/HC** chalked out FIR of the occurrence Ex.PZ. and received sealed parcels from the I.O. for keeping in safe custody and for onward transmission to the office of PFSA, Lahore

**PW-6 Khaleel Ahmad, 2278/C** made seven photographs of deceased and after developing the same, he handed over to the I.O. who took into possession through recovery memo Ex.PZ.

**PW-7 Bashir Ahmad, ASI** is the witness of Fard-e-Shanakht Ex.PB, recovery memos Ex.PC, Ex.PD, Ex.PAA, Ex.PAB, Ex.PAC and Ex.PAE.

**PW-8 Aabid Ayoub and PW-9 Farwa Baqir** are the experts of PFSA, Lahore who conducted polygraph examination of

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Muhammad Zafar, Abdul Basit, Haqnawaz, Muhammad Abdul Qavi and Waseem and issued reports which are available on file as Ex.PAF, Ex.PAG, Ex.PAG/1, Ex.PAH/1-5, Ex.PAJ, Ex.PAJ/1, Ex.PAK, Ex.PAK/1/. Before PW-9 during a psychological interview, accused Waseem confessed his guilt and report as to this extent is available on the file as Ex.PAL/1-3.

**PW-10 Muhammad Ramzan, ASI** collected the CDRs of mobile numbers of accused Waseem, Haqnawaz and found their location on the day of occurrence in Mahal Muzaffarabad. The mobile phone location of accused Zafar was found in Shah Saddar-ud-Din District D.G. Khan. He also found that as per CDR the location of accused Waseem, Haqnawaz and Basit changed towards Shah Saddar-ud-Din on the day of occurrence at 03:15 a.m. (night). He submitted all the CDRs to I.O. who took into possession through recovery memo Ex.PAM.

**PW-11 Gulraiz, 1795/C** on 07.12.2016 got affixed the proclamations on the abode of accused Aslam Shaheen and Muhammad Arif and after process the same handed over to I.O. alongwith his report.

**PW-12 Muhammad Javed, ASI** prepared USB P/13 of selfies of deceased with accused Abdul Qavi dated 20.06.2016 and her press conference dated 28.06.2016 and handed over the same to the I.O. He attested the recovery memo Ex.PN.

**PW-13 Ikram Rabani, ASI** received one sealed parcel said to contain mobile phone of Abdul Qavi for safe custody and for transmitting the same to the office of PFSA, Lahore. On 08.11.2017, he handed over the same to Asif Shahzad, SI for depositing in the office of PFSA, Lahore.

**PW-14 Muhammad Kashif, 3880/C** got conducted post-mortem examination of deceased. After post-mortem he received last-worn clothes of deceased alongwith post-mortem report and two sealed parcels which he handed over the same to the I.O.

**PW-15 Muhammad Saeed, TSI** obtained CDR of accused Waseem and Aslam Shaheen and handed over to the I.O. As per CDR, accused Waseem and Aslam Shaheen remained in contact with each other before and after the occurrence.

**PW-16, PW-17 and PW-18 are Bank Managers** issued bank statements of Muhammad Abdul Qavi, accused.

**PW-21 Muhammad Ismail** is the witness who deposed that on 15.07.2016 accused Waseem came to his shop for taking milk.

**PW-22 Muhammad Nawaz** gave house on rent to the complainant.

**PW-25, PW-26, PW-27 and PW-28** are the witness who deposed that about 02 & 02-1/2 years ago the police came at their village and stayed at Dera. They came to verify the old residency of Mufti Abdul Qavi but they replied that they do not know about Mufti Abdul Qavi.

**PW-29 Muhammad Azeem, complainant and PW-30 Anwar Bibi, mother of deceased** appeared and narrated the story of the occurrence. However they denied before the court regarding the nomination of any accused persons and submitted their affidavits, got recorded their statements for extending pardon to the accused Waseem and Aslam Shaheen in the name of Allah Almighty.

**PW-31 Dr. Ghulam Yaseen Sabir** appeared as a witness for giving secondary evidence as he worked with Dr. Anam Amin who conducted post-mortem examination of deceased Fouzia Azeem alias Qandeel Balouch on 16.07.2016 at about 02:35 p.m. and found as follows:

**External Examination:**

A dead body of 30-35 years of age having good physique lying on supine, Rigor Mortis passed away in upper half present in hip joint and below. Post mortem staining present on dependent parts and fixed.

Face is congested. Nails, lips bluish in colour. Tongue between teeth and petechial hemorrhages present in both eyes. Froth is coming from nose.

**Examination of Clothes:**

Green shirt with printed Net gown, black tights black underwear & pinkish-black brazier. Pairs of Tops in both ears.

