

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

Special Case No: 36(vii)/2020

The State
v/s

Tarique Mehmood & Others.....Accused.

**FIR No: 16 of 2018
U/S: 302/34 PPC
R/W Section 7 ATA 1997
P.S. Darakshan, Karachi.**

Special case No: 36-A(vii)/2020

The State
v/s

Bilal Rasheed S/o Muhammad Rasheed.....Accused.

**FIR No: 138 of 2018
U/S: 25 SAA, 2013
P.S. Darakshan, Karachi**

Special case No: 36-B(vii)/2020

The State
v/s

Muhammad Daniyal S/o Muhammad Naeem.....Accused.

**FIR No: 139 of 2018
U/S: 25 SAA, 2013
P.S. Darakshan, Karachi**

MR. NEEL PERKASH & MS. FARHANA PARVEEN, APGs FOR THE STATE.

MR. FAISAL SIDDIQUI, ALONGWITH MR. SALAHUDDIN PANHAWAR, ADVOCATE FOR COMPLAINANT

MR. SYED LAL SHAH, ADVOCATE FOR ACCUSED P.C BILAL RASHEED.

MS TASNEEM SHAH, ADVOCATE FOR ACCUSED P.C MUHAMMAD DANIYAL.

MR. WAQAR ALAM ABBASI, ADVOCATE FOR ACCUSED INSPECTOR TARIQUE RAHEEM AND P.C GHULAM ABBAS.

MR. INTIKHAB AHMED, ADVOCATE FOR ACCUSED INSPECTOR TARIQUE MEHMOOD.

MR. NASIR MEHMOOD, ADVOCATE FOR ACCUSED INSPECTOR AZHAR AHSAN AND H.C SHAHID USMAN.

MR. ABID ZAMAN, ADVOCATE FOR ACUSED P.C MUHAMMAD FAWAD.

MR. ZIA HUSSAIN SHAH, ADVOCATE FOR ACCUSED H.C GHULAM ABBAS.

JUDGMENT

25.10.2021

Malefactors named above were challaned in the Court of Hon'ble Administrative Judge, ATCs, Hon'ble High Court of Sindh,

Karachi Division, to face their trial for the offence(s) U/S: 302/34 PPC, R/W Section 7 ATA, 1997.

Brief facts of the case are that on 13.01.2018 at about 2355 hours complainant Ishtiaque Ahmed recorded his 154 Cr.P.C statement at P.S Darakshan, averring therein that his son Intezar Ahmed, aged about 19 years (student at Malaysia), returned back at Karachi. On 13.01.2018 at about 05-30 p.m, in car bearing No: BLE-254 maker Toyota Grandy his son left along with his friends, when at about 08.00 pm complainant was informed that his son received a bullet injury, shifted to JPMC. On receiving such information he along with his brother and other relatives arrived at hospital, came to know that his son succumbed to the injuries. After post-mortem, dead body of his son were handed over to him. On inquiry he came to know that his son sustained bullet wounds at about 7:15 hours at Lane No: 05, Crystal Lights, Bukhari Commercial Phase VI, DHA, Karachi by some unknown persons for an unknown reason and in an ensuing his son expired. After registration of FIR, investigation were handed over to SIO P.S Darakshan, who were on casual leave, therefore the investigation were handed over to SIP Muhammad Ashraf Jogi, who inspected the place of occurrence, prepared such memo in presence of SIP Arshad and H.C Safdar Hayat, drawn the photographs of place of occurrence, car of the deceased and also drawn the sketch showing the actual location of place of occurrence at the time of occurrence. He also collected CCTV record of the place of occurrence reflecting the manner of occurrence, obtained the photographs from CCTV recording. He arrested the accused involved in the instant occurrence & interrogated them, to which they admitted their complicity in the instant occurrence. On 13.01.2018 accused Inspector Tariq Mehmood posted as SHO at ACLC recorded his 154 Cr.P.C statement in respect of the occurrence and arrested three of the police officials P.C Ghulam Abbas, P.C Fawad and H.C Shahid Usman along with weapons, used in the crime under memo and also dispatched 154 Cr.P.C statement to the concerned P.S for FIR. On 14.01.2018 at P.S Darakshan the accused P.I Azhar-ul-Hassan and P.I Tarique Mehmood deposited their official weapons along with live rounds, seized under memo by SIP Mir Hassan. On 14.01.2018 H.C Kamran posted as WHC at ACLC produced weapon of .9mm along with 15 live rounds, retained by accused PI Tarique Rahim to WHC which he produced before SIP Mir Hassan, besides accused P.C Muhammad Daniyal and P.C Bilal Rasheed surrendered before him and disclosed their involvement in the instant

occurrence, to which they were arrested under memo. He also recorded 161 Cr.P.C statements of witnesses, seized two Bikes and two cars from the place of occurrence under memo, obtained remand of the accused, dispatched the weapons and ammunition to the FSL for examination and report. He obtained FSL report in respect of weapons and ammunition dispatched to the FSL, issued letter to the SSP investigation-I for CDR record of cell phones retained by the accused and also issued letter to the DHA authorities for providing CCTV recording at the place of occurrence. He examined the complainant and recorded his further statement. On 16.01.2018 he went to the place of occurrence in order to search and collect the DVR, arrived at the shop of Crystal Lights, DHA Phase-VI, Karachi, where at 2nd floor of the building the CCTV cameras were functioning. He collected the DVR from the said shop under the memo and also recorded 161 Cr.P.C statements of P.Ws and recorded interrogation form of each of accused. On 14.01.2018 and 15.01.2018 after arrest of the accused, prepared hulia form of each of accused, got examined car bearing No: BLE-254 white corolla Altis from FSL authorities, obtained report of FSL. He also issued letter to the MLO for postmortem and cause of death and letter to the Mukhtiarkar concerned for inspection and preparation of Naksha-e-Nazri of place of occurrence. On 17.01.2018 accused Tariq Raheem after getting pre-arrest bail joined the investigation, whose statement were recorded. On 17.01.2018 investigation were handed over to SIO/Inspector Muhammad Naeem Awan after assuming the charge, who also interrogated the accused, during the interrogation accused became ready to voluntarily point out the place of occurrence. On such disclosure by all the accused PI Muhammad Naeem Awan inspected the place of occurrence pointed out by the accused and disclosed the material facts of occurrence, to which such memo were prepared, also recorded 161 Cr.P.C statement of previous I.O Muhammad Ashraf, moved application to the police surgeon to provide Postmortem No: 26/18 in respect of the deceased Intizar Ahmed S/o Ishtiaque Ahmed and obtained the same. After interrogation all the accused voluntarily became ready to point out the place of occurrence and on their lead he inspected the same under memo. He obtained FSL report in respect of weapons and ammunition, produced all the accused before the concerned office for CRO. On 20.01.2018 the investigation of the instant FIR were transferred vide order No: SP/INV/South/RDR/951/2018 dated: 20.01.2018 at the orders of IGP Sindh and were handed over to SP INV-I South namely

Muhammad Farooque Awan, who notified DSP Fateh Muhammad and PI Muhammad Naeem to assist him in the investigation. On 22.01.2018 further investigation of instant FIR were transferred to CTD Sindh vide order No: 2936-42/AIGP/OPS/III/22.01.2018 marked to PI Aziz Ahmed Shaikh of CTD, who after delegation of investigation, interrogated all the accused, inspected the place of occurrence, prepared Naksha-e-Nazri and dispatched the clothes of deceased for chemical analyzer. He also recorded the statement of lady Mst. Madiha Kiyani, besides the friends of deceased, obtained the CDR pertaining to accused, lady Madiha and other persons. The Joint Investigation Team (JIT) were constituted to arrive at the just conclusion of the case, who also inspected the place of occurrence. He received 161 Cr.P.C statement of complainant through Whatsapp. He also contacted Muhammad Sohail on his Whatsapp No: 0018325810815, who informed that he and his daughter Mahrukh has been migrated to America and submitted that he has no concern to the instant case. In this regard he confirmed such facts through FIA (Immigration). After completion of usual investigation he submitted report u/s: 173 Cr.P.C before the concerned Court. After the submission of challan cases were transferred to ATC-XIII for disposal according to law.

The learned Judge ATC-XIII took oath as prescribed u/s: 16 of ATA, 1997 at Ex. 01, police papers were supplied to the accused in terms of section 265-C Cr.P.C at Ex. 02, cases were amalgamated being outcome of same transaction in terms of Section 21-M of ATA at Ex. 03 and charge against the accused were framed on 14.05.2018 at Ex. 04, to which they pleaded not guilty and claimed to be tried, vide their pleas recorded at Ex. 4/A to 4/I respectively.

Afterwards, the successor presiding officer of ATC-XIII took oath as prescribed u/s: 16 of ATA, 1997 at Ex. 05, after assuming the charge. During proceedings prosecution moved application under section 227 Cr.P.C for amendment of charge which was allowed after hearing the advocates of parties vide order dated.06.02.2019. Amended charge was framed on 11.02.2019 at Ex-6 to which all the accused pleaded not guilty vide their pleas recorded at Ex-6/A to 6-I respectively.

The prosecution examined in all eighteen (18) witnesses as under:-

PW-01 Ishtiaque Ahmed (complainant) at Ex. 07, who produced 154 Cr.P.C statement along with FIR at Ex. 07/A & 07/B respectively.

PW-02 Raja Muhammad Tanveer (Inspector) at Ex. 08, who produced roznamcha entries, letter to the MLO, 174 Cr.P.C proceedings, NOCs, memo of arrest of accused P.C Muhammad Daniyal & memo of arrest of accused P.C Bilal Rasheed at Ex. 08/A to 08/L respectively.

PW-03 Arshad Ali (Inspector) at Ex. 09, who produced memo of seizure of car and empties, memo of inspection of place of occurrence, roznamcha entries, order passed by SSP ACLC and two letters of SDPO Darakshan at Ex. 09/A to 9/G respectively.

PW-04 Mir Hassan (SIP) at Ex. 10, who produced his 154 Cr.P.C statement, memo of arrest of accused, roznamcha entries, memos of seizure of .9mm pistols, 154 Cr.P.C statements of PI Aziz Ahmed Shaikh & FIRs at Ex. 10/A to 10/K respectively.

PW-05 Ghulam Abbas (H.C) at Ex. 11.

P.W-06 Ijaz Ali Mughal (H.C) at Ex. 12.

P.W-07 Shahmir (HC) at Ex. 13, who produced memo of seizure of vehicles/Bikes belonging to accused H.C Shahid Usman and P.C Bilal Rasheed, memo of arrest of accused and memos of inspection of place of occurrence at Ex. 13/A to 13/D respectively.

P.W-08 Muhammad Salahuddin at Ex. 15.

P.W-09 Rahim Bux (P.C) at Ex. 16.

P.W-10 Madiha Masood Kiyani at Ex. 18.

P.W-11 Dr. Abdul Ghaffar (MLO) at Ex. 19, who produced P.M report bearing No: 26/2018 and letter given by police at Ex. 19/A and 19/B respectively.

The undersigned after receiving the case by way of transfer, took oath as prescribed u/s: 16 of ATA, 1997 at Ex. 20.

P.W-12 Syed Khalid Mehmood Shah at Ex. 22.

P.W-13 Anees Ahmed Ehsaniya at Ex. 24.

P.W-14 Muhammad Saad Ali at Ex. 26, who produced memo of inspection of deceased's car at Ex. 26/A.

P.W-15 Imran Jahanzeb at Ex. 15, who produced seizure memo of DVR & his statement at Ex. 27/A.

P.W-16 Muhammad Ashraf Jogi (SIP) at Ex. 30, who produced roznamcha entries, photographs, memo of arrest of accused, memo of recovery of weapons from each of the accused, application to the FSL and report, application to the SSP investigation seeking CDR, letter to the DHA, hulliya form of all accused, letter to the FSL in respect of Car and its report, letter to the MLO, letter to the

Mukhtiarkar and recording of CCTV camera in USB at Ex. 30/A to 30/HH respectively.

P.W-17 Muhammad Naeem Awan (Inspector/SIO) at Ex. 31, who produced order dated: 17.01.2018, misconduct report, roznamcha entries, order dated; 20.01.2018, roznamcha entries and order dated: 22.01.2018 at Ex. 31/A to 31/J respectively.

P.W-18 SIP Raja Azmat Mehmood (well conversant of deceased I.O/PI Aziz Ahmed Shaikh), at Ex. 32, who produced order dated: 04.05.2021, letter issued by this Court and other documents related to the investigation conducted by deceased I.O/PI Aziz Ahmed Shaikh at Ex. 32/A to 32/C (in all 124 leaves).

Learned APG during trial gave up P.Ws Safdar Hayat, Khan Muhammad, Khalid Ahmed Siddiqui, Saad Illahi, Muhammad Suleman Munaf, Kaleemullah, Muhammad Farooque Awan, Ghulam Muhammad, Naveed Ahmed & Zeeshan Munawar vide his statements at Ex. 14, 17, 21, 21/A, 23, 25 & 28, thereafter closed the side of prosecution vide his statement at Ex. 33.

Thereafter, learned counsel for the complainant with the consent of learned APG for the state submitted an application u/s 11 of Sindh Forensic Agency Act, 2017, at Ex. 34 praying therein that the DVR retained from the office of H.A Interior Decorators may be got examined/verified through forensic expert to seek its authenticity and genuineness. The said application were declined vide order dated: 21.05.2021.

Accused recorded their statements under section 342 Cr.P.C at Ex. 35 to Ex. 42 respectively. Accused PI Tarique Mehmood, P.C Ghulam Abbass, H.C Shahid Usman, PI Azhar Ahsan & P.C Muhammad Fawad have admitted their presence at spot. They claimed that they performed their duty as per SOP and committed no crime as alleged. According to accused P.C Muhammad Daniyal, he did not fire as alleged, but police fired from his weapon at P.S and the said empties were sent to the FSL, besides the empties are planted upon him. More so, he did not fire upon the car of deceased and all the allegations leveled against him are false, whereas accused P.C Bilal Rasheed also claimed his innocence, averred that at the time of occurrence he was not present there, besides police himself fired at P.S from his pistol, sent the same to FSL. According to him allegation is false and planted to him. According to accused PI Tarique Raheem he has been booked falsely in the instant occurrence due to media pressure, neither he was incharge nor made fires. He also tried to

rescue the injured that's why the statement of ambulance driver were not recorded who could recognize him that he accompanied him up to hospital. Furthermore, the persons who made fires were neither part of their team nor they were posted at ACLC, but they were posted at security Zone, whereas according to accused H.C Ghulam Abbas he was not present at spot at the time of occurrence as he was at Papas Tea Food for easement and arrived at the place of occurrence later on. 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 on 13.01.2018 at about 1915 hours at Lane No: 05 near Crystal Lights Bukhari Commercial DHA-V, Karachi, deceased Intezar Ahmed died an unnatural death through firearm injuries, as alleged by the prosecution?

POINT NO. 02

Whether on 13.01.2018 at about 1915 hours at Lane No: 05 near Crystal Lights Bukhari Commercial DHA-V, Karachi, accused PI Tarique Mehmood, PI Tarique Raheem, PI Azhar Ahsan, H.C Shahid Usman, P.C Ghulam Abbas and PC Fawad Khan, in furtherance of their common intention and object in private vehicles in civil dresses, intercepted the car bearing registration No: BLE-254 driven by Intezar Ahmed along with lady Madiha Kiyani, stopped the said vehicle and thereafter, signaled it to leave the said place, as alleged by the prosecution?

POINT NO.3

Whether on the above said date, time and place when deceased's car was signaled to leave said place, in the meantime accused PC Bilal Rasheed and PC Muhammad Daniyal arrived with their respective licensed pistols, initiated the firing upon the car of Intizar S/o Ishtique (deceased), in connivance to each other with their common intention and object, resulting thereto Intizar Ahmed received firearm bullet injuries at his person, subsequently died in result thereof as alleged, thus such act of both accused named above created panic, terror and insecurity in the mind of general public of locality, as alleged by the prosecution?

POINT NO: 04

Whether on the aforesaid date, time and place at the time of occurrence the accused namely accused PI Tarique Mehmood, PI Tarique Raheem, PI Azhar Ahsan, H.C Ghulam Abbas, H.C Shahid Umsan, P.C Ghulam Abbas and PC Fawad Khan were present / available at the place of occurrence, in the meantime PC Bilal Rasheed and PC Muhammad Daniyal, arrived there, caused firing through their licensed weapons at the car of deceased Intizar, causing his death and these accused did not prevent the culprits P.C Bilal Rasheed and P.C Muhammad Daniyal from the firing, rather abetted and facilitated them in the occurrence with their common intention and object and left the injured and not evacuated/rescued him in a lawful manner even chosen to flee from the place of occurrence intentionally and deliberately, as alleged by the prosecution?

POINT NO: 05

Whether on 15.01.2018 at about 0130 hours accused Bilal Rasheed (P.C-3175) and Muhammad Daniyal (P.C-30390) appeared at P.S Darakhshan, whereby PC Bilal Rasheed produced his official licensed weapon bearing No: AAY-803 along with eight live rounds and PC Muhammad Daniyal produced his official licensed weapon bearing No: T1102-17E02784 along with 15 live rounds, used by them in the commission of instant occurrence, as alleged by the prosecution?

POINT NO. 06

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

Mr. Faisal Siddiqui, learned Counsel for complainant with the permission of Court and of Mr. Neil Perkash, learned APG, contended that evidence brought on record is reliable, all the PWs with regard to the occurrence, supported the case of prosecution on all counts, besides accused themselves admitted their presence at spot, intercepting the car of deceased, besides, accused P.C Bilal Rasheed and P.C Muhammad Daniyal initiated indiscriminate firing upon the car. It was contended by learned counsel for complainant that CCTV recording and footages showed that the accused persons namely P.I Tarique Mehmood, PI Tarique Raheem, PI Azhar Ahsan, H.C Shahid Usman, PC Ghulam Abbas and P.C Fawad Khan, chased the car of the deceased, intercepted and surrounded the car in their private cars and bikes, where after accused P.C Bilal Rasheed and P.C Muhammad Daniyal arrived at the place of incident and started shooting at the car. He added that complainant Ishtiaque and PW SIP Muhammad Ashraf

identified all the accused persons present in the Court as same shown in the recording obtained from DVR. It was contended that 154 Cr.P.C statement recorded by accused PI Tarique Mehmood indicated that they chased the car of deceased Intizar, meanwhile P.C Bilal Rasheed and P.C Muhammad Daniyal arrived at the place of incident, besides, accused P.C Shahid Usman, PC Ghulam Abbas and P.C Fawad Khan along with accused P.C Bilal Rasheed and P.C Muhammad Daniyal fired at the deceased's car to stop it. In addition, he argued that Ex.10/B (memo of recovery and arrest by accused PI Tarique Mehmood) narrated that accused P.C Shahid Usman, PC Ghulam Abbas and PC Fawad Khan were taken into custody and their pistols were ceased after the incident by accused PI Tarique Mehmood. He further submitted that vehicle checking program i.e. SOP clearly stated that all the ACLC officials were directed to be present in the government mobiles in uniform, however, contrary to SOP, it was evident from footages of DVR that all the accused persons were illegally performing their duty in plain clothes and in their private cars, therefore the entire operation was conducted illegally, apparently in violation to the aforementioned SOP. It was argued that Ex. 31/B (misconduct report) against the present accused revealed that action of the accused persons amount to gross misconduct and departmental action should be taken against the aforementioned accused persons. He further added that evidence of P.W Khalid Mehmood Shaikh, revealed that after the firing he and his staff went out of their shop, saw 3/4 persons in Shalwar Qameez, sitting on their bikes and in black colour car, moved back while saying "Target Achieved", thereafter he found a young boy on driver seat in white colour car, which confirms that all the accused conducted the illegal operation in plain clothes. He further added that empties recovered from the place of occurrence were dispatched to FSL along with official weapons of all accused and licensed pistol of P.C Bilal Rasheed and P.C Muhammad Daniyal, wherein the licensed pistols retained by PC Bilal Rasheed and P.C Muhammad Daniyal, were marked as similar, which absolutely proves the involvement/nexus of accused in the commission of instant offence. He urged that through examination of evidence available on record proves that all the accused persons in furtherance of their common intention, abetted the murder of the deceased by chasing and surrounding the deceased's car, in an illegal operation leading to the death of deceased Intizar, except HC Ghulam Abbas, whose presence at spot did not establish through the evidence. Besides, if some

contradictions appear in the evidence are minor in nature, did not drop the case of prosecution on any count, thus they are liable to be convicted, keeping in view the evidence brought on record. More so, after encounter all the accused left the scene of occurrence, did not bother to shift the deceased to the hospital for first aid/treatment even on humanitarian ground, thus all the accused are liable to be convicted as per the relevant provisions of law.

The learned counsel for the complainant drawn my attention to the evidence recorded by the witnesses, the documents placed on record, besides the recording of CCTV footages and was of the view that the overall picture and the manner of the occurrence specifically indicated that it was not the decoy operation, but all the accused illegally and unlawfully in violation to the SOP of the duty, assigned to them caused the murder of an innocent young boy, who was the only son of the complainant Ishtiaque Ahmed. He added that the memo of seizure of vehicles at Ex. 13/A specifies that accused PI Tarique Mehmood & PI Azhar Hussain were in their private cars, whereas, accused P.C Shahid Usman and P.C Bilal Rasheed used their Bikes in the commission of the offence, which definitely confirms that all the accused persons conducted illegal operation without knowledge to the higher authorities. Per Mr. Faisal Siddiqui it was the high handedness of the accused that they caused the extermination of the deceased in a barbaric manner without realizing that a young boy were in car along with a lady, did not realize that two of their companions namely P.C Bilal Rasheed and P.C Muhammad Daniyal, though claimed those were not the companions of the said party, issued the firing, subsequently all participants in a same go and situation fled from the spot as recorded by the witnesses at spot and flashed by the recording of the CCTV. More so, the accused claimed that they shifted the dead body to the hospital, but nothing has been placed in juxta position to certify such claim of accused and to rely upon the story put forth by the accused, even at late stage, rather it seems to be an afterthought portrayed to save the skin. Per Mr. Siddiqui the evidence of P.W 03 SIP Arshad Ali rings the true bells which he recorded in his evidence on oath stating that he directed H.C Khan Muhammad to accompany the injured up to hospital, therefore this piece of evidence recoded by PI Arshad Ali posted at P.S Darakshan has neither been controverted, rebutted nor denied. On the contrary through the mouth of all the accused in their statements rerecorded before JIT, they recorded that they left the place of occurrence from the narrow streets as the public

gathered there and it was due to the fear by which they left the place of occurrence. Meaning thereby the real truth from the mouth of the accused has come on record in either way, thus the said piece of evidence though recorded before the police, but has not specifically been disowned by the accused in their statements recorded u/s: 342 Cr.P.C has prevail. He adds that SIP Arshad Ali at no place were suggested during his cross examination that he was telling a lie, neither H.C Khan Muhammad were directed to accompany with the injured/deceased Intizar to the hospital nor recognized any of the police officer amongst the accused at hospital deliberately. According to Mr. Siddiqui for a moment all such pleas of the accused as portrayed by them since from the very inception by recording 154 Cr.P.C statement at their level own, arresting the accused and thereby producing before the concerned police officer are deemed to be true and correct, even there is nothing on record that the accused were not available at spot and did not participate in the commission of the occurrence, rather through the suggestions put forth by them to the witnesses during the evidence, recording of their statements u/s: 342 Cr.P.C and the story recorded by them in 154 Cr.P.C statement and before the JIT prima-facie established that it all was apparent in open sky that through the admissions of the accused the case of prosecution at the very outset stands established, thus the case of prosecution cannot be dropped through the "its and buts". More so, no other case is placed by the accused to falsify the case of prosecution in either way. He has argued that the presence of PC Bilal Rasheed and P.C Muhammad Daniyal is admitted by the rest of the accused and even it has been recorded by PI Tarique Mehmood that he directed both of them to report him along with his cap, diary and device of internet and in pursuant to the said directions they both reported him at Master Juice Corner, therefore once this piece of evidence has come from the mouth of the accused, the subsequent plea introduced by the accused P.C Bilal Rasheed and Muhammad Daniyal that they were neither the members of said party nor available at spot or even any of them were not there is an afterthought. There is no explanation how the licensed weapons of both these accused came into the possession of PI Tarique Mehmood, produced before the staff of P.s Darakshan, which were sent to the FSL and result came on record as "similar" fired against the empties collected from the spot. He has added that in this regard nothing is placed to see the case with any of the other view, thus the pleas taken by the accused drops itself without any other reason. More

so, the claim of accused P.C Bilal Rasheed and P.C Muhammad Daniyal did not appeal to the prudent mind for the reason that there is an overwhelming evidence against both of them that they both caused shooting at the person of Intizar. He submitted that these all factors specifically proves that all accused in furtherance of their common intention and object abetted the murder of deceased by chasing and surrounding the car of deceased in an illegal operation resulting the death of the deceased. More so, the claim of each of the accused did not save him, rather it is established that all the accused ran from the place of occurrence after firing instead of providing any assistance to the deceased by shifting the dead body to the hospital, rather they shared common intention and abetted in the crime conjointly. According to him the evidence of PW SIP Arshad Ali, H.C Shahmir, Raheem Bux, Dr. Abdul Ghaffar, SIP Muhammad Ashraf, duly supported by memo of recovery of empties, allotment orders of pistols to P.C Bilal Rasheed and P.C Muhammad Daniyal, postmortem report, memo of inspection of car of deceased, memo of arrest and recovery of pistols from accused P.C Bilal and P.C Daniyal, letter sent to the FSL authorities and FSL report prima-facie established the guilt of accused in all respects without any doubt, thus the evidence of all these witnesses and documents requires to be given a preference for the reason that man may tell a lie but documents never. More so, the memo of inspection of car of deceased, opinion of the MLO and the postmortem report do supports the overall story of crime, thus any of the afterthought plea introduced by the accused did not negate the version of prosecution. He was of the view that the accused caused 18 fire shots repeatedly at the car of deceased, which is not possible to be hit by a common man and such rudeness from the police officials cannot be expected, rather the manner as recorded by the witnesses is established through the documents, CCTV recording and the case pleaded by the accused themselves before their higher authorities in the JIT and even the misconduct report submitted against them prima-facie establish the intentional and brutal murder, which defies the logic when they caused 18 fire shots with only intention to stop the deceased from driving away. He submitted that there appears some contradictions even in the evidence of the P.Ws and to some extent in the documents of the prosecution, but even such contradictions as suggested by the defence advocates in the cross examination did not drop the prosecution case only on the score of such contradictions introduced through the mouth and documents. More so, even the said

contradictions did not establish the defence and the pleas introduced by the accused to say that such contradictions while keeping in juxtaposition creates another view to declare the case of prosecution false, concocted and managed by all means to fix the accused. In this regard he has drawn my attention to the contradictions recorded in the evidence of P.W 16 SIP Muhammad Ashraf Jogi, PI Muhammad Naeem for the receipt and transfer of investigation and receipt of empties either on 13.01.2018 or 17.01.2018, besides the dispatch of the crime empties and weapons to the FSL on 15.01.2018 which were deposited on 14.01.2018. He has attended all these contradictions and placed on record that the evidence of witnesses requires to be read a whole but not in a piecemeal. The evidence of SIP Muhammad Asrhaf and PI Muhammad Naeem is specific in nature duly supported by report of FSL, which negates the defence version manifesting that empties and weapons reached to the FSL office on 15.01.2018, which were handed over to SIP Muhammad Ashraf and not to the P.W Muhammad Naeem. More so, the pistols were not sealed after recovery by the concerned officer as alleged by the accused, however the said suggestion did not find place from the evidence of SIP Muhammad Ashraf who in clear terms recorded on oath that both pistols recovered from the accused were deposited with WHC after seizure and sealing the same. He submitted that the FSL report further identifies that the sealed parcels containing pistols and empties were received to the said office, therefore, such contradictions did not come in the way of case of prosecution.

