

Ex. 84

IN THE ANTI-TERRORISM COURT NO: VII,
CENTRAL PRISON AT, KARACHI.

(Special Case No: 23(vii)/2020)
(Old Special case No. 17/2016)

The State
Versus

- (1) Muhammad Rahim Sawati s/o Syed Habib
- (2) Muhammad Imran Sawati s/o Muhammad Rahim Sawati,
- (3) Ahmed Khan @ Ahmed Ali @ Papu Shah Kashmiri S/o Abdul Baqi
- (4) Muhammad Amjad Hussain Khan s/o Muhammad Jameel Khan
- (5) Ayaz Ali @ Sawati s/o Muhammad Shireen.....Accused

FIR No: 104/2013
U/s: 302/201/202/109/34 PPC
r/w Section 11-N/11-V(ii),
7 of ATA, 1997
P.S. Pirabad, Karachi.

Mr. Neel Perakash & Ali Raza, APGs for the State.

Mr. Faisal Qureshi alongwith Salahuddin Panhwar, advocates for the complainant.

Mr. Shah Imroz Khan, advocate for accused Imran Sawati, Rahim Sawati and Ahmed Khan.

Mr. Ajab Khan Khatak, advocate for the accused Ayaz

Mr. Abid Zaman, advocate for the accused Amjad.

Dated: 17.12.2021

JUDGMENT

The malefactors named at caption involved in the titled crime were arraigned before the Court of Anti-Terrorism Court No; II, at Karachi, to face their trial against the charge for the offences U/Ss: 302/201/202/109/34 PPC r/w Section 7 Anti-Terrorism Act-1997.

Brief facts of the case are that complainant Wali Dad s/o Abdul Rehman recoded his statement u/s 154 Cr.P.C on 13.03.2013 at about 2115 hours before SIP Zakirya Korejo of PS Peerabad, averring therein that he is employed as a driver at Orangi Pilot Project (OPP) since last 20 years, performing his duty with Director Ms. Perveen Rehman D/o Muti-ur-Rehman. On 13.03.2013, he was way back alongwith Ms. Parveen Rehman, Direcotr Orangi Pilot Project (OPP), in car bearing No: AKT-278 Honda City to her home from office situated near Qasba Curve, when reached at Pakhtun Market in front of main road Manghopir, he slowed down the car due to speed breaker, all of sudden two unknown

persons on a motorcycle having unknown registration number appeared from left side of car, initiated indiscriminate firing at Ms. Perveen Rehman, sitting on the rear seat of car. As a result of firing she received firearm injuries, he brought her to Abbasi Shaheed Hospital in the said car, where Doctor declared Ms. Perveen Rehman succumbed to her injuries.

After registration of FIR, investigation was entrusted to SIP Raja Ulfat Hussain, who visited the place of incident, prepared such memo and sketch of place of incident, collected two empties of 9mm pistol, recorded statements of PWs u/s 161 Cr.P.C. On 15.03.2013 the recovered empties from the spot and vehicle of deceased were sent to FSL for examination and report. The forensic expert Rana Hassan Javed inspected the vehicle of deceased lady Mst. Parveen Rehman and secured two Sikkas from the diggay of the said car, handed over to SIP Raja Ulfat, who prepared such memo, besides received such report. During the investigation one Qari Bilal was murdered during encounter with police and case/crime No.86/2013 & 87/2013, U/s: 353, 324, 34 PPC r/w section 7 ATA, 1997 & 13-D Arms Ordinance were registered against him at PS Manghopir, his superior officer directed him to send both empties to FSL for matching with the alleged recovered weapon in the above said crime. He dispatched weapons and empties to FSL, received the report on 19.03.2013, recorded the statement of complainant of crime No: 85/2013 namely Asif Hussain and also enquired from IO Ameer Gondal. Later on the car bearing No: AKT-278 was handed over to representative of OPP after obtaining the receipt. He tried his level best to arrest the accused, but could not succeed, therefore submitted his report in "A" class. Later on complainant party approached the Hon'ble Supreme Court of Pakistan, Islamabad through C.P No: 50/2013 for re-investigation and DIG West were directed to re-investigate the case, the investigation were assigned to SIO/PI Fareed-ud-Din, who also appeared before the Hon'ble Supreme Court of Pakistan at Islamabad, with his superior officer and Hon'ble Supreme Court of Pakistan, Islamabad deputed the Hon'ble District & Sessions Judge West for enquiry and report. On 05.05.2014 Hon'ble Supreme court of Pakistan, Islamabad directed the Provincial Government to constitute the JIT to probe in the matter. DIG Sultan Khawaja was the head of JIT and members of JIT were suspected over the involvement of one Bilal @ Tension, who was in jail custody in another case. PI Fareed-ud-Din obtained NOC from the concerned Court and custody of above named UTP from the jail, prepared imaginary mashirnama of arrest of accused Bilal @ Tension. During investigation no

concrete evidence came on record against him, therefore, he was released u/s 497 (ii) Cr.P.C on 20.09.2014. During investigation he received spy information that accused Ahmed Ali @ Papo Kashmiri is involved in this case. He went to Mansehra (KPK), wherefrom arrested the accused on 19.03.2015 from his house at about 0020 hours under the mashirnama in presence of mashirs. During interrogation accused Ahmed Ali @ Papu Kashmiri recorded that prior to 15 days of murder of Ms. Parveen Rehman (deceased), he was present in the house of Raheem Sawati, as they both belong to ANP, where Shuldad, brother in law of accused Raheem Sawati were present, to whom accused Raheem Sawati asked that Ms. Parveen Rehman created problems and hindrance to him; therefore, she may be disposed-off. Later on the son of Raheem Sawati namely Muhammad Imran was arrested on 01.08.2015 by the Pirabad Police u/s 54 Cr.P.C, he was intimated under relevant entry. He arrived at PS Pirabad, arrested him and prepared imaginary mashirnama of arrest of accused in the instant case. During interrogation accused Imran Sawati disclosed that his father has undergone somewhere else and talked with him over internet. He also wrote letter to SSP (CTD) regarding the information to be obtained from the concerned department either accused Raheem Sawati went out of country or in Pakistan, he received the reply from the FIA Islamabad, confirmed having no travelling record of accused Raheem Sawati leaving aboard. He added section 201 and 202 PPC in this crime and challan was submitted against both accused namely Ahmed Ali alias Papu Kashmiri & Muhammad Imran Sawati showing the remaining accused as absconders in column No: II.

Accused Raheem Sawati was arrested on 20.05.2016 in FIR Nos: 114, 115, 116 of 2016 of P.S Manghopir, U/s: 353, 324, 34 PPC, 4/5 Explosive Substance Act and 23 (1) (a) of SAA, 2013 and were re-arrested in the instant case by the SIP Raja Ulfat of PS Pirabad under memo when Inspector Fareeduddin was on leave. It has come in his knowledge after return from the leave that accused Raheem Sawati has confessed his guilt before SSP u/s: 21-H of ATA, 1997 produced by Inspector Naveed Ali Shah. On 24.10.2017 he received the information from the Inspector Jameel of PS Orangi, that he has arrested the accused Muhammad Amjad Khan in crime No: 310/2017 & 311/2017, U/s: 4/5 Explosive Substance Act and 23 (1) (a) of SAA, 2013 of PS Manghopir, who admitted before Inspector Jameel that he is involved in the instant crime. He then went to PS SITE-A, where accused was confined, wherein he was re-arrested after interrogation under memo. On 11.12.2017 accused Ayaz Sawati was arrested by the Pirabad Police

in crime No: 153/2012, U/s: 302/34 PPC. He was informed by the Pirabad Police, he went there and arrested the accused after interrogation. He obtained the photos of the car of deceased Mst Parveen Rehman, CDR record of deceased Mst. Parveen Rehman and after completion the legal formalities on 22.01.2018 submitted challan before worthy Administrative Judge, ATCs, Hon'ble High Court of Sindh, Karachi against all the five accused named above.

NBWs were issued against the accused Raheem Sawati shown as an absconder and the proceedings u/s: 512 Cr.P.C were initiated against him at Ex. 01/A to 01/D respectively along with publication at Ex. 03/A to 03/C respectively.

My learned predecessor took oath as prescribed u/s: 16 of ATA, 1997 at Ex. 02, after receiving the case from ATC-II vide order dated 30.01.2016 passed by the Hon'ble High Court of Sindh, at Karachi.

In compliance of Section 265-C Cr.P.C police papers were supplied to accused Muhammad Imran Swati and Ahmed Khan at Ex. 04.

The undersigned took oath as prescribed u/s: 16 of ATA, 1997 at Ex. 06.

I.O/PI Fareeduddin submitted report u/s: 169 Cr.P.C in respect of accused Muhammad Imran Sawati for his release on the ground that there is no nexus of accused Muhammad Imran Swati with the instant crime, who while telling a lie informed him for going abroad to misguide the investigation agency, thus prayed for his release u/s: 169 Cr.P.C. The report of I.O u/s: 169 Cr.P.C against accused Muhammad Imran Swati was dismissed on 10.10.2016 at Ex. 07.

After arrest of absconding accused Muhammad Raheem Sawati, copies of police papers were supplied to him at Ex. 08 in compliance of section 265-C, Cr.P.C.

Charge was framed against the accused Muhammad Rahim s/o Syed Habib, (2) Muhammad Imran Sawati s/o Muhammad Rahim Sawati and (3) Ahmed Khan @ Ahmed Ali @ Papu Shah Kashmiri s/o Abdul Baqi at Ex. 10, to which they pleaded not guilty and claimed to be tried vide their pleas recorded at Ex: 10/A to 10/C respectively.

To validate its case and bring the guilt of the accused at home prosecution examined in all twenty six (26) witnesses as under:-

PW-1 ASI Muhammad Bashir at Ex: 11, who produced mashirnama of arrest of accused Ahmed Khan@ Ahmed Ali @ Papu and memo of pointation of place of occurrence at Ex.11/A & 11/B respectively.

PW-2 SIP Riaz Ahmed at Ex: 12, who produced mashirnama of arrest of accused Rahim Sawati at Ex.12/A.

PW-3 PC Muhammad Shahid at Ex: 13, who produced mashirnama of arrest of accused Muhammad Imran Sawati at Ex: 13/A.

PW-4 Inspector Zakariya Korejo at Ex: 15, who produced letter addressed to MLO, memo of inspection of dead body, inquest report, statement of complainant Wali Dad u/s 154 Cr.P.C, receipt of superdiginama of dead body, entry No.45 & FIR bearing No: 104/2013 at Ex.15/A to 15/G respectively.

PW-5 PC Ghulam Hussain at Ex: 16, attested copy of memo of arrest of accused Imran Sawati u/s: 54 Cr.P.C at Ex.16/A.

PW-6 PC Siddique Ali Shah at Ex: 17, who produced mashirnama of recovery of two projectiles (Sikkas) at Ex: 17/A.

PW-7 Anwar Rashid (Director O.P.P) at Ex: 19.

PW-8 Rtd. WMLO/Dr. Yasmeen Qamar at Ex: 20, who produced attested copy of postmortem of deceased bearing No: 291/2013 along with cause of death certificate at Ex: 20/A and Ex: 20/B respectively.

The proceedings against absconding accused Muhammad Amjad Hussain Khan S/o Muhammad Jameel Khan & Ayaz Ali alias Sawati S/o Muhammad Shireen were initiated after the filing of application by the I.O through DDPP for the State and the order were passed thereon at Ex: 24 & 25.

Later on, accused Muhammad Amjad Hussain Khan was arrested on 24.10.2017 and copies of police papers in compliance of section 265-C, Cr.PC were supplied to him at Ex. 26.

The proceedings against absconding accused Ayaz Ali alias Sawati S/o Muhammad Shireen were initiated at Ex: 27.

Thereafter, R&Ps of the case were transferred from the board of this Court to Anti-Terrorism Court No: XIII Karachi vide order dated 15.12.2017.

Absconding accused Ayaz Ali alias Sawati S/o Muhammad Shireen were supplied police papers in compliance of Section 265-C Cr.P.C at 28 after his arrest.

Amended charge was framed against the accused (1) Muhammad Rahim Sawati s/o Syed Habib (2) Muhammad Imran Sawati s/o Muhammad Rahim Sawati, (3) Ahmed Khan @ Ahmed Ali @ Papu Shah Kashmiri s/o Abdul Baqi, (4) Muhammad Amjad Hussain Khan s/o Muhammad Jameel Khan and (5) Ayaz Ali @ Sawati s/o Muhammad Shireen at Ex: 29, to which they pleaded not guilty and claimed to be tried, vide their pleas recorded at Ex: 29/A to 29/E respectively.

The learned Judge ATC-XIII took oath as prescribed u/s 16 of Anti-Terrorism Act, 1997 at Ex: 30.

After amendment of charge, prosecution examined PW-1 PC Siddique Ali Shah at Ex: 32.

PW-2 ASI Muhammad Bashir at Ex: 33.

PW-3 PC Muhammad Shahid at Ex: 34.

PW-4 Inspector Zakariya Korejo at Ex: 35.

PW-5 WMLO/Dr. Yasmeen Qamar at Ex: 36.

PW-6 SIP Riaz Ahmed at Ex: 37.

PW-7 PC Ghulam Hussain at Ex: 38.

PW-8 HC Abdul Shehzad at Ex: 39, who produced memo of arrest of accused Ayaz Ali at Ex. 39/A.

PW-9 PC Shehzad at Ex: 40, who produced memo of arrest of accused Muhammad Amjad Khan at Ex. 40/A.

PW-10 Anwar Rashid (Director of OPP) at Ex: 42.

PW-11 Amjad Ali (Supervisor of OPP) at Ex: 44.

PW-12 Gul Nawab (Rtd. Watchman) at Ex: 45.

PW-13 Muhammad Shamsuddin at Ex: 46.

PW-14 Muhammad Sirajuddin (Supervisor of OPP) at Ex: 47, who produced memo of place of wardat at Ex: 47/A.

PW-15 Rana Hassan Javed (Incharge FSL) at Ex: 48, who produced application of I.O alongwith photographs of vehicle, mashirnama of recovery & FSL report at Ex: 48/A to 48/C respectively.

PW-16 Akhtar Farooque (SP) at Ex.50, who produced confessional statement of accused Raheem Sawati u/s: 21-H of ATA, 1997 at Ex.50/A.

PW-17 PI Ulfat Hussain (Ex. I.O) at Ex: 52, who produced sketch of the place of incident, photographs, application to the FSL along with report, letter addressed to Incharge FSL and FSL report, receipt of handing over the vehicle bearing No.AKT-278, imaginary mashirnama of arrest of accused Bilal @ Tension at Ex: 52/A to 52/K respectively.

PW-18 Mst. Aquila Ismail (Chairperson of O.P.P) at Ex: 55.

Summons were issued against complainant Walidad s/o Abdul Rehman, returned unserved by Inspector Muhammad Fariduddin at Ex.56 and recorded that he made enquiries from the local people, who informed him that Walidad s/o Abdul Rehman died his natural death on 25.09.2017, who has produced death certificate, CRMS No.D135028-17-0078 form No.P06547136 issued by NADRA on 04.10.2017 Secretary Union Council Shinkari District Mansehra KPK & in this regard he also recoded statements of mohalla people, which he produced at Ex. 56/A to 56/G respectively.

PW-19 I.O/Inspector Muhammad Farid at Ex: 57, who produced order of permission, relevant entries, letter addressed to SSP CTD, record of FIA, CRO record, photographs of deceased's car & CDR record at Ex: 57/A to 57/M respectively.

Learned APG for the state closed the side of prosecution vide his statement at Ex. 58, while gave up PWs H.C Sajjad Ahmed, SIP Tariq Jaddon, P.C Amjad, P.C Mashooque Ali, Miraj Hassan, Gul Nawab, H.C Sajjad, Sajjad Ahmed, P.C Zubair, P.C Amjad, SIP Tarique Jaddon, P.C Mashooque Ali, Miraj, SIP Noman Bangash and Asif Hassan vide his statements at Ex. 14, 18, 21, 22, 23, 31, 41, 43, 49, 51, 53 & 54 respectively being formal witnesses.

Accused recorded their statements under section 342 Cr.P.C at Ex- 59 to Ex. 63 respectively, denied the allegations, claimed to be innocent, booked falsely by the police. Accused did not examine themselves on oath, except the accused Muhammad Rahim Sawati. Accused Ayaz Sawati claimed that he was abroad since 2008 and

returned in Sep, 2017. He produced photographs of his passport at Ex. 60/A. Accused Muhammad Rahim Sawati examined him u/s: 340 (2) Cr.P.C at Ex. 64, deposed that he did not know as to why police implicated him, neither he is involved nor knew the facts. According to him on 25.04.2016 he voluntarily appeared at P.S when he came to know about the case against him, in presence of Murad, Fazal Wahab and Salman. His relatives also took the photographs and movie. He produced five photographs at Ex. 64/A. He did not record any confessional statement as stated by the prosecution; however police had apprehended his two sons Kamran and Adnan to put the pressure upon him. His son Imran was already in police custody, maltreated while he was in police custody. The confessional statement as alleged by the prosecution was written themselves as he has not put any signature on it.

During Cross examination by learned APG for the State, he deposed that he surrendered himself at P.S Mominabad. He denied that he confessed the guilt before the Media and police that he had committed the alleged offence. He denied that he had made the plan for murder of Mst. Parveen Rehman and paid an amount to his companions for such act. He denied that no one thrown the cracker at his house. He denied that he is deposing false only to save his skin. He denied that he was fully in connection with co-accused and committed the offence.

D.W-01 Fazal Wahab S/o Syed Nawab, deposed that accused Muhammad Rahim is his cousin. On 24.04.2016, the accused Muhammad Rahim came to his house, it was 09-30pm, remained with him in his house. On the next day Muhammad Rahim disclosed that he came to know that case is registered against him. He then called the Naik Mard of the mohalla and discussed with Muhammad Rahim. Then Muhammad Rahim accompanied with him up to PS Mominabad at 4-30 pm on 25.04.2016, appeared voluntarily where police prepared the required documents and offered the Namaz of was Asar Time and they returned back to home.

During cross examination by learned APG for the State, he denied that he deposed false being relative of the accused. He denied that he intentionally damaged the case of prosecution. He denied that accused was arrested by the Manghopir police and was in custody. He denied that he was not at his residence as stated by him. He denied that he is deposing false only to save the skin of accused.

D.W-02 Salman, deposed that accused Muhammad Rahim is his father residing with him. His father was not arrested by the police as stated by them, in fact his father voluntarily appeared at PS Mominabad on 25.04.2016 at 4:30 p.m in his presence, Fazal Wahab and Murad and he captured the photographs, when his father entered at PS and met with the SHO.

During cross examination he denied that he is deposing false being son of accused Muhammad Rahim. He denied that the Manghopir police had arrested Muhammad Rahim, whom he met at PS. Vol. says that Muhammad Rahim appeared at PS Mominabad. He denied that he did not capture the photographs as stated by him. He denied that he intentionally damaged the case of prosecution. He denied that he is deposing false only to save the skin of accused from legal consequences.

Thereafter, undersigned took oath as prescribed u/s: 16 of ATA, 1997 at Ex. 68 after receiving the case by way of transfer.

It is pertinent to mention here that in all three JITs were constituted in the instant crime conducted by the police and rest of two JITs were conducted by the CTD & FIA authorities at the directions of Hon'ble Supreme Court of Pakistan, to probe the matter against the accused/culprits.

It is beneficial to mention here that Honourable Supreme Court of Pakistan passed an order vide dated: 04.01.2021 in C.P bearing No: 50/2013. The relevant para reads as under:-

"We have noted that in ordinary circumstances though the charter of FIA does not allow it to conduct investigation in cases of murder, but since a Joint Investigation Team was constituted wherein four other members including police and other agencies were associated, the sole purpose of which was to collect evidence, the same could be placed before the Trial Court for adjudication in the interest of safe administration of criminal justice. The investigation conducted by the JITs is meant to facilitate and assist the police investigation. Through these proceedings, the petitioners only wanted that a fair investigation be conducted. Since, this has been done by the reports of the two JITs, which are not available before the Trial Court, it would be appropriate that these reports be placed before the Trial Court for its scrutiny in accordance with law.

Accordingly, the heads of JITs are directed to place the reports dated: 03.10.2018 and 08.01.2020 before the Trial Court within two weeks of the receipt of this judgment to supplement the report already placed before the Trial Court under section 173 Cr.P.C. The learned Trial Court is directed to evaluate the fresh material placed before it if the same is essential for the just decision of the case while associating such witnesses as it deems necessary after fulfilling itself within the four corners of law. As the trial is pending since long, we direct the Trial Court to decide the same expeditiously. Needless to observe, the interim orders passed by this Court regarding the provision of security to the P.Ws and the members of the Orangi Pilot Project shall remain in force till the conclusion of the trial”.