**Examination of Neck:**

Hyoid Bone is intact, Injuries are as under:

Injury No.1: Lips are deeply cyanosed, contused, Tongue is also injured;

Injury No.2: An abrasion 1 x 0.5cm below right eye.

Injury No.3: 2 Abrasions 0.5 x 0.75cm on lower part of left cheek 2cm apart.

Injury No.4: 2 Abrasions each of size 1 x 0.5cm which are 0.5cm apart on left side of chin.

Injury No.5: Multiple abrasions of different size and shape extending to upper part of front of chest collectively area 6x 5 cm.

**Cranium and Spinal Cord:**

Scalp and Skull health

Cranium was not opened.

**Thorax:**

1) Walls, Sternum (Manubrium, Body, Xiphisternum), Cartilages and Ribs.	Healthy
2) Pleurae	Healthy
3) Larynx & Trachea	Congested
4) Right Lung	Congested
5) Left Lung	Congested
6) Pericardium & Heart	Healthy
7) Blood Vessels	Right full. Left empty Nil

**Abdomen:**

Walls, Peritoneum,	Intact
Mouth, Pharynx and esophagus	Mouth mentioned, Pharynx esophagus normal.
Diaphragm	Intact
Stomach and its contents	Stomach contains 200ml of liquefied food.
Pancreas	Healthy
Small intestine and its contents	Distended
Large intestine & its contents	Distended
Liver	Congested
Spleen	Healthy
Kindneys (right & left)	Healthy
Urinary bladder	Empty
Organs generation	Uterus normal size, empty

**Upper and Lower Limbs:**

**Nil**

**Articles handed over to the police:**

1. Dead body with clothing
2. Documents
3. Sample for DNA
4. Samples for chemical examiner
5. Pairs of tops (worn in ears)

**For DNA**

1. Nail scrapping
2. Vaginal swabs

**Chemical Examiner**

1. Stomach as a whole
2. Liver (piece )
3. Spleen
4. Sample of preservative
5. Vaginal swabs

Probable time between injury and death: Immediate  
 Probable time between death and post mortem: 18-36 hours.

**Opinion:**

He endorsed the opinion of WMO as mentioned in Post Mortem Report, Cause of death is asphyxia, which is caused by smothering. However, samples were taken to detect any foul play i.e. poison or drug. All injuries are ante-mortem in nature. Final opinion will be given after receiving report of chemical and DNA examination.

The report of Forensic Toxicology Analysis bearing No.0000209576 Ex-PAAA, the result & conclusion is "Lorazepam is detected in Stomach Contents in item No.01" Lorazepam is detected in White coloured fluid in item No.2 and report of Forensic DNA and Serology Analysis bearing No.0000252224 Ex-PAAB, the result & conclusion "No seminal material was identified on item No.1, therefore no further DNA analysis (Short Tandem Repeat profiling) was conducted on this item. "No Analysis was conducted on item No.2" are before me and as per said reports as well as post mortem conducted by the said Women Medical

Officer she is of the opinion that the cause of death was asphyxia, which was caused by smothering also enhanced by giving the sedative agent (drug).

The Carbon copy of PMR No.09/2016 Ex-PAAC and diagram Ex-PAAC/1, which is in her handwriting and bears her signature and stamp, which he recognizes. He also recognized the endorsement of the injury statement Ex-PAU and inquest report Ex-PAV by WMO.

**PW-32 Zeeshan Akram and PW-33 are the Forensic Experts** who issued reports Ex.PAAC (12-pages), Ex.PAAC/1-2, Ex.PAAD (03-pages), Ex.PAAD/1-3, Ex.PAAE (05-pages) and Ex.PAAE/1-5.

**PW-34 Mr. Muhammad Sarfraz Anjum, learned Judicial Magistrate** got recorded the statement of accused Waseem u/s 164 Cr.P.C. and issued proceedings report Ex.PAZ/1 and Ex.PAZ/2.

**PW-35 Karam Hussain, SI** is the witness before whom the accused Waseem surrendered himself in this case. He made his arrest. On personal search of accused, one mobile phone was recovered. He sent him to police lock-up and handed over mobile phone to Moharrar. He made rapt No. 24 dated 17.07.2016 in daily Roznamcha of police station.

12. Learned DDPP while summing up the case argued that prosecution has successfully established the case against all the accused persons through cogent and convincing circumstantial evidence. The chain of the circumstances is fully established from dead body of the deceased to the neck of the accused persons. It was further argued that incriminating piece of evidence in shape of statement of accused Waseem u/s 164 Cr.P.C., polygraph examination of accused Muhammad Zafar, Haqnawaz, Abdul Basit and Muhammad Abdul Qavi as well as the photographs/selfies of accused Abdul Qavi and Fouzia Azeem alias Qandeel Balouch and DNA of accused upon the body of Qandeel are available on record which is sufficient to prove the guilt of accused

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persons in this case and lastly argued that a social media star was brutally murdered by her brother and other co-accused in the name of Ghairat (honour) so the accused persons be dealt in a severe manner.