So for the evidence of Madiha Masood Kiyani he submitted that prosecution does not rely on the evidence of said P.w seeking conviction of the accused, even there is a sufficient evidence in other way, thus when Mst. Madhia Masood Kiyani has not recorded the true version of prosecution, the case cannot be dropped on this score alone, rather, she even did not deny nor caused material contradictions favouring the accused. He has added that all the accused being police officials at no place succeeded to establish that they did not participate in the occurrence, therefore no lenient view could be taken in their favour, thus liable to be convicted and sentenced accordingly. In support of his contentions and arguments raised above, he has relied on case laws reported in 2015 P.Cr.L.J 628 (Shahid Zafar and others V/s The State), 2020 P.Cr.LJ Note 94 (Nawab Siraj Ali and others V/s The State), 2012 P.Cr. LJ 345 (Nazar Hussain and another V/s the State), PLD 2007 Supreme Court 93 (Shoukat Ali

V/s The State), PLD 1971 Lahore 959 (Muhammad Hussain and another V/s The State), PLD 2016 Supreme Court 1 (Shahbaz Khan alias Tipu and others V/s The Special Judge Anti-Terrorism Court No: 3 Lahore and others), PLD 2016 Supreme Court 11 (Nisar Ahmed V/s The State and Others), PLD 1967 Supreme Court 78 (The State V/s The Sardar Attaullah Khan Mangal), 1973 SCMR 69 (Shamsher and another V/s The State Etc.), 2005 P.Cr.LJ 1442 (The State through Advocate General, Baluchistan, Quetta V/s The Jamadar Muhammad Khan and another), PLD 1996 Supreme Court 122 Muhammad Arshad and 2 others V/s The State), 2009 P.Cr.LJ 561 (Abdullah Shah V/s The State and 2 others), PLD 1963 Dacca 413 (Muhammad Shahid and another V/s The State), PLD 2016 Supreme Court 17 (Malik Muhammad Mumtaz Qadri V/S The State), 2019 P.Cr.LJ 1064 (Muhammad Nawaz and others V/s The State), PLD 2020 Sindh 202 (Bashir Ahmed and another V/s The State), 2012 SCMR 1945 (Muhammad Yousuf Butt V/s PC Abdul Lateef Shar and another), PLD 1960 (W.P) Lahore 97 (Muhammad Afzal V/s The State), 1970 P.Cr.LJ 111 (Muhammad Iqbal alias Bala V/s The State), PLD 1961 Dacca 1 (Shahidullah Khan and others V/s The State), 2005 SCMR 1568 (Haroon Rasheed and 6 others V/s The State and another), 2012 P.Cr.LJ 559 (Ali Gul V/s The State), 1983 SCMR 697 (Khushi Muhammad V/s The State alongwith Cr. Appeal No. 179 and 180/78), PLD 2016 Supreme Court 484 (Ali Muhammad and others V/s Syed Bibi and others), 2016 P.Cr.LJ 1860 (Gulshan Shaikh V/s The State), 2013 YLR 1 (Ali Akbar and 2 others V/s The State), AIR 2012 Supreme Court 1357 (Ramnaresh and Ors. V/S State of Chattisgarh), 2014 YLR 2109 (Fazal Haq V/s The State and another), 2012 SCMR 1869 (Takdir Shamsuddin Sheikh V/s The State of Gujrat and another), PLD 2001 Supreme Court 222 (Muhammad Iqbal V/s The State), PLD 1995 Supreme Court 46 (Mushtaq alias Shaman V/s The State), 2016 SCMR 274 (Azeem Khan and another V/s Mujahid Khan and others), 2020 P.Cr.LJ Note 163 (Muhammad Shah Alam and another V/s The State), 2000 P. Cr.LJ 7 (The State V/s Abdul Ghafoor Khan Niazi and another), 1999 SCMR 955 (Ali Khan V/s The State), 1994 P.Cr.LJ 757 (Syed Khalid Mehmood V/s The State), (1984) 4 Supreme Court Cases 116 (Sharad Birdhichand Sarda V/s The State of Maharashtra), (2018) 2 Supreme Court Cases 69 (State of Himachal Pradesh V/s Raj Kumar), 1992 SCMR 1983 (Ch. Muhammad Yaqoob and others V/s The State and others) and 2014 S.L.J 649 (Muhammad Ali Lashari And 3 Others V/s The State).

Mr. Neil Perkash, learned APG supported the contentions of Mr. Faisal Siddiqui and urged that all accused being employed in police were bound to follow the abbreviations of word POLICE, "**POLITE, OBIDENT, LOYAL, INTELLEGENT, COURGES AND ENCOURAGING**" but failed, rather used high handedness and created fear in the area through firing, fled from the spot and then managed to justify their illegal act to be lawful act, thus liable to be convicted. He further contended that their illegal act and action performed by themselves is apparent, thus not liable for any leniency, except to be convicted accordingly.

In rebuttal, Mr. Syed Lal Shah, the learned counsel for the accused P.C Bilal Rasheed contended that police fired from his official weapon at P.S, the empties were sent to the FSL, which were alleged to be matched. He contends that PWs SIP Arshad Ali, Syed Khalid Mehmood Shah and complainant Ishtiaque Ahmed were not the eyewitnesses of the occurrence, did not say a single word against the accused. He argued that PW SIP Ashraf Jogi (first IO) during his evidence recognized the DVR but failed to assign specific role to of any accused. Moreso, he never produced any of the accused before the concerned Judicial Magistrate for confession. It was added that 161 Cr.P.C statement of PW Syed Khalid Mehmood Shah was recorded after the delay of so many days wherein he has also improved his statement to strengthen the prosecution case, thus, status of 161 Cr.P.C statement is depreciated by the superior Courts. Moreover accused P.C Bilal Rasheed was neither available at spot at the time of occurrence nor he was the shooter. He submitted that accused Bilal Rasheed produced his pistol before IO on 14.01.2018 and not on 15.01.2018, however, the said pistol was dispatched to FSL for report on 15.01.2018 with the delay of more than 24 hours, which provided sufficient time to police to manage the evidence against the accused. Besides, IO neither deposited the said pistol in Makhana nor made entry in Register No: 19. It was argued that PI Muhammad Naeem Awan has deposed that on 13.01.2018 he was on leave, joined the investigation on 16.01.2018, whereas, PW Ashraf Jogi (SIP) has deposed that he received the empties from the PW/ P.I Arshad Ali on 13.01.2018. Mr. Lal Shah urged that P.C Bilal Rasheed were neither the member of raiding party nor available at spot, rather has been fixed with malafide. He adds that he was not sub-ordinate to the raiding party as to that of the other 7 police officials were in same company, therefore, his case did not come to the stage of fixing hi as

a shooter. He lend me to the record of the case, evidence recorded by the witnesses and documents adduced on record and is of the view that there are material contradictions in the evidence of the witnesses and there appears the glaring inconsistencies in the documents exhibited by the PWs which prima facie shows that the case of prosecution is doubtful having no consistency and chain of command, rather, in such situation every slightest doubt is to be extended to the accused not as a matter of grace but of right. According to him the evidence of the complainant did not specify the accused even during his evidence CCTV recording were not displayed in the court, therefore, his saying that accused present in the court appearing in the CCTV recording are same. Moreso, in absence of I.D Parade pursuant to the CCTV recording the evidence of complainant cannot be given preference. He has added that there are material contradictions with regard to the seizure and obtaining the recording of CCTV Camera footages recorded by SIP Ashraf Jogi which prima facie establish that there was no such recording but has been maneuvered. Moreso, SIP Ashraf Jogi has belied his version regarding the DVR either he seized on 14.01.2018 or on 16.01.2018. On the contrary the complainant has belied him that he was shown the CCTV recording at his house by the police staff on 15.01.2018. In this regard SIP Ashraf Jogi admitted that 15.01.2018 was the Sunday and office of castle lighting (office where the DVR leading to the CCTV Cameras where functioning), were closed due to public holiday. Per Mr. Lal Shah there is no other evidence except the CCTV recording as alleged in the DVR, once the seizure, sealing and the capture of DVR and its footages are not fit in the case of prosecution all such foundation of case of prosecution falls on the ground having no merit at all thus only on the basis of CCTV recording the accused cannot be convicted. More so, there are general allegations against the accused by other PWs having shops at the spot, therefore, the general allegations did not fix the accused. Mr. Syed Lal Shah referred the evidence of complainant and SIP Ashraf Jogi and argued that as per the evidence of SIP Ashraf Jogi on 16.01.2018 complainant received call for CCTV and shown him the recording in the DVR at 06.00 P.M, on the contrary as per evidence of SIP Ashraf Jogi it was 16.01.2018 when at 1350 hours to 1435 hours DVR was seized in the said time, thus how it could be possible that the CCTV recording were shown to the complainant after sealing the DVR. Meaning thereby, it was maneuvered with sole intention by getting the recording inside the DVR to portray and establish the case of

prosecution through CCTV recording put inside the DVR. He adds that if it was so that the need was to de-seal the DVR, such recording must be shown to the complainant, there should have been explanation in this regard which is not available. Moreso, PW Imran Jehanzeb who was serving in the office of castle lighting did not say a single word for getting DVR and recording of CCTV footages after its playing before him. According to him once the independent PW Imran Jehanzaib serving at the castle Lightening did not support the capture, seizure, recovery and sealing of DVR or recording therein in any manner thus all such claims of the prosecution in respect of DVR and CCTV recording cannot be relied upon. The learned counsel for the accused has also agitated that FSL report did not specify the working conditions of all pistols, therefore, the only report in respect of pistols of P.C Bilal Rasheed and P.C Danial were obtained with malafide and such FSL report created suspicion and a doubt in the case of prosecution. He added that accused Bilal and Daniyal are roped after getting fires from their licensed pistols at the offices of ACLC to get them fixed showing that these both accused were not the part of raiding party. He has added that FSL report is also silent in respect of car of deceased which nowhere shows the mark of bullet shot at the head rest of seat of driver, on the contrary Ex-26/A (memo of seizure of the car of deceased), did mention such aspect and when it was checked it contained the mark of entry of the bullet shot in the head rest with exit mark, hence once the said aspect of bullet fire shot not specified by the FSL report the memo showing the presence of bullet fire shot mark at the head rest is not believable and negates the report of FSL, thus the case on this score too is doubtful. According to him not a single PW in ocular manner recorded that they had seen the accused P.C Bilal Rasheed and P.C Muhammad Daniyal having the pistols pin pointed to the deceased and caused him bullet shots as alleged, therefore, in such circumstances only on the basis of CCTV recording the conviction cannot be accorded at the wish of complainant. Moreoso, the only eye witness Mst. Madiha Massod Kiyani accompanied with the deceased did not say a single word for either of accused nor recognized any of the accused in the court, therefore, the evidence of Mst. Madiha Masood Kiyani in its true perspective drop the case of prosecution having not supported on any count but were not declared hostile by the prosecution to get the favorable reply by the prosecution, thus her evidence rather rings true bells requires consideration to declare the case of prosecution as doubtful. Mr. Lal

Shah has added that only on the basis of JIT report and recommendation against the accused for the misconduct cannot be the basis of conviction on the ground that the scope of JIT is narrow as legally declared by the Honorable Supreme Court of Pakistan in the case reported in PLD 2018 Supreme Court 178, therefore, the findings of JIT cannot be expanded to oblige the complainant party hence the accused is innocent requires to be acquitted from the charge. In addition there to he has lend me to the record and was of the view that there is nothing appealable to the prudent mind to fully establish the case of prosecution, thus only circumstances which are far away from the real case of prosecution did not make the case of prosecution strong only to accord the conviction. The learned counsel for the accused relied on case law reported in 2005 P.Cr.LJ 1442 (The State through Advocate General Balochistan V/s Jamadar Muhammad Khan another), PLD 1996 Supreme Court 122 (Muhammad Arshad V/s and 2 others) V/s The State), 1973 SCMR 69 (Shamsher and another V/s The State Etc.), PLD 1971 Lahore 959 (Muhammad Hussain and another V/s The State), PLD 1959 (W.P) Lahore 950 (Ghuncha Gul and another V/s The State), PLD 2016 Supreme Court 1 (Shahbaz Khan alias Tippu and others V/s The Special Judge ATC No: III Lahore and others), 2009 P.Cr.LJ 561 (Abdullah Shah V/s The State and 2 others), 2020 P.Cr.LJ Note 163 (Muhammad Shah Alam and another V/s The State), 2020 P.Cr.LJ 7 (The State V/s Abdul Ghafoor Khan Niazi and another), 2016 SCMR 274 (Azeem Khan and another V/s Mujahid Khan and others), 2021 P.Cr.LJ 915 (The State Through Prosecutor General Sindh and another V/s Imran Sawati and others), PLD 2018 Supreme Court 178 (Province of Punjab Through Secretary Punjab Public Prosecution Department and another V/s Muhammad Rafique and others), 1993 SCMR 550 (Syed Saeed Muhammad Shah and another V/s The State), 2016 SCMR 274 (Azeem Khan and another V/s Mujahid Khan and others), SBLR 2019 Sindh 1059 (Atif Khan and others V/s The State), PLJ 2019 Cr.C 840 (DB) (Muhammad Pervaiz V/s State Through A.A.G, K.P.K and another), 2017 P.Cr LJ 992 (Attaullah V/s The State and another), 2016 SCMR 2084 (Asfandyar and another V/s Kamran and another), PLD 2006 Karachi 698 (Khan Bacha V/s The State), 2014 MLD 594 (Muhammad Saleem V/s The State and others), 2019 SCMR 631 Muhammad Arif V/s The State), 2019 SCMR 1327 (Noor Ahmed V/S The State and others), 2018 SCMR 2092 (Hayatullah V/s The State), 2009 SCMR 1248 (Muhammad Sajjad V/s The State), 2019 P.Cr.LJ 107 (Nazakat Ali V/s The State), NLR 1991 Cr.LJ 76

(Muhammad Zubair and another V/s The State), 2008 SCMR 302 (Siraj ul Haq and another V/s The State), PLJ 2009 SC 1023 (Nazir Ahmed V/s The Muhammad Iqbal and another), 2009 SCMR 1410 (Mursal Kazmi alias Qamar Shah and another V/s The State), 2009 SCMR 407 (Ibrahim and others V/s The State), 2021 SCMR 736 (Najaf Ali Shah V/s The State), 2016 P.Cr.LJ 240 (Abdul Hameed V/s The State), 2016 P.Cr.LJ 250 (Muhammad Karim V/s The Abd-u-Sattar and another), 2015 P.Cr.LJ 416 (Samiullah and others V/s The State and others), 2014 YLR 432 (Ayaz Khan and another V/s The State), 2009 SCMR 230 (Muhammad Akram V/s The State), 2002 P.Cr.LJ 51 (Abdul Sattar and others V/s The State), 2019 SCMR 608 (Abdul Ghani and others V/s The State and others).

Mrs. Tasneem Shah, learned counsel for the accused P.C Muhammad Daniyal contended that name of the accused did not transpire in the FIR, the accused did not participate in the alleged episode of firing, that the case of prosecution is not pleaded in a proper form rather the burden has been shifted to the accused to prove their innocence which is not the scheme of law. Moreso in absence of I.D Parade there is no concrete evidence against the accused except the CCTV recording, recovery is very much doubtful. Mrs. Tasnim Shah the learned counsel for the accused Daniyal lend me to the record of the case by pointing out the station diaries and submitted that the carbonized copies of station diaries are not produced by the prosecution, thus in absence of such station diaries as being the mandate of law the case of prosecution appears to be concocted and managed. According to her the alleged firing did not cause damage to the public property, on the contrary the CCTV recording claimed by the prosecution shows that the deceased reversed the vehicle and bullet hit him from behind, neither from the right side nor from the left side, therefore, the recording played through DVR and CCTV footages exhibited on record are apparently managed to rope the accused with malafide. She prayed that accused be acquitted having no charge established against him.

Mr. Waqar Alam Abbasi, learned counsel for accused Inspector Tarique Raheem and P.C Ghulam Abbas contended that the accused are innocent, having been booked falsely with malafide intention. It was contended that applicants/accused were performing their official duty as per SOP and no crime has been committed by them. According to him accused have been booked in the instant offence due to media pressure and after the occurrence applicant/accused PI Tarique

Raheem also tried to rescue the injured that's why the statement of ambulance's driver were not recorded, who could have recognize him that he had accompanied with deceased up to the hospital, besides the accused who made fires were neither part of their team nor were posted at ACLC. Per Mr. Waqar Alam Abbasi there is no application of section 34 PPC in the circumstances and so for the application of section 113 PPC the prosecution did not establish the knowledge of rest of 7 police officials, available in the area to perform their official duty under the SOP. More so, PC Bilal Rasheed and P.C Muhammad Daniyal were not the members and companions of the police party in the Decoy Operation, therefore, any of the act performed by anybody else cannot be shifted to the shoulders of rest of police officers. According to him it was the fairness and fitness of the things that the Incharge of the team intimidated his Superiors, recorded 154 Cr.P.C statement of the occurrence and reported at concerned P.S for the registration of FIR against P.C Bilal Rasheed and P.C Daniyal which prima-facie shows that there is no application of section 34 and 113 PPC, thus the accused cannot be penalized against the said alleged charge. Moreso, due to Media pressure the superiors did not bother to entertain the 154 Cr.P.C statement of incharge of raiding party, who were in the area for decoy operation under the direction of command under SOP. More so, there is no evidence established from any of the corner that the accused fled from the spot, rather the Ambulance driver who shifted deceased with P.I Tariq Rahim were not produced in the evidence to establish the plea of accused Tariq Rahim having reached at the hospital along with injured/deceased Intizar in the ambulance driven by Chippa Ambulance driver namely Siddique. According to Mr. Waqar Alam Abbasi FIR is delayed for three hours without any lawful explanation and 154 Cr.P.C statement of police party were not entertained, thus this very sole ground is sufficient to drop the case of prosecution and false implication cannot be ruled out, rather malafide on the part of prosecution which initiated the proceedings at the pressure of complainant and Media is established. He has added that none from the public person has claimed that due to the fear and terror left the spot, rather the shop owners and other persons placed on record that they arrived there, therefore, the application of sections of ATA in this case is only to drag the accused and nothing more. Moreso, there is no allegation against the accused PI Tarique Raheem and P.C Ghulam Abbas having caused the fire arm injuries through their weapons at the car, person of deceased and of

Mst. Madiha Kiyani, therefore, mere presence at spot cannot be twisted and used against the accused for the charge of abetment which at the outset is out of consideration. He has added that 161 Cr.P.C statement of Mst. Madhia Kiyani was recorded after delay of 3 days without any lawful explanation, therefore, in the circumstances, such 161 Cr.P.C statement of Mst. Madhia Kiyani cannot be taken into consideration, on the contrary she did not support the case of prosecution when she herself recorded on oath, therefore, the only evidence of Mst. Madiha Kiyani speaks volumes for the malafide and highhandedness of investigating agency and the prosecution which acted at the directions of complainant at the one hand and the Media pressure on the other hand. According to Mr. Waqar Alam Abbasi, P.I Muhammad Naeem Awan admitted that no piece of evidence came to him for the involvement of accused PI Tarique Rahim and PC Ghulam Abbas, keeping in view such aspect when no connecting piece of evidence come on record through the investigation officer / SIO of the Zone the accused cannot be held responsible to award conviction. Moreso, there is no single piece of evidence from the facts and circumstances and evidence of the witnesses to establish the common intention of accused PI Tariq Rahim & P.C Ghulam Abbas having participated in the occurrence. He has urged that it was the mistake of the deceased when he accelerated his car without justification, thus the fault of deceased cannot be turned to the accused, who performed the lawful duty as per the SOP. He has added that motive is missing and in absence of motive there is no connecting piece of evidence against the accused. More so, the FSL report did not support the case of prosecution, on the contrary the police party under the Decoy Operation in the area followed the real culprits, recorded 154 Cr.P.C statement and got entered the narration of occurrence in the Roznamcha but no FIR was registered and even the weapons were surrendered in good gesture which all *prima facie* shows that the police party acted in the good faith, thus no other view could be taken to punish the accused only when the case of prosecution is set-forth only pursuant to the CCTV recording. He prayed that the case of prosecution at the outset appears to be doubtful, benefit of which be extended to the accused as a right but not as a grace. .

Mr. Intikhab Ahmed, learned counsel for the accused Inspector Tarique Mehmood contended that accused is innocent, booked falsely with malafide intention. It was further contended that applicant/accused did not admit his complicity as alleged, infact he

recorded his 154 Cr.P.C statement and arrested three police officials. Furthermore, he performed his duty as per SOP did not commit crime as alleged. It was further argued that applicant/accused PI Tariq Mehmood is neither visible nor seen present in the footages of CCTV, which were played in the open Court as he was not present at spot, but all were managed to falsely rope the accused. He further added that deceased was aggressive in nature, habitual of intoxicant, used to visit psychologist after the death of his mother, with whom he had scuffle, to which the concerned Doctor moved a complaint against him at concerned P.S, therefore, looking to the demeanor of deceased the accused cannot be liable for the alleged occurrence. He has added that it was Decoy Operation which were conducted by using the trick to confuse the people, specifically something or someone that is not what appears to be, therefore, keeping in view the scheme of Decoy Operation P.I Tariq Mehmood recorded 154 Cr.P.C statement which is supported by the CCTV recording. He has drawn the attention to the CCTV recording and urged that the attending circumstances as appearing from the CCTV recording are in the line of series of timing of the occurrence which are narrated in the 154 Cr.P.C statement, thus the case of prosecution cannot be bolted and wedded against the accused from the recording of CCTV when no other convincing evidence is established on record. The learned counsel for the accused relied on case law reported in 2002 P.Cr.LJ 1072 (Muhammad Israr and another V/s The State), 2009 P.Cr.LJ 769 (Qasim Ali and another V/s The State) & PLD 2001 Supreme Court 378 (Muhammad Yaqoob, Sub-Inspector V/S The State).

It was argued by Mr. Nasir Mehmood, learned counsel for the accused P.I Azhar Ahsan and H.C Shahid Usman complainant along with his counsel stated before media that no illegal material such as green plates were lying in the vehicle, besides, complainant did not hand over the cell phone of his deceased son to investigation officer. He added that vehicle was not in the custody of police when complainant firstly visited the place of incident. He further argued that no conclusive evidence came on record against them, but they have been booked falsely with malafide intention. The learned counsel for the accused urged that there is no concrete evidence against the accused for their common intention and abetment, therefore, the ingredients of section 299 and 300 PPC are missing, thus the accused when roped with malafide intention cannot be convicted. According to the defence counsel H.C Shahid Usman and PC Ghullam Abbas were

arrested just after the occurrence and produced before the concerned police and looking to the circumstances the charge against the accused could only be for the offence U/s: 319 PPC as Qatal-e-Khata, besides the discipline were not followed. More so, the accused were suspended after the occurrence pursuant to the misconduct report and when the things were clarified through the FSL report, all the accused were restored to their jobs, except PC Bilal Rasheed and PC Daniyal who even were not members of said Decoy party. He has added that in absence of the motive there is nothing on record to establish that accused HC Shahid Usman and P.I Azhar Ahsan participated in the occurrence actively, rather only their presence is admitted but active participation for causing of firing is not established, thus only on the basis of circumstantial evidence which even is not established, the accused cannot be booked and convicted.