In compliance of above order passed by the Hon’ble Supreme Court of Pakistan dated: 04.01.2021, the undersigned called the heads of the JITs (dated: 03.10.2018 & 03.01.2020) vide order dated: 24.05.2021 and recorded the evidence of members of the JIT as P.Ws to the case of prosecution.

P.W-20 Omar Shahid (the then SSP/Head of JIT) is examined at Ex. 69, who produced JIT report in original along with letter dated: 11.03.2012 and letter in respect of obituary issued by the Govt of Sindh in respect of DSP Sultan Panhwar at Ex. 69/A and 69/B respectively.

P.W-21 Mazhar Iqbal Mashwani (the then I/C PCT/4, CTD) at Ex. 70.

P.W-22 Muhammad Waqas (Technical Expert at FIA/CTW) at Ex. 71, who produced CD along with transcription of interview, recorded by Mst. Parveen Rehman, letter dated: 18.01.2019, seizure memo, letter dated: 01.01.2020, technical analyzer’s report, letter dated: 02.01.2020 & letter to the head of JIT at Ex. 71/A to 71/L respectively.

P.W-23 Fahad Muhammad Deshmukh at Ex. 23.

P.W-24 Masood Ali (D.D/Incharge Forensics, Islamabad) at Ex. 73, who produced letter dated: 02.01.2020, seizure memo, letter dated: 13.02.2020, CD containing audio recording of deceased Ms. Parveen Rehman and his report at Ex. 73/A to 73/E respectively.

P.W-25 Ali Raza (Sub-Inspector, CTW/FIA, Islamabad) at Ex. 74.

P.W-26 Babar Bakhat (Director OPS Cyber Crime Wing) at Ex. 76.

Learned APG for the State gave up PW Aijaz Ahmed Shaikh Assistant Director FIA Islamabad and closed the prosecution side vide her statements at Ex.75 and 77 respectively.

Accused recorded their statements under section 342 Cr.P.C at Ex. 78 to Ex. 82 respectively, denied the allegations leveled against them and claimed to be innocent. Accused Muhammad Rahim Sawati recorded that he was not arrested as alleged, but he himself surrendered on 25.04.2016 along with his relatives namely Abdul Wahab and Fazal Wahab at P.S Mominabad. His cousin Azeem and younger son also made movie when he surrendered to join investigation when came to know through Daily Awam advertisement published u/s: 87/88 Cr.P.C, which shows his innocence and responsibility being law-abiding citizen, but police involved him due to political basis, besides accused Muhammad Imran (son of accused Muhammad Rahim Sawati) recorded that he has been booked due to his father, affiliated with political party, while rest of the accused namely Ahmed Ali alias Papu Kashmiri, Ayaz Sawati and Muhammad Amjad Khan simply denied the allegation leveled against them, booked falsely by the investigation agency with malafide and claimed their innocence. All the accused neither opted to examine themselves on oath nor produced any witness in their defence.

From the evaluation of evidence/record, the points for determination are as under: -

POINTS FOR DETERMINATION

Point No: 01

Whether deceased Ms. Parveen Rehman died unnatural death resulting from firearm injuries on 13.03.2013 as alleged by the prosecution ?

Point No: 02

Whether in the month of February, 2013 accused Muhammad Raheem Sawati in presence of notorious target killer Shuldad (brother in law of accused Muhammad Rahim), along with accused Ahmed Khan alias Ahmed Ali, Muhammad Amjad Hussain Khan and Ayaz Ali alias Sawati in the house of accused Muhammad Raheem Sawati with their common intention and object, discussed the resistance created by Mst.

Parveen Rehman for the creation of Karate Center in the premises of OPP and also created problems for accused Muhammad Raheem and in result thereof, accused Muhammad Raheem instructed his brother in law Shuldad to get rid of from her, as alleged by the prosecution ?

Point No: 03

Whether on 13.03.2013 at about 1930 hours in pursuance of above discussion and plan, accused Muhammad Raheem got exterminated Mst. Parveen Rehman with his active connivance and preparation through his assailants namely Mehfuzullah alias Bhalu (now deceased) & Moosa, wherein accused Ahmed Ali alias Papu Kashmiri facilitated the murder of deceased to get job done as planned by accused Muhammad Raheem, as alleged by the prosecution ?

Point NO: 04

Whether accused Ahmed Khan alias Ahmed Ali, Muhammad Amjad Hussain Khan and Ayaz Ali alias Sawati abetted accused Muhammad Raheem to get accomplish the plan prepared by him and also facilitated him by not disclosing the material facts to the law enforcement agencies, rather deliberately concealed with the connivance of each other, as alleged by the prosecution ?

Point No: 05

Whether on 01.08.2015 accused Muhammad Imran Sawati during interrogation, misguided/concealed the facts of whereabouts of his father/co-accused Muhammad Raheem Sawati, as alleged by the prosecution?

Point No: 06

Whether above named accused created terror, fear, sense of insecurity and panic amongst the staff of OPP, other NGOs working there and in the mind of complainant party, besides surrounding area/locality/public, as alleged by prosecution?

Point No: 07

Whether the accused named above committed offence (s), if any?

Mr. Faisal Siddiqui learned counsel for the complainant along with learned APG for the State contended that the motive of the prosecution case is established through the record of investigation and as

per the settled principle of law the motive is the confirmatory circumstances, therefore requires to be taken into consideration as a foremost ingredient of the case in hand. Per Mr Faisal Siddiqui the interview recorded by the Ms Parveen Rehman were long ago to the occurrence, wherein she recorded all such material facts concerning to the confirmatory of the circumstances leading to establish the motive, therefore, no other view can be taken to drop the issue of motive. He also submitted that the authenticity of interview has never been questioned, therefore, once the material facts which were available long ago on record and even after, when it has been introduced by the prosecution through the JIT conducted by the FIA authorities, the accused did not place any material in juxta position to discard the factum of the said interview. On the contrary there is sufficient material available on record to establish that the accused in the line of planning committed the offence, not only they committed, but absconded without any plausible reason and fugitive from law and Courts, cannot be extended any kind of leniency. The learned counsel for the complainant refereed the interview recorded by the deceased to a Freelancer Journalist Muhammad Fahad Deshmukh having no enmity, ill will or malafide interest against the accused, thus such interview requires to be believed in all respects which contained the name of the accused Raheem Sawati in a specific manner, not been denied by either of the accused in any way. More so, for a moment the plea of the accused is taken into consideration, there is nothing to establish that Ms Parveen Rehman were not known to them nor OPP were situated in the area where accused Raheem Sawati and Ayaz Sawati approached her for the space to be delivered to the ANP for establishment of the Karate Center. Per Mr. Siddiqui, the interview recorded by him though spotlighted all other factors with regard to the Tanker Mafia, political issues, but she remained particular in respect of land politics and violence in Karachi, thus such piece of evidence came on record through an independent source has to be given a way and shall prevail against all other factors introduced by the accused. He has added that no doubt the abscondence only may not be a valid ground to award the conviction, but when all such material is placed on record, the said such circumstances were accumulated by the accused Raheem Sawati through his confessional statement recorded by SSP rank officer, authorized by ATA, 1997 and such confession has a dominant effect to the murder of deceased, cannot be brushed aside unless the accused cause a breakthrough in the said piece of evidence, which is admissible as per the plathora of case law pronounced by apex Courts time and again. Per Mr Faisal Siddiqui the

Imran Sawati played a leading role, which has also been confirmed by the accused Ayaz Sawati, Amjad and Ahmed Ali Papu Kashmiri and no other case has been placed by them to dislodge the case of prosecution. He has further contended that accused Raheem has introduced a plea that when he came to know that his name has been revealed before the investigation agency for his involvement, he claims that he had appeared at P.S Mominabad. Mr. Faisal lend me to the statement recorded by accused Raheem on oath u/s: 340 (ii) Cr.P.C at Ex. 64 and contended that through the said statement accused Raheem Sawati has placed on record that on 25.04.2016 he voluntarily appeared at P.S Mominabad along with Murad, Fazal Wahab and Salman, where his relatives took the photographs and movie for his presence at P.S. He has submitted that said plea of accused did not discharge him from the accusation when placed in juxta position to the case of prosecution at the one hand, interview recorded by deceased, confession of accused Raheem Sawati and so also the abscondence. More so, during the cross examination to the learned APG the said accused admitted that he has surrendered at P.S Mominabad, meaning thereby he did not follow the rule of law that he should have surrender himself before the investigation agency of P.S Pirabad. According to him law did not place the choice to the accused to surrender before either of P.S wherever he desires. Thus, this only plea of the accused fully establishes that when the purpose of accused to dodge the investigation agency served, he chosen to remain absconder, did not bother to face the ordeal of investigation just after came to know for this name having been surfaced. He has submitted that the accused did not examine any of the official of P.S Mominabad if surrendered in this FIR, thus such plea at the very outset is after thought did not shatter the magnitude of accusation against him. He has added that the abscondence of accused Raheem Sawati for 14 months cannot be lightly dealt with on the ground that his son Imran Sawati disclosed such factors of abscondence, rather concealed the accusation of accused Raheem Sawati to get the investigation agency bluffed, thus in this scenario, there could be no other view except that the true bells rings against the accused, for which he is liable to convicted. According to him, the version placed by the prosecution through the JITs has neither been denied nor been rebutted, but mere saying that the JITs are not admissible at law, cannot be accepted in toto. He has added that in this case the investigation agency since its inception did not actively collected material piece of evidence, rather manipulated to derail the track of investigation which were having material figures, required to be traced at the earliest which prima-facie shows that it all was done due to the political pressure

and at the choice of hidden hands, however when the JIT were constituted by the Hon'ble Supreme Court of Pakistan through the FIA, the material factors came on surface, which has fully trapped the accused, even the JIT conducted by the Shahid Hamid of CTD SSP designated the accused being involved in the occurrence. According to him, the confessional statement no doubt may be retracted, but the time of retraction always remains the main factor depending upon the nature of confession. He added that accused remained Mum for a considerable time and retracted his confession at the time of his choice, which cannot be taken into consideration even if true version of retraction is introduced by the accused. The accused did not realize to record all such factors of retraction at the earliest, rather introduced illogical aspects of his back out, even failed. Not only this but when he failed, again he tried to get his confession retracted through his statement u/s: 342 Cr.P.C, but did not stand on his legs. More so, the accused has failed to discard and dislodge his own confession through the cross-examination of SSP Akhtar Farooque and the cross examination contained that the suggestions were introduced to SSP beyond the scheme of section 21-H of ATA, 1997 rather the defence counsel dragged the scheme of section 21-H into the section 164 Cr.P.C maintaining therein that such confession is not admissible at law. He has added that SSP Akhtar Farooque being the notified officer as per the mandate of section 21-H recorded the same after fulfillment of all legal requirements u/s; 21-H of ATA, therefore no other view can be taken and even during cross examination the said confession has not been shaken to disbelieve the version recorded by SSP Akhtar Farooque under the mandate of 21-H of ATA, 1997. He has contended that the minor irregularities in such scenario requires to be overlooked in case the confessional statement was not sealed and even remained with SSP in his custody. More so, unproven suggestions regarding confession in cross examination are not always fatal, thus conviction can be recorded on such piece of evidence and there appears no rule of law that confession can be discarded on unproved allegations. On the point of delayed retraction of the confession he has submitted that such retraction is always fatal to the accused as pronounced by Hon'ble Supreme Court of Pakistan in case law reported in PLD 2006 SC 30 and 1992 SCMR 950. More so, even the accused may disown his confession, even such confession can still be relied upon. He has placed on record that even if the confession is retracted, the language of confession as and when seems true and voluntarily such retracted confession requires to be considered against the accused, when the accused has sole knowledge of occurrence.

Mr. Faisal Siddiqui further contended that the evidence brought on record is reliable, all the P.Ws with regard to the occurrence supported the case of prosecution on all counts, besides, during interrogation accused Muhammad Raheem Sawati admitted his guilt in the commission of instant occurrence along with his accomplices and such confessional statement were recorded before the SSP as required under section 21-H of Anti-Terrorism Act, 1997 on 24.05.2016. It was argued that the deceased were murdered on her refusal to let out the premises of OPP for Karate Center, demanded by accused Muhammad Rahim Sawati and Ayaz Ali and then the said plan were managed at the house of accused Raheem Sawati along with co-accused Ayaz Swati, Amjad Afridi and Ahmed Ali alias Papo Kashmiri to get rid of from deceased Parveen Rehman because of her ridiculous attitude, said task were handed over to Moosa and Mahfoozullah alias Bhalo (Taliban Commanders) against monetary compensation. It was further argued that accused Raheem Swati during his confession recorded that after the murder of deceased Parveen Rehman, the said Taliban Commander Moosa contacted him for the payment of 40,00,000/- (Fourty Lacs) in lieu of said murder. He added that Ms Parveen Rehman recorded an interview on Land Politics and Violence in Karachi in December, 2011, which was recorded by P.W 23 Fahad Muhammad, wherein she recorded that when ANP came into power, used to come over to OPP and threatened her to leave OPP as they wanted to operate Karate Center in the premises of OPP and she specifically implicated/named accused Raheem Sawati as an extortionist, repeatedly stated in her interview that ANP people pressurized and threatened her to give space in OPP hall or land for Karate Centre. It was further contended that it is clear from her interview that the motive to kill the deceased was to get rid of her so that accused could occupy the land of OPP for opening Karate Centre without any resistance and it is settled principle of law that the motive proved is a confirmatory evidence against the accused. It was further agitated that the said interview of deceased was sent to two experts i.e. P.W 22 Muhammad Waqas (Technical Expert, FIA) and P.W 24 Masood Ali (Deputy director/incharged Forensic CTW FIA), who both authenticated the interview of Parveen Rehman (deceased). More so, the documentary evidence i.e. interview of Parveen Rehman and JIT report, clearly establish that Parveen Rehman recorded the name of accused Raheem Sawati, thus such aspect cannot be brushed aside, besides P.W Aquila Ismaila (real sister of deceased) also disclosed in her evidence that deceased was in receipt of threats from some persons, trying to illegally occupy OPP office land and she suspects that the same person

had murdered her sister. It was further argued that accused Muhammad Imran Sawati during interrogation misguided and concealed the facts from the investigation agency for whereabouts of his father (accused Raheem Sawati), while narrating that he had gone abroad and that was the reason due to such disclosure by the co-accused, matter went lingered on and the principal accused Raheem Sawati got benefit and remained fugitive from law & Courts. More so, no other evidence has come on record in respect of culpability of accused Raheem Sawati in the murder of deceased Parveen Rehman, because the initial investigation was manipulated. However, it was the judicial enquiry conducted at the directions of Hon'ble Supreme Court of Pakistan by the then District and Sessions Judge West, who directed for the thorough investigation and arrest of the real culprits. It was further contended that other co-accused persons also remained fugitive from law, which also shows their involvement in the commission of instant offence, besides during interrogation all the accused admitted their complicity in the commission of offence along with accused Raheem Sawati and in case some contradictions appear in the evidence are minor in nature, which even did not drop the case of prosecution on any count, thus, accused are liable to be convicted, keeping in view the evidence brought on record. He was of the view that in such like matters there appears simple contradictions, which are liable to be ignored, thus, accused be convicted as per the relevant provisions of law. Learned counsel for the complainant in support of his contentions relied on case reported in 2009 YLR 933 (Gul Baz Versus The State), 2014 P.Cr.L.J 1036 (Mehruban Shah Versus The State), 1999 SCMR 1744 (Mst. Naseem Akhtar and another Versus The State), 2002 SCMR 1493 (Maj. (Retd.) Tariq Mehmood and others Versus The State and others), Criminal Appeal No: 179 (J) of 1997 (S. Nalaya Versus State of Assam), 1992 SCMR 950 (The State through A.G, NWFP, Peshawar Versus Waqar Ahmed), 2006 SCMR 1911 (Fazal Wadood Versus The State and another), 2012 P.Cr.L.J 85 (Qaisar Ali Versus The State and another), 1991 SCMR 942 (Muhammad Gul and others Versus The State), 1995 SCMR 1615 (Muhammad Ismail and another Versus The State), 1992 SCMR 2279 (Maqbool Ahmed Versus The State), 1999 YLR 418 (Allah Ditta and another Versus The State), 2016 SCMR 274 (Azeem Khan and another Versus Mujahid Khan and others), 2004 P.Cr.L.J 82 (Zubair Versus The State and another), 2016 P.Cr.L.J 1558 (Usmanullah Versus Sharafta Khan and others), A Judgment of High Court of Punjab, Haryana at Chandigarh (Avtar Singh and another VS State of U.T., Chandigarh on 23 February, 2015), 1992 SCMR 1036 (Mst. Roheeda Versus Khan Bahadur and another), 2020

P.Cr.L.J 387 (Zahir Shah Versus Ayaz Ali (Deceased) through Brother and another), 2011 MLD 1214 (Yasir and 2 others Versus Raqiaz Khan and another), 2003 SCMR 1419 (Khalid Javed and another Versus The State), 2013 SCMR 385 (Ghulam Ahmed Chishti Versus The State and another), 2019 SCMR 1290 (Nadeem Hussain Versus The State) & PLD 2006 Supreme Court 30 (Manjeet Singh Versus The State).

On the other hand Mr. Shah Imroze learned counsel for accused Muhammad Raheem Sawati, Muhammad Imran Sawati & Ahmed Khan alias Ahmed Ali contended that the case of prosecution is not at par to the legal framework Ahmed Ali alias Papu Shah Kashmiri and sachem of offence. He was of the view that the prosecution did not collect the material piece of evidence against the accused, rather all has placed on presumptions which requires to be discarded. He added that JIT has no admissibility as per the case law reported in 2018 SCMR 178. He has also contended that the case of prosecution depends upon the JITs and the alleged confessional statement and said were never recorded by the accused; rather SSP obtained his signature on blank papers when he was confined at Central Prison, Karachi. According to him mere abscondence did not create the ground against the accused to be roped in this case. He has lend me to the findings of JIT and contended that names of other persons and parties were also surfaced on record, but nobody were investigated in the circumstances of the case, thus such findings of the JIT cannot be accepted. More so, the said Fahad Deshmukh never appeared before the police nor ever were cited as P.W by recording his 161 Cr.P.C statement nor produced said interview before police, thus the said interview appears to be have been managed to indict the accused with malafide. According to Mr. Shah Imroze there are general allegations and the case of prosecution depends upon presumptions formed by the JITs, thus the investigation agency followed the general allegations and indicted the accused against the presumptions, thus there could be no conviction on such scheme of the investigation agency. More so, the mandate of recording of confession was not followed by SSP Akhtar Farooque, therefore, looking to the conduct and demeanor recorded by him at the time of his evidence before this Court, rings the bell that the confession of the accused as alleged were recorded on blank papers with malafide. Once no transparency is maintained by the agency by not producing the accused before the concerned JM and even no circumstances are shown why the accused were not produced before the concerned JM, in absence of such circumstances, the malafide is apparent, and such confession cannot be considered to favour the

prosecution in either way. According to him accused has been booked due to enmity affiliated with political party, therefore in absence of cogent evidence he is required to be acquitted. It was agitated by the defence counsel that evidence of all the P.Ws is contradictory, did not support the case of prosecution on any count, thus, case being doubtful, accused is liable to be acquitted from the charge. Mr. Shah Imroze, advocate in support of his contentions, relied on case law reported in 2016 P.Cr.L.J 1698 (Assadullah and another Versus The State), 2005 P.Cr.L.J 1232 (Pervaiz Masih Versus The State), 2004 MLD 1337 (Aftab Ahmad Versus The State), 2010 SCMR 385 (Muhammad Rafique and others Versus The State and others), 2006 P.Cr.L.J 1671 (Dhani Bakhsh and another Versus The State), 2018 SCMR 2092 (Hayatullah Versus The State), PLD 2018 Supreme Court 178 (Province of Punjab through Secretary Punjab Public Prosecution Department and another Versus Muhammad Rafique and others), 2016 P.Cr.L.J 1357 (Ashiq Hussain Changezi and another Versus The State and another), 2018 YLR 1412 (Adnan Hussain and another Versus The State), 2007 SCMR 670 (Muhammad Pervaz and other Versus The State and others), 2019 MLD 1034 (Sadam Versus The State), 2011 P.Cr.L.J 370 (Ishtiaq and another Versus The State) & 2020 P.Cr.L.J 1486 (Syed Riffat Husain and others Versus The State).