13. While arguing the case the learned counsels for defence argued that it is a blind murder case and accused persons have been involved in this case falsely; that there is no direct evidence; that police has given the colour of honour killing to this blind murder; that DNA has no evidentiary value; that statement of accused Waseem u/s 164 Cr.P.C. was not recorded in accordance with law as well as High Court Rules and Orders; that accused Waseem remained in police custody after recording of his judicial confession which hampers the evidentiary value of judicial confession. It was further argued that CDR has no value in the eye of law and mere location of the accused persons does not connect them with the crime. The accused persons namely Muhammad Abdul Qavi, Zafar, Abdul Basit, Haq Nawaz have been involved in this case through supplementary statement of the complainant which have no value in the eye of law; that complainant and mother of deceased have been declared as hostile witnesses and has not supported the prosecution case, so the prosecution case has fallen down on the earth; that polygraph test or its report are not helpful for the prosecution. Learned defence counsel further argued that Muhammad Azeem and Anwar Bibi being parents and legal heirs of deceased Fouzia Azeem alias Qandeel Balouch has pardoned accused Waseem and Aslam Shaheen so they are entitled for the acquittal as a matter of right and not as the matter of grace. Learned defence counsel of Abdul Qavi, accused argued that being political figure he has been involved in this case and mere selfies with the deceased do not connect him with the crime; that there is no ingredient of Ghairat or honour killing in this case so Sec. 311 PPC is not made out. There is no evidence to the extent of abetment. Hence, the prosecution has failed to establish its

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case, so all the accused persons be acquitted from the charge. Learned defence counsel has relied upon the case laws "1975 PCr.LJ 1077", 2007 SCMR 670", 2007 SCMR 808", 2019 P Cr. LJ 1073", "PLD 2011 Lahore 76", 2014 SCMR 1155", 2006 SCMR 1432", 2009 SCMR 1115".

14. In support of their arguments, learned defence counsels as well as learned DDPP for the State placed their reliance on various reported judgments of Hon'ble High Court and August Supreme Court. It is made clear that every criminal case has to be decided on its own peculiar circumstances. The August Court of Pakistan in a case reported as "2016 SCMR 1401" (Muhammad Imran Versus The State) has held that the citations referred by the counsels in criminal cases were of no help as criminal cases are always decided on the basis of particulars facts of the case.

15. I have heard the learned defence counsels as well as learned DDPP for the State, have given anxious consideration to their arguments and have also scanned the record with their able assistance. Admittedly, it is not the case of direct evidence. The occurrence took place on 15.07.2016 in night time while the statement of complainant Muhammad Azeem was recorded on 16.07.2016. At first, the complainant nominated in his complaint Ex.PAT his sons Waseem and Aslam Shaheen as accused in this case and another statement of complainant was submitted to the police on the same day in which he nominated accused Abdul Basit alias Basu, Muhammad Zafar, Haqnawaz, Muhammad Arif (since P.O.) and Muhammad Abdul Qavi in this case. From the above narrated gist of prosecution evidence, it is very much clear that it is a case of circumstantial evidence, based on judicial confession, recoveries affected from the accused persons, polygraph test reports, DNA report, call data records and medical evidence. What tempts the Court to believe this type of evidence is the maxim that men may tell a lie but circumstances don't.

We don't nor can we doubt and dispute its centuries old well tested wisdom. We rather use it as a touchstone for assessing and evaluating the evidentiary worth of the circumstantial evidence. It enables us to reason unknown from the known if the circumstances are reported fairly and faithfully. Deduction about the guilt of the accused could well be drawn from the circumstances as are well authenticated. But where the circumstances are conjured up, they cannot be accepted without careful and critical analysis. Circumstantial evidence can form basis of conviction if it is incompatible with the innocence of the accused and incapable of explanation upon any other reasonable hypothesis than that of his guilt. This case thus has to be analyzed and adjudged in this perspective.