It was argued by Mr. Abid Zaman the learned counsel for accused PC Fawad that he was member of raiding party, did not cause firing, followed the orders of superiors, PC Bilal and PC Daniyal were not the members of raiding party, nothing has been established that fire were made from the weapon by accused Pc Fawad, therefore, looking to the circumstances no case against the accused PC Fawad is made out specifically looking to the evidence recorded by PW Mst. Madiha Masood Kiyani, who neither recognized any of the accused nor assigned any role. He has submitted that no case is established against PC Fawad, liable to be acquitted.

Mr. Zia Hussain Shah, the learned counsel for the accused HC Ghulam Abbas submitted that the accused was not present at spot at the time of occurrence as he was at Papas Tea Food for easement and arrived at the place of occurrence later on and such fact were confirmed during investigation by the Investigation Officer, besides the complainant in his evidence before this Court admitted that as per the police report there was no role of accused HC Ghullam Abbas in the CCTV footages, as he was not available at the scene. Moreso, as per the record of investigation the accused were placed in column No.2 of the charge sheet and none of the witness has impounded in the evidence, rather JIT also exonerated him, therefore, looking to the circumstances he is required to be acquitted. The learned counsel for the accused relied on case law reported in PLD 2020 Supreme Court 201 (Ali Ahmad and another V/s The State and others), 1993 SCMR 417 Supreme Court of Pakistan (Ashiq Hussain V/s The State) and PLD

2009 Supreme Court 814 (Mian Muhammad Nawaz Sharif V/s The State).

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 P.C Bilal Rasheed, PC Muhammad Daniyal, Tarique Mehmood S/o Ghulam Kibriya (PI), Tarique Raheem S/o Fazal Raheem (PI), Azhar Ahsan S/o Muhamamd Ahsan (PI), Shahid Usman S/o Usman Ghani (PC), Fawad Khan S/o Abdul Qayoom (PC), and Ghulam Abbas S/o Ghulam Raza (PC), thus they are convicted and sentenced u/s:265-H(ii) Cr.P.C as under, whereas, the prosecution has failed to establish the charge against accused H.C Ghulam Abbas S/o Niaz Ali, thus he is acquitted u/s: 265-H(i) Cr.P.C.

R E A S O N S

POINT NO: 01

As far as death of deceased Intezar Ahmed S/o Ishtiaque Ahmed, aged about 20-22 years as a result of firearm injuries is concerned, it is not disputed by the defence counsel. In this regard, prosecution examined Inspector Raja Muhammad Tanveer at Ex. 08, 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 JPMC, Karachi, where the MLO Dr. Abdul Ghaffar Shaikh conducted postmortem to the dead body and opined the cause of death vide PM No: 26/2018.

As per the postmortem report, deceased received one firearm injury at his head which went through and through, resulting thereto cardio-respiratory failure. The said MLO 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 his 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 Intezar Ahmed S/o Ishtiaque Ahmed lost his breath due to firearm injury resulting his unnatural death.

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

POINT NOS.2, 3, 4& 5

Since the Point NOs. 02 to 05 are interlinked and based on same set of evidence, therefore, it would be convenient to discuss simultaneously.

In order to prove the charge, prosecution examined PW-01 Ishtiaque Ahmed (complainant), deposed that on 13.01.2018, it was 05-30 p.m, he was present at home, his son namely Intezar Ahmed came out from his room and asked him that he intend to meet with his friends, requested for Rs.2000/-or 3000/- from Paternal aunt and after getting the same, he left the house. Complainant went to see the ailing maternal uncle of his son, residing at Model colony, it was 08-00pm, when they returned back to home, meanwhile their neighbour Salman intimated that his son sustained firearm injury lying in the JPMC. He accompanied with his brother, sister and proceeded towards JPMC, where he found his son dead. After postmortem dead body was handed over to maternal uncle of his son, whereas, he accompanied with Raja Tanveer upto PS, where his 154 Cr.P.C statement was recorded and same was incorporated in 154 Cr.P.C book. Police official visited the place of incident, found the car of his son lying there, he then returned back to home. On 14.01.2018 he received the copy of FIR from concerned PS, remained busy in the funeral ceremony of his son, he became free, it was heard and listen over media that his son was exterminated by the ACLC officials. On 15.01.2018 he received the call of Ashraf Jogi from PS for recording the statements, then again his statement was recorded by Ashraf Jogi, as his statement was already recorded by the police. On 16.01.2018 police officials came to his residence showed him CCTV footages, came to conclusion that his son was murdered with planning. The CCTV footage was not handed over to him, he then approached the owner of shop of Castle Lightening for the CCTV footage of the alleged incident, but they informed that all the material of CCTV footage were already been seized by the police. After 2/3 days of the alleged incident he moved the application to high-ups of police for the investigation of case by

impartial and honest police official, thereafter the investigation was transferred to Aamir Farooqi, who called him and suggested that Government is going to constitute the JIT. On 21.01.2018 he was called by the JIT, recorded his statement, they again called him on 22.01.2018, informed him that Government is going to constitute another JIT for his satisfaction. He received the call from Sindh Secretariat, who intimated him that another JIT is to be constituted under the Chairmanship of Sanaullah Abbasi of PSP. On 12.02.2018, the notification was issued by the Government of Sindh regarding the JIT. On 23.02.2018 he received the call of Sanaullah Abbasi, who called him at CPO on 26.02.2018, where his statement was recorded by JIT members where he disclosed his apprehension to them regarding Madhia Kiyani as well as Marookh Sohail as she was classmate of his deceased son. The Marookh Sohail was niece of PSO Aamir Hameed, who was PA to SSP South and her elders were annoyed to the meeting of Marookh Sohail and his deceased son. His son used to telephone her and she also made the calls to his son, but her family disliked this act. This above fact was disclosed by him to the JIT. On 08.02.2018, his statement u/s 161 Cr.P.C was recorded by the police official.

During cross examination he admitted that for the amount obtained by his son from his sister and left the house to meet his friends is not stated in his statement u/s 161 Cr.P.C, recorded on 08.02.2018. Vol. says that this above fact is mentioned in his statement recorded on 15.01.2018. He admitted that in his statement recorded on 08.02.2018 he had stated that he returned back to his home at 08-00 p.m whereas in his statement on 15.01.2018 he had stated at 08-30 pm. He admitted that he had stated before the police in his 161 Cr.P.C statement that on the day of alleged incident his neighbour Fahad had intimated him regarding the incident. According to him, it was approximately 09:00 pm or 09:30 pm when he reached at hospital, left the hospital at about 11:00pm and at 12-00 night his 154 Cr.P.C statement was recorded. He admitted that it is mentioned in the body of FIR that his 154 Cr.P.C statement is recorded at 11-55pm and FIR is registered on 14.01.2018 at 12-30am (night). He admitted that FIR bearing No.39/2016 was registered at PS Airport against his deceased son. Vol. says in the same case his son was acquitted by the Court of law. He denied that he had received some complaints of his deceased son therefore, he had sent him abroad. He admitted that he had not disclosed the specific names of friends of his

son to whom deceased went for meeting. He admitted that he had stated in his 161 Cr.P.C statement recorded on 08.02.2018 that he alongwith his relatives went to PS at 0100 hour, but no responsible official of PS was available there and at 0300 hours or 0400 hours when Ashraf had recorded his simple statement. He denied that he had not allowed police official to check the vehicle of his deceased son during the investigation. Vol. says that vehicle was in the possession of police. He denied that the vehicle was not in the custody of police, when he had firstly visited the place of incident. He admitted that he had not stated in his examination in chief that police mobile was present at the place of incident, when he firstly visited the place of incident. Vol. says that police official was present at the place of incident. According to him 3/4 police officials were present there, but he did not remember their names. He denied that he intentionally not handed over key of vehicle to police for the reason that there were green number plates and some illegal material lying in the vehicle. Vol. says that the vehicle was in the custody of police. He denied that he alongwith his counsel stated before media that no illegal material/green plates were lying in the vehicle. He denied that he had not handed over the cell phone of his deceased son to police during the investigation. Vol. says that he had handed over cell phone to Aamir Farooqi. According to him such fact is not disclosed by him in his statement recorded u/s 161 Cr.P.C. He admitted that prior to this incident the accused has no enmity or ill-well against him or against his deceased son. He admitted that he had not disclosed any motive during the investigation against the accused regarding murder of his son. He denied that alleged incident took place due to fault and negligence of his son. He denied that there is contradiction in his statement and in the contents of FIR. According to him Fahad was not with him when he reached at PS at 11.30 PM. He admitted that an amount of Rs. 2000/3000 given to his son by his sister is not stated by him in his 161 Cr.P.C statement. The contents of his 154 Cr.P.C were read over to him. He admitted that he had not disclosed the mobile numbers of his son and girl to whom his son made chatting in his statement u/s 161 Cr.P.C. According to him, his 154 Cr.P.C statement was recorded on 13.01.2018 whereas his 161 Cr.P.C statements on 15.01.2018 and 08.02.2018. He admitted that he had not produced any application regarding non-satisfaction with the investigation of the first I.O of the case. He admitted that he had not produced the application, moved to CM Sindh for constitution of JIT. He admitted

that he had not produced the application, sent to IG Sindh for fair investigation of the case. He did not know who had written his statement in JIT. Twicely he appeared before the JIT on 26.02.2018 and 01.03.2018. He denied that his son was habitual intoxicant. He admitted that deceased son after the death of his mother used to visit psychologist for counseling. He denied that his son was aggressive in nature that's why he sent him to psychologist. He admitted that the said psychologist moved an application against his son to police. Vol. says that his son also moved an application against the psychologist to police. It was 06-00pm when police official came at his residence and showed him CCTV footages. As per police report there is no role of accused Ghulam Abbas in the CCTV footage. He admitted that he had seen the CCTV footage in which the accused Ghulam Abbas is not seen. He cannot say for any role of the accused Ghulam Abbas not visible in CCTV footage. He admitted that he is the not eyewitness of the alleged incident. Whatever facts were informed to him he narrated to police. He denied that there is no role of accused Daniyal. Vol. says that the accused Daniyal made six fires at his deceased son.

PW-02 Raja Muhammad Tanveer (Inspector), deposed that on 13.01.2018 he was posted at PS Darakhshan as duty officer at PS from 1510 hours to 2000 hours, vide roznamcha entry No.19. He received the information from 15 emergency regarding the alleged incident. He then made such entry No.23 in the roznamcha at 1928 hours, proceeded towards JPMC, wrote the letter to MLO for permission to inquest and report regarding the cause of death. He prepared report u/ s 174 Cr.P.C and memo of inspection of dead body of deceased in presence of mashirs. After completion the postmortem the dead body was handed over to Salahuddin u/s Mehboob on receipt. Father of deceased present in the Hospital, stated that he will record his statement at PS, who accompanied with him upto PS, where he recorded his statement u/s 154 Cr.P.C. All the documents were handed over to Inspector Naeem for investigation. On 15.03.2018 he received the police papers of crime No.138/2018 & 139/2018 u/s 25(c) Sindh Arms Act, 2013 for further investigation. He then recorded the statements of PWs. Accused were in the J.C in crime No.16/2018 therefore, he made the request to Hon'ble Administrative Judge ATCs, Karachi for interrogation of the accused. He then proceeded towards Central Jail alongwith SIP Ayaz and PC Rahim. He interrogated the accused inside the Jail to which accused Muhammad Bilal s/o Abdul Rasheed admitted that he with his official pistol bearing No. No.AAYB-

803 9mm pistol, made five fires and accused Daniyal s/o Muhammad Naeem disclosed that he with his official pistol bearing No.8784 made three/four fires from the said pistol. He further disclosed that he alongwith co-accused Bilal jointly fired upon vehicle of deceased and escaped from the scene. He then prepared the imaginary mashirnama of arrest of both accused in presence of mashirs and recorded the statements of PWs and returned back to PS vide entry No.34.

During cross examination he admitted that it is not mentioned in his 161 Cr.P.C statement and in the FIR that he received the information of the alleged incident. He admitted that neither the name of the person who intimated him regarding the alleged incident is mentioned in his 161 Cr.P.C statement nor in the body of entry No.23. Vol. says that entry was made when he received the information. It was 08-40 pm or 08-45 pm when he reached at JPMC. He admitted that he had not disclosed the above time in his statement recorded during the investigation. He did not know whether the accused viz two of the Inspectors were available at JPMC, when he reached there. FIR was registered at 12-30am. He admitted that there was an entry in the roznamcha made by SIP Ameer Hassan regarding the alleged incident on the information of Inspector Tarique Mehmood. He denied that the entry was already in the roznamcha for the alleged incident, but he was under the pressure of Superior Officers and falsely registered the FIR against the unknown accused. According to him he had enquired who brought the deceased at hospital, where he came to know that driver Siddique of Chhipa ambulance brought the deceased in hospital. He had enquired from Siddique who admitted that he brought the dead body at hospital but not enquired who were with him. He neither enquired the details of driver Siddique nor collected his CNIC. He admitted that Ex.8/C did not bear the time. He admitted that prior to the lodging of FIR he did not visit place of incident nor collected any material from place of incident. He admitted that the father of deceased met with him, intimated regarding alleged incident. Vol. says that he was himself in knowledge of alleged incident. He denied that alleged incident was due to the negligence and fault of deceased and section 302 PPC was applied in the instant FIR malafidely. He admitted that entry No.19 was neither Photostat copy nor duplicate copy. Vol. says that same is true copy did not contain the signature of police official. For last 37 years he is serving in police department. He admitted that he had prepared the report u/s: 174 Cr.P.C prior to the registration of FIR. He remained an hour and 45

minutes in hospital for preparation of required documents. He denied that he had managed the documents in order to strengthen the prosecution case. He denied that he was well aware of the incident prior to the entry in the roznamcha. He admitted that "15" after keeping the entry sent the same to PS, same was not produced by him. He admitted that all the entries produced were written by him. He admitted that whatever is mentioned in the earlier entries regarding the alleged incident is not mentioned in the entry No.36. According to him, he had seen the car of deceased at PS during the investigation, when it was brought by the I.O. He admitted that the said car was with tainted glasses. His statement was recorded on the same day when FIR was registered in the morning. Only once his 161 Cr.P.C statement was recorded in this case. He admitted that in the earlier examination in chief recorded before the Court he had not deposed in respect of crime Nos. 138/2018 & 139/2018. He admitted that the case/crime Nos.138/2018 & 139/2018 were registered after more than 2 months of registration of crime No.16/2018. He admitted that accused were arrested in the main crime No.16/2018, recovery was effected from them. Both pistols were handed over to him when the investigation of these crimes were entrusted to him. He did not remember the time when he received the pistols on 13.03.2018. According to him, he has not produced entry regarding the receiving of crime papers and pistols of this crime. He admitted that according to contents of FIR No.138/2018 the investigation was entrusted to ASI Muhammad Ali. Vol. Says that Muhammad Ali handed over to SIP Ameer Hassan from whom he received the police papers of this crime. On the directions of court SIP Ameer Hassan handed over crime papers to him. His statement was recorded by the Inspector Muhammad Arshad I.O of the case. According to him, the statement u/s 161 Cr.P.C is not available in the police file. He admitted that they kept the register No.19 at PS. He admitted that he had not produced entry of register No.19 in this case. He had not recorded the statement of Mohrar of PS. He was on duty from 08-00am to 08-00pm (2000 hours). He made the entry in the roznamcha while leaving PS. He admitted that departure entry is neither produced nor its number is mentioned in the imaginary mashirnama of arrest of accused. It was 06:00 pm when he reached at Central Jail, interrogated both accused separately. The property received by him was in sealed condition. He did not remember whose signature were on the sealed parcel. There was sun light at 06-30 pm. He did not know whether at 06-30 pm

there was no sunlight. He called the accused in the interrogation room. He admitted that he has not produced any entry of Central Jail to show his arrival and departure time. Firstly he interrogated the accused Bilal, after 5 minutes of his arrival, jail authorities handed over the accused to him for interrogation. He interrogated the accused about 15 minutes. He neither called jail officials nor they were present when he interrogated the accused. Imaginary mashirnama of arrest was prepared by him. Pistols were not with him when he interrogated the accused. He admitted that number of pistol as mentioned is written with another pen. Vol. says that ball pen finished, therefore, he wrote with another pen. He did not send the recovered pistols to FSL for report, sent to FSL by the I.O Ashraf Jogi. He recorded the statements of PW SIP Ayaz and PC Rahim Bux in the Central Jail with his own hand writing. The same was typed on the computer mode inside the Central Jail, provided by the Jail Authorities. He remained half an hour in the Jail Premises for interrogation. The entry at Ex.8/L was written by him. He admitted that it is not mentioned in the entry No.34 (Ex.8/L) that accused confessed before him as stated by him in his examination in chief. He denied that accused did not admit the guilt of this crime. He admitted that accused Bilal was not posted at PS Darakhshan. It is in his knowledge that Inspector Mazhar, Inspector Azhar and Inspector Tariq are facing trial in the crime No.16/2018. He admitted that he has not stated in his examination in chief that investigation was entrusted to ASI Muhammad Ali then to SIP Ameer Hassan lateron to him. He admitted that he has not produced order of Administrative Judge, ATCs, regarding the transfer of the investigation as deposed by him. He did not remember the entry number of Koth while depositing the property in the Malkhana of PS. He has not produced the road certificate of Malkhana. He has not stated regarding the date of sealing the property. The contents of 174 Cr.P.C were read over to mashirs by him. He admitted that according to column No.17 of 174 Cr.P.C it is mentioned therein that he first went to place of vardat and then JPMC.

PW-03 Arshad Ali (Inspector), deposed that on 13.01.2018 he was posted at PS Darakhshan, was on patrolling duty from 08-00 am to 08-00 pm. PC Rahim Bux, H.C Khan Muhammad were with him, it was 7-30pm when he received information from 15 and also Raja Tanveer intimated them that firing took place at Castle Lightening Bukhari DHA Phase-VI, adjacent to Khayaban-e-Ittehad, where one person became injured. He proceeded towards the pointed place

wherefrom local persons shifted the injured in Chhipa Ambulance through driver Riaz. He then directed H.C Khan Muhammad to accompany with injured. The vehicle car Toyota corolla white colour bearing No. BLE-254 lying at spot was not in a position to move, then he deputed an official at the said car. They searched the place of incident, secured 18 empties and one projectile (Sika), prepared memo of recovery at spot in presence of mashirs and sealed at spot. SIP Jogi visited the place of incident at 1430 hours, where he prepared the memo of inspection in his presence and co-mashir HC Safdar Ali. After completion of formalities the papers were submitted to high-ups for approval and submitted challan before Court of law. He has recorded the statement of PW Inspector Raja Tanveer.

During cross examination he deposed that it was 08-00am when he left PS for patrolling in the area after entry in the roznamcha. He admitted that departure entry is not produced by him. During patrolling he checked 15/20 persons along with his staff. He was present at main Bukhari, opposite Habib Metropolitan bank, where he received the information regarding the alleged incident, within 2 minutes he reached at the place of incident. There was street light, 50/60 persons found gathered at place of incident. It was 07-32 pm when he reached at the place of incident. The empties were secured at the distance of 20 feet from the car of deceased. According to him, all the empties are not of same colour. The memo of recovery were prepared by him on the bonnet of police mobile at the place of incident. It was 07-35pm when he shifted the injured through HC Khan Muhammad to hospital for medical treatment as he was in serious condition. He admitted that it is not mentioned in the memo of recovery of empties that injured was shifted through HC Khan Muhammad. Within 25 minutes HC Khan Muhammad returned back to the place of incident. After 5 minutes of shifting the injured he secured empties from the place of incident and sealed in cloth. He admitted that white paper is also lying in the sealing cloth. He admitted that Ex.9/B is not letter regarding posting of accused Daniyal and Bilal as stated by him in examination in chief. He admitted that he is not I.O of crime NO.16/2018. Vol. says that he was I.O of crime NO.138/2018 & 139/2018. He admitted that the secured property was sealed in presence of HC Khan Muhammad. According to him he put three seals on the cloth. After sealing the property he obtained the signatures of both mashirs on it. He admitted that signature of HC Khan Muhammad is not available on the sealing pouch. It was 08-10pm when he

returned back to PS, not made any entry at PS. He had not kept the entry of empties in the register No.19. Vol. says that it was duty of I.O. The recovered empties were handed over to SIO Naeem Awan in sealed condition. After delivering the property to SIO he left the PS and went to his home. It was 02-30pm when SIP Ashraf visited the place of incident in his presence. It was 02-15 pm when they left PS. He admitted that it is not mentioned in the memo of place of inspection of incident nor he disclosed that where from he collected the empties. Vol. says that he had already prepared the seizure memo, which is brought on record. The contents of memo were read over to him then he put his signature on it. He admitted that it is mentioned in the memo of place of incident that car rider and motorcycle rider made the fire upon the deceased Intezar. It was not in his knowledge that the deceased died due to firing of police officials of PS Darakhshan on the very first day. On 14.1.2018 his statement u/s 161 Cr.P.C was recorded by the SIP Jogi. He admitted that it is not mentioned in the memo of seizure of empties regarding the blood lying inside the vehicle. He tried to join the private mashirs to the seizure memo, but they refused. He admitted that such fact is not mentioned in his 161 Cr.P.C. He is serving continuously at PS Darakhshan. He received the police papers of Crime No.138/2018 and 139/2018 due to illness of Raja Tanveer vide entry No.36. Accused and recovered weapons were handed over to him when police papers of the above crimes were delivered to him. Again says that accused were not handed over to him, who were already in J.C. He admitted that it is not specifically mentioned in the entry No.36 that recovered weapons were handed over to him. He admitted that he had seen the recovered weapons, lying with the Head mohrar in sealed condition. He denied that no recovery was effected from the place of incident. He did not know that accused Bilal was called at PS and the concerned official secured the official weapon from him. He denied that the police official present at PS made the fires from the said pistol and on 15.01.2018, said empties were sent to FSL for report. He admitted that whatever is mentioned on the empties is not mentioned in the memo of seizure of empties. He denied that he deposed against the accused at the instance of his higher officers. He admitted that he has not stated in his 161 Cr.P.C statement that injured was shifted to hospital through PC. In the month of January 2019 he was promoted as an Inspector Police. He admitted that he was SIP while he had investigated the case crime NO.138/2018 & 139/2018. He denied that he was not authorized

to investigate the ATA matter. He denied that he had conducted investigation illegally being SIP. He denied that on 13.01.2018 Inspector Naeem Awan was on leave. He admitted that he has not mentioned in his statement the distance of empties lying at place of incident when secured from place of incident. Mashirs were with him, but this is not mentioned in the memo. Some empties were secured from left side of road and some of empties from right side of road. He admitted that he has not stated in his 161 Cr.P.C statement that he has prepared the memo of seizure of empties on 13.01.2018 nor names of mashirs were disclosed by him. He admitted that time of sealing is not mentioned on the sealed cloth. He admitted that he has not produced any order of his superior officer regarding handing over the seizure memo to Inspector Naeem Awan. He denied that all the memos were prepared at PS, he was not empowered to investigate the matter. He admitted that his two statements u/s 161 Cr.P.C were recorded during the investigation. He admitted that it is not mentioned in his statement u/s 161 Cr.P.C that Raja Tanveer intimated him regarding the alleged incident. Vol. says that he has stated before the I.O. He admitted that time of information regarding the alleged incident is not mentioned in his 161 Cr.P.C statement. He admitted that it is not mentioned in his 161 Cr.P.C statement where he had received the information regarding the alleged incident. He admitted that it is not mentioned in his 161 Cr.P.C statement that within how much time he reached at the place of incident alongwith his staff. He admitted that it is mentioned in his 161 Cr.P.C statement that prior to his arrival at place of incident the injured was shifted to hospital. He admitted that it is not mentioned in his 161 Cr.P.C that injured was shifted to hospital through H.C Khan Muhammad. He denied that officials of ACLC were available at the place of incident prior to his arrival. He denied that gathered persons at place of incident disclosed him that some police officials were with injured in the ambulance while they went to hospital. He admitted that neither he has stated in his 161 Cr.P.C statement nor in his examination in chief that he had inquired from gathered persons regarding the alleged incident. It is not in his knowledge where the police tried to stop the vehicle of deceased, but he had seen the vehicle at the place of incident. He admitted that it is not mentioned in his 161 Cr.P.C statement that he had deputed one police official at the vehicle lying at the place of incident. He admitted that name of official is not stated by him in his examination in chief. He admitted that it is not in his knowledge when

the said vehicle was shifted to police station. He admitted that he has not stated before I.O that what articles were lying inside vehicle which was lying at the place of incident. He did not know whether some intoxication material and green number plates were lying inside the vehicle. He denied that father of deceased handed over said vehicle to him after one day of alleged incident. He denied that when he reached at the place of incident after delay of half an hour he started the proceedings. According to him, he did not see any bullet mark on bottom of vehicle. He denied that the half windscreens, side glasses and back side glass of vehicle were black. He admitted that specific place and point wherefrom alleged empties and sika were recovered are not mentioned in seizure memo. He denied that whatever he had done it was at the instance of his superior officers. He admitted that he has not recorded the statement of mohrar with whom the property was lying.