Mr. Ajab Khan Khattk learned counsel for accused Ayaz Sawati submitted that the accused Ayaz Sawati is not involved in any of the illegal offence pertaining to the allegations of prosecution, therefore looking to the evidence recorded by prosecution he is liable to be acquitted. More so, the name of the accused only surfaced during confession of accused Muhammad Raheem Sawati, which is not the admissible piece of evidence. He submitted that name of accused has been inserted in the year 2015 without plausible evidence, thus looking to the record of investigation the accused is required to be acquitted. He has also added that PI Fareeduddin during his cross examination admitted that accused Ayaz Sawati is not the land grabber, thus sole admission on the part of I.O is sufficient to drop the case of prosecution against accused Ayaz.

Mr Adid Zaman learned counsel for accused Amjad submitted that nothing has come on record against the accused in either way through any of the documents or evidence of P.Ws, therefore once the accused Amjad has not named, he is required to be acquitted.

I have carefully considered the submissions made at bar and

perused the material adduced in evidence.

My findings on the above points with reasons are as under:-

F I N D I N G S

Point No. 01..... In Affirmative

Point No. 02..... In Affirmative

Point No. 03..... In Affirmative

Point No. 04..... In Affirmative

Point No. 05..... In Affirmative

Point No. 06..... Since the prosecution has proved the charge against accused namely Muhammad Raheem Sawati S/o Syed Habib (2) Ayaz Ali alias Sawati S/o Muhammad Shireen (3) Muhammad Amjad Hussain Khan S/o Muhammad Jameel Khan (4) Ahmed Khan alias Ahmed Ali alias Papu Shah Kashmiri S/o Abdul Baqi (5) Muhammad Imran Sawati S/o Muhammad Rahim Sawati, thus they are convicted and sentenced u/s: 265-H(ii) Cr.P.C as under:-

R E A S O N S

POINT NO: 01

As far as death of deceased Ms Parveen Rehman, aged about 50 years as a result of firearm injuries is concerned, it is not disputed by the defence. In this regard, prosecution examined Inspector Zakriya Korejo at Ex. 15, who conducted 174 Cr.P.C proceedings in respect of said deceased. It has come on record that deceased after receiving firearm injuries were shifted to the Abbasi Shaheed Hospital, Karachi, by complainant Wali Dad, where the WMLO Dr. Yasmeen Qamar conducted postmortem to the dead body and opined the cause of death vide PM No: 291/2013.

As per the postmortem report, deceased died due to haemorrhagic shock received from firearm injuries over neck, chest, right arm, right hand, leading to cardio-respiratory failure. The said WMLO after completion of postmortem issued the cause of death in respect of dead body.

In respect of above deceased, it has come on record through the evidence of all PWs that the deceased lost her breath due to firearm injury. This state of unnatural death has nowhere been controverted by the defence.

Keeping in view the documents viz 174 Cr.P.C, memo of dead body, postmortem report and the evidence adduced by the prosecution, I am of the opinion that deceased Mst. Parveen Rehman lost her breath due to firearm injuries resulting her unnatural death.

For the foregoing reasons, point No: 01 is answered in affirmative.

Point Nos. 02 to 06.

Since the Point Nos. 02 to 06 are interlinked and based on same set of evidence, therefore, it would be convenient to discuss simultaneously.

PW-1 PC Siddique Ali Shah (P.C), deposed that on 15.03.2013, he alongwith SIP Raja Ulfat left P.S Peerabad in vehicle bearing No: AKT-278 Honda City to the office of FSL Karachi for its inspection and forensic expert opinion. FSL expert namely Rana Hassan Javed inspected the said vehicle and secured two Sikkas (projectiles) from the diggay of the said car. FSL expert handed over those Sikkas to SIP Raja Ulfat in his presence. SIP Raja Ulfat prepared such memo in his presence and co-mashir SIP Rana Hassan Javed, to which they signed.

During cross examination he admitted that cloth parcel containing Sikas does not show the time of its preparation and sealing. He deposed that two seals were embossed by the I.O on the said cloth parcel. He admitted that contents of memo (Ex. 17/A) did not specify for the Sikas of 9 mm bore; that colour of car is not mention in Ex. 17/A. SIP Raja Ulfat prepared Ex. 17/A in the office of FSL, where obtained his signature.

PW-2 ASI Muhammad Bashir, deposed that on 16.03.2015 he was posted as ASI at PS New Town (in investigation branch). On said date, he alongwith SIP Tariq Jadoon under the Supervision of Inspector Fareedudin of PS Peerabad after obtaining permission from Home Department Sindh Government left to Mansehra, KPK for the arrest of nominated accused Ahmed Khan alias Ahmed Ali alias Pappu S/O Abdul Baqi to get him arrested from there. In between 18th and 19th of March, 2015 Vide entry No:37 PS City Mansehra, they made their arrival entry

at 2355 hours there. They made search for the accused within the local limits of Ps City Mansehra and reached at Ayoob Mohala. They arrived at the house of accused Ahmed Khan, where they knocked the main gate of his house, on which he came out from house. On inquiry he disclosed his name as Ahmed Khan, they took the search of accused and recovered 1 mobile phone(X-202 Nokia). Then they arrested the accused at 0020 hours vide dated: 19.03.2015 and prepared such memo in his presence and co-mashir SIP Tariq Jadoon and put the signature on it.

During cross examination he admitted that he has not disclosed in his 161 Cr.P.C statement regarding the date of their leaving the Karachi on 16.03.2015. He admitted that he has not exhibited the entry of roznamcha No:37 of Ps City Mansehra; that none from the residents of Ayoob Mohala has been joined as mashir to the arrest of the accused. He admitted that memo of arrest did not disclose at what time they arrived at the house of accused. He further deposed that he cannot say that his 161 Cr.P.C statement did not disclose that nobody from the staff of Ps City Mansehra accompanied them to the house of accused. He has clarified that SHO Mansehra along with staff accompanied them to the house of accused. He further admitted that except mobile phone nothing else from the accused was recovered by them.

PW-3 PC Muhammad Shahid, deposed that on 01.08.2015, he was posted as PC at PS New town (in investigation branch). SIO/Inspector Fareed-ud-din formed the police party, he alongwith ASI Bashir and HC Abdullah under supervision of Inspector Fareeduddin proceeded towards PS Peerabad in police mobile noticed that Imran Swati confined in the lockup, where they came to know that accused was arrested u/s 54 Cr.P.C by police of PS Peerabad. Said accused was required in the instant FIR. Inspector Fareed-ud-din interrogated the accused Imran Sawati in the instant case, to which he admitted his guilt and complicity for his involvement in the instant crime. Accused was arrested in the instant crime, such memo was prepared in his presence and co-mashir PC Amjad at 1615 hours.

During cross examination he admitted that in his examination in chief he has not disclosed the time of their departure from PS New Town to Peerabad. He deposed that they left PS at 1450 hours. He admitted that his 161 Cr.P.C statement did not describe the time their arrival at PS Peerabad. Voluntarily recorded that they arrived there at 1600 hours. He also admitted that accused Imran Sawati during interrogation neither implicated anybody else being his assailant nor

pointed out any other culprit. He deposed that he does not know that accused Imran Swati was arrested by police of PS Peerabad on 26.07.2015 u/s: 54 Cr.P.C, was in the illegal confinement with said PS. He deposed that they interrogated the accused for about 15 minutes, prepared memo at 1615 hours, left PS Peerabd, arrived at PS New Town at about 1710 hours. He admitted that his 161 Cr.P.C statement did not describe the time of their arrival at PS Peerabad, departure from there and arrival at PS New Town.

PW-4 Inspector Zakirya Korejo, deposed that on 13.03.2013 he was posted as SIP at P.S Peerabad, performing as duty officer at P.S. On the same day MLO of Abbasi Shaheed Hospital got entered an entry intimating therein that a lady Parveen Rehman D/o Mutee-ur-Rehman having received bullet shot injuries were brought at Abbasi Shaheed Hospital. MLO requested that a responsible officer be deputed to arrive there and initiate further proceedings. He entered such intimation in the roznamcha and proceeded towards the Abbasi Shaheed Hospital, moved written request to WMLO of Abbasi Shaheed Hospital for 174 Cr.P.C proceedings. He inspected the dead body of deceased Parveen Rehman at 2030 hours, prepared memo of inspection of dead body in presence of witnesses Amjad Ali and Muhammad Siraj, besides inquest report u/s: 174 Cr.P.C in presence of said mashirs. He recorded 154 Cr.P.C statement of Wali Dad S/o Abdul Rehman as verbatim and obtained his signature on it. He requested MLO for postmortem and after completion of said formalities, he handed over the dead body of Ms. Parveen Rehman to her maid servant Muhammad Siraj. He returned back to P.S at about 2200 hours and contents of 154 Cr.P.C statement were incorporated in the FIR book.

During cross examination he admitted that he has not exhibited departure entry by which he left P.S towards Abbasi Shaheed Hospital. Voluntarily deposed that it was entered by him in the roznamcha at the relevant time. He admitted that complainant in his 154 Cr.P.C statement did not cite the features, structure and glimpses of any of the culprit. He admitted that the complainant did not nominate any accused. Voluntarily stated that the complainant in his 154 Cr.P.C statement successfully described that as and when the culprits appear or brought before him he will definitely identify them. He admitted that contents of 154 Cr.P.C statement did not specify that complainant will identify the culprits as and when appear or brought before him. He admitted that Wali Dad is not the mashir of memo of inspection of dead body and 174 Cr.P.C proceedings. He deposed that he consumed 20

minutes to inspect the dead body, prepared 154 Cr.P.C statement of the complainant after completion of all the formalities of the hospital to the dead body. He admitted that entry No: 45 (2200 hours) dated: 13.03.2013 did not contain/pertain the signature of any of the police authority. Voluntarily deposed that it bears official round seal and has been copied from original. He admitted that entry No: 45 also indicates to be Qaimy entry of FIR. He denied that 154 Cr.P.C statement of complainant did not bear his handwriting. He denied that his signature on 154 Cr.P.C statement appears to have been drawn/put by him with different pen. He did not know that his 161 Cr.P.C statement is not lying in the police file. He denied that his 161 Cr.P.C statement was never recorded by the I.O.

PW-5 R^{td} WMLO/Dr. Yasmeen Qamar, deposed that on 13.03.2013 she was posted at Abbasi Shaheed Hospital as a senior WMLO. On the same day a dead body of Mst. Parveen Rehman identified by Sirajuddin and Amjad Ali was brought by SIP Zakairya Korejo, aged about 50 years with history of firearm injuries. She examined the dead body and found following injuries at her person:-

1. Superficial glancing bullet injury over anterior above the thyroid cartilage measuring 3cmx0.5cmx no blackening or charring seen.
2. Firearm wound of entry over right lateral above the chest inverted margins measuring .5cm in diameter. No blackening or charring seen.
3. Firearm wound of exit over left lateral chest everted margins measuring 0.75cm in diameter.
4. Firearm wound of entry over right lateral arm mid region measuring 0.5cm in diameter X inverted margins and no blackening or charring seen.
5. Firearm wound of exit over right medial aspect of right arm measuring 0.75 in diameter.
6. Superficial glancing bullet injury over base of thumb of right hand measuring 2cmx0.5cm no blackening seen.

Internal Examination

Head

No external mark of injury seen over head. No evidence of

fracture over skull. Hence cranial cavity not opened.

Neck

Mid line incision given over neck. Injury involve superficial skin; muscles of neck. Blood vessels intact. Hyoid bone thyroid cartilage intact. Trachea full of blood stained with froth.

Thorax

Mid line incision given over chest on exploration of injury number 02 and 03 revealed that firearm arm bullet entered over right lateral upper region of the breast directed forward and backward in exit left lateral aspect of chest. Chest full of blood with clots seen.

Abdomen

Mid line incision given over abdomen. No free fluid or blood seen in the peritoneal cavity. All viscera's of abdomen liver, spleen and kidneys slightly pale on appearance. Uterus normal size as per age.

Duration of death and injury was instantaneously and duration between death and postmortem 02 to 03 hours approximately.

Cause of death

Hemorrhagic shock due to injury over neck, chest, right arm, right hand leading to cardio respiratory failure as a result of firearm weapon. She was confronted to Ex. 15/A (letter given by SIP Zakriya Korejo), which bears her endorsement with signature and official seal, besides Ex. 20/A and 20/B.

During cross examination she admitted that postmortem report No: 291/13 dated: 13.03.2013 is carbon copy attested by Addl. Police surgeon Karachi. Voluntarily stated that it has also been attested by her before this Court today as the original was not found in the police file. She admitted that death certificate bearing is carbon copy. Voluntarily stated that Ex. 15/A specifies the said postmortem number issued to the I.O and so also the death certificate having opined the cause of death in Ex. 15/A. She admitted that postmortem No: 291/13 dated: 13.3.2013 did not specify/mention for the kind of weapon used at the person. She further stated that she cannot specify the kind and bore of the weapon by which fire shots were caused at the deceased. Voluntarily stated that whatever she found in shape of injuries on the person of body, opined in all manners indicating in postmortem certificate.

PW-6 SIP Riaz Ahmed, deposed that on 20.05.2016 he was posted as SIP at PS Manghopir. Accused Rahim Sawati was arrested and confined in FIR bearing Crime Nos: 114/2016, 115/2016 and 116/2016 of PS Manghopir for the offences falling u/s 353/324/34 PPC, besides 4/5 Explosive and 23 (i) A SAA. SIP Raja Ulfat alongwith subordinate staff of PS Peerabad arrived at PS Manghopir, saw the accused Rahim Sawati, disclosed that he is same accused required in FIR No. 104/2013 u/ss: 302/201/202/34 PPC R/w 7 ATA, registered at PS Peerabad. They interrogated the accused for his involvement in the instant crime, to which the accused admitted his complicity. Then SIP Raja Ulfat arrested the accused and prepared memo of arrest in his presence and HC Sajjad of PS Manghopir.

During cross-examination he deposed that accused Rahim Sawati was declared proclaimed offender by the Court of law in the instant crime. On arrest of accused Rahim Sawati, WT message were flashed to all police stations for his arrest. SIP Raja written memo of arrest of the accused through his own writing at about 2100 hours. According to him he does not know that accused Rahim Sawati surrendered before SIP/SHO Sabir Khatak of P.S Mominabad on 25.04.2016; he does not know that on 07.05.2016 arrest of accused was flashed from PS Manghopir through televised media and other sources. He denied that accused was not arrested from P.S Manghopir as alleged, but he surrendered himself before the police.

PW-7 PC Ghulam Hussain, deposed that on 01.08.2015 he was posted as P.C at P.S Peerabad. On the same day he alongwith SIP Luqman and other subordinate staff left P.S Peerabad for patrolling in the area. During patrolling at about 11.00 a.m at Manghopir Road spy informed SIP Luqman that nominated/required accused in murder case namely Muhammad Imran S/o Muhammad Raheem was available at Qasba Curve. They rushed to the pointed place where they found a suspect who was apprehended under section 54 Cr.P.C. SIP Luqman enquired from him for his name and parentage to which he disclosed to be Muhammad Imran S/o Muhammad Raheem. Such memo of arrest was prepared at spot in his presence.

During cross examination he deposed that they received spy information 4/5 minutes earlier to 11.00 a.m and reached to the accused within 02 minutes, found at very short distance from the place of information; that they were coming from Manghopir side and were towards Banaras; that they arrested the accused from Qasba Curve,

which is populated area; that they arrested the accused near from the cabins and hotels situated there. He admitted that memo of arrest under section 54 Cr.P.C did not depict for existence of cabins and hotels at spot. He admitted that memo of arrest and recovery shows that it was prepared at 11.00 a.m. He admitted that memo of arrest did not specify the FIR number and P.S except the word Qatl. He denied that accused Imran Sawati was arrested by SHO Shahid Khan on 26.07.2015 from his house, who confined him for five days at Taimuria and Site P.S and then surfaced him to hand over Peerabad. He denied that at the time of arrest of accused by SHO Shahid Khan, secured two ATM cards of HBL and NPB, learner driving license and CNIC from the possession of accused, which are still with SHO.

PW-8 H.C Abdul Shehzad, deposed that on 11.12.2017, he was posted at PS Pirabad in the investigation branch. It was 7-30 pm I.O of the case came to PS Pirabad, where the accused Ayaz Ali s/o Muhammad Shereen was confined in crime No: 153/2012 u/s 302/34 PPC. I.O interrogated him in the investigation room, to which he admitted that he alongwith his companions namely Raheem Sawati, Amjadi Afridi, Ahmed Papoo kashmari, Moosa and Shuldad in collusion and conspiracy with the above named accused made fire upon the car bearing No.AKT-278, in the year 2013 and committed the murder of Mst. Perveen Rahman at Manghopir, opposite Pakhtun Market. Accused further disclosed that he left the Pakistan after the incident. I.O prepared the imaginary mashirnama in his presence and co-mashir PC Zubair.

During cross examination he admitted that the official of PS Pirabad called the I.O of this case for the arrest of present accused in the instant crime, to which he and PC Zubair went there with I.O. No officer was available in the interrogation room except him and PC Zubair; it was 7-15 pm when accused was taken from police lockup, I.O spent about 1 and half hours to interrogate the accused. He admitted that his 161 Cr.P.C statement was recorded by I.O with his own hand writing; whereas his statement available in the Court police file is computerized. He denied that accused had not made any confession before I.O as stated by him. He admitted that prior to his admission I.O have no knowledge about the accused. He denied that no imaginary memo was prepared in his presence.

PW-9 PC Shehzad, deposed that on 24.10.2017 he was posted at PS New Town in the Investigation Wing. I.O Fareeduddin received the information that in crime No.310/2017 & 311/2017 accused

was arrested by police of PS Manghopir. He alongwith I.O Fareed, PC Zubair went to PS SITE West in the official mobile. The accused namely Muhammad Amjad was interrogated by I.O Fareeduddin, to which he disclosed that he alongwith co-accused Moosa, Ayaz, Shuldad and Raheem had committed murder of Mst. Perveen Rehman at Mangopir road. On above admission of accused, I.O prepared the imaginary mashirnama of arrest in the instant case in his presence.

During cross examination he admitted that his duty timing is not mentioned in his 161 Cr.P.C statement; date of leaving PS and interrogation of the accused is not mentioned in his 161 Cr.P.C statement. He deposed that on the day of arrest of accused they left PS at 1945 hours. He deposed that he does not know whether the IO kept the entry of excess duty in the roznamcha or not. He admitted that his signature is at the margin of memo. He denied that no imaginary memo of arrest was prepared in his presence.

PW-10 Anwar Rashid, deposed that on 13.03.2013 he alongwith Ms. Parveen Rehman in separate vehicles left office at about 1930 hours situated at Qasba Town. It was office of pilot project run in the name and style of Orangi Pilot Project Karachi. His vehicle was some bit ahead from the vehicle of Ms. Parveen Rehman driven by her driver Wali Dad. Usually in the said area they used to hear the firing noises and on that very day he also heard firing noise when he was in his car. Suddenly he found Wali Dad who drove the car of Ms. Parveen Rehman hurriedly and placed it in front of his car and Wali Dad informed him while coming to him that Ms. Parveen Rehman sustained bullet shot injuries in result of fire shots. On hearing such information he took her to the Abbasi Shaheed Hospital, situated near the place of occurrence. The MLO examined the Ms. Parveen Rehman and declared her dead. He and Wali Dad informed the legal heirs and sister of Ms. Parveen Rehman. After necessary formalities in the Abbasi Shaheed Hospital the dead body of Ms. Parveen Rehman was shifted in Edhi Cold Storage Sohrab Goth. The sister of Ms. Parveen Rehman was in Abu Dhabi and at that time nobody was in the house of Ms. Parveen Rehman. In the Abbasi Shaheed Hospital driver Wali Dad on his query informed him that he was driving the vehicle when Ms. Parveen Rehman was sitting on the rear seat of said car, there was darkness on the road when two culprits riding on a motorcycle passed near the said car of Mst. Parveen and caused bullet shots at her person.

During cross examination he deposed that in the hospital he was enquired by several police personnel including SSP, besides the MLO for the occurrence. He also deposed that SIP Raja Ulfat enquired from him in the hospital on 13.03.2013 and so also on 16.03.2013 at the time of soym of Ms. Parveen Rehman. He further deposed that he was enquired in the hospital round about 2000 hours and they remained in the hospital for about 60/90 minutes. He deposed that police staff recorded his statement with their own handwriting, his signature was not obtained. He admitted that he is not the eyewitness of the occurrence.