16. At the very outset, I find that there is no dispute about certain facts. First is, the death of the deceased on 15.07.2016 (night time) and her cause of death being smothering/strangulation. The circumstance of her death in the lower story of the house of her father and the statement of the witnesses establishes that it is not a strange place, but the rented house where deceased including her parents were living. It is observed that complainant in his statement Ex.PAT stated that the accused Waseem was also present with them in the house on the night when the occurrence took place. This fact is supported by PW-21 Muhammad Ismail who deposed that accused Waseem came to his shop in evening for taking milk and further this fact is support by the CDRs report available on record showing that the accused Waseem was present on the day of occurrence in the area of Muzaffarabad where the occurrence took place. Further his DNA was detected on the cigarettes butt which were secured from the place of occurrence on the day of occurrence. Learned defence counsel of accused Waseem argued that police pressurized his father to implicate him in this case at the initial stage and he has stated this fact in his evidence before the court. In this regard, it is observed that father of

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accused/complainant Muhammad Azeem and mother Anwar Bibi appeared before the court on 22.08.2019 and got recorded their statements stating therein that they have pardoned their sons Waseem and Aslam Shaheen in the name of Allah Almighty. Their application u/s 345(2) Cr.P.C. was declined by this court on the same day. Later, Muhammad Azeem, complainant (PW-29) and Anwar Bibi (PW-30) appeared into witness box on 30.08.2019 and clearly stated that they did not nominate anyone rather the names of their sons were asked by local police and they told names of their sons on the pressure of local police. So this argument of learned defence counsel does not seem convincing to this court as the evidence of PW-29 was recorded after the fate of application for extending pardon to the accused Muhammad Waseem and Aslam Shaheen which was declined by this court for the time being and this exonerating statement was reaction of complainant otherwise what made him to remain mum from 16.07.2016 to 20.08.2019.

17. Further It is undisputed that deceased was the daughter of complainant. It is also undisputed that initially when the Investigating Officer proceeded to the place of occurrence and got recorded the statement of complainant, at that time accused Waseem was not arrested, however on the night of 17.07.2016 at about 12:15 a.m. he surrendered himself before the police. Here the question arise that what tempted accused Waseem to surrender him before the police? Had he while considering himself innocent appeared before the police for pleading his innocence or he was ashamed of what he did? Accused Waseem was produced before the learned Judicial Magistrate on 18.07.2016 where he got recorded his statement u/s 164 Cr.P.C. which is reproduced as under:

"بلا حلف بیان کیا کہ میں نے قندیل بلوچ جو کہ میری ہمیشہ رہے کو قتل کیا ہے کسی کو اس بارے علم نہ ہے۔  
جب میں قتل کر کے ڈی جی خان گیا تو اگلے دن میں خود پولیس کے سامنے پیش ہو گیا۔ میں نے اپنی ہمیشہ  
قندیل کو اس کی تصویروں اور ویڈیو کی وجہ سے قتل کیا"

From the above said statement recorded by the learned Judicial Magistrate, it is crystal clear that accused Waseem was ashamed of what he did and therefore he surrendered himself before the police. It was the argument of learned defence counsel that accused Waseem was got pressurized for getting his statement recorded before the learned Judicial Magistrate and he remained before and after the recording of judicial confession in the police custody which was recorded after court hours. I am not convinced with this argument of learned defence counsel as two events occurred back to back, first the surrender of accused before the police and then the statement of accused recorded before the learned Judicial Magistrate u/s 164 Cr.P.C. It is pertinent to mention here that accused Waseem surrendered himself at 12:15 a.m. (night time) on 17.07.2016 and in the morning of 18.07.2016 he was produced before the learned Judicial Magistrate and in this short period, the pressurizing or physical assault with the accused for getting his statement recorded is not appealable to the person of prudent mind. It is noted that after the arrest of accused his first version recorded before the police is significance as at that time he confessed his guilt before police. Though this confession before police has no evidentiary value but sufficient to negate the argument of learned defence counsel that the judicial confession was recorded under immense pressure of the police. Further according to Ex. PAAM i.e. order of learned ASJ where-in the accused Muhammad Waseem alongwith his learned counsel is present for giving consent of his DNA test and there he has not agitated that his judicial confession was recorded under the pressure of police. Further accused Waseem appeared in PFSA

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for his polygraph test and psychological interview where he confessed his guilt, the evidentiary value of the said polygraph test will be determined later, however that is sufficient enough to negate the argument of learned defence counsel that the judicial confession of accused Muhammad Waseem was recorded after immense pressure. To assess the evidentiary value of the judicial confession of accused Waseem, the evidence of PW-34 is to be scanned minutely as the judicial confession was retracted at the time of framing of charge. Mr. Muhammad Sarfraz Anjum, the then learned Judicial Magistrate appeared into the witness box as PW-34 and according to his evidence, all the necessary measures as required for the recording of judicial confession was opted at the time of recording of judicial confession. Learned defence counsel has agitated that according to Ex.PAZ/1, Ex.PAZ/2 all the questions were put to the accused in English language and same are written in English. This objection of the learned defence counsel loses its weight when during cross-examination, the learned Magistrate clearly states that all these questions were asked in urdu. Further the contents of judicial confession are written in urdu language as mentioned in Ex.PAZ/2 and thumb impression of accused Muhammad Waseem was also present on the margin of page. The objection of learned defence counsel is duly supported by the evidence and record that the accused remained in police custody after the recording of judicial confession made me to go through from the relevant provision of High Court Rules & Orders and from the Rule-7 of Chapter 13. It is crystal clear that after recording of judicial confession if the police subsequently require the accused person for the investigation, police can give written application with the detail why accused is required for physical remand to the learned Magistrate. There is only one restriction that the accused produced before the court for recording of judicial confession has declined for recording his statement shall not be given in the custody of police.