PW-04 Mir Hassan (SIP), deposed that on 13.01.2018 he was posted at PS Darakhshan. He was duty officer from 8pm to 8am. Meanwhile Inspector Tarique Mehmood arrived at PS alongwith other police official and handed him over his 154 Cr.P.C statement and memo of arrest and recovery. He then made the roznamcha entry, the police officials of the PS already went to place of incident as the intimation regarding the incident already in his knowledge. He then intimated his superior officer regarding the incident. The accused shown in the memo of arrest of 5/6 officials were locked up. Three weapons were handed over to him by Inspector Tarique Mehmood, seized by him under the memo. Later on FIR of the above incident was registered, his statement was recorded by the I.O during the investigation. On 13.03.2018 he was on duty officer, he received 154 Cr.P.C statement of Inspector Aziz Ahmed through PC Kaseem Ahmed Qureshi.

During cross examination he admitted that police officer is legally bound to register the FIR of the cognizable offence, if disclosed to him. He admitted that he has not produced the entry of roznamcha regarding information of the incident as and when reached to him. Vol. says that such entry is available in the roznamcha. He denied that he has not registered the FIR when received the 154 Cr.P.C statement of Inspector Tarique Mehmood at the instance of his superior officer. His two statements were recorded by the I.Os during the investigation, first was record on 14.01.2018, but did not remember date of his second statement. He admitted that his second statement were

recorded in the case/crime u/s 25 Sindh Arms Act 2013. He admitted that as stated by him in examination in chief that they had intimation regarding the alleged incident, prior to the arrival of Inspector Tarique Mehmood, but this fact is not mentioned in his 161 Cr.P.C statement. All the persons who locked up were police officials. He admitted that when they apprehend any person prepare the memo of arrest. He admitted that he did not prepare the memo of arrest of them. Vol. says that he made such entry in the roznamcha. According to him, he has mentioned in the said entry regarding the arrest of accused. The allegations against them were of murder, already in the knowledge of police. The intimation regarding incident was already at PS prior to his arrival at PS. He is serving for last about 25 years in the police department. He was promoted after due courses and well aware about the police rules. He admitted that being police officer it was his duty to dispose of statement 154 Cr.P.C, if he received. He denied that he had not disposed of 154 Cr.P.C statement at the instance of his superior officer. According to him, he has mentioned the reason for not registration of FIR in the bottom of entry. He denied that he has intentionally not registered the FIR of cognizable offence at the instance of his superior officer. He admitted that SIP Arshad has recorded the entry on 13.01.2018. He did not remember that said entry was made by SIP Arshad himself or by him. He registered the FIR u/s 25 of Sindh Arms Act, 2013 on the statement of complainant. He admitted that at the time of lodging the FIRs pistols and FSL report were not delivered to him. He admitted that name of police official who brought 154 Cr.P.C statement is not mentioned in it. Vol. says that his name is mentioned in the FIR. He admitted that Ex.10/K did not bear signature of the official. He admitted that entry Ex.10/K was prepared by him. He admitted that his name is not mentioned due to mistake. He admitted that it is mentioned in the FIR that matter would be investigated by ASI Muhammad Ali. Vol. says that due to insertion of Section 7 of ATA, 1997 the investigation was transferred to Inspector. He admitted that it is not mentioned in the FIR that same was handed over to ASI on the direction of SHO. Vol. says that investigation was handed over to ASI on the directions of SHO. Firstly FIR was handed over to ASI Muhammad Ali then transferred to Inspector. He denied that he has registered the FIR at the instance of his superior officer. He denied that he has registered the fake and false FIR against the accused.

PW-05 Ghulam Abbas (H.C), deposed that on 13/14.01.2018 he was posted at PS Darakhshan, as guard. SIP Muhammad Ashraf Jogi brought four accused and three pistols at PS and disclosed him that he had arrested the accused and recovered the property from their possession, who sealed the same in his presence. Three pistols of 9mm viz one pistol was alongwith 15 bullets, second pistol having 11 live bullets and third pistol having two bullets and recorded his statement.

During cross examination he deposed that he did not know whether accused voluntarily surrendered pistols before I.O of the case. He denied that his 161 Cr.P.C statement is quite different from his examination in chief. He was on duty from 12-00am to 8-00am and were performing duty at lockup. Four arrested persons were brought at PS. He did not know whether they were involved in this case or not. It was 04-00am or 04-30 am when above four persons were brought at PS. He denied that it is not mentioned in his 161 Cr.P.C statement that how the property was sealed and how many seals were affixed on it.

PW-06 Aijaz Ali (H.C), deposed that on 13.01.2018 he was on duty from 8pm to 8am. On 14.01.2018 it was 0450 hours when Inspector Tarique Mehmood and Inspector Azhar arrived at PS, disclosed that they are posted at PS Artillery ACLC, produced two 9mm pistol alongwith 7 live bullets and 11 live bullets alongwith magazines respectively and further disclosed that same were recovered from the jurisdiction of PS Darakhshan, produced before ASI Mir Hassan, who took the possession and prepared the memo where he put his signature. H.C Kamran produced another pistol before ASI Mir Hassan and disclosed that the same was taken from him by the Inspector Tarique Raheem, relevant to the incident took place on 13.01.2018, produced the same before the ASI who prepared the memo of the same.

During cross examination he denied that there is a difference in his examination in chief and statement u/s 161 Cr.P.C. He admitted that he has not mentioned in his 161 Cr.P.C statement regarding the arrival of H.C Kamran as stated by him in examination in chief. On 14.01.2018 only his statement u/s 161 Cr.P.C was recorded. He was confronted to his 161 Cr.P.C statement, to which he admitted that on his statement I.O Ashraf Jogi had put his signature on its bottom. According to him, whatever is mentioned on the margin of his statement was not written in his presence.

PW-07 Shahmir (H.C), deposed that on 14.01.2018 he was posted at PS Darakhshan. It was 10-30 am, when SIP Muhammad Ashraf had secured motorcycle 70cc of H.C Shahid, another white colour motorcycle of 125cc of accused Bilal, one car of Inspector Azhar of black colour and also seized black colour car of Inspector Tarique Mehmood and prepared the memo of recovery in his presence and co-mashir Safdar. On 15.01.2018 it was 01-30pm when accused Daniyal and Bilal voluntarily appeared in the room of SIP Ashraf Jogi, admitted the guilt allegedly committed by them on 13.01.2018, produced two 9mm pistols. One pistol was with 8 live bullets and second pistol was with 15 live bullets. SIP Muhammad Ashraf Jogi prepared the memo of arrest and recovery at spot in his presence and co-mashir Muhammad Haneef. On 18.01.2018, accused Daniyal were taken from the lockup by police, covered his face, he lead the police party upto Lane No.V Castle Lightening shop where accused pointed out the place of incident as well as his position where he was standing, where Inspector Naeem Awan prepared the memo in his presence and co-mashir Ghulam Muhammad. On 20.01.2018 Inspector Naeem Awan took all accused in custody in the police mobile, their faces were covered who led upto the Lane No.V Castle Lightening Shop, the accused disclosed their position at the time of alleged incident, where Inspector Naeem Awan prepared the memo at spot in his presence and co-mashir SIP Ashraf Jogi.

During cross examination he admitted that motorcycles and vehicles were brought by the present accused at PS, where the I.O of the case seized the same and prepared the memo. He admitted that he has not mentioned in his 161 Cr.P.C statement that all the accused were muffled faces when I.O took them and they pointed out their position. He admitted that departure and arrival entry number is not mentioned in memos when they left PS as stated by him that accused pointed out the place of incident. Vol. says that entry made by the officer who headed the police party. His statement u/s 161 Cr.P.C was recorded once during the investigation, did not remember the date. He admitted that date is not mentioned on his statement u/s 161 Cr.P.C. He admitted that it is not mentioned in his 161 Cr.P.C statement that on 20.01.2018 all the accused took by police pointed out the place of incident. He admitted that the recovery made by the I.O of the case from the accused is not mentioned in his 161 Cr.P.C statement. Accused Daniyal was muffled face upto place of incident. He admitted that on 20.01.2018 all the remaining accused were muffled faces when they pointed out the place of incident. Since the

year 2014 he was posted at PS Darakhshan. He admitted that he was posted at PS Darakhshan on 13.01.2018, 14.01.2018 and 15.01.2018. He admitted that he was well aware of the alleged incident on 13.01.2018. He was on duty from 08am to 08pm on 14.01.2018. He remained at PS as he was posted in the Investigation Branch. He had seen motorcycle on 14.01.2018 lying at PS. I.O Ashraf Jogi disclosed that motorcycle belonged to accused Bilal. The contents of Ex.13/A were read over to him. The memo was prepared by the Ashraf Jogi. He admitted that it is not mentioned in the memo that Ashraf Jogi disclosed that motorcycle is property of accused Bilal. I.Os recorded his four statements u/s 161 Cr.P.C. Naeem Awan and Ashraf Jogi recorded his statements on 14.01.2018, 15.01.2018 18.01.2018 and 20.01.2018. He did not know who brought the motorcycle of accused Bilal at PS. The memo Ex.13/A was prepared at PS. He admitted that specific place is not mentioned in Ex.13/A where it was prepared. On 15.01.2018 he remained at PS, performed general duty from 08 am to 08 pm. It was 01-30pm when accused Bilal arrived at PS. He admitted that Ex.13/B shows 0130 hours which is night time. He did not remember time when accused Bilal appeared at PS. Pistol was sealed in the cloth bag. He admitted that it is not mentioned in the Ex.13/A that pistol was sealed. Same was sealed by the Operation Police. The property was not sealed when handed over to Investigation Officer. He did not remember date, but unlicensed weapon was secured by operation police and registered the FIR on 13.01.2018 bearing No.138/2018. When the arms were issued to the police officials for duty no license was delivered to duty officer. He denied that accused Daniyal has not pointed the place of incident.

PW-08 Muhammad Salahuddin (private witness), deposed that on 13.01.2018 he was present at his home, it was 07-45pm the complainant made call to him and intimated that someone has made the firing upon his son at Khayaban-e- Bukhari Line No:V. He then proceeded to JPMC, where he saw the dead body of his nephew lying in the mortuary. Later on MLO conducted the postmortem to the dead body and police officials of PS Darakhshan were already available in JPMC. They prepared memo of inspection of dead body and inquest report in his presence. He had gone through the contents of column No.17 of inquest report Ex.8/D put his signature on it.

He admitted that the name of accused are not mentioned in column No.17 of the inquest report. Police recorded his statement at JPMC and later on at PS. He admitted that he has not nominated the

accused in his 161 Cr.P.C statement. He admitted that it is mentioned in column No.17 of the inquest report that the deceased was injured due to firing of unknown persons. He did not remember at what time he put his signature on inquest report. It was 8-30pm or 9-00am when he reached at JPMC. He met the complainant at JPMC, did not remember number of police officials present at hospital. The dead body of the deceased was in the mortuary when the inquest report was prepared. He admitted that he was outside of mortuary as such local people came and met with him. He put his signature on the counter of mortuary. After depositing the dead body in the Chhipa cold storage they returned back to home on the same night, it was 12-30am and onward. Large number of local people were with them, when they went to PS, they were not aware regarding the entire facts of the case. He admitted that he has stated in his 161 Cr.P.C statement that deceased died due to firing of unknown persons. He did not see the bullet injuries on the body of deceased. Vol. says that at the ghusal (غسل) time of deceased he had seen the injuries on the body of deceased at his neck.

PW-09 Rahim Bux (P.C), deposed that on 13.01.2018 he was posted at PS Darakhshan on duty from 8am to 8pm. SIP Arshad Ali and H.C Khan Muhammad were with him on duty. They were patrolling in the area when reached at Bara Bukhari, it was 07:30pm they received the information that in the firing one person became injured. They proceeded towards pointed place, where number of people were gathered. There was car on the road. The injured was shifted to hospital in ambulance, where SIP Arshad Ali enquired from the gathered persons regarding the incident, secured empties from the place of incident and prepared the memo in his presence. Lateron his statement was recorded by the I.O. On 15.03.2018 he accompanied with SIP Raja Tanveer and came at Central Prison, Karachi, where SIP Raja Tanveer interrogated the accused Bilal and Daniyal and prepared the memo in his presence.

During cross examination he admitted that his duty time and departure entry are not mentioned in his statement u/s 161 Cr.P.C. He admitted that time of information received is not mentioned in his statement. He admitted that it is mentioned in his statement that empties were taken into possession but not specifically mentioned that same were sealed. He admitted that the name of co-mashir is not mentioned in his 161 Cr.P.C statement. He admitted that names of the persons gathered at the place of incident are not mentioned in his 161

Cr.P.C statement. He denied that he was not with the SIP Arshad as stated. He denied that memo was not prepared in his presence. Prior to reaching at the place of incident they checked 15/20 vehicles. He admitted that there is an office of Water Board, Shop of dry cleaner and other shops near the place of incident. The vehicle in question dashed with the footpath lying in open plot. He denied that vehicle was lying at the distance of 100 feet from the Water Board Office. They secured the empties in front of shop of dry cleaner on the road, lying at some distance from each other, approximately 5/6 feet from vehicle. He admitted that sketch of empties were not prepared at spot. Lateron he came to know the name of injured. Ambulance reached prior to their arrival at the place of incident, the injured was lying in the ambulance. H.C Khan Muhammad was with injured in ambulance. They remained half an hour at the place of incident, after 25 minutes H.C Khan Muhammad came back and joined them. They secured empties approximately at 7-40pm. Memo was prepared on the bonnet of police mobile by SIP Arshad. After collecting the empties memo was prepared, at about 7.50pm. They did not take the vehicle from place of incident due to its damage. On the same night after 12:00 mid night his statement was recorded. He admitted that it is not mentioned in his statement that blood was lying inside the vehicle. Contents of his statement were read over to him. He admitted that it is mentioned in his statement that firing took place on the shop of dry cleaner and one person sustained the injuries. He was on duty on 15.03.2018 from 8am to 8pm. It was 07-30pm when they left PS for Central Prison Karachi, at about 1800 hours reached at Central Prison Karachi. It was 1815 hours when memo was prepared and at 1830 second memo was prepared. Within 5/10 minutes accused were called. The SIP Raja Tanveer made the entry in the jail premises. He was on the gate of jail premises and SIP went inside the jail. Within 15/20 minutes he returned back. The accused were on bench, he was near to them. The memo was prepared in the room. He denied that memo was not prepared in his presence. Sealing pouch was lying with them in the police mobile. He admitted that in the memo of recovery it is mentioned that name of injured is Intezar. His signature and signature of H.C Khan Muhammad is available on the sealing pouch. He denied that signature of H.C Khan Muhammad are not available on the sealing pouch. He knew the Urdu Language. He admitted that name of deceased is not mentioned on the sealing pouch. He denied that he was not with SIP at the place of incident. He denied that nothing was

secured in his presence. He denied that property was not sealed at spot. He denied that he was not with police official when memo of arrest was prepared. He admitted that it is not specifically mentioned in his statement that property was sealed, but it was mentioned that property was taken into possession. He admitted that it is not mentioned that he and co-mashir put their signatures on the sealing pouch. They were at Habib Metro Bank near the place of incident when received the information. Within 5/6 minutes they reached at the place of incident. Firstly they collected the empties then memo was prepared. He admitted that time of preparation of memo is mentioned 2000 hours. He admitted that his signature is available on the margin of paper. He denied that this is not his signature. He admitted that it is mentioned in the memo that there were bullet marks visible on tyre and glasses. He admitted that phase number of DHA is not mentioned in his statement. He admitted that time and place of information for the incident is not mentioned in his 161 Cr.P.C statement so also at what time they reached at place of incident. He admitted that it is not mentioned in his statement that when they reached at place of incident number of people gathered there. He admitted that it is not specifically mentioned in his 161 Cr.P.C statement that where the vehicle was lying. He admitted that it is not mentioned in his 161 Cr.P.C statement that where from he came to know the name of injured and name of his father. He admitted that it is not mentioned in his 161 Cr.P.C that SIP Arshad enquired from the local persons regarding the incident. He admitted that there are some words inserted in the line 6 and 7 of the memo of arrest Ex.8/J & 8/K. He admitted that he has not disclosed registration number of ambulance nor name of its driver. He admitted that specific place is not mentioned in his statement wherfrom they collected the empties. He denied that memo was not prepared in his presence. He denied that he was not with police official at place of incident. He admitted that his 161 Cr.P.C did not indicate bullet mark visible either on front side of vehicle or back side of vehicle so also number of bullet on the glasses as well as on the tyre of vehicle. SIP Arshad had written on the sealing pouch at spot. He admitted that FIR number is mentioned on the sealed pouch.

PW-10 Madiha Masood Kiyani, deposed that she knew the deceased Intezar through a friend namely Suleman, met with him and remained with him for some time, who respected and called her as Baji. It was Asar Prayer Time, she called him that she intend to get

service in calling centre TRG, who told her that he had no concerned but his father have a contact with Warid Company and not with TRG. On the alleged day she was not feeling well, he called her that they will go for a drive and take something then he will drop her at home. Then they went to the Juice spot near Café Clifton, where they took juice, he told her that he will drop her at home. It was Magrib Time, when they reached at Bukhari, he called his friend for meeting. She was not feeling comfortable, asked him, not to call his friend, she did not want to meet. His friend came, he took the drugs/Hashees from him and it was in knowledge of his father, but not in her knowledge. They drove towards Ittehad commercial towards narrow streets he stopped the car, where two other cars intercepted their car but she did not know who were in the said cars and Intazar stopped the car. She enquired from Intezar what happened. She was on the front seat in the car and in comfortable position. She saw one person in front of car, who given the sign to go ahead, but she had not seen the person, only seen his hand. She heard the commotion from back side of the car to stop this vehicle and she became afraid. Intizar stopped the car then accelerated car and moved fast, meanwhile gun fire started but she did not know whether the same were from side of the car or back side of the car. The deceased took the turn, firing was started she was on the floor of the car. They crossed the road. She directed Intezar to offer/recite the Kalama. The vehicle dashed with the footpath, after dashed with the footpath it did not stop, crossed the road and wheel of the car hit to Gutter and then stopped. When car stopped she called him but he did not reply. She took her CNIC, cell phone and came out from the car and checked the purse lying with her. She saw rickshaw standing there, she went to rickshaw and asked to rickshaw driver to go, told him that they shoted her brother, intended to shot her. She made call to Suleman, his mother picked the phone call when she intimated her that some persons whom she did not know whether they are criminals or police officials on which she was told that when Suleman will come she would narrate him this fact. She then called her Ex-Boyfriend, intimated him loudly and then switched off her cell phone due to fear. She went to her home and was in fear of incident. Her mother opened the door and enquired from her what happened. She told her that her friend was murdered. Later on she watched the TV and entire news of incident were flashed on the media. She then made the call to friend of Intezar. She knew the deceased four days prior to this incident and his friend Kazim two days prior to this

incident. She intended to go to PS, but her friends restrained her for reporting the matter to police. The matter was already flashed on the media. Lateron the anchor of SAMAA TV contacted her to whom she asked not to flash her conversation on the media. It was 03 pm when she watched news on the TV, whatever she made conversation to TV Anchor it was flashed. After third day of alleged incident police recorded her statement at residence. Lateron her second statement was recorded by CTD police in which Kazim told her to nominate the accused in presence of complainant, his lawyer and police recorded the video clips during her statement. Whatever stated by the lawyer (advocate for the complainant) she was neither in knowledge nor stated to police. Lateron she came to know that Government of Sindh constituted the JIT to probe the matter. She was called by JIT but was not in position to record her statement. On next day she appeared before the JIT. She appeared three times before the JIT in one session they enquired regarding her life and in second session they talked about Mst. Laila and in third session of JIT Kazim came to her home in night time, forcibly took her and slapped her having a knife/dagger with him. She was suffering from fever at that time, who also caused knife/dagger blows on her head and asked her about the Intezar case, she replied that whatever she knew, same were stated before the JITs. He asked her to accompany with him to the father of deceased and she intended for condolence the father of deceased and she apologies from the father of deceased for loss of his son and then advocate for complainant took her to his residence with Kazim and complainant and they dictated her to state as they dictated which she did not know and they further told to obtain help from the Rangers for security. Lateron they thrown the cold water upon her. She then accompanied with Kazim in vehicle and complainant was with his advocate in vehicle. She then returned back to her home and police recorded her statement during the investigation.

During cross examination she admitted that the deceased had used to change the number plates of the vehicle own by him. She admitted that the deceased have drugs in the car at the relevant time on which he accelerated the vehicle.

PW-11 Dr. Abdul Ghaffar Shaikh (Senior MLO), deposed that on 13.01.2018 he was posted as MLO at JPMC. Chippa ambulance driver brought a dead body of one Intezar S/o Ishtiaque Ahmed, aged about 20 /22 years, he shifted the dead body to mortuary for postmortem. SIP Raja Tanveer submitted the letter for postmortem of

deceased. He then conducted the postmortem of dead body which revealed as under:-

EXTERNAL EXAMINATION.

Male average built and body aged about 20/22 years old, wearing black T-shirt and blue jeans, mole on the chest, cloths found not fair, stained with blood and dust. Rigor mortis not developed, features are identifiable, pupils dilated and fixed, no sign of decomposition, PML not fixed, tongue inside the mouth, no blood oozing from mouth and nostril.

SURFACE WOUND AND INJURIES.

- (1) Fire arm injury 0.5×0.5 cm on right occipital region of head with inverted margin, no blackening wound of entry.

Exit wound $1 \text{ cm} \times 0.5 \text{ cm}$ on left paratal region of head with everated margin.

GENERAL PARTICULAR.

HEAD.

Depressed fracture of occipital bone seen, corresponding meninges and brain found grossly damaged.

NECK

All structure and vessels found normal.

THORAX OR CHEST.

Ribcage normal no free fluids seen, heart and both lungs found normal.

ABDOMEN

All viscerae found normal, stomach empty.

External genital intact normally.

Time between injuries and death spontaneously.

Time between postmortem and death 3 to 6 hours.

OPINION

Cardio respiratory failure due to head injury resulting from firearm projectiles. He then prepared the postmortem report bearing No.26/2018. Later on IO of the case had requested for postmortem report, the same was delivered to him.

During cross examination he admitted that spontaneously is mentioned at S. No. 21 which means immediately. He admitted that Chhipa ambulance driver brought the dead body, meanwhile police arrived at hospital. He admitted that in the column No: 2 of the postmortem report he has not mentioned for the Chhipa ambulance driver. He is not Forensic Science expert but injury mentioned in

column No. 13 might be caused from .30 bore pistol. He had delivered wearing clothes of deceased to the police official. This fact is not mentioned in the postmortem report. He did not remember the name mentioned in column No.3 whether they were physically present or police disclosed their names to him. Firstly inquest report of deceased was prepared by police, thereafter, he has conducted the postmortem. He admitted that injury mentioned in column No: 13 was through and through.

P.W-12 Syed Khalid Mehmood Shah (private witness), deposed that on 13.01.2018 he was present at his showroom, situated at main Ithad Defence-VI Karachi, run in the name and style of "Castle Lightening". It was about 1915 to 1930 hours, when they were busy inside the showroom. His showroom is situated in the location facing the road through which the vehicles do pass usually. They heard the firing reports, he along with staff remained alert, moved some distance back inside the shop due to firing voice, heard just near the showroom. As and when firing reports stopped he along with staff and other persons of the area came out to ascertain the cause of firing, saw a white color vehicle standing ahead, behind it standing black color car and two motorcycles parked there. There were 3 or 4 persons in Shalwar Kameez sitting on the bikes and black color car, moved back while saying that the target is achieved. White color vehicle were checked, it was found that it had hit to the footpath and crossed to the opposite road, a girl after opening its door left the said car, seated herself in rikshaw and went from there. They peeped inside the white color car found a young boy lying dead in the driving seat. They picked out the said young boy from the driver seat, in the meantime police mobile also reported there. Within a short while ambulance also arrived at the spot and the dead body of said boy were shifted in the ambulance to the hospital.