PW-11 Amjad Ali, deposed that on 13.03.2013 at 7-45 pm Shamshuddin, who was employee of the Orangi Pilot Project informed him over phone that Madam Parveen Rehman received firearm injuries, shifted to Abbasi Shaheed Hospital. He then proceeded towards Abbasi Shaheed hospital, where other staff of Orangi Pilot Project were present. They saw the dead body of madam Parveen Rehman lying in the mortuary and driver Wali dad was present there. They enquired from the driver Wali Dad who disclosed that he was driving the car and were going towards home of madam, when they reached at Pakhtun Market and slowed the vehicle due to speed breaker; meanwhile motorcyclists appeared, made firing upon the Madam sitting on rear seat of car and immediately she was shifted to hospital, where Dr. pronounced her death.

During cross examination he admitted that the entire story was narrated to him by Shamshuddin over telephone & on the day of alleged incident, his statement were recorded at P.S.

PW-12 Gul Nawab, deposed that on 13.03.2013 after office hours he went to his home, lateron he came to know that someone attacked upon the madam Parveen Rehman, he went to Abbasi Shaheed Hospital, came to know that dead body of Mst. Parveen Rehman was shifted to her home. The complainant Wali Dad disclosed that some persons arrived on the motorcycle, made the firing near Pakhtun Market and escaped from the scene. He then went back to his home.

The advocates for accused did not cross examine the witness though opportunity were given.

PW-13 Muhammad Shamsuddin has deposed that on 13.03.2013 he was in his office at Orangi Pilot Project. It was 7-30 p.m, he left the office and was going towards home when he received the telephone call of Anwar Rashid, who disclosed him that someone fired

upon the madam Parveen Rehman and asked him to arrive at Abbasi Shaheed Hospital. He went to Abbasi Shaheed hospital, where other OPP employees were present at hospital. He met driver, who disclosed him that two culprits came on motorcycle at Pakhtun Market and made the fire upon the madam Parveen Rehman.

This witness was also not cross examined by the defence advocates.

PW-14 Muhammad Sirajuddin has deposed that on 13.03.2013, he was present at his home with his family when received the information over phone regarding the present incident, at 7-45pm. His colleague intimated him about alleged incident, he then proceeded towards Abbasi Shaheed Hospital, where employees of O.P.P were present. He came to know that Madam Parveen Rehman died her dead body was lying in the mortuary. Police official Zakirya prepared the inquest report after inspection of dead body. He went to PS with the police official, where police lodged FIR on the statement of driver Wali Dad. He also went with the police, Wali Dad and 2/3 others at place of incident, where police visited the place of wardat, wherefrom the police officials collected two empties of 9mm pistol and prepared the mashirnama at spot.

In his cross examination he admitted that place of incident is populated having shops and hotels nearby the place of incident. He admitted that there is double road adjacent to the place of incident. He admitted that there was no street light at the road. He further deposed that police officials talked to persons, who were passerby, did not see the police recorded statement of any person. He deposed that his statement was recorded at the place of incident. Police spent 30 minutes at place of incident. He was with police from PS while visiting to place of incident, police prepared the mashirnama outside the police mobile. He admitted that it is not mentioned in his 161 Cr.P.C statement that how much away the empties were secured by the police and on which directions empties were lying. Voluntarily recorded that police secured and showed him from place of incident, besides the property was not sealed in his presence.

PW-15 Rana Hassan Javed Incharge FSL has deposed that on 15.03.2013, he received letter of I.O for inspection of vehicle, inspected the same and found that there were five bullets marks visible on the vehicle. One bullet on the fuel tank, and four bullets on the back seat.

During inspection he secured two projectiles from the diggay of vehicle and handed over to the I.O, who prepared the mashirnama of recovery. The property was sealed at spot. Lateron he prepared final report on 19.03.2013 and handed over to I.O.

In his cross examination he deposed that there was no blood visible on the projectiles and property was sealed in his presence.

PW-16 SP Akhtar Farooque has deposed that on 24.05.2016, he was posted as SSP investigation West Karachi. I.O/Inspector Naveed Shah brought the accused Raheem Sawati s/o Syed Habib for recording his confessional statement u/s 21-H of ATA, 1997. All the police officials were directed to leave the premises, none was present except the accused. He adopted legal formalities as required by the law, inquired from the accused whether any pressure was upon him either of police or his family member to which accused replied in negative. He also intimated the accused that if he made confession same would be used against him and he would be punished according to law which he understood fully and replied in positive. He then given him sufficient time. Accused himself was agreed to record his confessional statement. Accused disclosed that he remained councillor of ANP and further disclosed that office of O.P.P was near his residence. Accused further disclosed that he and Ayaz Sawati intended to establish the karate Centre in the premises of O.P.P, they met with deceased lady Parveen Rahman in this connection, but deceased lady not replied either accepted request or not. One of the employee of O.P.P informed him that madam Parveen Rehman refused the proposal. The accused further disclosed that deceased lady was Anti of Pakhtun community, she never helped Pakhtun, when they needed help. Accused himself admitted that he was land grabber. He further disclosed that due to above attitude of deceased lady Parveen Rehman, Ayaz Sawati, Amjad Afridi and Ahmed Ali @ Papoo Kashmiri came at his house to dispose-of. He further disclosed that he had made phone to Taliban Commander Moosa and Mehfoozullah @ Bhallu to murder of deceased lady Parveen Rehman in lieu of some amount, but said amount was not disclosed by the accused. Lateron Taliban Commander made phone to Ayaz Sawati in order to accomplish this target, Papoo Kashmiri should be with them. On 13.03.2013 when deceased lady Parveen Rehman left her office and proceeded towards her house, in the way when reached at Pakhtun market where she was murdered and in the night Ayaz Sawati and Amjad Afridi came to his house and informed him that target had been done. He further disclosed that he had also made statement before police that he was not aware

about the alleged incident and further disclosed that his name appeared in this case he then absconded away and undergone towards Sawat and remained in Punjab. He further disclosed that while he was absconder Taliban Commander Moosa phoned him and demanded Rs.40 lacs for the reason that he had done the target. He further disclosed that later on said Moosa also made attempt and thrown the cracker at his house, situated at Orangi Town. Accused further disclosed that he came to meet with his family when police arrested him in this crime.

In his cross examination he admitted that confessional statement which is produced by him is not in sealed condition. He admitted that the said statement was lying with him till to-date. The confessional statement was written by him with his own hand writing. The confessional statement was not taken on oath. According to his statement of accused shows that he was arrested on 07.05.2016. He admitted that on the first page of confessional statement the arrest of accused is shown on 07.05.2013. Vol. says that it was typographical mistake. He admitted that he had not mentioned any reason as to why he had recorded the confessional statement of the accused. Vol., says that the law permitted him u/s 21-H of ATA, 1997 to record the confessional statement of accused. He did not know on which date accused was remanded to jail custody. He did not know whether the accused remained in police custody after recording his confessional statement. He admitted that he was monitoring the investigation of this case. He admitted that the thumb impression of accused is not affixed on the confessional statement. Vol. says that accused signed on the confessional statement. He denied that there is difference in the signature of accused appended on the confessional statement. He admitted that there is an over writing on the date below his signature. vol. says that same is correction. He admitted that no initial is on it. He denied that there is no certificate as required by the law with the statement. He admitted that there is an over writing on dates and on words in the confessional statement of accused. He admitted that certificate is computerized not in his own handwriting. He admitted that his name is not mentioned in the confessional statement. vol. says that his signature is on it. He had not asked the accused to engage the counsel nor served any notice upon him before recording his confessional statement. He admitted that all the pages of confessional statement did not bear his initial. He has not produced the request of I.O for recording the confessional statement of accused. He denied that he alongwith SHO Shahid of PS Pirabad went to Central Jail when accused was in jail

custody where he had obtained signatures of the accused on the blank papers. He admitted that Raheem Sawati had not stated that he had killed the madam Parveen Rahman in his confessional statement. He denied that he had recorded confessional statement of accused under pressure upon the accused being senior police officer. He denied that he himself put the signature of accused on the confessional statement. He denied that police had arrested the son of Raheem namely Adnan and Kamran only to put the pressure upon the accused. He admitted that he had not recorded the confessional statement of any other accused except accused Raheem Sawati. He admitted that specific time and date was not disclosed by the accused, when he met with co-accused.

PW-17 Rtd Inspector Raja Ulfat Hussain has deposed that on 13.03.2013 he was posted as SIP at PS Pirabad in the investigation branch. He received the police papers of crime No.104/2013 u/s 302/ 34 PPC including relevant papers for further investigation. He went to place of incident i.e. Pakhtun Market Manghopir, where he prepared the mashirnama in presence of mashirs, secured two empties of 9mm pistol from the place of incident, sealed at spot and prepared the rough sketch of the place of incident. He also obtained photographs of the place of incident. He then went to office of OPP where he recorded statements of PWs and obtained three photographs. On the next day he again recorded statements of some PWs. On 15.03.2013 the recovered empties and vehicle of deceased were dispatched to FSL for examination and report. He received report of empties from the FSL. He also secured two projectiles from the vehicle of deceased lady Parveen Rahman and sealed at spot. He then sent recovered two projectiles to FSL for examination and report. During the investigation one Qari Bilal was murder during encounter with police and case/crime No.85/2013, 86/2013 & 87/2013 were registered against him at PS Manghopir and his superior officer directed him to send both empties to FSL for matching with the alleged recovered weapon in the above said crime. He dispatched the empties to FSL, received the report on 19.03.2013. He recorded the statement of complainant of crime No.85/2013 Asif Hussain and also enquired from IO Ameer Gondal. Lateron the car bearing No.AQT-278 was handed over to representative of OPP against receipt. He tried his level best to arrest the accused in this case, but could not succeed. Lateron on 05.11.2013, the above said crime was disposed-off in "A" class. Later on 20.11.2013 DIG West directed to re-investigate the case, meanwhile the complainant party had filed the CP bearing No.50/2013 before the Hon'ble Supreme Court of Pakistan. He appeared before the Hon'ble Supreme Court of

Pakistan with his superior officer and Hon'ble Supreme Court deputed the Hon'ble District & Sessions Judge West for enquiry and report. On 05.05.2014, he again appeared before Hon'ble Supreme court of Pakistan with his superior officer and Hon'ble Supreme court of Pakistan had directed to Provincial Government to constitute JIT to probe the matter. DIG Sultan Khawaja was head of JIT and member of JIT were suspected over the involvement of Bilal @Tension, who was in jail custody in another case. He obtained NOC from the concerned Court and obtained the custody of above named UTP from the jail. He prepared imaginary mashirnama of arrest of accused Bilal @ Tension. Later on the investigation was transferred to Inspector Fareeduddin. On 20.05.2016, he was at PS Pirabad when Inspector Fareeduddin was on casual leave and Inspector Naveed Ali Shah look-after the investigation of above said crime, who was his SIO, who directed him that accused involved in this case was arrested by the Manghopir Police and directed him to go at PS Manghopir and prepare the required documents. He then went to PS Manghopir, where accused Raheem Sawati was in police lockup in crime No. 114/2016 & 115/2016, where he prepared the memo of arrest of the above named accused in the instant case in presence of mashirs.

In his cross examination he admitted that while he had received the police papers of this crime, made entry, but said entry is not produced. He admitted that it is mentioned in the FIR that two young boys appeared at place of incident and committed the alleged offence. He admitted that the Bilal @ Tension had not disclosed the names of present accused during the investigation. He admitted that two projectiles secured from the car of deceased are not specifically mentioned that whether the same were of pistols or any other weapon. Vol. Says that therefore he sent the same to FSL for report. He admitted that the car was handed over by him to the representative of OPP without obtaining any order from any Court. He admitted that receipt is on plain paper without stamp of PS. He admitted that documents of car are not attached with the obtained receipt. Vol. says that documents were lying in police file. He admitted that he had not examined eyewitness of alleged incident nor PWs disclosed the name of present accused in their 161 Cr.P.C statements. He admitted that the vehicle/car is not secured as case property, nor same is exhibited in the Court. He admitted that the photographs and rough sketch were captured and prepared by himself only not in presence of mashirs. He admitted that the memos, which he produced did not bear the entry numbers. He had enquired regarding the OPP project, but the complainant party remained

silent in this regard nor they produced any document of the projects of OPP. He did not know whether accused Raheem Sawati himself appeared at PS Mominabad in presence of Elaqa Nazim, Dr. Murad and Fazal Wahab. He did not know whether any movie was prepared at PS by the son of Raheem Sawati. He did not know whether the son of Raheem Sawati namely Kamran and Adnan were apprehended by the SHO of PS Mominabad. He admitted that he had obtained the photos and exhibited at Ex.52/C. He did not know whether owner and employees of OPP were against the TTP. He deposed that according to the I.O of FIR Nos: 85/2013 to 87/2013 Qari Bilal, killed in police encounter, was associate of TTP. He denied that he was dismissed from the service during the investigation. He admitted that lateron he was dismissed from the service in this case. He denied that he was dismissed for the reason that he favoured the accused. He clarified that he dismissed due to some technical mistakes. He admitted that he had not recorded statements from Pakhtun market. Vol. says that he had recorded the statements of mohalla people, which is near to Pakhtun Market. He had obtained the photo of said car from the front side of the car and no broken glass of car appeared in the said photo. He did not know whether the accused Raheem Sawati was acquitted from the case/ crime No.114/2016 & 115/2016.

PW-18, Mst. Aquila Ismaile has deposed that on 13.03.2013, it was 07-30pm, she was out of country at Abu Dhabi, received the telephone call of one Anwar Rashid director of O.P.P. who intimated her that her younger sister Ms. Parveen Rehman sustained the bullet injuries and her condition is critical. Lateron she came to know through media that she was died. She then returned back to Karachi, it was 04:30 am, went to the house of her mother where her younger sister Parveen Rehman was residing with her. No one disclosed her mother regarding the bullet injuries sustained by her sister. She informed her mother regarding the alleged incident. On next day funeral ceremony of her sister taken place i.e. 14.03.2013. Lateron she came to know through media that the person who had made attack upon her deceased sister has been killed in police encounter namely Qari Bilal. The I.G of Sindh Police made such press conference in this regard over television. The above contentions of police were unbelievable, therefore, number of social society workers and she decided to approach the Court. They approached Hon'ble Supreme Court by filing the CP and narrated the entire facts to Hon'ble Supreme Court of Pakistan. The Hon'ble Supreme Court constituted one member Judicial Commission to probe the matter.

The said commission recorded the statements of relevant and various persons in order to probe the matter. The finding of the commission were contrary to the press conference of I.G Sindh police, commission further recommended for re-investigation the matter by adding the section 7 of ATA, 1997. In CP, they made prayer that deceased Ms. Parveen Rehman was murdered for the reason that she prepared documentation of the land, which were reserved for Goths (villages) in Gadap area, Baldia, Dayamari, Bin Qasim and Malir. The documentation of the Villages were under progress, there was cell constituted by the Sindh Government under the supervision of Chief Minister of Sindh Qaim Ali Shah. The cell was constituted for the purpose that in the election of the year 2008 the PPP government had promised with the low income people for providing them ownership of the Goths lands. Thereafter, the documentation of the above said lands of the various part of Sindh province were prepared by the OPP for submitting the same before Cell. From 2008 to 2013 near about 2000 applications were received and filed for regulation, out of which 1056 villages were regularized by the Sindh Government. After the death of her sister Parveen Rehman the above said project is stopped and there is no progress in the said project. She remained in touch with her sister prior to alleged incident, she told her that due to regularization people could not be dispossessed from the landed property. She advised her that not to do this work due to law and order situation in the area. She replied that she has threats, but the person forcibly and illegally occupied the lands may resist from illegal occupation of Government property. She further disclosed that some person tried to occupy the office land illegally and she has threats in this regard, they surrounded twice illegally to occupy but due to intervention of police and rangers they could not succeed. She advised her to be careful. She is suspicious that one person who murdered her sister were occupier of the landed property illegally and unlawfully as well as land of OPP and her sister doing the job to regularize the same to poor persons and same was handed over to them. The map of the above said property were prepared by the OPP organization, the persons residing therein were confirmed that they soon received the regularization. According to her all such facts were mentioned in the CP NO.50/2013 before Hon'ble Supreme Court and they came to know when police submitted the report before Hon'ble Supreme Court of Pakistan. On the very next day of alleged incident police tried to cover up the matter but due to filling of CP and directions of Hon'ble Supreme Court, police took the efforts to probe the matter. Police also discussed some names of the accused persons and these persons are of same locality, therefore, Hon'ble Supreme Court ordered

for protection of lives of relatives of Ms. Parveen Rehman and office barriers. They came to know the names of accused arrested by the police, during the investigation from the record of Hon'ble Supreme Court.

In her cross examination she admitted that whatever she has deposed before this Court the same facts were not stated by her before the I.O. She denied that she had not met with any police officer from 14.03.2013 to 22.08.2014. Vol. says that she met with DIG and IG Sindh Police in month of June. Neither the I.G nor the DIG recorded her statement nor through their subordinate staff. On 22.08.2014 she had recorded her statement on her own will and wish without any pressure. She admitted that whatever she recorded in her examination in chief were not stated by her in her 161 Cr.P.C statement. She admitted that it was also not mentioned in her 161 Cr.P.C statement that after her arrival she went to the house of her mother, where her sister was residing with her mother. She admitted that it is not mentioned in her 161 Cr.P.C statement that no one had informed her mother regarding the alleged incident to whom she had narrated the facts. She admitted that it is not mentioned in her 161 Cr.P.C statement that she came to know through press conference of police that Qari Bilal had murdered her sister and said Qari Bilal also died in the police encounter. She admitted that it is not mentioned in her 161 Cr.P.C statement that she had not believed press conference of I.G Sindh Police. According to her whatever she has stated before the Judicial Commission same statement was stated before the I.O. She admitted that press conference of I.G is baseless and on their request later on section 7 of ATA, 1997 added in this case. Again say that 7 ATA, 1997 is not added on their request. She denied that she had not stated in her 161 Cr.P.C statement that her sister was murdered for the reason that she was preparing the documentation of the Goth scheme. She admitted that it is not mentioned in her 161 Cr.P.C statement that in the year 2008 the PPP government had promised with the low income people for regularization of land for themselves. She admitted that whatever she stated in her examination in chief that the after regularization of village the person residing therein would not be dispossessed was not mentioned in her 161 Cr.P.C statement. She admitted that it is not mentioned in her 161 Cr.P.C statement that she restrained her sister not do this job due to law and order situation. She admitted that it is not stated in her 161 Cr.P.C statement that her sister received the threats. She admitted that it is not mentioned in her 161 Cr.P.C statement that some person of the locality where OPP office is

situated are land grabber and they intended to illegally occupy the OPP land. She further recorded that it is also mentioned due to interference of local people and rangers they could not succeed. She admitted that it is not mentioned in her 161 Cr.P.C statement that she advised her sister to be careful. She admitted that she had not nominated the accused in her 161 Cr.P.C statement before the I.O.

PW-19, I.O/Inspector Muhammad Fareed-ud-din has deposed that on 27.06.2014, he was posted as SIO at PS New Town Karachi East. On the directions of SSP East he received the police papers of crime No.104/2013 of PS Pirabad for further investigation. On 22.08.2014 he recorded the statement of Mst. Aquila, sister of deceased Ms. Parveen Rehman. During investigation accused Bilal Tension was arrested in this crime, he interrogated him, but no evidence came on record against him, therefore, he was released u/s 497 (ii) Cr.P.C on 20.09.2014. During the investigation he received the spy information on 19.02.2015 that the accused Ahmed Ali @ Papo Kashmiri is involved in this case. He went to Manshera (KPK) wherefrom he arrested the accused on 19.03.2015 under the mashirnama in presence of mashirs. During interrogation accused Ahmed Ali @ Papu Kashmiri disclosed that prior to 15 days of murder of Ms. Parveen Rehman, he was present in the house of Raheem Sawati as they both belonged to ANP, where Shuldad was present, who was brother in law of accused Raheem Sawati. He further disclosed that accused Raheem Sawati asked his brother in law that Ms. Parveen Rehman created problems and hindrance for him; therefore, she may be disposed-off. Lateron the son of Raheem Sawati namely Imran was arrested by the Pirabad Police u/s 54 Cr.P.C and intimidated him under relevant entry. He then went to PS Pirabad, arrested him and prepared imaginary mashirnama of arrest of accused in the instant case. During interrogation accused Imran Sawati disclosed that his father undergone somewhere else and talked with him over internet. He wrote letter to SSP CTD to obtain information from the concerned department either accused Raheem Sawati is out of country or in Pakistan. On which he received the reply from the FIA Islamabad. Lateron during investigation he added section 201 and 202 PPC in this crime and challaned both accused and showing the remaining accused as absconder. From 18.05.2016 to 03.06.2016 he was on leave, meanwhile accused Raheem Sawati was arrested by the SIP Raja Ulfat of PS Pirabad. It came in his knowledge after return from the leave that accused Raheem Sawati has confessed his guilt u/s 21-H of ATA, 1997. On 24.10.2017, he received the information from the Inspector Jameel of PS Orangi, that he has

arrested the accused Amjad in crime No.310/2017 & 311/2017 of PS Manghopir, who confessed before Inspector Jameel that he is involved in crime No.104/2013 of PS Pirabad. He went to PS SITA-A, where accused was confined, where he prepared the imaginary memo of arrest of accused Amjad, recorded the statements of mashirs of arrest. During interrogation accused Amjad admitted that he alongwith his companions had murdered Ms. Parveen Rehman. On 11.12.2017, accused Ayaz Sawati was arrested by the Pirabad Police, he was informed by the Pirabad Police, went there and prepared the imaginary mashirnama of arrest of accused. Accused Ayaz during interrogation admitted that he alongwith his companions had planned for murder of Ms. Parveen Rehman. He obtained the photos of the car of deceased Ms. Parveen Rehman, besides the CDR record of deceased Ms. Parveen Rehman. After completion of legal formalities on 22.01.2018 he submitted challan before Administrative Judge ATCs, Hon'ble High Court of Sindh Karachi.