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Meaning thereby after recording of the judicial confession, police can seek physical remand from the learned Magistrate. According to the document produced by the prosecution, on the next day of recording of judicial confession, the application was filed by the local police for further physical remand which was declined by learned Magistrate and this order was set-aside in the revision petition and further physical remand of accused Waseem was granted. During this period, he remained in P.S. Saddar on transitory remand, he was not in the police station where the case was registered against him. Further no new fact/recovery came on the record during subsequent remand i.e. after recording of his judicial confession till he was sent to judicial lock-up on 31.07.2016. He was only taken to the office of PFSA for conduct of DNA as well as polygraph test. Presence of accused with the police after recording of his judicial confession in the circumstances as discussed above does not make confession involuntary. Guidance in this regard is sought from the case law "1969 SCMR 521" titled as "Muhammad Sharif Vs. The State". Uptill now the court has reached to the conclusion that judicial confession by the accused Muhammad Waseem was made voluntarily in accordance with law and its retraction from the judicial confession does not affect its evidentiary value. Further it was the argument of learned defence counsel that judicial confession was recorded after court hours as deposed by Ilyas Haider, Inspector/PW-20. I have perused the record and found that in the report Ex.PAZ/1, Ex.PAZ/2 the time of recording confessional statement is mentioned as 3:30 p.m. so this deposition of Ilyas Haider, Inspector/PW-20 is result of some misconception and is considered as his concessional statement. It is needless to mention here that judicial confession can be used against the accused though retracted subsequently and can be made a base for conviction.

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18. For the safer administration of Justice, this court will look into the corroborative piece of evidence which is available on record in shape of Forensic DNA and Serology Analysis report as Ex.PAAE according to which the DNA profile obtained from one item # PFSA 2016-DNA 5955-3 and PFSA 2016-DNA 5955-8 matched the DNA profile of Muhammad Waseem (item # PFSA 2016-DNA 5955-S1). In the absence of an identical twin, Muhammad Waseem (item # PFSA 2016-DNA 5955-S1) is the source of DNA obtained from item # PFSA 2016-DNA 5955-3 and PFSA 2016-DNA 5955-8 to a reasonable degree of scientific certainty.

The DNA profile obtained from item # 5955-10.1 is a mixture of at least two individuals Muhammad Waseem and Fouzia Azeem alias Qandeel Balouch cannot be excluded as being the possible contributors to the DNA obtained from item # 5955-10.1. Further the DNA profile obtained from item # 5955-5.3 is a mixture of at least two individuals. Muhammad Waseem and Fouzia Azeem alias Qandeel Balouch cannot be excluded as being contributors to the DNA obtained from item 595505.3. Moreover, the DNA profile obtained from item # CSI-153-1, CSI-153-2, 153-3, 153-4, DNA 5955-4, 5955-5.2, 5955-6, 5955-7 and DNA 5955-12.1 matches the DNA profile of Fouzia Azeem alias Qandeel Balouch (itme # CSI-153-6). In the absence of identical twin, Fouzia Azeem alias Qandeel Baouch is the source of DNA obtained from items to a reasonable degree of scientific certainty. The DNA profile obtained from item # PFSA 2016-DNA 5955-5.1 is a mixture of at least two individuals with major and minor components. The major component of DNA profile obtained from item # PFSA 2016-DNA 5955-5.1 is consistent with DNA profile of Fouzia Azeem alias Qandeel Balouch (item # PFSA 2016-CS1-153-6). In the absence of an identical twin, Fouza Azeem (item # PFSA 2016-CS1-153-6) is major contributor of DNA obtained from the item # PFSA 2016-DNA 5955-5.1 to a reasonable degree of scientific certainty. Learned defence

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counsel argued that the report of DNA is not admissible under Sec. 510 Cr.P.C. The said argument of learned defence counsel does not carry weight as it is mentioned u/s 9 (3) of Punjab Forensic Science Agency Act, 2007 that "the person appointed in the Agency shall be deemed as an expert appointed u/s 510 Cr.P.C. of the Code and a person specially skilled in a forensic material under Article 59 of Qanun-e-Shahadat Order, 1984". So, the said DNA report was generated by the expert and this report is admissible as discussed earlier. Further during course of arguments learned defence counsel produced esteemed judgment reported as "2016 SCMR 274" and argued that according to this Judgment DNA test report is not admissible. I have gone through this esteemed judgment and found in para No. 26 of this judgment that admissibility of DNA report was held in question for the particular case. Same is reproduced as under:

*26. The next piece of evidence is the positive result of DNA test. Whether the report was legally admissible, keeping in view the provision of section 510 Cr.P.C. where under, the report of biochemical expert on DNA (a biochemist) is not covered thus, it is open to a serious debate because under the above provision of law, specified experts' reports, excluding the report of above said expert, have been made admissible. This aspect would be discussed and decided in some other cases elaborately however, at present we are unable to hold the same as an admissible piece of evidence in absence of any sanction of law.*

Learned defence counsel has pointed out some discrepancies and contradictions in securing the items for conducting DNA and sending the parcels to the office of PFSA, Lahore. It is observed that on the day of occurrence, Tahir Ismail, Forensic Scientist/PW-2 collected the items as discussed above and prepared sealed sample parcels and handed over the same to Ilyas Haider, Inspector/I.O. The parcels were submitted by the I.O. on the same day to Moharrar for keeping in Malkhana as well as for onward transmission to the office of PFSA, Lahore. In the night of 16.07.2016, Ilyas Haider, Inspector/I.O. went to PFSA, Lahore and

deposited the above said parcels to the PFSA, Lahore. From the above said piece of evidence, it is clear that no delay in collection of items as well as for its transmission to PFSA has been observed. Further the main aspect for the reliance upon DNA analysis is contamination of the samples. Learned defence counsel has not brought this fact on the record that the sample was contaminated while securing or while on its onward transmission to the PFSA, so to my mind samples were secured in a reasonable time in accordance with the rules prescribed by PFSA and was transmitted for analysis intact and the same were not contaminated. So, this piece of evidence is admissible in the eye of law and as discussed supra favours to the prosecution case.

19. Other piece of evidence produced by prosecution available on the file is the reports of polygraph test of accused persons namely Haqnawaz, Muhammad Zafar Hussain, Abdul Basit alias Basu, Muhammad Abdul Qavi and Muhammad Waseem. First of all I will take up the report of polygraph test of accused Waseem which is available on the file as Ex.PAK, Ex.PAK/1. Polygraph test of accused Muhammad Waseem was conducted to the extent of accused Haqnawaz and the role of accused Haqnawaz was asked from him. He involved the accused Haqnawaz in the crime and was confirmed as truthful. Needless to mention that statement of accused to the extent of co-accused is not admissible in evidence. So, the polygraph test of accused Waseem is of no benefit for the prosecution case. Further confessional statement of accused Muhammad Waseem was recorded in the office of PFSA before the polygraph Unit which is available on the record as Ex.PAL, Ex.PAL/2. This confessional statement maximum can be treated as extra-judicial confession as the same was not recorded before a Magistrate as mentioned in the Sec. 164 Cr.P.C. In the above said confessional statement, accused Waseem also involved accused Haqnawaz with him in the crime. However the accused was produced

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before the expert of PFSA in the company of police and this fact is mentioned in the report as well, so this extra-judicial confession recorded in the custody of police cannot be taken into consideration for prosecution case.

20. The polygraph test of accused Haqnawaz was also conducted in the office of PFSA before the Polygraph Unit which is available on record as Ex.PAH, Ex.PAH/1-5. The said confession of accused has no value as the same was not recorded before the Magistrate u/s 164 Cr.P.C. So this type of confession is treated as extra judicial confession which is weakest type of evidence and needs some strong corroboration. Prosecution produced PW-8 Aabid Ayoub, Incharge Polygraph before whom this statement was recorded but the same cannot be given weight in presence of the DNA report in which the accused Haqnawaz has been eliminated being the contributor of DNA found from the items collected from or near the dead body of deceased. So to the extent of accused Haqnawaz one piece of evidence is extra-judicial confession which is the weakest type of evidence and same was recorded in the custody of police so cannot be considered in favour of prosecution case. The other piece of evidence against the accused Haqnawaz is recovery of the passport of deceased Fouzia Azeem alias Qandeel Balouch which he got recovered from his house at Shah Saddar-ud-Din, District D.G. Khan and same was taken into possession through recovery memo Ex.PL. This piece of evidence is doubtful as the police has not produced the witness of the P/s Shah Saddar-ud-Din where the recovery was affected.

21. The polygraph test of accused Abdul Basit was conducted in the Polygraph Unit of PFSA and its report is available on record as Ex.PAG. As per opinion of experts, no conclusive opinion could be drawn from this polygraph test. When no opinion was made by the experts of polygraph

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Unit, so it is held that this report cannot be used against the accused Abdul Basit.