During cross examination he admitted that in his 161 Cr.P.C statement he did not record for the availability of his staff with him at showroom. His 161 Cr.P.C statement were recorded after three or four days of occurrence at his shop. He admitted that his 161 Cr.P.C statement did not mention / contain the presence of black vehicle and two motorcycles at spot, when they came out from their shop. He admitted that in his 161 Cr.P.C statement it is not depicted / recorded by him that as and when he came out from shop he found three to four persons in Plain clothes, seated themselves in the car and bikes while saying that the target having been achieved. He admitted that

his 161 Cr.P.C statement did not indicate that the boy inside the car was found dead in the driving seat. In fact whatever he was enquired by the police he recorded so far. He admitted that his 161 Cr.P.C statement did not narrate / indicate for the arrival of police mobile and ambulance at spot. He denied that he has exaggerated the statement to that of his 161 Cr.P.C statement at the request and instigation of complainant. He denied that he has materially improved his deposition to that of his 161 Cr.P.C statement. The contents of his 161 Cr.P.C statement were read over to him by the police and then he put his signature thereon. He admitted that contents of his 161 Cr.P.C statement boldly indicated that he cannot say who had caused firing at the relevant time at spot. He admitted that his 161 Cr.P.C statement did not particularly and specifically indicate for the count of persons found inside the black color car and count of persons moving on bikes. He admitted that his 161 Cr.P.C statement did not indicate that those persons were having any kind of arms and ammunition with them. The distance between his shop and place where the white color car, black color car and motorcycles were found would be 20/25 paces. He denied that the distance between the said cars, bikes and his shop were not 20/25 paces, rather it found to be 200 to 250 paces. In fact when the firing taken place, after just its stop when they came out the distance apparently were 20 to 25 paces, however, white color car after moving within short while hit to the footpath and came to the opposite road, thus the said distance apparently would be 200 to 250 feet from his lighting shop. As and when firing reports heard by them, they became frightened, to save themselves moved some distance back in the shop and after stop of fire reports within 2/3 minutes they came out from the shop. He cannot say who shifted the dead body of said boy to the hospital while sitting in the ambulance. In fact he alongwith other persons picked out the dead body from white color car and placed in the stretcher of ambulance. He cannot exactly describe the count of police officials arrived there in the police mobile just after the occurrence when the ambulance arrived at spot. Police mobile were parked behind the white color car at the opposite road of his shop. He cannot say for how much time the police mobile and its staff remained at spot. After the firing reports stopped and when they came out from shop to see the scene there were 20/25 persons of the area at spot. Police did not enquire from him just after the occurrence, so for other persons are concerned he can't say had police staff enquired from them or otherwise. DIG Akbar Riaz arrived there at spot within

half an hour, enquired from him and advised him to help the police by recording his statement whatever in his knowledge. He admitted that his shop had tinted glasses in the main door. He denied that while sitting inside the shop nothing remains visible to the outside. In fact while sitting inside the shop, due to heavy lighting outer view comes with very dim vision. In fact while remaining outside a person can see circumstances running inside his shop.

P.W-13 Anees Ahmed Ehsaniya (private witness), deposed that on 13.01.2018, the occurrence taken place at about 1900 hours to 1915 hours. At that moment, he was sitting in the office of his showroom, situated at the last portion of the showroom. He heard firing reports, directed his staff to keep themselves a side to save themselves. He made a phone call to the institution run in the name and style of PCLC (Police Chamber Liaison Committee), established to help out the business community by the Karachi Chambers of Commerce. He reported that outside his showroom the firing reports are heard, thus the matter may be noted for further action. The firing continued for about 2-5 minutes. At about 1945 hours, he came out from showroom, found the large number of public available outside his showroom and at other spot. He came to know that the firing had taken place at the corner side of shop run by Mr. Khalid Mehmood Shah, "Castle Lightening". The public also found available outside the said shop. He saw that a white colour car were lying parked in the ground, while crossing both the roads of Khayaban-e-Ittehad, went stopped after crossing both roads for the ply of vehicles. It was informed that bike riders caused fire shots at the said white car. On 16.01.2018, his 161 Cr.P.C statement were recorded by the police. At the time of his 161 Cr.P.C statement he advised the IO that he was in the office of showroom when the occurrence taken place, the beneficial evidence required were the statements of the watchmen and security guards deployed outside the shops and the CCTV were functioning at the building, wherein the shop of Castle Lightening were running.

During cross examination he admitted that his 161 Cr.P.C statement did not mention had he made a call at PCLC. He admitted that his 161 Cr.P.C statement did not mention/contain/depict suggesting the IO to collect the evidence of watchmen and security guards, besides the recording of CCTV functioning there. He did not meet to the owner of Castle Lightening at spot, when came out from his showroom. On 13.01.2018 he came to know for the occurrence through the public which were probably 500-1000 persons, might be

Media persons had also arrived there. Police personnel were also present there. In his presence, police personnel did not enquire from any of the person at spot. The distance between his showroom and Castle Lightening is 400-500ft. He never met to the complainant after occurrence, except on the last date when he requested him to record his evidence before this Court. His 161 Cr.P.C statement were recorded at his showroom at evening time but the actual fix time in hours did not occur in his mind. He admitted that whatever he heard while coming outside from his showroom and then saw the vehicle lying in the ground, recorded to the IO.

P.W-14 Muhammad Saad Ali Khan (private witness), deposed that on 05.02.2018 he was available at his house when at about 1630 hours received cell phone call of his paternal uncle Ishtiaque Ahmed, who directed him to arrange a key maker and reach at CTD office situated near PIDC building. He left house on bike went at Defence phase-II Extension, accompanied with key maker Zeeshan and went to CTD, where he met with PI Aziz Ahmed Shaikh. The key maker Zeeshan opened the doors of Corolla Grande BLE-254, it was checked / inspected by PI Aziz Ahmed Shaikh and other staff. In this regard such memo were prepared by PI Aziz Ahmed Shaikh, to which he acted as mashir.

During cross examination he admitted that his 161 Cr.P.C statement did not contain the time of receipt of cell phone call of his paternal uncle. He admitted that his 161 Cr.P.C statement did not contain the location of CTD office for which he was directed. He admitted that his 161 Cr.P.C statement did not mention the place where from he picked up Zeeshan (car key maker). In fact during his chief he disclosed the place of key maker, where he was running his shop, neither such fact were enquired by the police nor he disclosed. He admitted that he has not described / mentioned the place of business specifying the shop number where Zeeshan used to run his car key maker shop. He denied that he did not accompany Zeeshan to CTD office but deposed at the behest of police and his paternal uncle Ishtiaque Ahmed. Corolla Grenade were found parked in the parking area of the CTD office. PI Aziz Shaikh prepared memo at Ex.26/A in the parking lot.

P.W-15 Imran Jahanzeb (private witness), deposed that on 16.01.2018 Police officer Ashraf Jogi arrived at Bukhari at plot No.48/C lane No.05 Khayaban Itehad road, near Phase-VI DHA, Second floor where office of HA Interior Decorators is situated. SIP Ashraf Jogi

demanded footages of CCTV recording of 13.01.2018 pertaining to office. The IO seized the DVR from the said office, after seizure sealed it at spot in a cloth parcel and obtained his signature on a memo to which he and Naveed Ahmed put their hands.

During cross examination he admitted that his 161 Cr.P.C statement only indicated for his job at Decoration shop. He admitted that his 161 Cr.P.C statement did not particularly mention for the name of building wherein at its second floor HA Interior Decorators were running. He admitted that his 161 Cr.P.C statement did not particularly mention for the sealing of DVR in a cloth parcel. He admitted that memo of seizure did not contain the specific mark, model and size of DVR seized by PI Ashraf Jogi from said shop. He admitted that his 161 Cr.P.C statement did not mention location wherefrom the DVR were seized / collected by IO from the office HA Interior Decoration. He admitted that he has not produced either his identity card, issued by HA Interior Decorators Shop owner nor visiting card to establish his employment at HA Interior Decoration. He denied that DVR recording were not seized and sealed in his presence but all were managed at PS. The contents of memo of seizure of DVR system were read by him, however, the contents of 161 Cr.P.C statement were not read by him. He was confronted the memo of seizure of DVR system and his 161 Cr.P.C statement. He admitted that memo of DVR system indicated that it was prepared at spot on 16.01.2018 inside HA Interior Decoration company office from 1430 to 1530 hours, whereas his 161 Cr.P.C statement indicated that it was recorded by IO Ashraf Jogi of PS Darkhashan on 14.01.2018. He admitted that neither the memo of seizure nor his 161 Cr.P.C statement indicated for the color and DVR to be black. SIP Ashraf Jogi inspected their office HA Interior Decorators on 16.01.2018, whereas now he is not serving at HA Interior Decorators Service. SIP Ashraf Jogi visited/inspected their office on 16.01.2018 at 1430 to 1530 hours and remained there for about 30 minutes. SIP Ashraf Jogi came alone at the second floor, however he cannot say for his subordinate staff as he was at second floor, did not see the ground floor. Mr. Muhammad Husain, the owner of said shop HA Interior Decorators were also present there. Co - mashir Naveed Ahmed were vendor in the said office. SIP Ashraf Jogi consumed about 30 to 40 minutes inside the shop while approaching Muhammad Hussain, the owner of shop in order to collect DVR recording and during such time he and Naveed were also there. Ex.27/A were prepared at the place where owner Muhammad Husain

were sitting in his shop (HA Interior Decoration), wherefrom he collected DVR system. While attending said shop his attendance usually remained marked through thumb impression system. On 16.01.2018 he arrived to resume his job at 09.00 am. To the best of his knowledge SIP Asraf Jogi affixed two sealing marks on white cloth. In fact the cloth parcel lying in the court contained two red seal marks. SIP Ashraf Jogi placed the DVR system in the cloth parcel after completion of writing formalities thereon. He was serving in the said shop since 2015. He admitted that black color DVR system lying in the Court contained model DH-2108XVR and the said model number did not arrive either in the memo nor in his 161 Cr.P.C statement. He admitted that memo of seizure of DVR system indicated that "BUZZARD-EYE-HD eight channel color DVR" is mentioned therein, whereas the said wording/words in writing did not transpire on the body of DVR system. SIP Ashraf Jogi wrapped transparent solution tape on the body of DVR, besides, written down FIR number, PS and sections on the back side of the DVR system in his presence. He admitted that DVR system lying in the court pertains his signature on its body. He denied that SIP Ashraf Jogi did not seize and seal the DVR system in his presence, but all were managed at PS. He denied that the DVR system exhibited in the Court were not the same but has been managed to strengthen the case. On 16.01.2018 about 15 to 20 employees were serving in the said shop. To the best of his knowledge on 16.01.2018, one or two staff members were short and rest all were available. Naveed also resumed at 0900 am on 16.01.2018. Cell phone No.0313-2606450 is still in his use since last 8-9 years. The DVR system were functioning in the cabin where the owner of the said shop used to sit. He denied that DVR were not seized and sealed in his presence but all were arranged at PS. He admitted that Ex.27/A and his 161 Cr.P.C statement did not indicate that owner Muhammad Hussain handed over DVR system to the SIP Muhammad Ashraf Jogi. In fact all such proceedings were conducted in their presence, thus what to say for the owner. According to him, his 161 Cr.P.C statement did not mention the name of co mashir who put his signature. He admitted that in his examination in chief he has not recorded that when he left the said shop. He admitted that he has not produced any such proof for leaving of said shop. He denied that memo of seizure and his 161 Cr.P.C statement did not indicate the exact time of arrival of SIP Ashraf Jogi at HA Interior Decorators shop on 16.01.2018. His owner handed over the DVR system to SIP Ashraf Jogi under the

memo. He cannot describe the model number of DVR handed over to SIP Ashraf Jogi. He denied that DVR system were not functioning at that moment. His 161 Cr.P.C statement were recorded in the said shop. He admitted that his 161 Cr.P.C statement dated 14.01.2018 did not indicate that either it was recorded in said shop or anywhere else. He admitted that his 161 Cr.P.C statement did not mention the time of its recording.

P.W-16 Muhammad Ashraf (SIP), deposed that on 13.01.2018 he was serving as PI in the investigation wing of PS Darakshan as night officer, received FIR No.16/2018 u/s 302/34 PPC registered at PS Darakshan for investigation vide entry NO.38 dated 14.01.2018 and relevant papers for investigation. On 14.01.2018 vide entry No: 39 he left to inspect the place of occurrence, after inspection of place of occurrence prepared such memo in presence of SIP Arshad and H.C Safdar Hayat. At the time of inspection of place of occurrence he draw the photographs of place of occurrence, car retained by the deceased and also drawn the sketch showing the actual location of place of occurrence at the time of occurrence. He collected the CCTV record of the place of occurrence showing the location and place of each of the person at spot when the occurrence taken place and obtained the photographs from CCTV recording. He arrested the accused involved in the instant occurrence & interrogated them vide entry No: 47, who during interrogation admitted their complicity in the instant occurrence. On 13.01.2018 Inspector Tariq Mehmood posted at ACLC recorded 154 Cr.P.C statement in respect of the occurrence and arrested three of the police officials P.C Ghulam Abbas, P.C Fawad and H.C Shahid along with weapons used in the crime under memo and also dispatched 154 Cr.P.C statement to the concerned P.S for FIR. On 14.01.2018 at P.S Darakshan the accused Azhar-ul-Hassan and Tarique Mehmood deposited their official weapons along with live rounds, which were seized under memo by SIP Mir Hassan at Ex. 10/D. On 14.01.2018 H.C Kamran posted as WHC at ACLC produced weapon of .9mm along with 15 live rounds retained by accused Tarique Rahim to WHC which he produced before SIP Mir Hassan, for which memo at Ex. 10/E were prepared. Vide entry No: 19 dated: 14.01.2018 accused Muhammad Daniyal and Bilal Rasheed surrendered before him and disclosed their involvement in the instant occurrence, to which they were arrested under memo, he narrated such facts in the roznamcha vide entry No; 22. He also recorded 161 Cr.P.C statements of witnesses. On 14.01.2018 he seized two Bikes

and two cars from the place of occurrence under memo. On 15.01.2018 he obtained remand for the accused, dispatched the weapons and ammunition to the FSL for examination and report. He obtained FSL report in respect of weapons and ammunition dispatched to the FSL, issued letter to the SSP investigation-I for CDR record of cell phone numbers retained by the accused and issued letter to the DHA authorities for providing CCTV recording at the place of occurrence. He examined the complainant and recorded his further statement. On 16.01.2018 he went to the place of occurrence in order to search and collect the DVR. He left P.S vide entry No: 07 and went to the shop of Crystle Lights, DHA Phase-VI, Karachi, wherefrom at 2nd floor of the building of which shop the CCTV cameras were functioning. He collected the DVR from the said shop under the memo in presence of Naveed and Imran Jahanzeb, servants of the said shop and also recorded their 161 Cr.P.C statements at spot. He recorded interrogation form of each of accused, made it part and portion of investigation. On 14.01.2018 and 15.01.2018 after arrest of the accused he prepared hulia form of each of accused, made part and portion of investigation file. On 17.01.2018 he dispatched car bearing No: BLE-254 white corolla Altas for its inspection and report. He obtained such report of FSL, made part and portion of investigation. On 17.01.2018 he also issued letter to the MLO for postmortem and cause of death and also issued letter to the Mukhtiarkar concerned for inspection and preparation of Naksha-e-Nazri of place of occurrence. On 17.01.2018 accused Tarique Raheem after getting pre-arrest bail surrendered and joined the investigation, whose statement were recorded. On 17.01.2018 investigation were transferred and were delegated to another officer. On 20.01.2018 investigation were initiated by PI Naeem Awan, who also interrogated the accused and during the interrogation accused became ready to voluntarily point out the place of occurrence. On such disclosure by all the accused he along with PI Naeem Awan inspected the place of occurrence pointed out by the accused and disclosed the material facts of occurrence, to which such memo were prepared, where he and P.C Shahid acted as mashir.

During cross examination he deposed that on 13.01.2018 his duty hours were from 2000 to 0800 hours (intervening night of 13.01.2018 and 14.01.2018). On 13.01.2018 he came to his office in a day time to complete pending cases. He might had entered his arrival on 13.01.2018 in the roznamcha to join his duty. He admitted that he has not produced such entry of roznamcha showing his arrival in his

office at daytime and when he joined his duty at 2000 hours. For the occurrence he came to know in his office at 1930 hours and further details came into his knowledge when he received FIR and relevant papers for investigation on 14.01.2018 at about 0040 hours. At P.S Darakshan Operation Branch works in the rooms situated at ground floor, whereas investigation branch works at first floor of the said building. He was confronted 154 Cr.P.C statement, FIR and qaimi entry, which were recorded at P.S. He admitted that Ex. 30/A (entry No: 38) is neither photocopy of the station diary nor the carbonized copy. He admitted that station diary No: 38 did not mention the details of documents and articles received by him for investigation, inclusive of all the related documents. He admitted that the contents of station diary No: 38 did not mention the quantity of empties, bore of empties and the details whether those empties were sealed at spot or otherwise and then were given to him. Memo of seizure of empties from spot were prepared by SIP Arshad Ali, who handed him over station diary No: 53, showing his departure for patrolling in the area. He admitted that station diary No: 53 (Ex. 30/C) is neither carbonized nor photocopy of roznamcha. He admitted that contents of Ex. 30/C indicated that said entry pertains to the general duty of all staff members and no particular reference for the duty of SIP Arshad Ali. He admitted that Ex. 9/A did not mention/refer entry No: 53. He admitted that Ex. 9/A did not contain the sketch of recovered empties. Infact it is only referred for the empties of .9mm. The distance between P.S Darakshan and the place of occurrence is about 2 or 2 ½ K.Ms. After receipt of 154 Cr.P.C statement he perused and read himself. He admitted that as per the contents of 154 Cr.P.C statement of complainant Ishtiaque Ahmed they got no enmity with anybody. He admitted that as per the contents of 154 Cr.P.C statement there appears no indication of terrorist act or target killing. Infact the complainant were simply informed that his son has been attacked by unknown persons and shifted to hospital. He recorded 161 Cr.P.C statement of complainant Ishtiaque Ahmed on 15.01.2018. He admitted that said 161 Cr.P.C statement also did not indicate for the offence of terrorism or target killing. He admitted that as per the contents of Ex. 9/A (memo of seizure of empties) it was prepared by SIP Arshad Ali on 13.01.2018 at 2000 hours. He admitted that 154 Cr.P.C statement were recorded at 2355 hours, whereas FIR were registered on 14.01.2018 at about 0030 hours. He admitted that Ex. 9/A were prepared at 2000 hours and there is no reference for the

recovery and seizure of said empties from spot in the 154 Cr.P.C statement and FIR. He admitted that he also received 154 Cr.P.C statement of Inspector Tarique Mehmood, memo of arrest of accused P.C Fawad, P.C Ghulam Abbas and H.C Shahid and roznamcha entry (Ex. 10/A to 10/C) with FIR No: 16/2018. He admitted that 154 Cr.P.C statement of Tarique Mehmood were prepared at 1940 hours, memo of arrest of accused were prepared at 1925 and entry No: 30 were prepared at 2035 hours. He admitted that as per the contents of Ex. 10/A the occurrence were shown as an incident and not a target killing. He admitted that Ex. 30/E (sample of seal of P.S) did not show the place, time of its preparation and attestation by the mashirs. He denied that Ex. 30/E were not prepared at spot. The distance between and the place of occurrence is about 2 to 2 ½ K.Ms, which hardly could be covered within the 5-10 minutes, however, he arrived at the place of occurrence at 0200 hours after visiting the other places of area. The place of occurrence were not visited by him earlier, however, in a routine they used to pass and arrive at P.S through the said passage. There were no street lights at spot, however, there were lights affixed by the inhabitants of said building which were functioning. He did not found the chain of trees near and around the place of occurrence. While leaving P.S to inspect the place of occurrence he made phone call to SIP Arshad Ali to arrive at the place of occurrence for its pointation. He admitted that entry No: 39 (Ex. 30/G) did not mention for the calling of SIP Arshad Ali to arrive at the place of occurrence through his cell phone while leaving P.S. As and when he inspected the place of occurrence, seized the vehicle of deceased which he toed up to P.S. He admitted that Ex. 09/B did not mention that how much fire shots were hit at the vehicle of deceased. He admitted that Ex. 9/B did not mention that had he seen the blood or blood spots inside the car. He visited the place of occurrence thrice viz on 14.01.2018, 16.01.2018 and 20.01.2018 respectively. On 16.01.2018 he left P.S to collect the DVR at 0905 hours. He admitted that on 15.01.2018 he had issued letter to the DHA authorities to provide CCTV recording, if any in respect of the place of occurrence. The DHA authorities informed that after confirmation of installation of CCTV system in the area and by getting approval in this regard from the competent authorities they would provide him. He admitted that his letter issued to DHA did not mention the location and the specific mark of place where the CCTV were functioning for which the request were made. Infact they found the camera installed at the 2nd floor of the building near the place of

occurrence but due to Sunday holiday the shop were closed, on 16.01.2018 he went to the said shop and collected the DVR. He admitted that seven photographs of the vehicle of deceased (containing on two leaves) pertains his signature. He admitted that said seven photographs were not made under the mashirnama and did not mention the date of its capture. The said seven photographs were captured through his cell phone. He admitted that he did not mention at anywhere, in any of the document maintained by him during investigation for the capture of photographs of vehicle of deceased through his cell phone. He got those photographs developed from a shop at Clifton against the payment. He admitted that the photographs of vehicle of deceased showed the marks of fire shots hit at the two sides of said vehicle. He admitted that those fire shots did not certify that fires went through and through from the said vehicle. He admitted that as per the FSL report (Ex. 30/AA) there were no recovery of empties/Sikkas from the said vehicle of deceased at the time of its inspection. He admitted that he has not produced the original recording for capture of the vehicle of deceased in his camera through any of the mode of USB or CD to get compare to the photographs produced by him at Ex. 30/H. He admitted that photographs obtained through CCTV recording (in all 14) did not mention the date, time and signature of either of the mashir or even of himself. The photographs from the CCTV recording were captured on 16.01.2018, got developed those photographs of CCTV recording from a shop situated at Clifton. He seized the DVR at 1430 to 1530 hours, went at the shop of Clifton having DVR, where he got developed the CCTV recording. Again says when he seized the DVR he captured the photographs by playing the recording of the CCTV and captured the photographs through his cell phone and then went to get develop the photographs captured by him in his cell phone. He admitted that contents of Ex. 27/A (memo of seizure of DVR system) did not mention for the capture of photographs of CCTV recording through the said DVR in his cell phone. He admitted that he did not deposit the cell phone having recording of CCTV and photographs captured by him. He admitted that his 161 Cr.P.C statement dated: 18.01.2018 did not mention for the capture of CCTV recording through the DVR and photographs developed by him through the photo shop situated at Clifton. He admitted that vehicle of the deceased were found bullet marks at both sides viz driving side and front seat side. He denied that vehicle of the deceased were found having only bullet shot at its driving side portion and no bullet mark

were available at the front seat side (opposite seat to the driver side). In fact when he seized the vehicle, the bullet touch marks were there at the front seat side and such fact could only be decided by the FSL authorities and not by him. The deceased received bullet shot at behind his head. He admitted that as per the FSL report (Ex. 30/AA) there were no bullet mark recognized by FSL authorities at the head rest of the driving seat of the deceased car. FSL authorities arrived at P.S and inspected the car of the deceased. He admitted that as per the contents of Ex. 30/Z (letter to the FSL), the contents of said letter did not mention that through the said letter he called the FSL authorities to arrive at P.S to inspect the vehicle of deceased and issue such report. He admitted that he has not produced such entry of roznamcha showing the arrival of FSL authorities at P.S and departure after inspection of said vehicle. He arrived at Crystal Lights at 1400 hours and retained the DVR at 1430 to 1530 hours. He did not remember the name of owner of Castle Lightening, his name might be Hassan. The DVR were lying in the cabin of the office of Interior Furnishing Company. He admitted that memo of DVR (Ex. 27/A) did not mention the name of owner of said company of Interior Furnishing Company. He did not retain the receipt/voucher from the owner of Interior Furnishing Company for the DVR running in the said office. He admitted that DVR exhibited in the Court is of black color contained its model DH-2108XVR, said particulars are not mentioned in the memo of seizure of DVR dated: 16.01.2018 at Ex. 27/A. After retaining the DVR from the owner of said company he handed over the copy of memo to him. He admitted that Ex. 27/A (memo of seizure of DVR) did not mention that the owner of the said company were handed over the copy of the memo nor such receipt were issued by him. After sealing the DVR in the company in presence of mashirs he deposited the same with WHC. He admitted that he has not produced the entry of register NO: XIX showing the deposit of DVR with WHC nor recorded 161 Cr.P.C statement of WHC. After seizure of DVR he did not visit the complainant at his house. He had visited him on 15.01.2018 at his house. During investigation he came to know that at the time of occurrence a lady Madiha were also sitting in the said car with deceased. The investigation remained with him for four days, thus could not meet with said lady. He cannot say particularly for the lady Madiha had she met to him or otherwise during the investigation remained with him, it might be human error that he did not remember for her. The 161 Cr.P.C statements of the P.Ws were dictated by him