During cross examination he deposed that on 03.06.2016 he again started investigation of this crime after enjoying leave as stated by him. He denied that he did not obtain the remand of accused Raheem Swati. Voluntarily stated that on the last day of remand of accused Raheem Swati he produced him before Court and was remanded to jail custody. He admitted that earlier remand of accused Rahim Sawati was obtained by the Inspector Naveed Ali Shah. He admitted that it is not mentioned in the charge sheet that he had obtained the physical remand of accused Rahim sawati. Vol. says that remand of accused was obtained by Inspector Naveed Ali Shah. He admitted that neither he had recorded 161 Cr.P.C statement of Inspector Naveed Ali Shah nor cited him as witness in this case. He admitted that the accused Bilal Tension was released by the Court u/s 497(II) Cr.P.C. He admitted that he met with one Waheed during the investigation, but was not cited as witness in this case. He admitted that he had not recorded the statement of shopkeepers of Pakhtun market or mohalla people of accused. He admitted that it is mentioned in the charge sheet that accused Raheem Sawati is sector incharge of ANP. According to him accused recorded same in his own statement recorded u/s 21-H of ATA, 1997. He admitted that he did not get recorded the confessional statement of accused during investigation. He admitted that the entries produced by him while arrested the accused Raheem Sawati his name is not mentioned in the entries. He admitted that photos of car produced by him, neither the said picture had taken nor he was present at that time. He admitted that photographs are photocopies of camera. The said camera is not shown as

property in this case. He admitted that he produced the photocopies of permission obtained from the concerned department. He admitted that the car of deceased Ms. Parveen Rehman is not shown as case property in the column of the charge sheet. He did not know whether accused Rahim Sawati surrendered himself at PS Pirabad. He admitted that he did not enquire about functions of OPP during the investigation. He denied that there is no proof/evidence against the present accused. Vol. says that there is sufficient evidence available against the accused. He denied that the accused are involved in this case on political basis. He admitted that he had not produced any proof regarding accused belonged to Political party. Vol. says that accused during interrogation themselves admitted that they belonged to ANP. He admitted that Mst. Aquila had not nominated the accused in her 161 Cr.P.C statement. He did not know the arrival date of accused Ayaz in Pakistan. He did not know that accused Ayaz arrived in Pakistan on 19.09.2017 from Oman. The accused during the investigation disclosed that he is starter at the bus stand. He denied that co-accused did not nominate the accused Ayaz in their statement. He admitted that no confessional statement of accused Ayaz was recorded before learned Magistrate. He admitted that accused Ayaz is not land grabber. Vol. says that he is karrati champion intended to establish the karati center in OPP office. He admitted that above fact is not in writing. He admitted that no date has come on record on which the accused approached for karati center. He did not know whether accused Ayaz was in Oman from 2008 to 2017. He denied that he changed the version of press conference of police official and falsely involved the accused in this case. He admitted that he did not get recorded the statement of above named accused u/s: 164 Cr.P.C nor u/s 21-H, ATA, 1997. He denied that there is no direct or indirect evidence against the above named accused.

P.W-20 Omar Shahid (DIG CTD, Sindh), deposed that pursuant to the order passed by the Secretary to the Govt of Sindh Home Department vide dated: 23.02.2018, the JIT were ordered to be constituted on the recommendation of IG Sindh police, vide letter No: 5752-53/AIGP/OPS-III 2018 dated: 13.02.2018 for investigation of instant FIR with the terms of reference that the JIT shall thoroughly re-investigate the murder of Ms. Parveen Rehman, that the JIT shall ascertain if the police officers had mala-fidely manipulated the closure of the murder case.

According to him at the time of passing of order by the Home Department Govt of Sindh, Karachi, he was serving as SSP West,

Karachi, initiated the JIT proceedings and in all held as many as four Sessions. During the said proceedings, examined the material placed on record by the investigating agency conducted earlier, other documents relevant to the case and after formation through the said sessions conducted in presence of JIT members, they all unanimously formed their opinion with regard to the terms of reference. The report of JIT is specific in its nature with regard to the terms of reference which may be read as a whole. The JIT members examined and discussed all the relevant facts with regard to the instant FIR and confined themselves to the terms of reference and submitted report to the Home Department Govt of Sindh. The JIT were finalized after all sessions on 28.03.2018 and recommended to the concerned quarter for further action in accordance with law.

During cross examination he deposed that he cannot say as to whether pursuant to the findings of JIT any other accused were arrested in this case or otherwise. He admitted that during the JIT proceedings they did not form any other opinion for the involvement of any of the accused including accused Ayaz. He admitted that material whatever already collected by the police, they conceded the same through their findings in the JIT. He denied that the signatures of the members vary as appearing on each leaf of original JIT, submitted before this Court. He admitted that no further finding and indication for the involvement of each of the accused facing trial or any other accused were determined during the JIT except the material collected thereto by the police prior to the JIT sessions.

PW-21 Mazhar Iqbal (Officer Incharge CTD, Sindh), deposed that pursuant to the said JIT headed by Mr. Umar Shahid he and deceased DSP Sultan Panhwar participated as members of the JIT and acted in the said JIT with regard to the terms of reference. There were four sessions of the JIT, all the members of the JIT as per the notification acted in accordance with the guidelines under the law and SOP and consistently formed their opinion in the matter. There were no difference of opinion on any point in the said JIT findings. He was confronted to the JIT report exhibited by Mr. Omar Shahid at Ex. 69/A to be the same, which contains his signature along with the signatures of other members and of deceased DSP Sultan Panhwar. He confirmed that said DSP is no more alive and obituary were issued by the Govt of Sindh Home Department on 09.12.2019.

During cross examination he deposed that he cannot say as to whether pursuant to the findings of JIT any other accused were arrested in this matter or otherwise. He admitted that they did not form any new opinion for the involvement of any of the accused including the accused Ayaz. In fact they conceded to the result of investigation, opined by the police during the investigation. He denied that there is variation of signatures of JIT members at each leaf of JIT. He admitted that no further findings and indication for the involvement of each of accused facing trial or any other accused were determined during the JIT except the material collected thereto by the police prior to the JIT sessions.

P.W-22 Muhammad Waqas (Technical Expert, FIA/CTW, Islamabad), deposed that he was serving as Technical Expert at FIA Islamabad. Pursuant to the letter dated: 18.01.2019 the Federal Cabinet were pleased to approve the formation of JIT in terms and reference u/s: 19 (1) ATA, 1997 regarding the murder case of Parveen Rehman vide FIR No: 104/2013, under section 302 PPC r/w section 7 ATA of P.S Peerabad, Karachi. The members of the JIT were notified through the said letter and the notification in that regard reached in the office of Director/Head of the JIT, CTW FIA Headquarters. On 01.01.2020 he was apprised through the letter FIA/HQ/CTW/JIT/case FIR/104/2013/2020-02 dated: 01.01.2010 by Mr. Babar Bakhat Qureshi PSP, Director/Head of the JIT, CTW/FIA Islamabad, for formation of JIT, pursuant to the CP No: 50/2013, filed in the honourable Supreme Court of Pakistan and to the said context he was directed to submit the technical report regarding the interview of said lady Ms Parveen Rehman Director OPP. Pursuant to the said direction he submitted his technical analyzer's report before the JT members, where the said report were seized and secured under memo, where he also put his signature as one of the member having presented the record of interview conducted by Mr. Fahad Deshmuk in Sep, 2011, titled as "**Parveen Rehman: On land, politics and violence in Karachi**". His report were made part and portion of JIT through the said seizure memo. He produced CD along with transcription of the said interview conducted by the above person. On 02.01.2020 he also provided audio/video clips of deceased Ms Parveen Rehman along with his report, which were also made part and portion of JIT and were secured before him under memo by the JIT members.

During cross examination he deposed that his statements were recorded by the JIT members twicely on the respective dates mentioned therein. He admitted that at the top of his statements the date of recording of said statements did not transpire. In fact those were

recorded on the days when he presented the record of expert and such fact with word "today" were clearly mentioned therein. He admitted that both of his 161 Cr.P.C statements did not mention the name of Fahad Deshmuk. In fact he had downloaded the links of interview which were uploaded by Fahad Deshmuk earlier to the media. He admitted that his 161 Cr.P.C statements did not mention that interviews of Ms. Parveen Rehman were downloaded from the media source, which were uploaded by Fahad Deshmuk earlier. In fact his reports contain all such specifications and details in this regard. He admitted that his 161 Cr.P.C statements did not contain the Internet Protocol, by which he uploaded the same. He admitted that his 161 Cr.P.C statements did not mention that against which I.P, he downloaded the same. He denied that his statements did not contain the description of the CDs. He admitted that the make and maker of the CD "Maxell" did not transpire in his 161 Cr.P.C statements. He denied that the downloaded material could be replaced and tempered with by him in any manner. He denied that in order to make it feasible before the JIT he himself tempered the recording. He admitted that both the CDs were not sealed in cloth parcels. In fact both the CDs were kept in safe custody till further orders when Honourable Supreme Court directed to be produced before this Court along with JIT report and then same were obtained and produced before this Court. More so, the head of the JIT himself appeared before the Court and had produced the JIT record inclusive of said CDs.

P.W-23 Fahad Muhammad Deshmukh (Software Developer), deposed that on 01.01.2020 he was issued notice by head of the JIT directing therein to appear before JIT on 03.01.2020 at 11.00 a.m along with complete record of interview of Mst Parveen Rehman. The said notice contained reference of CP No: 50/2013 filed by Human Rights Commission of Pakistan, referring therein the FIR No: 104/13 of P.S Peerabad. He attended the office of JIT head, where he recorded his 161 Cr.P.C statement. He was enquired for the facts of the interview, which remained in his knowledge. He being the freelancer journalist in independent nature had recorded the interview of deceased Ms. Parveen Rehman in December 2011. Some of the portion of her interview were made on-air through Public Radio International, "The American public radio organization". The audio of said interview of deceased Ms. Parveen Rehman were published after her extermination in the year 2013. Mst. Praveen Rahman were known to him, met her for about three times when he was serving in Express Media Group. He further deposed that whatever deceased Mst. Paerveen had recorded during her interview to

him against his interaction with her are true and correct to the best of his knowledge, hearing, common sense and memory. The links of interview were provided by him to the head of JIT, who proceeded further by initiating the process of technical examination through analyzer and forensic experts to get it scrutinized in all perspectives. He was confronted to the record of his link produced by technical expert Mr. Muhammad Waqas at Ex. 71/E, which contains the uploaded material in the said link, which were downloaded by him. He was confronted Ex. 71/F (transcription of the interview) recorded by him to Ms Parveen Rehman admitted to be the same. He was also confronted the technical analyzer's report at Ex. 71/K showing the downloaded record of interview against the YouTube with pictures of Mst Parveen Rehman for comparison to be the same.

During cross examination he deposed that his statement before head of the JIT were recorded by him on 20.01.2020. Prior to the said statement he had no meeting with FIA authorities. During his statement he provided the links of interview recorded by him to the FIA authorities. He admitted that his 161 Cr.P.C statements did not mention that either of the CD were seized in his presence. He admitted that specific dates pertaining to the month of December and January for the interviews did not transpire in his statement. However, the months indicating in this regard were December 2011 and January 2012. He admitted that his statement did not mention that at the time of recording of interview of Mst Parveen Rehman, some technical persons/experts for recording of interview through audio or video were with him. In fact he recorded himself. In fact his statement did not mention that Mst. Parveen-ur-Rehman when recorded her interview it was recorded by him without any technical expert. He admitted that his statement did not mention the recorder equipment through which he recorded her statement nor produced before the FIA nor even exhibited today before this Court in his evidence. He admitted that Ms. Parveen Rehman during her interview spot lighted the law and order situation and the interference of the political parties running in the Karachi, but did not specify either of the person in name.

P.W-24 Masood Ali (D.D/Incharge Forensics, Islamabad), deposed that on 02.01.2020 he was serving as Deputy Director Forensic/incharge of the said wing when he received letter issued by Director CTW/FIA Headquarters Islamabad, apprising therein for the constitution of JIT in the instant FIR. Through the said letter he was informed that Mr. Fahad Muhammad Deshmuk an independent journalist

had recorded an interview of Mst Parveen Rehman in her life time and the said audio were taken into custody by the forensic expert of the FIA through the custody of memo for the purpose of evidence, besides it was also intimated that video tape recording of interviews at different platforms by said Mst Parveen Rehman were obtained from the internet which were referred to him for analysis and report (audio forensic analysis report). He examined the audio and video CDs, opined his opinion with regard to the forensic analysis and submitted his report along with the referred CDs to him which were seized under memo, to which he acted as mashir. His statement in this regard were also recorded by the head of the JIT. The seizure memo were signed by him and other staff before head of the JIT.

During cross examination he deposed that his statement were recorded only once on 13.02.2020. His statement dated; 13.02.2020 did not contain the name of Mr. Fahad Deshmuk having recorded interview of deceased Parveen Rehman. He admitted that his statement dated: 13.02.2020 did not mention the protocols applied by him for analyzer process.

P.W-25 Ali Raza (SI, CTW/FIA, Islamabad), deposed that on 01.01.2020 he was serving as an ASI at CTW/FIA Islamabad, when on that day Mr. Muhammad Waqas, technical expert CTW/FIA, presented technical expert analyzing report version 1.0 dated: 01.01.2020 along with one CD containing audio file available on <https://soundcloud.com/deshmukh/parveen-rehman-interview-2011> regarding the interview of deceased lady Mst. Parveen Rehman, Director Orangi Pilot Project, with reference to the CTW letter No: FIA/HQ/CTW//JIT/CASE FIR-104/2013/2020/02 dated: 01.01.2020 and the same were taken into the custody under seizure memo for evidence by the head of the JIT, which were prepared by the head of the JIT, to which he along with Mr. Ijaz Ahmed A.D, Mr. Muhammad Waqas and Mr. Babar Bakhat Qureshi, Head of the JIT put their signatures. He also acted as one of mashir in this regard. On 02.01.2020 Mr. Muhammad Waqas again produced analyzer report containing five pages along with one CD containing two video files available on Youtube https://www.youtube.com/watch?v=WEoYf_NGUo and another I.P <https://www.youtube.com/watch?v=K7wiOofXhVo> which were required for audio forensic interview of deceased lady with reference to the CTW letter No: FIA/HQ/CTW/JIT/Case FIR-104/2013/2020/17 dated: 02.01.2020. Such memo were prepared by head of the JIT to which he along with Mr. Aijaz Ahmed Shaikh and Mr. Muhammad Waqas put their

hands in presence of head of the JIT. Again on 13.02.2020 Mr. Masood Ali Deputy Director/Incharge (forensics) cybercrimes wing presented audio forensic analyzer's version 1.0 dated: 13.02.2020 containing 18 pages along with CD regarding interviews of lady Parveen, Director OPP Karachi, the same were taken into possession for the purpose of evidence by the head of the JIT. Such memo were prepared to which he along with Mr. Aijaz Ahmed Shaikh, Mr. Masood Ali put their hands. He was confronted to the said memos produced by the above referred witnesses Muhammad Waqas and Masood Ali at Ex. 71/C, 71/I and 73/B to the same, containing his signatures. The head of JIT recorded his statements thrice in this regard.

During cross examination he admitted that his statements dated; 01.01.2020, 02.01.2020 and 13.02.2020 did not mention/contain the name of Mr. Fahad Deshmuk, who had recorded interview of deceased lady Parveen Rehman. He denied that all the memos were prepared in the FIA office without having knowledge to him, but he was directed by his superiors to put his signatures. He denied that he has no knowledge for the contents of memos, but without having gone through the same he put his signatures.

P.W-26 Babar Bakhat (Director OPS Cyber Crime Wing), deposed that he has been summoned by this Court as a Head of JIT to record his evidence, pursuant to the order passed by the Hon'ble Supreme Court of Pakistan in CP No: 50/13 vide order dated: 04.01.2021. Through the said order the heads of the JITs were directed to appear before this Court along with the result of investigation concluded through the proceedings of JIT. He deposed that prior to the proceedings of JIT all the relevant documents were perused, after due deliberation and consultation to the relevant provisions of the law, they proceeded to the JIT to ascertain whether the initial investigation conducted by the local police was correct? If not, then what were the hidden motives to distort the evidence in connection with this cold blooded murder; whether the First JIT headed by Mr. Sultan Ali Khawaja arrested the genuine accused? If so, then what were the grounds of their arrest and evidence collected to bring about effective prosecution to book the criminals to justice; if the arrested accused are genuinely involved in the murder of Ms Parveen Rehman then what was their motive for her killing; that whether these accused assassinated her, being the instrument/operators of any Mafia head i.e., Land Grabbers, illegal water hydrant owners or this killing was the outcome of target killing/Ethnic cleansing/Taliban factor etc and the second JIT constituted under the

Command of Mr Omer Shahid Hamid, then SSP West Karachi pointed few names being the beneficiary of this murder but did not interrogate them; the question of their possible involvement in this murder is still to be addressed?

After thoroughly examining the material and by scrutinizing the evidence and getting the forensic examination and reports of audio recorded interviews conducted by Mr Fahad while comparing to the interview recorded by video at different intervals by Ms. Parveen Rehman they arrived at the conclusion that the investigation conducted by the police were in the right direction and they conceded the same with regard to the all perspectives and result arrived thereto. The interview recorded by Mst. Parveen Rehamn to Mr. Fahad, were uploaded by him as Freelancer Journalist at the link reported by him and thereafter, the said were downloaded for authentication. The mode and modus operandi of interview were thoroughly investigated by the forensic analyzer's and also submitted such reports which were taken on record under memos. The analyzers' also attended this Court as the mashirs of memos, also produced all the relevant documents and the opinion formed thereto through their expertise. He was confronted to the documents produced by the P.Ws namely Muhammad Waqas Zamrud Khan, his technical opinion, memo, audio and video clips and transcript of interview recorded by Ms. Parveen Rehman (deceased), produced by the said witness at Ex. 71/A to 71/G along with the memo, to which he confirmed to be the same. He was also confronted to the report submitted by Masood Ali (Deputy Director/incharge forensic) through his evidence at Ex. 73/A to 73/D respectively. He was also confronted to the evidence recorded by Mr. Fahad Deshmuk pursuant to the notice issued to him for his appearance in the proceedings of JIT on 03.01.2020 confirmed to be the same, memos available on record, exhibited through the said witnesses during their evidence to be the same, contained his signatures as head of the JIT.

During cross examination he admitted that during the proceedings of JIT none of the eyewitness appeared nor reported before them. He admitted that during the process of JIT neither the geo fencing nor location of the accused and the deceased, besides the complainant party were traced out. In fact neither it remained under their domain nor such material were placed for its authentication through analyzer's report. He admitted that one of the political party functioning in Pakistan is ANP headed by Mst. Begum Naseem Wali Khan (now deceased). He was confronted to para No: 13 and 14 of JIT appearing at page NO: 195

and 197 and say that those were formed on the basis of material placed before them and both such paras be read as a whole, but not in isolation. He admitted that during 161 Cr.P.C statements of the P.Ws none of them pinpointed for any of the accused facing trial to be involved in the murder of deceased Parveen Rehman. In fact pursuant to the directions of Hon'ble Supreme Court of Pakistan he deposited/submitted challan u/s: 173 Cr.P.C before this Court which were directed to be submitted in supplement thereof to the challans already pending trial for the adjudication against the accused before this Court. More so, after perusal of 161 Cr.P.C statements of the witnesses recorded by those witnesses before the police, they formed an opinion that piece of evidence connected the accused Raheem Sawati and his assailants having caused murder of Ms. Parveen Rehman. He denied that as per point No: 05 appearing at page No: 201 of the JIT, Mst Parveen Rehman during her interview named Raheem Swati, besides one Qudoos and Farooque Sattar being involved to issue her threats time and again. In fact Qudoos were found expired prior to the JIT proceedings and Farooque Sattar were examined but not found having any clue for his involvement. He admitted that the opinion of JIT were formed on the basis of material placed before them which reads that the opinion resulted in the investigation were specific and they conceded thereto. He admitted that they also conceded for the involvement of the accused in addition to the result of investigation. He admitted that they could not thrash out the circumstantial piece of evidence in a clear cut manner to establish the well founded accusation against either of the accused. He added that they thoroughly searched all the collected material inclusive of interview of deceased recorded by her to Mr. Fahad Deshmuk and after forensic examination the said interview were certified to be recorded by her and its transcript is available on record which requires to be considered in all respect with all perspectives. He admitted that through the interviews recorded by Parveen Rehman she leveled general allegation against the political parties in her talks without assigning specific role to either of accused facing trial before this Court.