22. The polygraph test of accused Muhammad Zafar was conducted and its report is available on record as Ex.PAF, according to which, no conclusive opinion could be drawn from the test conducted. So, when no opinion was made by Forensic experts, the said report cannot be used against the accused Muhammad Zafar. Similarly, the polygraph report of Muhammad Abdul Qavi, accused is available on record as Ex.PAJ and as per report on the question of instigation to anyone to take the life of Fouzia Azeem alias Qandeel Balouch, he cannot be confirmed as truthful. Learned DDPP argued that from the said opinion of experts, it is established that on the instigation of Muhammad Abdul Qavi, this murder was committed. I am not convinced with this argument of learned DDPP as no clear opinion has been given by the Forensic experts regarding the falsity of the answer of Muhammad Abdul Qavi and the polygraph test of accused Muhammad Abdul Qavi was conducted in the custody of police even if it is taken as extra-judicial confession that cannot be used against the accused. Further from this report of PFSA it cannot be said with certainty that accused Abdul Qavi instigated someone for the murder of Qandeel Balouch.

23. Learned DDPP argued that the pictures of accused Muhammad Abdul Qavi with Fouzia Azeem alias Qandeel Balouch alongwith press conference of Fouzia Azeem alias Qandeel Balouch dated 28.06.2016 is available on record and same is corroborated with the evidence of PW-12, PW-32 and PW-33 in which she stated that her life is in danger and under threats. I am not convinced with this argument of learned DDPP as from the selfies and press conference it is not proved that the accused Abdul Qavi instigated for committing the murder of Fouzia alias Qandeel. Further the author of the press conference has not been produced before the


court, so this piece of evidence cannot be considered as material which can use against the accused Muhammad Abdul Qavi. Prosecution has also produced the bank statements of accused Abdul Qavi in evidence with the help of PW-16, PW-17 and PW-18 but to this court this piece of evidence has no link with the prosecution case as this evidence has not established that accused Abdul Qavi has transferred amount in account of Qandeel Balouch.

24. The CDRs of accused persons are available on record. Learned DDPP argued that from the call data record, the location of accused Waseem and Haqnawaz was found in the area of P/s Muzaffarabad which shows that these accused persons are involved in the occurrence. It was further argued that accused Muhammad Zafar, Aslam Shaheen and Muhammad Abdul Qavi remained in contact with one another which shows that all these accused persons in connivance with each other committed this occurrence. I have perused the evidence of prosecution regarding the CDRs and it is observed that prosecution has not produced that what were the contents of communication between all accused persons namely Haqnawaz, Abdul Basit, Muhammad Zafar and Aslam Shaheen with accused Waseem. Though from the contacts between the accused persons and their location, it can be presumed that the accused Haqnawaz and Abdul Basit were present in the surrounding of the place of occurrence, however, in the absence of contents of inter-se communication it cannot be believed that the accused persons Haqnawaz and Abdul Basit alias Basu were abetting accused Waseem or were involved in the privy of offence.

25. This court will now look into the medical evidence brought on record in shape of inquest report Ex.PAV, post-mortem examination report Ex.PAAC and injury statement. From this report, it is clear that the death of Fouzia Azeem alias Qandeel Balouch was occurred due to

smothering/strangulation and is unnatural death. The report of the items of DNA which were collected from/near the dead body of deceased confirms the presence of accused Waseem at the spot. His retracted judicial confession also connects him with the commission of offence.

26. The investigation in this case was conducted by Ilyas Haider, Inspector/PW-20, Attiya Naheed Jafri, Inspector/PW-24, Asif Shahzad, SI/PW-19 and Noor Akbar, SI/PW-23. Learned defence counsels raised some objections and technical lapses while conducting investigation by the I.O.s. They argued that no incriminating piece of evidence to the extent of accused persons Aslam Shaheen, Muhammad Zafar and Muhammad Abdul Qavi has been brought on record. It is further argued that Ilyas Haider, Inspector/PW20/I.O. did not record the statement of complainant correctly and whatever he recorded, the same was his own thinking as the complainant is 80-years old man and his eye-sight and hearing is not working properly. It was also the argument of defence counsels that it is in the evidence of Ilyas Haider, Inspector that he did not notice any blood on cot or on SAFA which was collected near the dead body, so it cannot be considered that the SAFA present there was used as the weapon of offence. Lastly, it was the argument of defence counsels that the I.Os conducted investigation beyond the facts of the case and they tried to convert the blind murder into the case of honour killing. I have perused the evidence of I.O.s including the cross-examination conducted over them and it has been found that the lapses and discrepancies pointed out by learned defence counsels are result of time lapse between the conduct of investigation and recording of their evidence. The non-seeing of blood on SAFA at the time of its securing does not show that some other SAFA was sent to PFSA as according to inquest report or PMR no blood was detected. Lastly, after recording of judicial confession by the accused Waseem, the curiosity of blind murder has been clear as he himself

  
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admitted in his judicial confession he after seeing the pictures and videos of his sister committed her murder. It is admitted fact that Fouzia Azeem alias Qandeel Balouch was working on social media and her selfies and videos were viral on social media. Further the irregularities and technical lapses did not cause any prejudice to the accused as it is held in Nawab case "2014 P.Cr.L.J.885" that due to negligence of I.O. the complainant will not suffer. Nothing material is brought by the defence on record that the investigation of case was conducted in connivance with the complainant.