to writing H.C Basharat. He was confronted 161 Cr.P.C statement of lady Madiha which shows that it was recorded by him on 16.01.2018. He admitted that lady Madiha Kiyani in her 161 Cr.P.C statement did not record for the occurrence to be the terrorist act or target killing. He admitted that the said lady Madiha in her 161 Cr.P.C statement boldly recorded that she did not see anybody while causing firing at the car of deceased. More so she had also recorded that she heard the firing voice and bowed her head on such voice of firing and when she put her head up, enquired from the deceased Intizar for the voice of firing, but Intizar did not reply. He admitted that he did not mention in the investigation papers anywhere that he dictated all the particular facts to WHC Basharat, who written down the documents at his dictation. The empties were handed over to him in sealed parcel when received the investigation papers, which he deposited with WHC on 14.01.2018 and were dispatched to the FSL on 15.01.2018. He admitted that he has not produced entries of roznamcha and of register No: XIX in this regard including getting return of empties from the WHC for dispatch to the FSL on 15.01.2018. He did not record 161 Cr.P.C statement of WHC in this respect. SIP Mir Hassan handed him over the custody of accused P.C Fawad, P.C Ghulam Abbas and H.C Shahid. He admitted that these three accused were arrested by PI Tarique Mehmood under memo and then were handed over to SIP Mir Hassan. He admitted that 154 Cr.P.C statement of PI Tarique Mehmood were for the occurrence falling u/s: 319 PPC. All the accused were posted at ACLC Artillery Maidan. He admitted that accused H.C Ghulam Abbas, H.C Shahid, P.C Ghulam Abbas S/o Ghulam Raza, P.C Fawad, PI Tarique Mehmood & PI Azhar Ahsan surrendered on 14.01.2018 before him whom he interrogated and thereafter arrested in this case. He denied that P.C Bilal were arrested by him in this case on 14.01.2018. In fact he arrested P.C Bilal on 15.01.2018 under memo and on 14.01.2018 he was interrogated in this case and then were arrested on 15.01.2018. He denied that he arrested the accused Bilal on 14.01.2018 and recovered his official weapon showing that it was used in this case. The Bikes retained by H.C Shahid, P.C Bilal Rasheed and cars retained by PI Azhar Ahsan and PI Tarique Mehmood were produced to him by PI Tarique Mehmood at P.S Darakshan on 14.01.2018. He was confronted to Ex. 30/N (memo of arrest and seizure of two 9mm pistols dated: 15.01.2018) which were written by him through his handwriting. He did not prepare the sketch of pistols and of bullets. He admitted that the contents of Ex. 30/N did not

mention that both the pistols were sealed after seizure at spot in presence of mashirs under memo, to which they signed. He deposited both the pistols shown in Ex. 30/N to the WHC after seizure and sealing the same. He did not record 161 Cr.P.C statement of WHC. He admitted that he did not record statement of WHC for retaining all the weapons and ammunition to dispatch for FSL report. He admitted that the FSL report did not definitely opine for the functionality of rest of the weapons except two shown in the para of opinion. He denied that neither SIP Arshad Ali seized/secured/sealed the empties from the spot nor ever handed over to him, but all the empties were retained by him at P.S by causing firing from the said pistol of Bilal to get him fixed as accused in this case. He himself deposited empties with FSL authorities. He admitted that he dispatched the cell phone numbers of the accused through his superiors to the concerned branch to provide him details of numbers and location of the cell phone numbers and CDR, however, the investigation remained with him four days, which could not reach to him till that time. He admitted that story of occurrence/news for the occurrence flashed/aired through media channels titled as "Intizar Murder Case". He admitted that till the investigation remained with him there were no section of ATA, 1997 in the police papers. He did not know that as per the media channels' programs and news SSP Muqdas Hyder were alleged to be involved in this case. He did not know that the main point of dispute in this case which angered the public through media that the deceased Intizar were having illicit relations to the niece (Bhanji) namely Mahrukh d/o Muhammad Sohail of SSP Muqadas Hyder. During investigation no such point with regard to the deceased and illicit relations with Ms. Mahrukh, niece of SSP came into his knowledge. He denied that he did not investigate the matter impartially. He admitted that ACLC authorities were having information for the snatch of official vehicles and other vehicles by the culprits in the area of Defence, large number of vehicles were snatched and such FIRs were registered. He admitted that gang of the culprits used to commit the offence of snatching of the vehicles by using white color Grande as per the information reached to the ACLC. He admitted that as per the information reached to him during investigation the vehicle of deceased Intizar were of white color Grandy, which stopped five minutes prior to the occurrence near to the Government vehicle. He admitted that he did not record statement of either of affectee whose vehicle were snatched within the area of Clifton. He admitted that he did not get identify the vehicle of

the deceased through either of the affectee to get assurance for the use of vehicle by the culprits at the time of snatch of the cars. He denied that there were no motive to the accused to cause the firing at his person in vehicle. He admitted that as per the report of FSL neither bullet were fired during the occurrence from the pistol of PI Tarique Raheem nor such evidence reached to him for such accusation against him. He admitted that during investigation neither the complainant nor any of the other witness recorded any enmity or biasness against the accused nor any clue reached to him that there were dispute of deceased to the accused. He admitted that as per the contents of entry No: 29 (Ex. 30/B) none of the accused escaped from the place of occurrence. He did not know that accused shifted the deceased from the place of occurrence to the hospital. Since investigation remained with him for about four days, thus could not investigate the alleged fact of shifting of deceased by the accused to the hospital. He admitted that during investigation he did not record statement of any of the person who had shifted the injured/deceased Intizar to the hospital from the place of occurrence. In fact the investigation remained with him for a short interval, thus could not detect such fact. He denied that deliberately he did not search the person(s), who had shifted the deceased to the hospital nor indicated this factual aspect to the subsequent I.O when investigation were transferred from him. He admitted that his 161 Cr.P.C statement dated: 18.01.2018 did not indicate/mention had he retained the roznamcha entry showing the departure of accused for their official duty. He admitted that he did not collect the roznamcha entries of ACLC to counter check and ascertain the other officials on duty in the said area on that day and to get record their 161 Cr.P.C statements. He admitted that as per the contents of entry No: 23 (Ex. 30/F) recorded at P.S Darkshan one caller Kamran Safi through "15" over his cell phone No: 0336-2440435 informed the police for the occurrence. He admitted that neither he contacted nor called him to record his statement nor obtained the record of said cell phone to establish his presence at spot. He denied that as per the site sketch/location map prepared by him there is short distance between the accused and nobody from each of them could restrain and call each other at the time of occurrence. He admitted that sketch dated: 13.01.2018 did not mention the distance between each of the accused. In fact, it appears close to each other. He admitted that make and maker of the camera was not marked by him in the memo of place of occurrence. He denied that camera installed at

the building were not having the night vision. In fact it was HD colored camera which also works /functions in the night. He admitted that Ex. 27/A (memo of seizure of DVR) did not particularly mention/speak for the camera having night vision function. He admitted that memo of place of occurrence and memo of DVR did not specifically indicate the installation place and location of each of the camera. In fact the wording of memo of place of occurrence indicated for the CCTV camera functioning in the building. He admitted that PI Tarique Raheem was not the SHO and commanding officer of ACLC on the day of occurrence. In fact Inspector Tarique Mehmood, who was the SHO and not Tarique Raheem. He denied that till the investigation remained with him accused Tarique Raheem were not found involved in any manner in the instant occurrence. He denied that he investigated the matter at the directions and pressure of media and complainant party. The investigation were delegated to him through his superiors. He admitted that his examination in chief did not mention such fact. He admitted that he has not produced such letter of his superiors. After leaving P.S vide entry No: 39 (Ex. 30/G) he along with staff searched Phase-VIII and while roaming at other spots arrived at the place of occurrence. He admitted that he did not prepare the sketch of each of the weapon as and when received by him during investigation. He denied that accused Daniyal were arrested on 14.01.2018. In fact he was arrested on 15.01.2018. He admitted that he did not capture the finger prints from the weapon of each of the accused. He denied that nothing incriminating were recovered from the possession of accused Daniyal, but has been booked falsely. He admitted that during investigation he came to know that H.C Ghulam Abbas were not available at spot at the time of occurrence. In fact he was member of said team functioning in the area. He admitted that no weapon were recovered from the possession of accused H.C Ghulam Abbas and FSL report also did not show for the weapon used by him. He denied that accused H.C Ghulam Abbas is innocent, booked falsely. He admitted that he inspected the place of occurrence on 14.01.2018 at 0230 hours. He was having information that Interior Furnishing Company remained closed on Sunday being public holiday. 14th Jan 2018 was Sunday. He admitted that as per the contents of Ex. 13/A the vehicles of the accused were seized on 14.01.2018 at P.S Darkshan at 1030 hours. On 16.01.2018 when he seized the DVR from Interior Furnishing Company, he saw the said DVR first time in the said office, where he run/watched/viewed the recording of cameras. He admitted

that the contents of Ex. 13/A dated: 14.01.2018 (memo of seizure of vehicles of accused) indicated that those vehicles were seized on the well founded evidence confirmed through source of CCTV footages. He denied that PI Tarique Mehmood is neither visible nor seen present in the footages of CCTV camera which he viewed time and again. He denied that accused Tarique Mehmood did not alight from the vehicle to participate in the occurrence at the place of occurrence. He denied that accused Tarique Mehmood were not involved in the case. He admitted that as per the record of investigation no fire were shot by him through his weapon. The copies of entries of the roznamcha pertaining to investigation conducted by him were copied by him from the original and certified to be the same and correct. He admitted that all such entries did not indicate that those were prepared and copied by him from the original nor the date of preparation of such entries is indicated in the each of diary nor those contain his signature at the foot note of each entry. He admitted that Naksha-e-Nazri (sketch of the vardat) produced by him were not prepared by expert in the field. He admitted that said sketch did not indicate where it was prepared and who prepared the same. He admitted that the said sketch did not indicate on whose pointation the location of each of the accused were certified and placed at the relevant place as indicated in the sketch. He admitted that weapon and ammunition sent to the FSL did not match to the rest of the weapons of the accused, except accused Daniyal and Bilal. He denied that no conclusive evidence came on record against the accused Azhar Ahsan, P.C Ghulam Abbas & H.C Shahid, but they have been booked falsely.

P.W-17 Muhammad Naeem (Inspector/SIO), deposed that on 17.01.2018 he was serving as SIO Darakshan. On the same day FIR No: 16/2018 of P.S Darakshan for the offences u/s: 302/34 PPC were delegated to him for investigation along with misconduct report moved by SSP investigation-I South Karachi to the DIG CIA Karachi against the officers namely PI Tarique Mehmood, PI Azhar Ahsan, H.C Ghulam Abas, H.C Shahid, P.C Ghulam Abbas, P.C Fawad Khan, P.C Muhammad Daniyal, P.C Bilal Rasheed and PI Tarique Raheem of ACLC. He initiated the investigation, moved application to the police surgeon to provide Postmortem No: 26/18 in respect of the deceased Intizar Ahmed S/o Ishtiaque Ahmed, obtained Postmortem report of the deceased, made part and portion of investigation. On the same day, P.C Muhammad Daniyal became ready to point out the place of occurrence vide entry No: 38. At about 1845 hours, on the lead of

accused PC Daniyal, he arrived at the place of occurrence, where P.C Muhammad Daniyal pointed out the same, where he prepared such memo. On the same day, he recorded 161 Cr.P.C statements of mashirs of memo namely Ghulam Muhammad and H.C Shahmir, also recorded 161 Cr.P.C statements of friends of the deceased namely Saad and Kaleem. On 19.01.2018 he obtained FSL report in respect of weapons and ammunition, made it part and portion of investigation, produced all the accused before the concerned office for CRO and accused became voluntarily ready to point out the place of occurrence. On the lead of accused he arrived at the place of occurrence pointed out by the accused, where he prepared such memo of pointation of place of occurrence. The said memo were prepared in presence of SIP Muhammad Ashraf Jogi and H.C Shahmir. He recorded their 161 Cr.P.C statements in this regard. On 20.01.2018 the investigation of the instant FIR were transferred vide order No: SP/INV/South/RDR/951/2018 dated: 20.01.2018 at the orders of IGP Sindh and were transferred to SP INV-I South namely Muhammad Farooque Awan, SP Investigation-I South Zone notified DSP Fateh Muhammad and he to assist him in the investigation. He handed over the police file to SP Farooque Awan vide entry No: 18 on 21.01.2018. Being member of the team formed by SP Muhammad Farooque Awan he produced the accused before the concerned Court, where SP Farooque Awan also arrived as I.O and the accused were remanded to P.C upto 27.01.2018. Such fact were narrated in the roznamcha entry No: 09 dated: 22.01.2018. On 22.01.2018 the investigation of instant FIR were transferred to CTD Sindh vide order No: 2936-42/AIGP/OPS/III/22.01.2018 for further investigation.

During cross examination he deposed that after delegation of investigation he was handed over DVR and police file. DVR were wrapped with plastic tape and then were sealed in a cloth parcel with seals. After receipt of police file, DVR and information for the custody of accused he entered all such facts in the roznamcha. He admitted that said entry of roznamcha is not exhibited by him. He did not remember the exact time of receipt of police file and DVR, but it was evening time. He was handed over police file and DVR by SIP Muhammad Ashraf Jogi. It was about 1800 hours when he left to inspect the place of occurrence on the pointation of accused P.C Muhammad Daniyal. He admitted that he has produced six roznamcha entries in his evidence which all are neither carbonized nor photocopies made from original roznamcha. In fact these all are CTCs

were prepared by him from the original roznamcha entries. He admitted that on the day of occurrence he was serving at P.S Darakshan. He came to know for the occurrence on 16.01.2018, when he returned from casual leave. SIP Muhammad Ashraf were his subordinate at P.S Darakshan as he was SIO of the said PS. He did not record the statement of accused P.C Muhammad Daniyal after interrogation, when he became voluntarily ready to point out the place of occurrence. He admitted that entry No: 38 did not transpire in the memo of pointation of place of occurrence (Ex. 13/C). He admitted that entry No: 38 did not mention/refer for the disclosure of accused P.C Muhammad Daniyal to voluntarily point out the place of occurrence. It was about 1830 hours when they arrived at the place of occurrence. He admitted that as and when he resumed his duty after consumption of leave on 16.01.2018 came to know for the occurrence, place and location where it occurred. About two private persons were available near and around the place of occurrence when they arrived there. They joined one of the said private person namely Ghulam Muhammad as a mashir to the place of occurrence. On 20.01.2018 it was about 1500 hours, when he took all the accused to the CRO office and then to the place of occurrence on the voluntarily lead of accused. He admitted that he has not produced such entry of roznamcha showing all such proceedings. He admitted that Ex. 13/D did not refer the number of the said entry under which he went to CRO. He admitted that he did not record statement of any or all of the accused before proceeding to the place of occurrence on their pointation. He admitted that on 18.01.2018 he had already inspected the said place. He admitted that on 20.01.2018 when he inspected the place of occurrence on the lead of all the accused, SIP Ashraf Jogi and H.C Shahmir were with him, who had also inspected the place of occurrence earlier. He admitted that SIP Ashraf Jogi were I.O of the case prior to the delegation of investigation to him and had inspected the same. The investigation remained with him for about three days. During investigation he recorded 161 Cr.P.C statements of two of the friends of deceased namely Saad and Kaleem, besides 161 Cr.P.C statement of private person Ghulam Muhammad. During investigation he came to know that a lady were also sitting in the said vehicle with the deceased when the occurrence taken place. He tried to meet with the said lady, but did not succeed. He admitted that contents of FIR No: 16/2018 did not mention for the target killing of deceased through an act of terrorism. He admitted that contents of 154 Cr.P.C statement

of complainant nowhere indicated that he and his son had enmity to anybody. He went to meet with the complainant at his house on 19.01.2018, did not record statement of complainant. At the time of receipt of police file he perused the same. He admitted that 154 Cr.P.C statement of PI Tarique Mehmood were also read by him, wherein it transpired that it was a sudden incident occurred at the spur of moment, but not under planning. He cannot say for the further details of the occurrence on the pretext that investigation remained with him only for three days, thus nothing more could be thrashed out regarding the actual facts of the occurrence. After receipt of DVR it was deposited with WHC. He admitted that he has not produced entry of roznamcha showing the deposit of DVR to the WHC. He examined the vehicle of deceased, did not prepare its memo as it had already been prepared. He denied that he did not conduct the investigation impartially, but at the directions of his superiors. He admitted that station diaries produced by him are not the photocopies of the original. He admitted that at the foot note of each of station diary it did not transpire that who had prepared and copied the said entries from the original roznamcha. He admitted that none of the station diary contained his signature at its footnote to establish that all such diaries were prepared by him after comparing to the original. He admitted that registration number of police mobile did not transpire in any of the roznamcha diary through which he inspected the place of occurrence twice on the pointation of accused. He did not record statement of either of the accused before leaving to the place of occurrence on their pointation. He denied that neither the accused voluntary led nor he inspected the place of occurrence, but all such papers were prepared at P.S at the directions of his superiors. He denied that accused P.C Muhammad Daniyal did not commit the offence but he has been booked falsely. He did not know that the gang used to snatch the cars in the area of Clifton while using white colour car and said car had maximum resemblance to the white colour car retained by the deceased. Not a single FIR remained under investigation with him for the snatch of either government or private vehicle in the area of Darakshan. He did not know that one FIR were registered against the deceased at P.S Airport for his rash and negligence driving. He did not know that the deceased were drug addict and were under medical treatment. He admitted that there were the distance of about 30-40 yards where the car of the deceased at first time arrived and the place where the firing were caused at the

car. He admitted that no fire were shot through the pistol of accused Tarique Raheem. He added that such fact has come on record through the report of FSL. He admitted that during investigation of three days he did not come to know that there was any point of dispute or enmity between the accused and the deceased, besides his father. During investigation none of the private person reported him that due to said act of firing he became terrified and went under fear. He admitted that during investigation with him he did not find any incriminating piece of evidence for the accusation of accused Tarique Raheem. He admitted that as per his investigation HC Ghulam Abbas were not found at spot at the time of occurrence. He admitted that column No: 05 of instant FIR indicated that investigation were marked to SIO P.S Darakshan. He admitted that he did not nominate SIP Muhammad Ashraf through any order in writing, however, he was on casual leave from 13.01.2018 to 16.01.2018 and SIP Muhammad Ashraf were most senior in the investigation zone at P.S Darakshan, thus legally he was bound to proceed. He admitted that he has produced six station diaries, but at the foot note of each of the diary it did not transpire that on what date and time it was copied and prepared. He admitted that after receipt of investigation he did not make verification of the documents prepared by previous I.O nor called the witnesses to recognize their 161 Cr.P.C statements. He admitted that signatures of the mashirs at Ex. 13/C and 13/D are appearing at the margin and not over and under the name of each of the mashir. He denied that he obtained the signatures of those mashirs pertaining to Ex. 13/C and 13/D on blank papers and then filled/written at P.S. He admitted that as per the FSL report the empties collected from the spot matched to the pistols recovered from two of the accused. He admitted that when all the accused led him to the place of occurrence, after inspection he prepared one and single memo. Being SIO of P.S he was in the knowledge that in the area of Clifton the government officials and private vehicles are stanching by the gang of culprits and teams of the ACLC were deployed to counter such gang. He recorded 161 Cr.P.C statement of SIP Muhammad Ashraf on 18.01.2018. He denied that SIP Muhammad Ashraf during his 161 Cr.P.C statement did not record that he had watched/viewed the recording of CCTV. He admitted that of SIP Muhammad Ashraf in his 161 Cr.P.C statement did not record that after watching/view of CCTV recording he captured/retained the recording in his mobile/USB for further proceedings. He admitted that SIP Muhammad Ashraf did not record in his 161 Cr.P.C statement that

after capturing the recording of CCTV he proceeded to Clifton and retained developed photographs from the said CCTV, besides its recording.

P.W-18 Raja Azmat Mehmood (SIP), deposed that he was serving as SIP at STIG/intelligence CTD Sindh Karachi. He has been nominated/directed by DSP investigation CTD, Sindh Karachi, to appear before this Court, pursuant to the letter issued by this Court to depute the well conversant of deceased PI Aziz Ahmed Shaikh, who was also serving in the CTD, Sindh, Karachi. He has served with deceased PI Aziz Ahmed for about four years with different intervals at different stations and is well conversant to his handwriting and signature being one of his colleague officer in the CTD, Sindh, Karachi.

During cross examination he was confronted to station diary No: 40 (2345 hours dated: 22.01.2018) which contains the handwriting of deceased PI Aziz Ahmed Shaikh. He admitted that station diary No: 40 pertains to P.S Darakshan. He was also confronted sketch of the vardat which contains the signature of PI Aziz Ahmed Shaikh, he admitted that date of preparation did not transpire on it. He admitted that said sketch did not contain the signature of any of the mashir. He admitted that in the body of sketch there is no mention for Bike or any other four wheel vehicle at any place. He admitted that sketch did not mention the location and place of CCTV camera and places wherefrom the empties were collected. He admitted that sketch did not pertain the reference/name of the deceased and of accused. He admitted that sketch of the vardat were prepared through pencil and the signature were put by PI Aziz Ahmed through blue ball point. He was confronted to applications moved by PI Aziz Ahmed to DHA authorities on 02.02.2018 which both contain signature of PI Aziz Ahmed Shaikh. He admitted that CDR record produced by him neither contained signature of PI Aziz Ahmed nor issuing authority. He admitted that CDR record is Photostat copies. He was confronted to Ex. 26/A which contains the handwriting of PI Aziz Ahmed Shaikh. He admitted that Ex. 26/A were prepared on 05.02.2018, after getting it unlocked through the key maker and the contents of the said memo indicated that it was inspected on 05.02.2018 due to the reason that the key of the said car were not available since from the date of occurrence till 05.02.2018. He admitted that as per the contents of Ex. 26/A not a single bullet empty or Sikka were found available inside the said car and nothing incriminating were recovered inside from the car. He was confronted to charge sheet No: 64/2018 which bears the

signature of PI Aziz Ahmed Shaikh. He admitted that in the body of said charge sheet it was incorporated by PI Aziz Ahmed that he had recorded the statement of previous Doctor of deceased Intizar. He admitted that as per the contents of charge sheet No: 64/2018 it has been brought on record by PI Aziz Ahmed that he tried his level best to ascertain the motive or reason of enmity to the occurrence, but could not succeed. He admitted that as per the contents of Charge Sheet No: 64/2018 on 09.01.2018 SSP ACLC deployed the accused and other staff of ACLC under a scheduled program for checking and patrolling in the area to search gangsters involved in snatching cars, the status of the accused party was a "DECOY" party, delegated to search the accused involved in snatch of the vehicles while riding white colour Grandy car with unknown registration number and the said party were in the search of said car. He admitted that as per the contents of charge sheet No: 64/2018 it was opined by PI Aziz Ahmed that accused H.C Ghulam Abbas at the time of occurrence did not arrive at the place of occurrence, but he was at Papas tea hotel and due to the reason that he was not at spot, SHO did not arrest him. He admitted that as per the contents of said charge sheet there were no incriminating accusation against accused H.C Ghulam Abbas.

At the outset, PW-01 is the complainant of the instant case, supported the case of prosecution on material aspects. During cross examination he has not been shattered to dislodge his evidence. The complainant Ishtiaque Ahmed (father of deceased), during his evidence indicated that on 13.01.2018 he was intimated through his neighbor Suleman that his son sustained firearm injuries and were shifted to JPMC. He accompanied his brother and sister at JPMC, found his son dead, the dead body was handed over to the maternal uncle of his son, thereafter complainant recorded his 154 Cr.P.C statement at PS. On 15.01.2018 he came to know through news flashed through media channels that his son was exterminated by ACLC officials. He has stated that he was shown the visuals of CCTV recording of the incident and specified that his son was murdered with planning by police officials. The evidence of complainant is fully supported by Muhammad Salahuddin (PW-08), who received call from complainant for the incident, reported at JPMC, found police official available there, who prepared memo of inspection of dead body and inquest report in his presence.

Learned advocate for all the accused tried their level best to shatter the complainant but on material facts he was not displaced. No doubt the complainant was suggested that he had received complaints that his deceased son was habitual intoxicant, after the death of his mother, used to visit psychologist, who moved an application against his son at concerned PS, besides, it was also suggested that his son was booked in Crime No: 39/2016 of PS Airport. However, this PW recorded that in the said FIR his son was acquitted by the learned court. Speaking in a broader sense, these all suggestions did not diminish the facts of occurrence. Let such suggestions be considered to be the true narration as a defence plea even then the presence/following of accused at spot and causing firing at the unarmed young boy in furtherance of their common intention fully supports the story of prosecution. The testimony recorded by all the PWs on oath even facing the lengthy cross examination to the defence advocates of all accused cannot be disbelieved against such plea that the deceased Intizar was drug addict, aggressive in nature, accelerated and speeded up his car, as a consequence, accused PC Bilal Rasheed and PC Muhammad Daniyal issued fire shots through their respective weapons at wheels, which erroneously hit at the deceased and caused his instant death.

So far the suggestion that complainant had not allowed the police officials to check the vehicle of his deceased son during the investigation for the reason that there were some green number plates and some illegal material such as intoxicants lying in the vehicle, however, in this regard he has clarified that the car was retained by the police from very inception, just after the occurrence. The complainant though has been suggested several questions that he along with his counsel stated before media that illegal material/green plates were lying in the vehicle, besides, complainant intentionally did not hand over the keys of vehicle to police, however, the said plea put to the complainant in defence during the cross examination, though he denied it categorically, did not appeal to the prudent mind even has not been established from the record of investigation. For a moment let the suggestion introduced by the defence counsel to the complainant is true even then what harm to the case of prosecution is caused. During investigation nothing incriminating could be recovered from the car of the deceased. Once nothing incriminating is recovered from the car during its inspection at P.S, all such allegations against the deceased seems to be unbelievable, introduced by the accused to

save their skin from their illegal act of interception of car of deceased. The defence plea suggested to the complainant for a moment is deemed to be true and correct for the deceased it even did not delegate the license to the police officials for extermination of a young boy, by causing the firing in an indiscriminate manner.