Heard learned counsel for the accused, learned counsel for the complainant along with APG for the State and with their valuable assistance scanned the entire material available on the record to arrive at the just and proper conclusion of the crime story.

The prosecution examined as many as 26 witnesses who all recorded the part of their evidence participated during the investigation,

besides the witnesses who participated in the JITs formed at the directions of Hon'ble Supreme Court of Pakistan.

I have mentioned the evidence recorded by each of the P.W inclusive of cross examination in order to place on record the material collected during the investigation for consideration and to decide the case in hand justly and fairly.

The case of prosecution rests upon the circumstantial evidence, confession recorded by the accused Raheem Sawati before SSP investigation Akhtar Farooque and the abscondence of the accused.

In order to proceed ahead to determine the motive, let the interview recorded by Ms. Parveen Rehman to Fahad Muhammad Deshmukh, who was the freelancer journalist in December 2011 be thoroughly examined. The said P.W Fahad Muhammad recorded his evidence as P.W-23 at Ex. 72 and placed on record that he being Freelancer Journalist recorded the interview of Ms Parveen Rehamn in December 2011, some of the portion of interview were made on air through public radio international "The American public Radio organization" at the link "<https://www.priorg/stories/2012-01-18/urban-Violence-and-land-grabbing-Karachi>" and the said audio interview of deceased Ms Parveen Rehman were published after her extermination in the year 2013 at the link "<https://soundcloud.com.deshmukh/parveen-rehman-interview-2011>". According to this P.W he was the author of said interview and uploaded the same when he was serving in "Express Media Group". That whatever she recorded during her interview, it was true and correct to the best of his knowledge, hearing common sense and memory. The said links were verified by the FIA authorizes through forensic. However, the said links were confirmed through the analyzers reports and the said interview were also aired in the Court in presence of accused and advocates for the both parites. During cross examination this witness has not been shattered with regard to the genuineness and veracity of interview recorded by Ms Parveen Rehman. It is surprising to note that during cross examination accused Raheem Sawati, Imran and Ahmed Ali Papu did not dislodge him that the said interview were manipulated, exaggerated to that of true version of Ms. Parveen Rehman and were managed later on. On the contrary it was got confirmed through him that Mst. Parven Rehman during her interview spotlighted the law and order situation and interference of political parties running in the Karachi and did not specify either of the person in name. The above aspect of the

evidence fully established that the interview recorded by her were genuine and correct in all respects with regard to the circumstances and the situations faced by her being a social worker during her work as a Director of OPP assigned to her. It has not been suggested that she never faced the accused at any moment as alleged by the prosecution. The excerpts of the interview recorded by her are specific with regard to all the scenario, in which she was working and serving with her utmost care to the area people. Once this P.W is not discarded to the record of interview the excerpts available on record verified and documented by the FIA authorities through the modern devices has to be accepted in all respects. No doubt this witness has recorded that Ms Parveen Rehman did not specify either of the person in name, but excerpts available on record and voice recording of interview has to be taken into consideration as a document and once the fact is established through the documentary evidence the oral evidence did not overrule such documentary evidence. The relevant excerpts of deceased recorded by her during her interview in the December 2011 speaks volumes for political parties working in the area, Karachi and even she recorded all such scenarios around and surrounding the lands, illegal hydrants and other illegal activities backed up by the political parties through their kiths and kins. It is not suggested to this P.W that accused Raheem Sawati, Imran and Ahmed Ali Papu, Ayaz and Amjad did not belong to a political party. The interview of Ms. Parveen Rehman has to be taken into consideration but not in a piecemeal or an isolation. The motive being confirmatory of evidence was surfaced in the year 2011 has to be looked into in a vigilant manner, no enmity is suggested against Ms Parven Rehman that she recorded the false allegations against political parties and specifically against accused Raheem Sawati and some other workers of political parties, who bothered her time and again and even in specific allegation of demand of piece of land to establish the Karata Centre. This piece of evidence were introduced by deceased in the year 2011, whereas, the accused Raheem Sawati himself or anybody else being affiliated with political party never denied for having no concerned to the demand of piece of land for the establishment of Karata Centre. NO doubt Mst. Parven Rehman spotlighted all the factors involved around not facilitating her to work smoothly, but the specific allegations against the present accused with regard to the demand of piece of land and facing of threats from the accused Muhammad Raheem Sawati and his assailants is boldly mentioned in her interview. Hence, such piece of evidence cannot be brushed aside on any of the ground unless any other cogent material is placed by the accused in juxta position. Mere saying

that she did not name either of the person in her interview did not find place on record. The excerpts concerning to the accused recorded by deceased in her interview in the December 2011 reads as under:-

"D: *Can you describe if there was a particular incident, or what it was like one of these days? If there was a particular incident one of these days when the violence was really bad and you were trying to come to work?*

PR: *Many many days, many days. The entire July and August has been like this. Except like 1-2 days, everyday. We would be sitting here, maybe there's a guest coming in: 'There's firing, severe firing' and then we'd get all – there's also fear. There's a lot of fear, and we'd try and strategize: what to do – should we call the rangers, should we call the army? Sometimes it's happened that in front of our gate the people have gathered, and we didn't know, they're not from the community, we don't know where they are from. So it's been many many days. Sometimes we just think let's stay quiet and not do anything, but then you don't know whether you'll be able to reach home for a week or so. What do you do for a week?*

There's also been times when we have been threatened in this office. Let me say when there's political conflict then the chotus in the political parties use all this and they become blackmailers and cheaters. So we've had people about three years back – three years back election than a? When first time the ANP came into power? And we had people from ANP coming into our office occupying – one month they were coming, they were threatening us that you leave this place. First they said we want a hall, your all is great, we want this to have judo-karate lessons. WE said as a policy we don't give it out to anybody. Then they would just come, pressure us from various MNA's, MPA's and they would ring us up. So we said we can't as a policy we can't. Then they started coming every day and threatening us, and we said all right you kill us – that's all you can do, we are not afraid. One day they just came, and from the morning they occupied the roundabout in front of our office. They came with gunmen. About 5-6 of them sat there at the roundabout 5-6 of them went all around, 5-6 of them went into this courtyard trying to threaten us. And they said today we will occupy this place no matter what. So one of our colleagues was negotiating with them, we said, we won't go, you stay, if you want kill us, if you want, kill everybody. We were lucky that one of the active members of the community who's been working with us, his brother is a bigger thug, yeah? And he belongs to the PPP. Then he said that all right, I will come over, and how can they do anything like this? So he came and talked to them that if you fire, we'll fire many many more rounds. So imagine to save ourselves we went to bigger thug.

D: *I mean especially for the foreign, it seems bizaree that someone can come and say look you know, I'm going to occupy. Can you give a sense of why they didn't occupy this thankfully, I mean they're many which they have*

occupied, and they come just like this? Can you give a sense of why this happens, why there isn't security of property which one expects?

PR: *But one more incident I must relate. It's to do with the local, he threatened us, who is now a MPA, he is local MPA of the ANP. He threatened, he came to me, he rang me up and threatened me so many times. He said this is illegal what you all have done. This is our plot, give it back to us. We said the very point is that we applied to the Government, the Government gave us this, we have paid it, and if you have a battle go and do it with the Government, I think the important thing is if you are scared, if you get scared – that's a strategy – then you've had it. But for us, can you do? So kill us. We're not afraid of you. I think that is important.*

Plus secondly one thing I'd like to relate before I answer your question- sorry. Why we are always saved here? Because of our work, of our contacts with the community. It's people all around that save us. It's people all around. If some of the students get out, and somebody from – then we talk to them. It's young men from the community who save us, who go and tell the political parties that why are you doing this? I remember after this thing happened, when they wanted to occupy, there was a word sent to the ANP because you see our members who work here also have political affiliations. Some of them go and sit in the ANP office, some of them go and sit in the MQM office. So they themselves sent in the word, and I remember that one of the Secretaries of the ANP lives right across our office in the big tall building. He was told that you are now responsible for this office – if anything happens you will be taken to task. It's the community work that saves all the time, because you see our office is very open you can see – everybody keeps on coming and going.

D: *How is that given that you've been here for so long and that you're part of the community, that people can still come... right?*

PR: *That's very interesting and also how the question you asked before – you must remain me about that, yeah? You see the thing is that in any, how do I explain this? It's not so much that people in one community are the ones who are threatening their neighbors. It's not that. You see what has happened is, and it's very said about ANP, ANP has learnt all the negative tactics from the MQM What they do is immediately when violence happens, they also have started making units, they send in the unit members of somewhere else to occupy the place. When violence happened here, we even didn't know these people. Because all our guards and everybody are friendly with everybody. So that said who are these people? We are from the unit, and we're from North Nazimabad. So they've used the tactics – they send people from somewhere else – they don't know the people and they can create violence. There are a lot of strands and the people we work with, you see the community members are also people who are by nature, who want to be peaceful. People like us who want to be peaceful, who don't want to do violence beforehand. We do protect*

ourselves of course by resorting to a bigger thug, Not resorting to violence but getting help from a bigger thug. And knowing who is the bigger thug is very important. The important this is that there are lots of strands, and not necessarily everybody knows that who is threatening whom, when, because these people come very quietly.

D: *But what determines the timing of it? Do the orders come from above or is it local economic factors?*

PR: *Local thugs. For instance, this one thug I won't take his name, who was shot in July, right in front of the gate. I can take his name – Rahim Swati – everybody knows. The point is that they're all extortionists. Kaheen se bhi, whenever they can get some money, they'll try to do that. They'll try and get money out of somebody. It's just that when you feel there is a complete conflict above, there's a time that you know that you can get away with things. For them, that timing is important: when there's complete conflict between 2 political, 3 political parties and everybody is involved. Of course governance toh khair hai hi nai, but thora bohat when there's political harmony, these things are controlled. Toh jab who, one the top they are fighting, to neecay toh khair...*

D: *Now the question of, you mentioned on it – because of the lack of governance – what is it that makes it so easy, I mean almost accepted, it's almost convention that you can do this? This is something that you're either doing it, and if you're not doing, you have to prepare yourself for it. So can you explain what are the factors which...?*

PR: *Okay, I like when I say lack of governance, it's very simple, because look at land. You said that some places people can go, thugs can go, and they can get away with the extortion money and occupying that land. If you just look at the Katti Pahari area, which has been the most notorious, I have a beautiful photo which shows the Nur Jehan police station and right behind it all the plotting taking place. The two together cannot happen if they don't support each other.*

D: *Do you have it here/*

PR: *Yeah I have it on my notebook. If they don't support each other, it's very obvious this will not happen. So the breakdown means that everybody's involved in unofficial activity. Official activity, pure activity toh hai hi nahin: whoever is the lesser illegal is now the good persons where everybody is illegal., Dekhein na when a land transaction takes place, a study that we have done in land supply and the goths of Karachi, there's a fixed amount that goes to the police. I'll give you one example: on a plot of land of Rs. 250,000 for a 100 square yards plot. Rs. 250,000 is the cost. So in the initial plotting of an acre of plot, the police takes Rs. 250,000 – that's standard. You have to give it to the police station. Second, when the plots are sold as a token to buy some sweets, they are given Rs. 5,000 to 10,000 – that's standard. All right? Then in*

the Rs. 250,000, Rs. 1,00,000 goes to the owner and his team members, Rs. 150,000 is sub divided, eik toh you give to the thana, again between various governments officials, revenue departments, local councilors, local nazims, MPA, MNA, everybody – it's divided. Like we said in Rs. 250,000, maybe lesser of Rs. 100,000 remains with the seller and his entire team – including the owner – but the rest is all subdivided. One estimate that we have made that this land transaction on annually – with a conservative estimate – has a turnover of Rs. 30 billion annually. This is huge. Unimaginable. This is huge”.

The above excerpts of the interview recorded by deceased Ms Parveen Rehman has fully described all such attending facts, factors and circumstances, which revolved around her and she boldly without any fear and favour recorded to an independent international Media. Accused did not place on record that through the said interview, the OPP authorities managed to falsely rope them. The piece of land demanded by accused Raheem Sawati along with Ayaz Swati to establish Karate Centre is apparent through the above piece of interview, cannot be overlooked on technical grounds, agitated by the accused. It is also not denied by the accused that the deceased while recorded her interview did not take his name as one of the perpetrator, who demanded the piece of land for Karate Centre and also extended her in threats. In absence of meaningful denial without any documentary proof, did not shatter the motive recorded by Ms. Parveen Rehman in her interview long ago in the December 2011.

It is not denied by either of the accused that deceased did not lost her life through an unnatural death which taken place in the year 2013, none of the accused placed on record that deceased were not Director at OPP in the area of Pakhtuan Community and the house of accused Raheem Sawati and Imran Sawati were not situated in the area where the OPP office were functioning. It is not the case of accused that they never approached Mst. Parveen Rehman with regard to the piece of land for Karate Center. It has come on record that after the extermination of deceased the police authorities at the very inception intermingled and distorted the facts of the murder of Ms Parveen Rehman due to one or other reason; rather put the investigation in stereotype manner, not only stereotype, but chosen to dump the case, that's why it was disposed of in "A" class by showing the murder of Qari Bilal just after the extermination of deceased Parveen Rehman. The judicial enquiry notified by the Hon'ble Supreme Court of Pakistan, whereby Mr. Ghulam Mustafa Memon (then then District Judge West) were directed to enquire the matter and Mr. Ghulam Mustafa Memon

through his detailed reasoning falsified the claim of the investigating agency; rather recommended action against the delinquents. Even then the prosecution tried to dump and get rid of the case of deceased Parveen Rehman, but the complainant party persuaded through the Hon'ble Supreme Court of Pakistan till the final result come on record. It was the persistent persuasion that the matter surfaced on record and the present accused were arrested. It is not the case of accused Raheem Sawati that his name has been surfaced on record falsely and malafidely rather his appearance voluntarily at P.S Mominabad, demonstrated that as and when he came to know for his name, he surrendered himself at P.S of his choice. He never bothered to get the attention of investigation agency of instant FIR recorded at P.S Pirabad, neither the accused joined the investigation nor availed the modes of the legal security by getting bail or by approaching to any of the forum to delist him from the accusation, rather after surrender he left the P.S Mominabad to an unknown place. The stand of the accused at first instance recorded by him through his statement u/s: 342 and 340 (2), which both indicated that it was in the knowledge of accused that his name has been surfaced during the investigation, initiated at the directions passed by Honourable Supreme Court of Pakistan time and again even he did not bother to show all his cards at very early stage. The absondence of accused Raheem Sawati is established through his mouth, not only his mouse but so also by his son Imran Swati. The motive cannot be lightly brushed aside only against the contentions of the accused, the confirmation of the circumstances and the evidence leads to the facts recorded by the accused himself through his statement on oath u/s: 340 (2) Cr.P.C, thus it cannot be said that he was not in the knowledge of the occurrence and accusation surfaced against him. The accused Imran Sawati at no place denied that they were not residing with his father in the house situated in the area, where OPP office was situated. None of the accused recorded that they did not belong to ANP. The statement of accused Raheem Sawati on oath fully amplifies that even after his surrender he left P.S Mominabad and chosen to went undergone and thereby certified by accused Imran Sawati, who was none other else but was his real son. No doubt the accused Raheem has claimed that his two sons namely Adnan and Kamran were arrested by the police, that's why he was pressurized to record his confession. The motive recorded by Ms Parveen Rehman through her mouth when ascertained by the investigation agency through the long investigation it has been established that it was the chain in the confirmation of the facts leading from the interview of deceased to the absondenence and thereby recording of his confession

after his arrest. There is no other plea that such motive brought on record by the prosecution is managed and placed on record is an afterthought, particularly when the deceased much prior to her extermination had recorded her anxiety and apprehension against the accused Raheem Sawati and his assailants. The abscondence of accused Raheem for 14 months even after his surrender, amplifies that during the said period of abscondence he did not bother to file any CP for the quashment of proceedings against him recorded by the police through the JIT or any other mode when the police investigated the matter in his absence. The abscondence of accused Raheem Sawati and recognition of said absconder by his son Imran is also one of the major factor certifying the motive.

Now we come to the confessional statement of accused Raheem Sawati. The prosecution has placed on record the confessional statement of accused recorded by him during investigation. The accused has retracted the same, but at very late stage by pleading that his signatures were obtained when he was inside the Central Prison, Karachi on blank papers. The accused Raheem Sawati never claimed such aspects before any forum nor he even had knock the door of Hon'ble Supreme Court of Pakistan, where the CP No: 50/2013 were filed just after the murder of Ms Pavreen Rehman for directions to the investigation agency to indict the real culprits. He even after his arrest by the investigation agency never chosen to place all such his contentions either before any court of law and before the Hon'ble Supreme Court of Pakistan. The accused has only retracted the confession when the evidence of SSP Akhtar Farooque was recorded. It was not suggested to any of the P.W and the IOs for not the recording of said confession as alleged and his signature were obtained on blank papers. No doubt during the cross examination SSP has been suggested some queries, but the said legal queries could only be treated as irregularities not demolishing the true perspective and the scope of confession even if retracted later on. The broad spectrum of consideration to the said confession appeals to the mind that it was recorded as per the scheme set out in section 21-H of ATA, 1997. The learned defence counsel for accused Raheem Sawati tried to intermingle and drag the confession of accused not recorded u/s: 164 Cr.P.C but he did not realize that scope of section 21-H is quite different inserted in the ATA law with specific wisdom having such specific conditions, which are never suggested having been not applied/complied by SSP Akhtar Farooque. Section 21-H ATA, 1997 starts with non-obstant clause of

'notwithstanding' carries its own significance and overriding effect. The cross examination to SSP Akhtar Farooque at no place suggests that the said confession were malafidely recorded, did not contain the signatures of the accused. On the contrary the admission of the accused that his signature were obtained on blank papers, certify that it all was recorded according to law and cannot be thrown all only on mere technicalities. Delay retraction may be a good ground and can be taken into consideration in case the suggestions are capturing the prudent mind in true sense, but here in this case the position is not so to discard such confession, when we consider the motive keeping in view the interview of deceased Ms Parveen Rehman recorded in the year 2011, long ago from her murder. None of the accused through any of the documentary proof recorded that neither accused Raheem Sawati nor Imran were known to them nor such intimacy retained by them. In the circumstances mere denial for accusation did not dislodge the case of prosecution at the one hand and clear the accused from the long standing investigation pending since 2013 up to the arrest and further investigation of all the accused, on the other hand.

Accused Raheem Sawati stated in his confession that he was a former councilor and Secretary of ANP, his house was located opposite to OPP office. In early 2011, former president of ANP, accused Ayaz Sawati, sought his assistance to open Karate Centre in the premises of OPP. Thereafter, he along with accused Ayaz Sawati, went to meet Ms Parveen Rehman in this regard. However, after 3 or 4 days PPP councilor and OPP associate Waheed informed them that they will not get any space in OPP premises for Karate Centre. Parveen Rehman had previously also refused to help poor people of Pakhtoon community and had referred to him (Raheem Sawati) as land grabber. So one day, in the end of January, accused Ayaz Sawati, Amjad Afridi and Ahmed Ali alias Papu Kashmiri gathered at his home and planned to get rid of deceased Parveen Rehman because of her ridiculous attitude. They contacted Taliban Commander Mosa and Mahfoozullah alias Bhalo, from Ayaz Sawati mobile phone, in this regard, who assured them that their work will be done in lieu of some monetary compensation. Moosa then contacted Ayaz Sawati, as he required help of Papu Shah Kashmiri in achieving the target. On 13.03.2013, at around 11 p.m accused Ayaz Sawati and Amjad Afridi came to his (Raheem Sawati) house and informed him that Moosa, Bhalo and Papu had killed Parveen Rehman. Thereafter, he went into hiding as his name was also nominated as an accused in the present case. During his abscondence, Moosa contacted

him for the payment of Rs. 40,00,000/- (Fourty Lacs) in return for the murder of deceased Parveen Rehman and on 07.05.2016, police arrested him when he came to Karachi to visit his family.