27. Crux of the discussion so far is that prosecution has successfully proved the case of murder of Fouzia Azeem alias Qandeel Balouch against the accused Muhammad Waseem through judicial confession corroborated by the DNA analyses beyond shadow of reasonable doubt. As far as the involvement of remaining accused persons except Muhammad Waseem and Aslam Shaheen is concerned they were nominated through the supplementary statement which though was recorded well in time, however, there is no convincing circumstantial evidence available on the file to the extent of accused persons nameiy Haqnawaz, Abdul Basit alias Basu, Muhammad Zafar, Muhammad Abdul Qavi and Aslam Shaheen.

28. Now this court will look into the examination of accused persons u/s 342 Cr.P.C. Accused Muhammad Waseem mainly contended while taking plea that he has been falsely implicated in this case and his judicial confession was obtained after torturing him. Accused is at liberty to take as many defences as he can and the same is not necessary to be proved. In this case when the judicial confession has been believed as the voluntarily statement given by the accused and no suggestive material has been brought on record by the accused Muhammad Waseem that his judicial confession was not voluntarily and result of torture of police, so

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his defence u/s 342 Cr.P.C. is not believable. As far as the examination of remaining accused persons is concerned, in absence of any convincing circumstantial evidence against them, I find no occasion to discuss the same. Resultantly, the charge u/s 302,109,34,404 PPC is not proved against the accused persons namely Haqnawaz, Muhammad Zafar, Abdul Basit alias Basu, Muhammad Abdul Qavi and Aslam Shaheen and they are acquitted while giving the benefit of doubt in their favour and their sureties are discharged from the obligations of bail bonds.

29. Off-shot of the discussion so far is that prosecution has successfully proved its case beyond shadow of reasonable doubt through cogent, convincing and inspiring evidence against the accused Muhammad Waseem for committing Qatl-i-Amd of his sister Fouzia Azeem alias Qandeel Balouch in shape of proving his presence at the place of occurrence, in shape of judicial confession corroborated with positive results of his DNA. So he is held guilty for committing Qatl-i-Amd of his sister. It is important to discuss here that parents of Fouzia Azeem alias Qandeel Balouch filed an application for compounding the offence to the extent of accused Muhammad Waseem and Aslam Shaheen and same was dismissed by this court for the time being, keeping in view the provisions of Sec. 345(2) Cr.P.C. wherein the discretion is granted to the court for acceptance of such compromise. Again the mother of deceased appeared before the court during the course of arguments of defence counsels and insisted that compromise be accepted as she has lost her daughter and further does not want to loose her son, even if the compromise is accepted the case of Muhammad Waseem, accused falls in the ambit of Sec. 311 PPC as he has confessed before the learned Judicial Magistrate while recording his judicial confession that he committed the murder of his sister due to her photographs and videos and same has been discussed in the preceding paragraph of this Judgment. In this case life style of Fouzia

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Azeem alias Qandeel Balouch and her profession was considered her sin by his brother and she was brutally murdered by Muhammad Waseem in the name of honour. So he is convicted u/s 311 PPC after compounding of right of Qisas in Qatl-i-Amd and sentenced to undergo imprisonment for life. The convict is present in the court under custody. He is sent to the Central Jail, Multan for realization of the sentence awarded to him, accordingly alongwith the warrants of punishment. The convict is given copy of this Judgment free of costs. Benefit of Sec. 382-b Cr.P.C is extended in favour of convict/Muhammad Waseem. Copy of this Judgment be also sent to the learned District Public Prosecutor, Multan for information. Case property alongwith last worn clothes and personal belongings of the deceased shall remain intact till the arrest and decision of the case of accused Muhammad Arif (since P.O.) and after the expiry period of appeal or revision, if any. File be consigned to the record after its due completion.

Announced:  
27.09.2019.

  
**IMRAN SHAFI KHAN**  
Addl. Sessions Judge,  
Multan.

Certified that this judgment consists of thirty eight (38) pages, each page has been dictated, read, corrected and signed by me.

Announced:  
27.09.2019.

  
**IMRAN SHAFI KHAN**  
Addl. Sessions Judge,  
Multan.