PW-02 Inspector Raja Muhammad Tanveer being the duty officer on the day of occurrence, reported at JPMC, prepared memo of inspection of dead body, inquest report in presence of PW Salahuddin and handed over the same to PW Salahuddin. Subsequently, he was handed over the investigation of two crimes u/s 25 of SAA, 2013, interrogated both accused PC Muhammad Daniyal and PC Bilal Rasheed, who during interrogation admitted that they both made fire shots at the car of deceased jointly, then fled the scene along with their accomplices. In his cross-examination, the time of occurrence has not been shattered and according to the MLO, Dr. Abdul Ghaffar he received the dead body just after the occurrence, he rushed to the mortuary and proceeded further. In this context P.M No: 26/2018 in respect of deceased shows that it was brought at JPMC at 2110 hours. 174 Cr.P.C proceedings were initiated in the mortuary, to which PW Salahuddin acted as mashir. During cross-examination the learned advocate for all accused persons suggested as many as questions to this PW but did not succeed to dislodge the narration recorded by him with regard to the proceedings conducted by him. He admitted that father of deceased met with him, intimated regarding alleged incident, however, he clarified that he was himself in the knowledge of alleged incident. He has admitted that entry No:19 was neither photostat copy nor duplicate but infact it was a true copy did not contain the signature of police official. He has categorically denied the suggestion that he had managed the documents of investigation to strengthen the case of prosecution. So far the suggestion that the FIR NOS: 138 and 139 of 2018 were registered after more than two months of incident in the particular facts and circumstances, I rely upon case law reported in 2020 SCMR 178 & **2010 SCMR 401 (Zafar Iqbal V/s The State and another)**, wherein the Honourable Supreme Court of Pakistan settled the standard as under:-

Penal Code (XLV of 1860)---

“---S. 336/34---Constitution of Pakistan (1973), Art. 185(3)---
Itlaf-i-Salahiyat-i-Udw---Reappraisal of evidence---reduction in---Accused along with his co-accused had allegedly thrown acid on the wife of complainant causing burns on her face, neck

and left arm, covering 17 percent of the body area---**FIR, no doubt, was delayed, but it had not been indicated as to what benefit the prosecution had derived by such delay---**".

The prosecution witness Inspector Arshad Ali (Pw-3) has testified that he was on patrolling duty, received information for the occurrence of firing at Castle Lights. He proceeded towards pointed place, wherefrom local persons shifted injured in Chippa Ambulance through driver Riaz (actual name of Chippa Driver as appearing in the challan as Muhammad Siddique). It has also come in his evidence that he found a Toyota corolla car bearing No: BLE-254 at spot which was not in a position to move, to which he deputed an official at the said car. He has also secured 18 empties along with projectile (Sikka) from the spot and prepared its memo (Ex.09/A) in presence of HC Khan Muhammad and PC Raheem Bux. On scrutiny of said memo it is apparent that exact facts of the proceedings initiated by him at spot in presence of mashirs are mentioned therein. More so, he has also produced the memo of inspection of place of incident prepared by SIP Muhammad Ashraf Jogi in his presence so also in presence of HC Safdar Hayat. On perusal of the said memo dated 14.01.2018 (Ex.09/B), it has fully corroborated his evidence, besides, indicated that they found camera installed at the 2nd floor of the building near the place of occurrence, came to know that a Toyota Corolla Car (seized by this PW) of deceased Intizar was chased by cars and motorbike riders, who fired upon deceased's car, resulting thereto, the son of complainant namely Intizar lost his breath. The above narration of this PW has also been verified from memos of the incident, occurred near Crystal Lights. During cross-examination, he was suggested that no recovery was effected from the place of incident but police officials present at PS made the fires from the said pistols and on 15.01.2018, the said empties were sent to FSL for report, besides, he was further suggested that all the memos were prepared at PS and he was not empowered to prepare or investigate the matter. However, he precisely denied all the suggestions and deposed that all the empties were collected from the place of occurrence and later on were dispatched to FSL for report. It shows that this P.W has been tried to displace from his evidence but he remained consistent. There is no other suggestion to this P.W that being inimical or having any ill will against the accused he acted with malafide. Even, it has not been suggested that he being interested in the case prepared all such

documents to get fix the accused. Mere suggestion that he acted at the instance of his superiors is formal and stereotype, can't be accepted in toto.

SIP Mir Hassan (PW-04) was duty officer at PS Darakhshan, when accused P.I Tarique Mehmood, handed him over his 154 Cr.P.C statement. He has recorded that he also received three pistols from accused P.I Tarique Mehmood, seized under memo in presence of HC Aijaz Mughal and PC Ghulam Abbas. Subsequently, Inspector Aziz Ahmed recorded his 154 Cr.P.C statement and lodged his two FIRs against the accused PC Bilal and P.C Daniyal u/s 25 of SAA 2013. His 154 Cr.P.C statement discloses that in the instant case accused used their licensed weapons and caused the extermination of deceased Intizar. It was narrated that both the weapons were recognized by the FSL report and found to be used in the murder of deceased Intizar and got matched to the empties recovered from the spot as "Similar". He has denied the suggestion that at the instance of his superiors he had not registered the FIR when received 154 Cr.P.C statement of accused PI Tarique Mehmood. It was not put to this P.W as to why he did not enter the contents of 154 Cr.P.C in FIR book. Let us consider that this P.W deliberately did not enter the contents of said 154 Cr.P.C statement of accused PI Tariq Mehmood in FIR book at the directions and instance of his superiors, it may not loose the sight that in this respect other legal options were open to the accused to get enter the contents of 154 Cr.P.C in FIR book by approaching the Court of law u/s: 22 of Cr.P.C and by filing a Constitution Petition or Departmental Representation, but failed. Nothing in this respect is put forth to consider the case of accused as portrayed in defence.

So far the contents of 154 Cr.P.C statement recorded by accused PI Tarique Mehmood it revealed that he along with accused PI Tarique Raheem, PI Azhar Ahsan, HC Shahid Usman, PC Fawad, PC Ghullam Abbas and HC Ghullam Abbas were on picket checking, received information that a suspicious Toyota Corolla Car bearing No: 987 was leading towards Khayaban-e-Bukhari, after which he along with staff during the search of said car, intercepted and stopped one Toyota Corolla Grande (BLE-254 driven by deceased), but the driver speeded and accelerated his car, in the meantime, PC Daniyal and PC Bilal, who unexpectedly appeared and issued fires upon the tyres of car. It was recorded that accused PC Daniyal and PC Bilal after making fires fled the scene, while the said car escaped towards Khayaban-e-Ittehad, whereas, according to statements of accused PI Tarique

Mehmood he checked the car, found that an injured were being shifted to hospital by the public. On the contrary, CCTV footages of the incident unarguably disproves the version of his statement averred u/s 154 Cr.P.C, which visualized that after making fires shooter PC Daniyal and PC Bilal fled the scene, followed by the accused PI Tarique Mehmood and others towards the reverse way of the car of deceased by leaving young boy behind helpless and defenseless. This aspect while looking to the facts and circumstances of the case has fully established the common intention of P.I Tariq Mehmood and others available at spot, who did not evacuate the injured / deceased to get him shifted at hospital at least to save his life rather left him till his last breath. This aspect of the case is not only established from the facts and circumstances of the case, rather private P.Ws namely Syed Khalid Mehmood and Anees Ahmed Ehsania supported the case of prosecution having no ill will or interest to either party of this case. Though the story of case of prosecution even appears in the CCTV recording, but on the other way through the evidence of these two P.Ws having shops at spot further supported the circumstances and thereafter apparently certified in the CCTV recording.

From the perusal of 154 Cr.P.C statement of accused P.I. Tarique Mehmood, it is established that accused PC Bilal and PC Daniyal made fire shots at the car while accused P.I Tarique Mehmood and other accused except HC accused Ghulam Abbas remained at spot till the scene of occurrence is over and thereafter fled from the spot without extending lawful help and assistance to get the deceased evacuate. Subsequently, the memo of recovery of arrest prepared by accused P.I Tarique Mehmood indicated that accused HC Shahid Usman, PC Ghulam Abbas and PC Fawad Khan were taken into custody and their weapons were seized after the incident by accused P.I Tarique Mehmood. This all appears to have been prepared to save their skin at the one hand and to place on record that such occurrence were due to rash and negligent act and attitude of deceased and police party were having no preparation and intimidation to restrain him in any manner.

It is settled proposition of law that police has no authority at all to open fire upon the suspect unless suspect fires upon them. The meaning of police was designed to create security in the mind amongst the public but not otherwise. The evidence of PWs, demeanor of accused coupled with the CCTV footages available on record do establish that all of accused did not create the atmosphere of security,

rather it was terror, fear and insecurity never be expected from the authorities of police established to administer the rule of law.

The evidence of HC Ghulam Abbas (PW-05) is in respect of memo of seizure of pistols, prepared by SIP Muhammad Ashraf Jogi, who brought four accused along with three pistols and live rounds at PS. The same were sealed in his presence, to which he acted as mashir. He was suggested in his cross-examination by learned defence advocates that his 161 Cr.P.C statement is quite different from his examination in chief but he out rightly denied this suggestion during his cross examination. On the point of surrender of accused before SIP Muhammad Ashraf Jogi, he had no knowledge whether accused voluntarily surrendered their pistols before IO of the case or otherwise. His evidence is simple in nature to the extent that he witnessed the sealing and seizure under memo by SIP Ashraf Jogi. Nothing is suggested that he acted against the accused due to enmity or ill will, thus his evidence in the circumstances can't be used to befit the case of accused. It is not denied by either of the accused that they were not having the official and licensed weapons when left for the alleged "DECOY" duty. In this view of the matter the evidence of this P.W in this regard supports the case of prosecution for arrest and recovery of weapons in a lawful manner under memo in his presence. It is not denied that accused PC Bilal and PC Danial were not having their official licensed pistols in their names and were not found available at spot, thus this aspect itself is in corroboration.

To the above aspect of the case, I have been fortified by the case law reported in 2018 YLR 786 (Muhammad Ishaq VS. The State) the relevant placitum reads as under:

"(h) Penal Code (XLV of 1860)----

---Section 302-Qatl-e--Amd---Aperciasition of evidence---Delayed ballistic and chemical report---Reliance---Scope-Record showed that the ballistic report was sent after delay of one month---Said delay could not be considered to be of particular relevance, because the murder weapon (TT Pistol) was recovered from the accused, which was not denied---Said TT pistol was registered in the name of accused, and as such, there was no question that the pistol was foisted upon him--Ballistic report showed that the recovered empties, which were sealed and were kept in safe custody, came from the pistol of accused and none other---Circumstances established that the ballistic evidence supported the prosecution case.[P. 803]P"

On the above specific point I have also been fortified by the case law reported in PLD 2001 Supreme Court 107 (Muhammad Mushtaq Versus The State) the relevant placitum reads as under:-

" (b) Penal Code (XLV of 1860)---

---Ss.302, 307 & 436----Appraisal of evidence---Ocular testimony furnished by the complainant and another witness was not impeached even in lengthy cross-examination by the defence and the same was corroborated by Medical evidence as well as by recoveries of eight crime empties from the spot and the licensed gun presented by the accused himself at the police station---Delay in sending the said incriminating articles to the Laboratory for expert opinion could not be treated fatal to the prosecution case in absence of objection of tempering or manipulating the same---Delay of 16 hours in lodging FIR had been explained by the complainant in his court statement; even otherwise in the presence of trustworthy and convincing evidence on the record, delay in making the FIR, could be ignored---Eye witness although was not named in the FIR, Yet he was a natural witness to whom no enmity or ulterior motive was attributed for false involvement of accused in the commission of the offence and his deposition was found to be true---Pendency of case of accused before the court for a long time did not entitle him for lesser punishment, on the principal of expectancy of life particularly he himself was responsible causing such delay---Conviction and Sentences of the accused were upheld in the circumstances.

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

---Ss.302, 307 & 436----Appreciation of evidence---Delay in sending the articles to the concerned quarter for expert opinion cannot be treated fatal in absence of objection regarding the same having been tempered with or manipulated".

PW-06 HC Aijaz Ali has acted as mashir of seizure of three pistols produced by accused PI Tarique Mehmood, PI Azhar Ahsan and HC Kamran (Headmohrir posted at ACLC), produced by accused PI Tariq Rahim along with 11, 7 and 15 live rounds respectively under memos, prepared by SIP Mir Hassan in his presence at Ex.10/D and 10/E respectively. The evidence of this PW is confidence inspiring, which is corroborated by SIP Mir Hassan. There is no denial in this respect, thus admitted facts need not to be proved. None of the accused denied this material piece of the case in hand, thus evidence of this P.W appeals to the prudent mind supported the case of prosecution.

HC Shahmir (PW-07), who was posted at PS Darakhshan, when SIP Muhammad Ashraf Jogi, secured two motorbikes of accused

HC Shahid Usman and PC Bilal Rasheed along with two cars of accused PI Azhar Ahsan and PI Tarique Mehmood under memo of recovery in his presence. He has witnessed the proceedings of seizure of personal vehicles and bikes wherein accused arrived at the place of occurrence. He also deposed that PC Bilal Rasheed and Pc Daniyal disclosed the narration of occurrence amplifying their role in the occurrence, wherein deceased sustained fire shots, they also produced .9 mm pistols, to which SIP prepared such memo in his presence. According to this PW on 18.01.2018 accused PC Muhammad Danaiyal voluntarily led them to the place of occurrence, where PI/SIO Muhammad Naeem Awan prepared such memo. Besides, he witnessed that PI/ SIO Naeem Awan took all the accused to the incident place, where accused disclosed their position at the time of incident. He has admitted that motorcycles and vehicles were brought by the present accused at PS, where the IO of the case seized the same and prepared the memo. He has firmly explained that motorcycle of accused PC Bilal Rasheed were seen by him at PS, which were disclosed to him by IO Ashraf Jogi, that the said bike were the property of accused PC Bilal Rasheed. He has specifically recorded and remained in the line of memos prepared in his presence, however, there appears some admissions and denials on his part in his cross-examination but even he has not been discredited to the veracity of memos viz. Ex-13/A to 13/D respectively, which all are also recognized and supported by SIP Muhammad Ashraf Jogi and PI Muhammad Naeem Awan during their depositions.

For a moment, his evidence is kept aside, not in support of case of prosecution and the place of occurrence pointed out by the accused during custody is not admissible at law, the accused did not deny at all that their vehicles and weapons, retained by them at the time of occurrence, were neither produced/ surrendered and seized by the investigation agency during the investigation. This simple aspect has to prevail to the above all narration of this P.W.

The evidence of PC Rahim Bux (PW-09) is in respect of memo of securing and seizing crime empties from the scene. He has reiterated and established the version of PW (PI Arshad Ali) that during patrolling they received information regarding the occurrence of firing at Crystal Lights, rushed towards place, found number of people gathered around a car having injured therein, who was shifted to hospital. His evidence also gets support through P.I Raja Tanveer, when he deposed that he also accompanied PI Raja Tanveer upto Central Prison, Karachi, where PI interrogated accused PC Bilal

Rasheed and Daniyal in his presence, who during interrogation admitted their complicity in the homicide of deceased Intizar. His evidence remained in the line of PI Raja Tanveer to the extent of memo of interrogation and memo of recovery of empties from spot. In his cross-examination, he admitted that his 161 Cr.P.C statement did mention that empties were taken into possession and it is not specifically mentioned that same were sealed, besides, number of people gathered at spot were not mentioned so also the blood was lying inside the car, he also admitted that sketch of empties were not prepared at spot. Even so, these all suggestions proposed to him did not decline the fact of the firing upon deceased by accused PC Bilal Rasheed and PC Daniyal, when it has been further elaborated by the accused PI Tarique Mehmood (then SHO ACLC) in his statement u/s 342 Cr.P.C so also before JIT, besides, CCTV footages also indicated the presence of accused at spot by surrounding deceased. There is no other aspect successfully driven by the accused from the mouth of this P.W, that neither he inspected the place of occurrence nor empties were collected, simply suggesting that he acted as mashir malafidely at P.S did not discredit the case of prosecution. Reliance in this respect is placed to a case law reported in 2017 SCMR 283 (The State/ ANF VS Muhammad Arshad). The relevant placitum reads as under:

(b) Criminal trial ----

---Conviction---Scope---Where no proper investigation was conducted, but the material that came before the court was sufficient to connect the accused with the commission of the crime, the accused could still be convicted, notwithstanding minor omissions that had no bearing outcome of the case."

As far as the evidence of Pw Madiha Kiyani is concerned, she has supported the case of prosecution as well as the admission of accused PI Tarique Mehmood with regard to the assassination of deceased Intizar and friendship with her at that time. She straightway specified that some persons in two cars followed and intercepted them at Ittehad Commercial towards Narrow Street but was given go-ahead signal by a person, meanwhile, she heard commotion to stop their vehicle however, deceased Intizar accelerated car but suddenly someone started firing and car got dashed with the footpath. She has specifically recorded that she found Intizar collapsed in front seat, she took rickshaw, told its driver that someone has shoted his brother and intended to murder her. In the same sequence, she also attested the version of father of deceased by saying that she heard through the

media channels that Intizar was exterminated by ACLC staff. This admission on the part of Lady Madiha Kiyani that she was with the deceased in his car, when this tragic event happened has also been proved during the investigation. As far as admission that she was forcibly recorded the video surfaced on media, in which she involved Lady Mahrukh, stated that Intizar's car was marked as target, besides, presented herself in danger and demanded security from Rangers does not smash the prosecution case. She has categorically deposed for her presence with Intizar, arrival of persons and causing the firing but she could not identify, further narrated for chasing, intercepting them and made firing upon their car. This entire narration is also validated by accused through admission of her presence at spot. It is not the case of accused that she was not at spot, but has been planted afterwards, even she has unequivocally certified the place, time and manner of occurrence in all respects, except having not seen the faces of accused, but added that due to fear she ducked down herself from the seat to the floor when firing carried on. This narration at all is a natural conduct of a woman, neither rebutted nor denied to this specific aspect of episode.

In her cross-examination she admitted that deceased used to change the number plates of the vehicle, was drug addict, besides, possessed drug at relevant time to which he accelerated the car. Let it suppose that deceased was having drugs in car at that time but that does not allow anyone to issue indiscriminate 18 fire shots upon suspect. Not only this, accused after shooting the deceased's car at Lane No:05, took their vehicles and bikes drove off and turned away like it was nothing. It has come on record, besides through the evidence of Lady Madiha Kiyani that Intizar was unarmed, didn't have a weapon, when they shot him at close range. It is shocking that deceased was shot even after he was given a go-ahead signal by accused. Nothing incriminating were recovered from the car of deceased nor it has been established in any way that all such articles viz drugs and number plates were picked out by the father of deceased or anybody else. All the P.Ws are firm that car of the deceased found lying at spot, wherefrom it was drove upto P.S and thereafter it was searched under memo. The alleged claim of Mst. Madihya Kiyani in this respect is also not established at any moment for the reason that car was seized by the staff of P.S Darakhsan just after the occurrence, brought at P.S and were inspected after arrival of key maker in presence of PW Muhammad Saad Ali Khan, where after inspection of

the car such memo Ex-26/A was prepared. As per the contents of said memo (Ex. 26/A) nothing incriminating were recovered inside from the car at the time of its inspection.

For the arguments sake let may it be declared that she has not supported the case of prosecution and were not declared hostile, there appears no reason to disbelieve her, even for the date, time, place and manner of occurrence and arrival of accused at spot. Rest of piece of her evidence even perused thoroughly is an aggression, made by her during investigation, might be being frightened and having been induced by both the parties to get the maximum support being only eyewitness. The overall assessment of her evidence did not specify that occurrence did not take place as apparently established through the mouth of pws at spot and thereof through CCTV recording. The accused did not be able to establish that evidence of Mst. Madiha Kiyani has supported the defence plea and diminished the whole case of prosecution. The evidence of above witness revealed that she accompanied the deceased till the time of firing initiated by unidentified persons, which killed deceased Intizar immediately, corroborated through medical evidence, PWs available at spot and then CCTV recording, hence, no other view can be formed to declare the case of prosecution to be concocted & managed. In the circumstances of case, no benefit of her evidence could be extended to the accused in either way.

In this respect reliance is placed on case reported in 2012 PSC (Crl.) 939 (Hasil Khan Versus The State, etc. The relevant placitum reads as under:-

08. The ocular account in this case was furnished mainly by the P.W-01 Dil Murad (complainant) and Zareef Khan P.W-2. The former is a brother whereas the latter is nephew of the deceased. Though both are relations but mere relationship would not make a witness unworthy of reliance if his testimony is corroborated by any independent evidence or circumstances appearing on record. Both these witnesses have reasonably explained their presence at the spot i.e. the reasons of their travel was that they were returning from a marriage ceremony and this reason has not been specifically challenged by the defence during cross-examination. Their testimony is corroborated by the medical evidence and the recovery of T.T pistol. All the eye-witnesses were subjected to lengthy cross-examination but their credibility could not be shaken as they not only corroborated each other but also remained consistent on all material particulars of the prosecution case. The argument of learned counsel

for the appellant that since one of the injured eye-witnesses namely Mst. Sher Bano has not supported the prosecution story, therefore, the case is not free from doubt is not tenable because she did partly support the prosecution story to the extent to which she could. She deposed about the occurrence, about an assailant having entered the bus and firing at Saeed Bakhsh but added that she could not identify the said assailant. Her testimony partly corroborates the remaining eye-witnesses and nothing would turn on the prosecution case if she could not identify because she did not know the assailant prior to the said occurrence. . Her inability to identify the assailant/accused was under stable as in that moment of commotion and shock, people generally cannot keep their composure intact. The non-association of passengers and the bus driver is a lapse on the part of the investigating agency but it would not erase the credibility of the remaining evidence if it inspires confidence, because the Court cannot lose sight of a certain behavior pattern in our society where people are generally reluctant to come forward to give evidence for fear of reprisal from one of the parties. This was taken note of by this Court in Muhammad Ahmad V. The State (1997 SCMR 89). Even otherwise, there is no reason why the appellant should have been falsely implicated.

I have also been fortified by the case law reported in 2019 SCMR 1309 (Saleem Zada and others Versus The State and others). The relevant placitum reads as under:-

02. "Fate of the prosecution case is primarily hinged upon the statement of Bhari Zaman, P.W-1. Taj Habib Gul, PW-2, driver of the vehicle though confirmed the episode, however had not identified the assailants so as to establish their culpability. Investigative conclusions and medical evidence are in line with the statement of Bhari Zaman, P.W-1; durations given in the crime report as well as by the doctor coincide with the time of occurrence; the case was registered with a remarkable promptitude; previous bad blood has not seriously been contested; it is on the basis of these pieces of evidence that the accused have been found guilty of the crime. We have gone through the statement of Bahri Zaman, the sole eye-witness and found him most confidence inspiring; he alone can sustain the charge; being injured, his presence cannot be doubted. Driver of the vehicle, though reticent in his deposition, nonetheless, has unambiguously confirmed circumstances where under the occurrence took place. Cross-examination on both the witnesses remained inconsequential and as such convictions and sentences consequent thereupon do not call for interference. Acquittal of Sher Zamin, respondent, seemingly out of abundant caution, particularly

having regard to his mute presence does not offend any principle of law; there do not exist extra ordinary grounds to recall freedom. Resultantly, these petitions are dismissed and leave to appeal refused."

I have also been fortified by the case law reported in NLR 2002 Criminal 6 (Wahid Versus The State), the relevant placitum reads as under:-

(c) Eye-witnesses---

"In a large number of cases eye-witnesses of the occurrence resile from their statements of at least make concessions in favour of accused. Consequently, such witnesses are often declared to be hostile. The cause for this has been in view conditions prevailing in the country that some pressure by way of inducement is put upon them, therefore, the said witnesses generally would not endanger themselves at the risk of their lives in state truth in the Court. In these circumstances, Court have to find out the truth from the statement with caution of such declared hostile witness. Consequently, such evidence which is to be found to be untrue is to be discarded by the Court. Held: High Court and Trial Court in present case were justified in discarding/rejecting the evidence of hostile witness. (P.10)".

I have also been fortified by the case law reported in PLD 1996 Supreme Court 305 (Khurshid Versus The State), the relevant placitum reads as under:-

"Though the Courts are supposed to follow the well-settled principles of criminal jurisprudence, namely, that an accused persons is presumed to be innocent, that the prosecution is to prove a criminal case against an accused person beyond reasonable doubt and in case two views are possible the view which favours the accused person, should be preferred: and that all benefit of doubts should be extended to the accused, but, at the same time, the Court should also take notice for the changing circumstances of the present days. Even in cases where eye-witnesses are available they refuse to appear as witnesses in support of prosecution case; either because of fear or on account of being won over by the accused party. The Court's approach while appraising the evidence, should be dynamic and not static. It should keep in view all the facts and circumstances of the case and if it is satisfied that factually the person charged with the offence has committed the same, it should record the conviction though there might have been some technical lapses on the part of the investigating agency/prosecution, provided the same have not prejudiced the accused in the fair trial. The people are losing faith in the criminal judicial system for the reason that in most of the

criminal cases the criminals get away without being punished on technicalities". [p. 316].

So far the evidence of MLO Dr. Abdul Ghaffar Shaikh (PW-11), who had conducted postmortem of deceased Intizar, narrated the material facts, nature of injuries, time between injuries and death, besides, the time between death and postmortem. The MLO through his evidence deposed for deceased having received following firearm injury at his person:-

- (2) Fire arm injury 0.5 x 0.5 cm on right occipital region of head with inverted margin, no blackening wound of entry. Exit wound 1 cm x 0.5 cm on left paratal region of head with averted margin.