The confessional statement of accused Muhammad Raheem Sawati is specific in all respects. At the outset when we look to the disclosure made by Ms. Parveen Rehman in her interview and the confession recorded by the accused Raheem Swati before SSP Akhtar Farooque in juxta position, it prima-facie shows that the version of Parveen Rehman was further detailed by the accused with regard to the motive and once the motive is established, the retraction on any ground is never remains fatal to the case of prosecution. The disclosure made by the accused first time came on record through his own mouth, which were never disclosed by anybody else. The alleged leaders namely Mahfuzullah alias Bhalu (now deceased) and Moosa belonging to TTP names of those were disclosed by the accused Raheem Sawati in his confession and nobody else. He not only disclosed the names, but the role played by the accused himself along with alleged leaders of TTP also, active participation, planning by the accused Amjad Sawati and Ayaz Sawati, besides the help and facilitation extended by accused Ahmed Ali Papu Kashmiri. There is no other ground to discard that such confession were exaggerated by the investigation agency at their level own. The accused Raheem Sawati remained in the line of interview recorded by deceased Parveen Rehman; rather he also recorded the planning, consultation and deliberation of the target to be accomplished by alleged leaders of TTP and such planning were made by him in the presence of accused Amjad, Ayaz Sawati and Ahmed Ali Papu Kashmiri.

The accused Ayaz Sawati nowhere denied that accused Raheem was not known to him, never approached Ms Parveen Rehman at any moment for the place to be let out to them for Karate center. Accused Ayaz Sawati though claimed his innocence and has merely denied the prosecution allegation in his statement recorded u/s: 342 Cr.P.C, but there is no specific denial against the accusation recorded by deceased against accused Raheem Sawati and his assailants affiliated with ANP. The accused Ayaz Sawati is also Karate master, that's why they both approached deceased for the piece of land, to which she denied. The accused Raheem Sawati in his confession recorded that alleged leaders of TTP were contacted from the cell phone of Ayaz in this regard, whereby they assured that their work will be done in lieu of some money as compensation. More so, Mosa then contacted Ayaz Sawati as he was required the help of Papu Kashmiri in achieving the target. This

specific allegation and disclosure made by accused Raheem Sawati in his confession specifying accused Ayaz has not been denied. This aspect shows that the confession is true in its nature even if retracted carries volumes to be relied upon. The confession was impliedly retracted for the first time when SSP Akhtar Farooque were examined as P.W 16 and during cross examination it was tried by learned defence counsel to get him dislodged and put his words in the mouth of SSP Akhtar Farooque so that the plea of retraction of confession could be established. Such retraction came on record after about 2 ½ years. On the contrary, it was also the first time when accused Raheem through his statement u/s: 342 Cr.P.C introduced that the said statement of his confession is false, which was not recorded by him; rather prepared by SSP Akhtar by himself and not in his knowledge. Such plea and stand of the accused did not tally to the record and even cannot be given due weight, rather seems to be afterthought. The accused Raheem Sawati and even the other accused in this regard simply denied; rather chosen to reply against all such questions of confession that they did not know for such confession even no such explanation was put forth by the accused Raheem Sawati that how such major facts of the occurrence surfaced on record by the police. More so, what were those circumstances that without his explanation police prepared the same and even if prepared wherefrom such information in series and in sequence were obtained, which he recorded in his confession.

The abscondence of the accused has not been fully described by the accused, thus his stand in this regard is logically out of consideration. On the contrary, the evidence of P.W Fahad Muhammad Deshmukh, interview recorded by deceased and confession of the accused when all are kept in juxta position, the whole scenario is apparent that accused Raheem was the locality person, knowing all the activities of Ms. Parveen Rehman and of the OPP employees, that's why he had threatened deceased Parveen Rehman along with accused Ayaz Sawati to illegally occupy the land in premises of OPP for establishment of Karate center and thereafter planned to murder the deceased to get rid of her. It is settled principle of law that threats issued to deceased can also be considered as a circumstantial evidence against the accused, thus these all factors established that accused Raheem Sawati was the main culprit, who planned and acted accordingly, pursuant to the denial of Ms Parveen Rehman when she refused to allocate either of piece of land to the accused Raheem and Ayaz Sawati. There is no logical explanation for the abscondence and even the contention of the accused

for his surrendering deemed to be true and correct or for recording of his confession when he was pressurized by the police after having taken his two sons Adnan and Kamran in custody, even the said version did not appeal to the prudent mind, for the reason that the said sons namely Adnan and Kamran were never examined by the accused Raheem in his defence. So for the other contentions that the accused has surrendered before SHO Mominabad and after his arrest SSP Akhtar Farooque had approached him at Central Prison, Karachi along with SHO Shahid of PS Pirabad, where he obtained his signatures on blank paper, did not establish his contention as he failed to call the said SHO Mominabad in his defence or even as CW to show his surrender either in this case or his approach to PS Mominabad with regard to any of other business. Even the accused did not bother to call the roznamcha entry of the said P.S even if he had surrendered before SHO Mominbad on 25.04.2016 as introduced by him. The fact cannot be denied that accused Imran S/o Raheem was arrested by the police on 01.08.2015 then how he can deny that his name was not nominated as an accused in the present case. Though he has taken such plea, but even then he remained absconding for about nine months. As against this plea he did not bother to examine any of the locality person to establish that he was not absconding, rather were available in the area engaged in usual business with which he was attached. Mere saying that he has been malafidely shown absconding by the police, did not appear on record. No doubt abscondence by itself is not sufficient to convict the accused person, but it has always been considered as a strong piece of corroborative of evidence of the other direct and circumstantial evidence in the case. In the circumstances all such factors established that such abscondence is also requires to be considered as corroborative piece of evidence against the accused and requires to be considered as to that of other evidence proving the case of prosecution against the accused.

Apart from the above the JITs conducted at the order of Hon'ble Supreme Court of Pakistan also amplifies the accusation of the accused pursuant to the motive, planning, consultation and delegation of target to be accomplished by assailants of accused Raheem at his directions. Though the JITs are not considered as evidence but the findings arrived thereto are in the line of material available on record, which validated the complicity of accused in the murder of Ms Parveen Rehman. The final JIT report of the FIA while considering all such aspects definitely opined that the accused Raheem Sawati was involved in the murder of deceased Parveen Rehman and such findings has not been

shattered by the accused in the cross examination of FIA authorities and so also of Fahad Muhammad Deshmukh. It has been opined by the FIA authorities that the motive behind the murder of deceased was a quarrel over the establishment of Karate club within the premises of OPP office, in front of the house of accused Raheem Sawati and Amjad Afridi. The language of interview were also thoroughly examined and it revealed that accused Raheem Sawati was a "miscreant" of the area and an "extortionist" and she had disclosed rivalry between her and the accused which had provided sufficient cause of her murder and in order to achieve the target of extermination of deceased, the assassins were hired to exterminate deceased at the directions of accused Raheem Sawati under the planning of accused Ayaz, Amjad and Ahmed Ali Papu Kashmiri.

The genuine query may occur in the prudent mind that who would be beneficiary through the murder of deceased, the reply is very simple that he was the accused Raheem Sawati, Ayaz Sawati, Amjad Sawati & Ahmed Ali Papu Kashmiri belonged to ANP, intended to establish Karate club by illegally occupying the land of OPP and when denied, they chosen it to remove the hurdle at the one hand and to create fear and tear amongst the remaining staff of the OPP organization so that nobody may dare to create hurdle in their targets. It is not denied that deceased were the Bihari lady and the accused were of Pakhtun community, thus it all appeals to the prudent mind that the accused could not tolerate her commanding a huge organization in densely populated Pakhtun area and even she had no conflict with anybody else except Raheem Sawati and his assailants as her neighbors.

It will not be out of place to mention that no other evidence has come on record regarding the culpability of accused Raheem in the murder of deceased Parveen Rehman, for the reason that initial investigation was manipulated, rather distorted. It was the inquiry report of Mr. Memon (The then District Judge), who dared to falsify the illegal claim of the police and directed to conduct the investigation in real aspect. Since the investigation were monitored by the Hon'ble Supreme Court of Pakistan, thus the lapse of time committed by the police were intentional to give latitude to the accused so that the material evidence could be lost. The lapse of such long time made it very difficult to gather any technical data or Geo-fencing against the accused persons and such fact was also confirmed by the JIT in findings. However, the evidence

available on record requires to be taken into consideration in a broad spectrum and not in the narrow range.

The final JIT conducted by the FIA authorities at the order of Hon'ble Supreme Court of Pakistan attended all the facts, circumstances, the allegation of prosecution, the case of defence, besides they availed the chance to get the record of interview recorded by deceased and all other relevant material by approaching the authorities of OPP and also examined all material documents and witnesses connected thereto after thorough and detailed probe in the matter. The findings of said JIT are intact and even after coming to know all the accused neither shattered nor placed on record their defence when the FIA authorities were examined before this Court. It may also be kept in mind the Hon'ble Supreme Court of Pakistan vide order dated: 04.01.2021 passed in CP No: 50/13 were pleased to direct the heads of the JITs to appear before this Court along with the record of JITs and this Court were directed to pursue the record of JITs and to proceed accordingly. The relevant portion of the said order has already been mentioned in the beginning part of the judgment. The subsequent material surfaced on record by the JITs specifically covered all the aspects pertaining to case of prosecution and also addressed the case of the accused and thereafter they firmly recorded the role of the each of the accused. Not only role of accused as alleged by the prosecution; rather also placed on record the documents which are not denied. The findings itself proves the motive, planning and thereafter the act of extermination of deceased, thus creates no other logical ground to replace with the defence plea. The accused took the stands of their own choice without realizing that they have been indicted against the murder of Ms Parveen Rehman and even after coming to know all the material through the investigating agency at the one hand and FIA authorities on the other hand, did not bother to diminish either of the findings and the documents placed on record through the independent witnesses participated in the JIT. No animosity is claimed against either of the FIA official or against the member of the JIT, thus once the JIT has been placed on record at the orders of Hon'ble Supreme Court of Pakistan that has credence worth to be taken into consideration.

So for the case of accused Ayaz Ali Sawati is concerned, he was the said person who took accused Raheem with him before Ms Parven Rahman for delivering the piece of land in the OPP to establish the Karate Centre. This specific situation has not been denied by the accused Ayaz Sawati anywhere. His participation is established since the inception for the reason that he was the Karate master and demanded

the land through Raheem Sawati for the Karate center and the said specific situation has also come on record through the interview of deceased, result of investigation, confessional statement of accused Raheem, besides the abscondence of accused Raheem and of Ayaz Sawati on the other hand. During his statement u/s: 342 Cr.P.C accused Ayaz Sawati did not place on record that he never placed such proposal before Raheem Swati nor approached Ms Pavreen Rehman for piece of land to establish Karate Centre. He in his statement simply denied and has placed on record having no knowledge against all such aspects when those were suggested to him in the format of questions as per the scheme of section 342 Cr.P.C. Neither he examined himself on oath nor adduced defence to establish his defence plea by causing dents in the case of prosecution. His only stand is that he remained abroad left Pakistan in the year 20008 and returned back in Sep, 2017. In support of his contention placed through his statement u/s: 342 recorded at Ex. 60, produced the photocopy of the passport at Ex. 60/A mentioning his entry and exit at the Airports pertaining to years 2015 & 2017 only, but failed to submit the travelling record as a whole to particularly establishes that in the year of occurrence neither he was in Pakistan nor ever met to accused Raheem Sawati and approached Ms Parveen Rehman in either way. Mere production of photocopy of passport did not establish the stand advanced by the accused in his defence. It is not denied that he has no expertise in the Karate field. In this regard accused Raheem Swati and other accused Amjad Ali, Ahmed Ali Papu have also not denied that he was not the Karate Master and were not available in Pakistan on the alleged dates of approaching to deceased and of her extermination. In this regard it can be safely said that when he failed to establish his absence from Karachi by not producing the travelling record, the photocopy of the passport cannot be given due consideration to rely his plea advanced in defence that he remained abroad. Thus, the stand taken by the accused is taken out of consideration having no relevance to be appreciated. The accused Ayaz Ali after his arrest did not take such plea before the police and even before the JITs, therefore his presence in the scenario and his subsequent abscondence and thereafter his denial through his statement u/s: 342 by only saying for having not in his knowledge and false did not carry weight, but seems to be a mere simple denial, which did not absolve him from the accusation. In these circumstances the role of accused Ayaz Ali is at par to that of accused Raheem Sawati.

So for the case of accused Amjad Hussain Khan is concerned, it has come on record that he was arrested on 24.10.2017 as an absconding as he was nominated in this case on 22.03.2015 and his arrest after more than two years without any explanation on his part fully established that he being well within the knowledge chosen to remain abscond, never surrendered before the investigation agency to explain his position. Through his statement u/s: 342 Cr.P.C he has merely denied and against most of the questions his reply was that he did not admit any offence. In specific circumstances of accusation against him, his mere denial did not place a valid ground to be admitted. The accused after his arrest in another case disclosed for his involvement, participation in the planning and actively persuaded the target fixed by accused Raheem Sawati to get Ms Parveen Rehman erased at any cost. The accused Amjad Hussain nowhere denied that accused Raheem Sawati, Ayaz, Imran and Ahmed Ali Papu were not known to him, having no nexus to the political party with which the other accused were affiliated, rather before the investigation agency he has recorded for his affiliation to ANP, with which the other accused were also affiliated. More so, the accused Amajd Hussain at nowhere denied the disclosure recorded by accused Raheem Sawati was either false, fabricated having no nexus to him in any way. The silence of accused in this regard has also created a valid ground against him to be dealt with accordingly. *The* accused did not place on record that he was not arrested by the police and whatever he disclosed before the police were false and concocted, his disclosure is to the consonance of facts recorded by accused Raheem Sawati in his confessional statement and while keeping in juxta position to that of interview of deceased and of the findings of JITs, it has fully established that he being absconding well within the knowledge of action remained fugitive of law and Courts and when he was arrested by the staff of PS Manghopir having hand grenade and weapon being without lawful justification and valid license, his active participation has been surfaced. In absence of any valid defence plea the prosecution version is fully corroborated through the circumstantial evidence, which has to be given due weight. The participation and accusation against the accused Amjad Hussain Khan stands established on record and requires to be dealt with at par as disclosed by accused Raheem Sawati in his confession.

So for the case of accused Ahmed Ali alias Ahmed Khan alias Papu Shah Kashmiri, the prosecution against him has produced his active participation in planning, not only planning, but his active participation

along with alleged leaders of TTP, whose names were disclosed by accused Raheem Sawati in his confession. Accused Ahmed Khan did not deny the specific allegation of his nomination by accused Raheem Sawati to accompany with the said alleged TTP leaders Mehfuzullah Bhalu (now deceased) and Moosa to accompany with them to get the target accomplished. Mere simple denial in this regard did not discharge the accused when he has been particularly placed by the accused Raheem Sawati having followed his directions. The confession recorded by the accused Raheem Sawati in a particular manner showing the role of accused Ahmed Khan alias Ahmed Ali as depicted speak volumes for the involvement of accused Ahmed Khan alias Ahmed Ali alias Papu Kashmiri. This accused at nowhere denied his nexus and affiliation to Raheem, Imran, Ayaz Ali and Amjad Hussain Khan. He even did not deny any the circumstances recorded against him by the accused Raheem Sawati, other accused and the JITs during the thorough probe in the matter. The simple denial did not discharge him from his active participation as alleged by the prosecution. Neither he recorded himself on oath nor adduced any defence to get dislodge the version of prosecution at the one hand and the specific allegation recorded by accused Muhammad Raheem Sawati against him in a particular manner in respect of motive which remained in the mind of accused Raheem Sawati, planning which were made between Raheem Sawati, Ayaz Ali, Amjad Hussain and present accused and his further follow-up to the target and contact of accused Raheem Sawati through alleged TTP leaders over cell phone of accused Ayaz Sawati. At no place, against either of the allegation he has established that deceased Parveen Rehman were not the Director of OPP situated at in the area, where these accused were residing and he never participated or took part in all such steps of planning and accomplishment of the target. For all intents and purposes, the case of the accused is taken into consideration, neither he nor any of the other accused Ayaz Sawati, Amjad Hussain through any of the legal mode challenged the allegation against them, never tried to get the matter investigated thoroughly to that of the allegation and the defence if any exonerating them. There is no logical defence to break through the case of prosecution against the present accused, thus the accusation against him on the basis of material collected on record has the precedence.

The learned advocates for the accused time and again argued that the names of accused Ayaz Ali Sawati, Amjad Hussain, Ahmed Ali alias Ahmed Khan were disclosed by accused Raheem Sawati in his

confessional statement and the disclosure recorded by the investigation agency alleging that these accused admitted their complicity before the police is not admissible at law. Suffice it to say such contention of the learned defence advocates did not appeal to the mind, for the reason that the circumstances of the case in hand rings the bells for the involvement of the accused, thus the confessional statement of accused Raheem Sawati fully implicates them with regard to the occurrence. The Hon'ble Supreme Court of Pakistan has validated the statement of co-accused implicating accused for the offence by pronouncing that such statement could be used as a circumstantial piece of evidence even at bail stage. The reliance in this respect is placed on case of Ghulam Ahmed Chisti Versus the State and another reported in 2013 SCMR 385, the relevant placitum reads as under:-

"(b) Criminal Procedure Code (V of 1898)---

S. 497---Qanun-e-Shahadat (10 of 1984), Art. 43---Bail--- Statement of co-accused implicating accused for the offence--- Evidentiary value---Scope---Such a statement could be used as a circumstantial piece of evidence even at bail stage to form a prima facie view about the involvement of a person. [p. 390] C".

I have also been fortified by the case law reported in 2012 SCMR 1945. The relevant placitum reads as under:-

"(a) Criminal Procedure Code (V of 1898)---

---S. 497(5)---Penal Code (XLV of 1860), Ss. 302/365/34/109--- Qatle-amd, kidnapping or abducting with intent secretly and wrongfully to confine person, common intention, abetment--- Cancellation of bail--- Accused (police official) was part of a police party which killed the complainant's son (deceased) in a police encounter--- High Court granted bail to accused on the basis that no prosecution witness had implicated him with the commission of the offence; no material was available with the prosecution except statement of accused U/s: 161, Cr.P.C. to connect him with the crime, therefore, his false implication could not be ruled out---Contentions of complainant were that accused had admitted in his statement, U/s: 161, Cr.P.C that he was member of the police party involved in the encounter in which deceased was killed, and that accused had also admitted the same fact in his bail application before the District Judge---Validity---Accused had admitted in his statement U/s: 161, Cr.P.C that he was a member of the police party which killed the

deceased in an encounter---Accused had admitted killing of deceased in an encounter in his bail application filed before the District Judge---Accused had implicated himself in the alleged crime and on a tentative opinion he could not wriggle out of his own statement after admitting to be a member of the police party involved in killing the deceased---No overt act on the part of deceased was shown as to how he caused harm to police officials or their property---Admittedly none of the police officials involved in the encounter received any injuries---Sufficient material was available on record to connect accused with the commission of the alleged crime---Petition for leave to appeal was converted into appeal and bail granted to accused by the High Court was cancelled”.

It has been observed in 2003 SCMR 1419 (Khalid Javed and another Versus the State) that confessional statement under article 43 of Qanoon-e-Shahdat order, 1984 can furnish proof against the person making it and the Court may take into consideration such confession as circumstantial evidence against such other person and even can be used after due satisfaction. So for the case of accused Imran Sawati is concerned, it is not denied that he is not the son of accused Raheem Sawati residing with him in the area where Ms Parveen Rehman were serving as Director OPP. The accused Raheem Sawati has taken as many as stands of his choice, but failed to discharge that he never contacted his son Imran Sawati over Internet or the allegation against him is not true and genuine. The accused Imran Sawati in his statement simply denied without adducing himself on oath, even failed to produce any other witness to get shatter the claim of prosecution. He was accused Imran Sawati who at the first instance was arrested and recorded for the abscondence of his father. This statement of the accused when kept in juxta position to the story recorded by accused Raheem Sawati for his surrender at P.s Mominabad, it has established that accused Raheem Sawati made his abscondence willfully good and such fact were only known to the accused Imran Sawati and nobody else. It has not been claimed by the accused Imran Sawati that he never disclosed before the police and for the moment it is believed that he did not disclose such fact, then who had furnished such information to the police and thereby I.O Fareeduddin, who got confirmed the travelling record of accused Raheem Sawati from the FIA authorities, wherein it was confirmed that there was no traveling record of accused Raheem Sawati for leaving abroad. The accused Imran Sawati

even did not establish that his father remained in Karachi or within territorial limits of Pakistan and could have been intimated even through him to face the investigation agency, but such stand has not come on record. Even he never bothered to intimate the exact location of his father to the police, if he was not of guilty mind. The investigation agency after thorough examination of all such particulars placed on record such material which was later on confirmed by final JIT conducted by the FIA authorities.

It is settled principle of law that satisfactory motive always plays an important part in any case dependent entirely on circumstantial evidence and the prosecution role of collecting evidence against accused should be free from doubt and suspicion. It is also the scheme of the law that statement of witness on a particular fact is to be read as a whole. The motive is confirmatory of circumstances and requires to be established through the modes of evidence either through ocular, circumstantial or in any other way appealing to the prudent mind. Reliance in this respect is placed on case law reported in 1992 SCMR 2279 (Maqbool Ahmed Versus the State).

On the point of motive the Hon'ble Peshawar High Court in a case reported in 2020 PCRLJ 387 (Zahid Shah Versus Ayaz Ali (deceased) through brother and another), held that motive was not necessarily component of crime. Mere absence of motive or weakness of motive attributed to the accused would not in any manner adverse the affect the prosecution case. Undoubtedly, motive could remain shrouded in mystery, as it was in the mind of the accused, who had committed the crime. It was also held that abscondence of accused although by itself was an insufficient for conviction, even was strong source of corroboration for other direct and circumstantial evidence in the case.

The learned defence advocates time and again attacked upon the JITs. They also attacked the confession recorded by accused Raheem Sawati being not admissible at law when recorded before the police. It is not denied that the final JIT were constituted at the directions of Hon'ble Supreme Court of Pakistan through an order passed in CP No: 50/13 and the formation of such JIT and thereafter submission of the report of JIT by directing this Court to examine the witnesses for the just decision of the case has been validated pursuant to the scheme of ATA, 1997, therefore this argument on the part of defence advocates stands repelled having no legal and genuine footing to be considered.

In order to understand the scheme of section 21-H of ATA, 1997, let us consider the language of section 21-H of ATA, 1997 formulated by the law makers in ATA, 1997. Section 21-H ATA, 1997 reads as under:-

"Notwithstanding anything contained in the Qanoon-e-Shahadt, 1984 (President's Order No. 10 of 1984) or any other law for the time being in force, where in any court proceedings held under this Act the evidence (which includes circumstantial and other evidence) produced raises the presumption that there is a reasonable probability that the accused has committed the offence, any confession made by the accused during investigation without being compelled, before a police officer not below the rank of a Distt. Superintendent of Police, may be admissible in evidence against him, if the Court so deems fit:"

As per the scheme of section 21-H it starts with notwithstanding clause, having no application of any other law in the field. Besides, word may is used therein and the trial Court has been vested with the powers to consider the statement of accused recorded u/s: 21H after due satisfaction.

In this respect there is plethora of case law pronounced by the Apex courts time and again, wherein the scheme of section 21-H has been validated under the scheme of ATA law. No other view has been introduced that such confessional statement recorded u/s: 21-H cannot be taken into consideration while keeping in view the scheme of section 164 Cr.P.C, if the confession is not recorded before the 1st class Magistrate. The reliance in this regard is placed on a case law reported in 2019 SCMR 1290 (Nadeem Hussain Versus the State), the relevant placitum reads as under:-

"(b) Anti-Terrorism Act (XXVII of 1997)

---S. 21-H---Confessional statement of accused recorded under S. 21-H of the Anti-Terrorism Act, 1997---Admissibility in evidence--- Confession before the police was inadmissible in evidence in normal cases but in cases of terrorism, S.21-H of the Anti-Terrorism Act, 1997 had made such a confession before the police conditionally admissible---Condition placed by the said section upon admissibility of a confession before the police that there must be some other evidence, including circumstantial evidence, which must reasonably connect the accused person with the alleged offence before such confession was accepted by a court worthy of any consideration".

So for the motive and retracted confession is concerned, the Hon'ble Supreme Court of Pakistan in the case law reported in 1992 SCMR 950 (The State Through A.G NWFP Peshawar Versus the Waqar Ahmed) had discussed both these aspects as under:-

"(a) Criminal Trial—

---Motive in a criminal charge is always not material—[Motive].[p.952]A.

(b) Criminal Procedure Code (V of 1898)—

---S.164---Penal Code (XLV of 1860), S.302---Confession---Retracted confession---No basic difference exists between confession or a retracted confession, if the element of truth is not missing and it is always a question of fact which is to be adjudged by the Courts on the attending circumstances of a particular case---When an accused has given an account of the incident and its truth is not doubted and such statement is proved to be correct in all its parts, such solitary piece of evidence can be used against the accused without any further corroboration---Where the confessional statement of the accused was found to be true and voluntary, conviction could be recorded on such statement [p. 955]C

(c) Constitution of Pakistan (1973)—

---ART.185---Penal Code (XLV of 1860), S.302---Appeal against acquittal before Supreme Court---Reasons recorded by the trial Court for basing conviction were sound and sufficient---Where the High Court had misread the evidence and had excluded the confession from consideration in spite of the fact that it had been corroborated by other pieces of evidence, Supreme Court interfered in the order of acquittal by the High Court.--- [Confession]. [pp. 956, 957, 955] D, F & B

(d) Criminal Procedure Code (V of 1998)—

---S.164---Confession---Held, though it was not a rule of law that confession whether retracted or not could not be the sole basis for conviction but principle of procedure and rule of caution required that a retracted confession must be supported by some other connecting evidence. [p. 956]E".

The Hon'ble Supreme Court of Pakistan in another case reported in PLD 2006 Supreme Court 30 (Manjeet Singh Versus the State) recorded the conviction against the retracted confession of accused and set the principle that the conviction can be awarded even on the retracted confession and corroboration not always necessary for such conviction. The relevant placitum reads as under:-

(b) Criminal Procedure Code (V of 1898)---

---S. 164---Confession---Retracted confession---Validity---
Retracted confession either judicial or extra-judicial, if found truthful and confidence inspiring and also qualified the test of voluntariness, can be used for conviction without looking for any other sort of corroboration. [p. 45]B

(e) Criminal Procedure Code (V of 1898)---

---S. 164---Confession---Conviction on retraced confession---
Where the accused while retracting his confession did not say that he was tortured by police to make the confession, but only stated that he made it under compulsion and threat and was false and a perusal of his confessional statement would show that, prima facie, there was nothing improbable or unbelievable in it; that it appeared to be a spontaneous account studded with such vivid details about the manner of the commission of the crimes in question, which only the perpetrator of the crimes could know, and the confession received assurance in several material particulars from reliable independent evidence mainly of circumstantial character---Held, the confession coupled with the other evidence on the record had unerringly and indubitably brought home the charges to the accused.[p. 47]E

(f) Criminal Procedure Code (V of 1898)---

---S. 164---Confession---Retracted confession---Corroboration not always necessary for conviction---No rule of criminal administration of justice existed to the effect that the Court having found the retracted confession voluntary and true must look for the corroboration and that in absence of corroborative evidence conviction cannot be maintained---
Retraction of a judicial or extra-judicial confession itself is not an infirmity to be considered sufficient to withhold the conviction, because the evidentiary value of confession is not diminished by the mere fact that it was retracted by the maker at the trial---Independent corroboration from other source direct or circumstantial, therefore, cannot be insisted in every case as a mandatory rule, rather the rule of corroboration is applied by way of abundant caution and in a case depending entirely on the confessional statement of a person or only on the circumstantial evidence, this rule is applied more cautiously. [p. 48]G".

In this regard I have also been fortified by the case law reported in 2009 YLR 933 (Gulbaz Versus the State), 2014 PCRLJ 1036 (Mehruban Ali Shah Versus the State).

The learned advocate for the accused Raheem Sawati also suggested to SSP Akhtar Farooque, examined as PW 16, who recorded confessional statement of accused, that it was not legal when the signature of the accused were at variance, all the pages of confessional statement did not contain the signature of said P.W, besides some other suggestions, but in this regard the law is settled that such irregularities are requires to be overlooked and did not adverse any effect the voluntariness or truthfulness of confession. Reliance in this regard is placed on case law reported in 1999 SCMR 1744 (Mst Naseem Akhtar and another Versus the State).

The Hon'ble Supreme Court of Pakistan in a case law reported in 2002 SCMR 1493 (Maj. (Retd) Tariq Mehmood and others Versus the State and others) has discussed all such aspects of motive and retracted confession of the accused. The relevant placitums reads as under:-

(a) Penal Code (XLV of 1860)---

---Ss. 302, 109 & 120-B---Constitution of Pakistan (1973), Art.185(3)--- Criminal Procedure Code (V of 1898), S.164---Retracted judicial confession--- Evidentiary value---Determination of---Test---Confession---Conviction of capital charge on the basis of retracted judicial confession---Principles---If the Court was convinced that the confession was voluntary and truthful, the same, even if retracted, could be sufficient to sustain the conviction on the capital charge--- Rule of prudence, however, demands that a confessional statement should be corroborated by other evidence direct or circumstantial in material particulars--- Judicial confession of the accused, in the present case, having ample corroboration from the evidence of motive, the medical and the positive report of firearms expert regarding the spent bullet recovered from the body of deceased, was found true, voluntary and confidence-inspiring---Where the confessional statement of the accused was recorded by a Judicial Magistrate, who had stated that the accused while recording his confession, had not lodged any complaint of coercion, torture or inducement for making the confessional statement, written application sent by the accused to the concerned Sessions Judge on the next day of making the confessional statement, in absence of any sign of outside pressure, would not affect the voluntariness of the confession so recorded---Supreme Court while affirming the view of the evidence taken by the High Court upheld the conviction and sentence awarded to the accused and dismissed the petition for leave to appeal".

If the confession was not confidence-inspiring the use of same to convict a person without independent corroboration is not proper and legal and the Courts generally refrain from basing the conclusion solely on retracted confession and while following the rule fo abundant caution , look for

corroboration in material particulars to ensure safe administration of justice but the judicial confession does not always lose its value for lack of corroboration. If the Court is satisfied that the judicial confession though retracted, was true and voluntary, can safely make the same basis for conviction. The true test to judge the evidentiary value of a retracted confession would be that it must be voluntary, truthful, free of any duress and coercion, therefore the retraction per se is not always a valid ground to discard judicial confession until and unless it is proved that it was obtained through coercion, threat, pressure or inducement. The detail of events given by the petitioner in his confessional statement is a strong circumstance to establish that confession was true and voluntary. While judging the voluntariness and truthfulness of the confession it has to appear to be free from the outside pressure and would hardly need any corroboration. Requirement of corroboration is not an inflexible rule to be applied in each case and in each detail rather if the circumstances of the case satisfy the mind of the Court that the confession was truthful, it would be sufficient to sustain the conviction. Therefore, the conclusions drawn are as under:-

(a) The retracted judicial confession if is voluntary, true and confidence-inspiring, is alone sufficient to sustain conviction:

(b) the rule of corroboration being rule of abundant caution, is not an infeasible rule to be insisted in each case;

(c) if by the circumstances of the case, the mind of the Court is satisfied, it would be sufficient to sustain conviction.

With a view to judge the evidentiary value of judicial confession it is essential to determine its voluntariness and truthfulness. If the Court is satisfied that the confession was voluntary and truthful, the same, even if retracted can be sufficient to sustain the conviction on the capital charge. However, the rule of prudence demands that confessional statement should be corroborated by other evidence direct or circumstantial in material particulars.

Evidentiary value of a judicial confession would not be affected unless it is established that the Magistrate, who recorded that same, had tampered with the confession.

The essential question for determination, in the present case, was as to whether the judicial confession made before a judicial magistrate while in police custody after five days of arrest which was subsequently retracted through a written application sent to the concerned Sessions Judge, was voluntary, free from any outside pressure and confidence-inspiring? This is correct that while in police custody, the delay in recording the confessional statement is seen with suspicion but mere delay of few days would not be a ground to doubt the voluntariness of the statement and reject it. The confessional statement in the present case was recorded by the Civil Judge

exercising the powers of a Magistrate Section 30 and the said Magistrate while appearing before the Court had stated that he recorded the confession after satisfying himself about its voluntariness. It is in his statement that the accused had not lodged any complaint of coercion, torture or inducement for making the confessional statement, therefore, the written application sent by the accused to the Sessions Judge on the next day of making the confessional statement, in absence of any sign of outside pressure, would not affect its voluntariness.

The accused had not specifically stated in this statement under section 342 Cr.P.C that confessional statement was obtained through coercion, torture, physical or mental inducement. The High Court having fully scanned the truthfulness of confessional statement of the petitioner found that it was voluntary and confidence inspiring to be relied upon to sustain the conviction and sentence.

In the present case the manner in which the confession was made would show that it was not made under any pressure and was voluntary. The accused while disclosing the secrets of his love affairs had given the minute details of their conversation on different occasions which fact was either known by the accused or the lady and no third person would be aware of their illicit relations inter se and that the disclosure of the secrecy of such matters of exclusive knowledge in minute details would not be unwilling or due to outside pressure and compulsion.

The motive to commit the crime was disclosed by the accused in his confession was his sexual commitment with wife of deceased which would appeal to mind to be correct as neither prosecution nor defence had given any other motive for commission of offence.

The confessional statement made by the accused would show that the accused and the lady indulging in immoral activities were not prepared to discontinue their relation and the accused to fulfil his evil designs, took the extreme step of killing of deceased. [p. 1505] C".

The case of Fazal Wadood versus the State and another, reported in 2006 SCMR 1911 also provides the guideline that if confession was proved beyond any shadow of doubt to be voluntarily, it has provided effectual proof. The confession recorded in accordance with law was presumed to be genuine within the meaning of article 91 of Qanoon-e-Shahadat Order, 1984 and had to be treated as voluntarily. It has also been held that abscondence of accused also provided sufficient corroboration to the case of prosecution.

The overall attending circumstances and material collected by the investigation agency, the interview recorded by Ms Parveen Rehman, confession of accused Raheem Sawati, abscondence of the accused and

the findings recorded by JITs supervised by the FIA authorities, do establish that the prosecution has been succeeded to unearth all such material facts of the case and accusation against the accused is well founded. The accused at no stage succeeded to dislodge the material placed on record; rather they failed to cause dent in the case of prosecution in any way, thus the defence agitated by the accused is hereby discarded.

The above all aspects gathered from the record and guided by settled principle of law, I have come to the firm view that accused Raheem Sawati along with accused Ayaz Ali Sawati, Muhammad Amjad Hussain Khan and Ahmed Ali alias Ahmed Khan alias Papu Shah Kashmiri under a planning with common intention and object, got exterminated Mst Parveen Rehman to get her erased as she had created problems to accused Muhammad Raheem Sawati, thus the prosecution established the accusation against them and thereby accused Ayaz Sawati, Muhammad Amjad Khan and Ahmed Ali Papu facilitated the murder of deceased Parveen Rehman as per the directions and command of accused Muhammad Raheem Sawati by not disclosing the material facts to the law enforcement agencies rather deliberately concealed with the connivance to each other. The prosecution has established that by getting the murder of Ms Parveen Rehman, accused named above created terror, fear, sense of insecurity and panic among the staff of OPP and other NGOs, besides the surrounding area, to get them realize that there should be nobody to stand in their way. The prosecution has also proved that accused Muhammad Imran S/o Muhammad Raheem Sawati, misguided, rather concealed the whereabouts of his father (co-accused) namely Muhammad Raheem to get the investigation agency bluffed and to linger on the investigation so that the evidence at its prompt may not be gathered.

For what has been discussed above, the point Nos: 02 to 06 stands answered in affirmative.

Point NO: 07

For the above circumstances, discussion and reasons thereof, I am of the considered view that the prosecution has been able to establish the charge against accused Muhammad Raheem Sawati S/o Syed Habib (2) Ayaz Ali alias Sawati S/o Muhammad Shireen (3) Muhammad Amjad Hussain Khan S/o Muhammad Jameel Khan (4) Ahmed Khan alias Ahmed Ali alias Papu Shah Kashmiri S/o Abdul Baqi for

the offences falling under sections 7 (1) (a) & 21-I of ATA, 1997 r/w section 302, 109, 34 PPC for facilitation, aiding and abetment with their common intention and object, abetted the offence of extermination of deceased Mst Parveen Rehman shot by TTP Commander Mehfuzullah alias Bhalu (now deceased) and Moosa, besides prosecution has also been able to establish the charge against the accused Muhammad Imran Sawati S/o Muhammad Raheem Sawati and so also accused named above viz (2) Ayaz Ali alias Sawati S/o Muhammad Shireen (3) Muhammad Amjad Hussain Khan S/o Muhammad Jameel Khan (4) Ahmed Khan alias Ahmed Ali alias Papu Shah Kashmiri S/o Abdul Baqi for the offence u/s: 201, 202 PPC for disappearance of evidence of instant offence/misguided and concealed the facts deliberately from the investigation agency. In this respect placing reliance on case law reported in 2002 SCMR 1017 (Muhammad Amin Versus The state) and 2008 P.Cr.L.J 1039 (Kashif Siddiqui & 2 others Versus The state), the accused named above are hereby convicted and sentenced for each of the offence committed by each of the accused as under:-

i) I hereby convicted the accused persons namely Muhammad Raheem Sawati S/o Syed Habib (2) Ayaz Ali alias Sawati S/o Muhammad Shireen (3) Muhammad Amjad Hussain Khan S/o Muhammad Jameel Khan (4) Ahmed Khan alias Ahmed Ali alias Papu Shah Kashmiri S/o Abdul Baqi for the offence punishable under section 7 (1) (a) of ATA, 1997 r/w section 21-I of ATA, 1997, sentenced them to suffer R.I for life and to pay fine of Rs. 2,00,000/- (Two Lacs)" each, in case of default they shall suffer S.I for six months each.

ii) I hereby convicted the accused persons namely Muhammad Raheem Sawati S/o Syed Habib (2) Ayaz Ali alias Sawati S/o Muhammad Shireen (3) Muhammad Amjad Hussain Khan S/o Muhammad Jameel Khan (4) Ahmed Khan alias Ahmed Ali alias Papu Shah Kashmiri S/o Abdul Baqi for the offence u/s: 302 PPC r/w section 109/34 PPC and sentenced them to suffer R.I for life and to pay fine of Rs. 1,00,000/- (One Lac)" each, in case of default they shall suffer S.I for six months each.

iii) I hereby convicted the accused persons namely Ayaz Ali alias Sawati S/o Muhammad Shireen (2) Muhammad Amjad Hussain Khan S/o Muhammad Jameel Khan (3) Ahmed Khan alias Ahmed Ali alias Papu Shah Kashmiri S/o Abdul Baqi (4) Muhammad Imran Swati S/o Muhammad Raheem Sawati for the offence u/s: 201 PPC and sentenced them to suffer R.I for seven years and to pay fine of Rs. 50,000/- (Fifty

Thousands)” each, in case of default they shall suffer S.I for six months each.

iv) I hereby convicted the accused persons namely Ayaz Ali alias Sawati S/o Muhammad Shireen (2) Muhammad Amjad Hussain Khan S/o Muhammad Jameel Khan (3) Ahmed Khan alias Ahmed Ali alias Papu Shah Kashmiri S/o Abdul Baqi (4) Muhammad Imran Swati S/o Muhammad Raheem Sawati for the offence u/s: 202 PPC and sentenced them to suffer R.I for six months and to pay fine of Rs. 25,000/- (Twenty Five Thousands)” each, in case of default they shall suffer S.I for three months each.

The sentences shall run concurrently and the culprits are entitled to the benefit of section 382(b) Cr.P.C, besides the fine amount if recovered shall be paid to the legal heirs of deceased u/s: 544 Cr.P.C. The accused named above are produced in custody, they are remanded back to Jail to serve out the sentences now awarded to them.

While the case against proclaimed offender namely Shuldad & Moosa be kept on dormant file. Let perpetual NBWs be issued against them. The copy of Judgment be supplied to the accused on free of cost with acknowledgment receipt and R&Ps be transmitted to the Hon’ble High Court of Sindh, at Karachi in terms of section 25 (2) of Anti-Terrorism Act, 1997.

Pronounced in open Court.
Given under my hand and seal of the Court.
This the 17th day of December, 2021.

(ABDUL QUDOOS MEMON)
Judge
ANTI-TERRORISM COURT NO. VII,
KARACHI.

PROPERTY ORDER

The incriminating case property shall be preserved till the arrest of proclaimed offenders.

(ABDUL QUDOOS MEMON)
Judge
ANTI TERRORISM COURT NO. VII,
KARACHI.