He opened head, found depressed fracture of occipital bone, corresponding maninges and brain found grossly damaged. All structure and vessels found normal. On opening of thorax or chest, he found ribcage normal nor free fluids seen, heart and both lungs found normal. Abdomen parts found normal, but stomach empty. External genital intact normally. According to him, the time between injuries and death were spontaneously, besides, the time between postmortem and death was 3 to 6 hours. According to the cause of death vide P.M No: 26/2018, it was due to gunshot injury at head, leading to cardio-respiratory failure, resulted in death. The said opinion of the MLO did specify the unnatural death of deceased through firearm injuries. 174 Cr.P.C proceedings and the memo of dead body pertaining to deceased revealed said injury on the person of deceased, certified by the MLO. The opinion of MLO is neither denied nor rebutted. The memo of inspection of car at Ex. 26/A also certify that head rest was having bullet empty and exit marks. The circumstantial piece of evidence is in the line of story of prosecution and established by the P.W Madiha Kiyani, other P.Ws and even from the CCTV recording.

The learned defence advocates tried to establish through MLO that dead body were brought at hospital by police, but MLO specifically clarified that Chippa Ambulance driver brought the dead body, meanwhile police arrived at hospital. The MLO has not been shattered on either account for the dead body, which he received, 174 Cr.P.C conducted by the local police and his opinion for the injury. In this manner the evidence of MLO established that the evidence of police personnel and the witnesses for the 174 Cr.P.C proceedings and inquest report are in the said chain of command with regard to the

occurrence and firearm injuries sustained by the deceased Intizar during the occurrence.

The evidence of Khalid Mehmood Shaikh (PW-12) and Anees Ahmed Ehsaniya (PW-13) is on the same line to the extent of incident. On scrutiny of evidence of PW Khalid Mehmood Shaikh, it revealed that he heard firing noise at around 1715-1730 hours, which has also been described and confirmed by PW Anees Ahmed that he also heard fire shots at around 1700-1715 hours, when both were available at their respective workplaces. According to PW Khalid Mehmood Shaikh, after firing noise, he came out, saw a white Toyota corolla car, behind it black color car and two motorbikes parked there. There were 3/4 persons in plain clothes, moved back while saying that the target achieved. To strengthen this version, PW Anees Ahmed, has also established the presence of PW Khalid Mehmood Shaikh at spot and narrated that he went out of his shop, saw a white corolla car lying on the ground found that some bike riders had caused firing upon a car. Moreover, PW Khalid Mehmood Shaikh also testified for a girl and witnessed that a girl after opening its door left the said car, seated in rickshaw and went from there while leaving behind a young boy lying dead in the driving seat, whom they picked out from car, in the meantime police arrived there also ambulance who shifted dead body to the hospital.

During cross-examination, PW Khalid Mehmood Shaikh was seriously questioned by the defence advocates upon the maximum length of cross examination such as, his 161 Cr.P.C statement did not indicate for the persons in plain clothes, besides, deceased were found dead in a car, arrival of police and ambulance at spot and for the count of accused inside the black car. In addition thereto, he was suggested that he has exaggerated the statement to that of his 161 Cr.P.C statement at the request and instigation of complainant, though he unconditionally denied these all suggestions that he did not improve his deposition to that of his 161 Cr.P.C statement. The above suggestions put to the witness Syed Khalid Mehmood Shah did not drop the case of prosecution but seems to be in the line of evidence recorded by the PW Anees Ahmed. There is no specific suggestion to these PWs that due to enmity of either nature to the accused or otherwise, they recorded their statements before police to get fix the accused.

So far the functioning of CCTV cameras, PW Anees Ahmed has confirmed that the CCTV installed at the second floor of the

building were operational at the time of incident, when he recorded his 161 Cr.P.C statement before IO, he advised to collect the same. However, the DVR was collected by the investigation agency, wherefrom all the factual aspects recorded by these two P.Ws also got support.

The evidence of Muhammad Saad Ali Khan (PW-14) is simple to the extent of his arrival at CTD office along with key maker of car, met with PI Aziz Ahmed Shaikh, who got opened the door of Toyota Corolla Car of deceased Intizar in his presence and inspected the same under memo. The memo at Ex. 26/A indicated that said car was locked inside without keys, which they got opened through duplicate keys prepared/ applied by key maker in presence of this witness and during inspection they found a bullet hole at the right side of driver seat at the headrest, besides dried bloodstains at the seat. He was proposed during his cross-examination that he did not accompany Zeeshan (key maker) to CTD office but deposed false at the behest of police and his paternal uncle Ishtiaque Ahmed, to which he out rightly denied that suggestion. The learned defence counsel though suggested him that he being the relative of complainant became witness in this case which he clearly denied, thus the suggestion at its outset fails. The evidence of this PW is confidence inspiring to the extent of memo of inspection of inside the car of deceased Intizar in his presence. The contents of memo at Ex-26/A prepared in the presence of this PW did not reveal that on opening of vehicle in his presence any of incriminating article as claimed by Mst. Madiha Kiyani and the accused were recovered, thus the defence plea suggested to PW Mst. Madiha and when not suggested to this PW during his cross examination stands fell at its own.

The evidence of private witness Jahanzeb is in respect of seizure of DVR by SIP Ashraf Jogi in his presence in cloth parcel. He has stated that on 16.01.2018 SIP Ashraf Jogi arrived at Plot No: 48/C, Lane No: 05, Khayaban-e-Ittehad at Second Floor, demanded CCTV footages of the incident. He further verified that IO seized the DVR from their office, sealed the same in a cloth parcel under memo at Ex. 27/A, to which he and Naveed Ahmed acted as mashirs. On perusal of said memo, it discloses that SIP Ashraf Jogi, during investigation found the CCTV cameras, installed at the second floor of the HA Enterprises Decoration, which were easily covering the place of occurrence. It further revealed that the said "DVR Buzzard Eye HD 8 Channel Colour" were seized and sealed after thoroughly watching in

presence of Naveed Ahmed and PW Jahanzeb. Thus, the evidence of this PW is fully corroborated by SIP Ashraf Jogi and is in the line of memo (Ex.27/A) regarding the seizure of DVR footages of fateful episode admittedly took place outside their shop. This PW has nowhere been suggested that recording of DVR were not played in his presence. The contents of memo Ex-27/A boldly and loudly speaks that DVR was played in the office of HA Interior Furnishing in presence of this mashir. Once it is not suggested that DVR was not played in his presence, it *prima facie* shows that contents of memo Ex-27/A were deemed to be true and correct, thus documentary evidence when not confronted to this PW has to be considered to be true and correct having been accepted. Moreover, this PW admitted that DVR contains his signature on its body when confronted to him in court, thus all other suggestions did not drop the authenticity of seizure of the DVR from the office of HA Interior Furnishing company. Though this PW has recorded different dates for recording of his 161 Cr.P.C statement on 14-01-2018 and seizure of DVR on 18.01.2018, this only irregularity did not vanish his evidence when persuaded as a whole. The evidence of this PW did not permit to be read in a piece meal to befit the accused.

The scope of evidence of Video recording is protected and made legally admissible by the law under Article 164 of Qanoon-e-Shahdat Order, 1984 and so also under section **27-B of ATA, 1997**.

The Honorable Superior Courts have pronounced the admissibility of such piece of evidence in plethora of case law. In this regard I have been fortified by the case law reported in 2015 P.Cr.L.J 628 (Shahid Zaffar and others VS The State), the relevant placitum reads as under:-

(d) Qanoon-e-Shahdat (10 of 1984)---

**----Article 164----Evidence of DVD caste / Video recording---
Admissibility in evidence----Evidence in DVD Caste/ Video recording,
produced in trial court, was admissible in evidence. [p.666]G.**

The above dicta laid by the Honourable High Court of Sindh at Karachi in such like nature case has repelled the arguments and defence advanced by the advocates for the accused.

Coming to the evidence of SIP Muhammad Ashraf Jogi (PW-16), his evidence revealed that after receiving investigation of instant case, he inspected the place of occurrence in presence of mashirs SIP Arshad and HC Safdar Hayat, captured the photographs, drawn sketch, collected CCTV/DVR showing the location and place of

each of the accused at spot at the time of occurrence. He also arrested accused, during interrogation they admitted their complicity in the commission of extermination of deceased Intizar. He further stated that accused PI Tariq Mehmoor recorded his 154 Cr.P.C statement, arrested accused HC Ghulam Abbas, HC Shahid Usman and PC Ghulam Abbas, seized their weapons under memo and thereafter accused PI Tariq Mehmoor and PI Azhar Ahsan produced their weapons and seized thereon, whereas, HC Kamran (posted as WHC at ACLC) produced weapon of PI Tariq Rahim which he seized under memo. Subsequently, accused PC Daniyal and PC Bilal Rasheed also surrendered before him, admitted their involvement in the crime, to which he arrested them under memo. He also seized two cars and two bikes belonging to accused, he dispatched weapons, ammunition and car of deceased to FSL for report, obtained reports, besides, collected CDR in respect of accused and DVR in presence of PW Jahanzeb and PW Naveed.

During the cross-examination he admitted that he issued letter to DHA authorities, made request to provide CCTV footages at the place of occurrence but did not get positive result, thus due to the said reason he clarified that they found CCTV cameras installed at second floor of private building near the place of occurrence but due to Sunday holiday the shop were closed and on 16.01.2018, he went to the said shop and collected the DVR from the shop in presence of Naveed and Jahanzeb. He has admitted that Ex. 30/A (entry No; 38) is neither photocopy nor station diary nor the carbonized. He also admitted that station diary did not mention the details of documents and articles received by him for investigation and station dairy No: 38 also did not mention the quantity of empties, bore of empties and the details whether those empties were sealed at spot or otherwise. No doubt such divergence may lead to the presumption that this I.O has neither inspected the place of occurrence nor prepared the said memos, entries and all was completed at P.S but suffice it to say the said negligence on the part of I.O at the most could be declared as an irregularity and the fault committed by the I.O did not suffer the case of prosecution for the reason that an innocent young boy were killed through an indiscriminate firing, which was caused by the accused. He has also admitted that as per the FSL report, neither bullet were fired from the pistol of PI Tariq Raheem nor such evidence reached to him for such accusation against him. Undoubtedly, the FSL report came negative in respect of rest of the accused, except P.C Bilal

Rasheed and PC Muhammad Daniyal, however, it can be easily seen at the place of incident that there were eight police personnel, surrounded the car of deceased, meanwhile P.C Bilal Rasheed and P.C Muhammad Daniyal shot indiscriminate firing at the vehicle, striking a driver seat passenger. Consequently, the individual Intizar received bullet at his neck, resulting thereto, the car went out of control, dashed with the footpath at some distance and crashed instantly but disgracefully all police personnel did not even bother to glance towards the car upon which 18 fires were shot indiscriminately, which resulted death of young Intizar, instead they all moved backward, did not return back. It has also come in the investigation that there were no firearm recovered inside from the vehicle, besides, the young Intizar was not the one of the snatcher of vehicles that police had been searching for.

The evidence of I.O Muhammad Ashraf Jogi revealed that investigation remained with him only for four days, thus in case in any such lacuna appears in his evidence it has out rightly did not diminished the case of prosecution. It is not denied that I.O was also one of the Petti brother to accused thus, he might created such lacuna to extend maximum latitude to the case of accused. At the most it may be presumed that SIP Muhammad Ashraf Jogi during investigation tried to support the accused persons in a technical manner by denying such aspects and admissions in his cross-examination, but failed.

On the above aspect of the evidence recorded by SIP Muhammad Ashraf Jogi it is settled principle of law that the complainant should not suffer for the fault of prosecution who was negligent in discharging the duties and functions. In this regard I have been fortified by the case law reported in 2011 SCMR 713 (Ansar Mehmood VS Abdul Khaliq and another).

It is the duty of the court while deciding the question of guilt in murder cases and in other heinous offences the court should realize that they owe duty to the legal heirs, relatives of the victims and also the Society. Approach of the court should be dynamic and if it is satisfied that the offence had been committed in the manner as alleged by the prosecution, the technicalities should be over looked without causing any miscarriage of justice.

So far the FSL report, eight .09 mm pistols along with live bullets and 18 empty shells, recovered from the place of occurrence marked as "**C1 to C18**" were dispatched to FSL for examination and report. The report revealed that empty shells marked from "**C1 to C6**"

were "**fired**" from the .9mm bore pistol No. T1102-17E0278 marked as "B" recovered from accused PC Daniyal, in view of the fact that major points i.e. striker pin marks, and breech face marks are "**Similar**". However, the empties marked from "C7 to C18" were "**fired**" from the .9mm bore pistol bearing No: AAYB-803, marked as "**D**", recovered from the accused PC Bilal Rasheed, in view of the fact that major points i.e. striker pin marks and breech face marks are "**Similar**". When this piece of evidence seems to be positive along with examination report of car of deceased which is also positive, lead to the guilt of the accused. With regard to the recovered pistols belonging to the accused, it has been established that all accused were issued official weapons through order of SSP and thereafter same were seized under memo. However, PC Bilal Rasheed and PC Daniyal were having licensed pistol with them which they surrendered along with respective licenses in their names.

Mr. Syed Lal Shah, advocate for the accused PC Bilal Rasheed during arguments agitated that FSL report is silent for the working condition of all other pistols dispatched to the FSL authorities, thus it is apparent that pistols were dispatched to the FSL after having fires at P.S and empties after collecting from the said pistols. He was of the view when FSL did not certify for the working condition of all other pistols, the report in support of only two pistols of accused PC Bilal Rasheed and PC Daniyal is not admissible at law, rather issued with malafide at the behest of higher authorities of police, liable to be discarded. The arguments of Mr. Lal Shah at the very outset, did not appeal to the prudent mind for the reason that FSL report is specific in all respects. Item at Serial No: 8 one of the pistol bearing No.ZSA-4135 recovered from PC Ghullam Abbas is reported is not in working order, which seems that rest of all pistols were in functioning position. If it would have not been so, then for each pistol against its serial, such opinion should have been mentioned. More so, pistols found in working positions were also marked through tested empties returned to the investigation agency. This aspect has repelled the arguments of Mr. Lal Shah at its own.

So far the CCTV footages produced by this PW, it has been viewed and watched from the DVR thoroughly in open Court in presence of advocates and the parties to the case. It has been noticed that the incident was caught on the CCTV installed at the premises of Castle Lightening and relevant CCTV Camera recording in USB is

exhibited at 30/HH, in which accused are seen in plain clothes. It is the freedom and fearlessness of accused watched on CCTV footages, which increases serious questions. The rule of law appears exposed and weak that public office holders can commit severe crimes with such exemption and that too in plain/civil dresses in private vehicles having an official weapons. Such events are intolerable in a State ruled under the Constitution which assures essential rights to every citizen. The evidence in the shape of CCTV footage is reliable makes the sole criterion to proceed against the accused, when their admission is available on record for their presence at spot at the relevant time. Thus, far the originality of the CCTV/CDR is concerned, the private persons of the shop namely Anees Ahmed and Imran Jahanzeb are examined as PWs, who have fully supported the evidence of IO and individuality of CCTV, it's functioning and seizure under memo.

Now coming to the evidence of IO Muhammad Naeem (PW-17), who had investigated the instant case against the accused. He obtained PM report of deceased, inspected the place of occurrence, on the pointation of accused under memo in presence of SIP Ashraf Jogi and HC Shahmeer, recorded 161 Cr.P.C statements of PWs, produced accused before CRO and thereafter further investigation were transferred to PI Muhammad Farooque Awan, he handed over police file to him. He has produced the notification of SSP ACLC vide No: SSP/ACLC/RDR/350 dated 09.01.2018 regarding the daily vehicle checking program in the different areas of Karachi, which reads as follows:-

"All officers/men with government mobiles in uniform will be present at given points for checking of vehicles. The concerned DSP will check the force deployed at the given points and intimate undersigned through SMS. No laxity should be shown in this regard".

As per the instructions narrated above, the search program was to be conducted in uniforms in official police mobiles. Contrary to SOP, accused were roaming in their private vehicles having official weapons, followed and surrounded deceased Intizar at Lane No:05, Khayaban-e-Ittehad, besides, accused PI Tarique Mehmood called upon PC Daniyal and PC Bilal Rasheed, who were gunmen of SSP ACLC joined them in their individual capacity, without any approval from higher authorities and also had participated in the process, which

portrays the misconduct, unprofessionalism and inhuman act and behavior of police. With such behavior, it is even clearer that trust between our community and law enforcement is far from healed and remains badly broken.

So far the common intention and act of terrorism, it was certainly an act of terrorism, even evidence of PWs is fully corroborated by medical evidence and positive reports of forensic lab. In this case, deceased Intizar neither fired upon the accused nor any firearm weapon were recovered inside from his car nor even a chance of firing upon the accused as he was empty handed, surrounded by accused, who all were armed with .9mm weapons. The conduct of accused, except HC Ghulam Abbas S/o Niaz Ali, who was not available at spot, *prima-facie* speaks loudly that they encircled the deceased being armed with official arms, intercepted the car of unarmed deceased, then main accused Bilal Rasheed (PC) and Muhammad Daniyal (PC) shot and killed Intizar. It is also established that accused Tarique Mehmood (PI), Tarique Raheem (PI), Azhar Ahsan (PI), Shahid (HC), Ghulam Abbas (PC), Fawad Khan (PC) facilitated the commission of crime, intentionally and deliberately took no efforts to rescue the life of deceased which all are relevant factors to prove that above accused had shared common intention with main accused PC Daniyal and PC Bilal Rasheed. The common intention of the above accused is further evident from the fact they themselves just after the firing upon deceased by PC Bilal Rasheed and PC Daniyal, left the scene just like nothing had happened. Moreover, accused admitted their presence at the time of occurrence in their 342 Cr.P.C statements so also before JIT in their statements. While on perusal of statements of accused before JIT, there is an overwhelming and an irresistible evidence against the accused for the interception and causing firing. Accused PI Tarique Mehmood, PI Tarique Raheem, PI Azhar Ahsan, HC Shahid Usman, PC Fawad Khan and PC Ghulam Abbas, has outrightly recorded before interrogation team that as soon as deceased accelerated his car PC Bilal Rasheed and PC Muhammad Daniyal opened fires upon them through their respective firearm weapons.

There is nothing on record with any of the accused that either of them resisted P.C Bilal Rasheed and P.C Daniyal not to repeat the fires. On the contrary their presence assembled at spot with common intention and object is fully established from all corners. In the sequence the preparation of 154 Cr.P.C by the accused to portray that the fateful incident occurred in other way without

preparation and intention was only to save their skin and to create a case of another version. Such conduct could only be declared to have been indicated to be an over smart act to divert the actual occurrence against sudden occurrence without an intimidation, but at the spur of the moment.

On the particular facts, circumstances and demeanor of the accused, I have been fortified by the case law reported in 2007 PSC (Criminal) 271 (Shoukat Ali VS The State) the relevant placitums reads as under:-

(b) Pakistan Penal Code, 1860---

----S.34---Common Intention---Proof---Following are the pre-requisites of said section before it could be made applicable---

- (a)** It must be proved that criminal act was done by various persons.
- (b)** The completion of criminal act must be in furtherance of common intention as they all intended to do so.
- (c)** There must be a pre-arranged plan and criminal act should have been done in concert pursuant whereof.
- (d)** Existence of strong circumstances (for which no yardstick can be fixed and each case will have to be discussed on its own merits) to show common intention.
- (e)** The real and substantial distinction in-between 'common intention and similar intention' be kept in view.

Pakistan Penal Code, 1860 S.302---Abatement. [Being a facilitator and abettor, appellant was rightly sentenced to imprisonment for life on the charge of murder].

On the same particular facts and circumstances, Supreme Court of India in the case of *Ramchandran and others v. State of Kerala* (2012 SCMR 1156) on common object has observed as under: -

"For "common object", it is not necessary that there should be prior concert in the sense of a meeting of the members of the unlawful assembly, the common object may form on spur of the moment, it is enough if it is adopted by all the members and is shared by all of them. In order that the case may fall under the first part the offence committed must be connected immediately with the common object of the unlawful assembly of which the accused were members. (Vide: Bhanwar Singh and others v. State of M.P., (2008) 16 SCC 657) (AIR 2009 SC 768)"

To meet this situation, I am fortified with the case law reported in **2011 SCMR 1148 (Sh. Muhammad Abid V/s The State)**, wherein the Honourable Supreme Court of Pakistan observed that once it is found that accused had common intention to commit the crime vicarious liability was that who had stood together, must have fallen together.

The relevant paras are reproduced as under:-

- "9. We have given anxious consideration to the submissions made by learned counsel for the appellant and find that apparently, in the circumstances of the case, it was very difficult for the complainant and the eyewitnesses to give account of each fire specifying that whose fire hit on which part of the bodies of the deceased, when indiscriminate firing was made by the accused and the absconding accused.**
- 10. Once it is found that the accused persons had common intention to commit the crime, it is immaterial as to what part was played by whom as law as to vicarious liability is that those who stand together, must fall to gather. The question, what injuries were inflicted by a particular accused in cases to which section 34 PPC applies is immaterial, the principle underlying the section being that where two or more persons acted with a common intention each is liable for the act committed as if it had been done by him alone.**
- 11. The trial Court as well as the High Court have believed the ocular evidence in the case which found confidence inspiring and there is no reason for us to disagree with the appreciation the evidence by two courts below."**

So far the evidence of SIP Raja Azmat Mehmood (PW-18), who has been examined as well conversant to deceased PI Aziz Ahmed Shaikh, produced documents, recognized signature of PI Aziz Ahmed Shaikh, with whom he has served for four years. In his cross-examination, he admitted that as per the contents of charge sheet No: 64/2018, it was opined by PI Aziz Ahmed Shaikh that accused HC Ghulam Abbas at the time of occurrence did not arrive at the place of

occurrence, but was at Papas Tea Hotel and due to the reason he was not at spot, SHO did not arrest him.

This P.W has not been shattered in either way that all the documents produced by him, being well conversant were prepared with malafide or managed to dislodge the accused.

As far as recovery of 9mm pistol is concerned the Ex. 09/E and 09/F (order of allotment) of pistols to accused PC Bilal Rasheed and PC Daniyal shows that government pistols were assigned to them against the licenses, which they used in the commission of crime, thereafter produced the said pistols before SIP Ashraf Jogi, admitted their guilt, to which SIP Ashraf Jogi prepared such memo of recovery of pistols, however, on perusal of said memo, positive report of FSL, the pistols are same as official weapons allotted to them. In this regard, the said pistols were also dispatched to the FSL along with the recovered 18 empty shells. As per FSL report, the pistols recovered from both accused were "**fired**" and "**Similar**" and got matched to that of recovered weapons. This all shows that weapons used in shooting by these both accused namely PC Bilal Rasheed and PC Daniyal were secured from their possession as narrated by prosecution witnesses. The minor discrepancies pointed out in the evidence in this regard are not on material points, did not reflect on the credibility and reliability of evidence.

The learned defence counsel during the arguments has contended that PWs did not support the case of prosecution and contradicted each other on material counts. To meet this situation, I am fortified with the case law reported in **2013 YLR 895 (Abid Hussain V. The State and other)**, wherein the Honourable High Court of Peshawar settled the guideline as under:-

"(c) Criminal trial

---Evidence---Contradictions in the prosecution evidence--Such contradictions in the prosecution evidence would be considered as fatal which totally negate the prosecution case---Mere cosmetic discrepancies occurring in the statements of the prosecution witnesses, which were otherwise natural, would not be considered as fatal--Such like discrepancies in the statement of witnesses of the prosecution witnesses, were inherent proof of their truthfulness that they had come forward with natural account of the events, without being tutored or fabricated". [p. 902] F.

"(d) Criminal trial

----Evidence ---Discrepancies in the statements of prosecution witnesses--- court was not supposed to decide the matter in mechanical manner by taking discrepancies in the statements of the prosecution witnesses as a tool to dislodge a genuine case---Court was supposed to go in depth of the evidence and assess it at the touchstone of the natural course of events; and human conduct in normal pursuit of the society by scrutinizing its intrinsic worth; and if court would come to the conclusion on their own assessment the occurrence had infact taken place; it would become an obligation to redress the grievance of aggrieved party ---Accused though was considered as a beloved child of the court, but, the aggrieved party was also not to be treated as an alien, as it was he who approached the court for redressal of his grievance against aggression by accused--If in a genuine case, the grievance of victim was not redressed, the people get frustrated from judicial system and turn wild for lynching, which situation would more alarming". [p. 902]H.

There is plethora of case law that the negligence on the part of investigation agency may not cause damage to the real case of prosecution, which apparently comes on surface and appeals to the prudent mind. For the sake of arguments the admissions reflected in the cross-examination of PWs are taken into consideration, the case of persecution could not be dropped only on this score alone when the prosecution succeeded to prove the charge otherwise against the accused with regard to the nature of offence, arrival of the accused, causing of fire shots at the persons of deceased Intizar, besides the recoveries effected from the spot coupled with the FSL reports and medical report, rather the court in such circumstances remains under obligation to adopt the dynamic approach to detect that the offence has been committed in the manner as alleged by the prosecution and technicalities should be over looked without causing any miscarriage of justice. The conduct and demeanor of accused looking to the overall assessment of record and the evidence adduced by the private witnesses having no animosity to the accused rings true bells could not be brushed aside as deaf and dumb. It was also admitted by the I.O that he did not call the private persons as attesting mashirs at the time of inspection of place of occurrence. This fault on the part of I.O

may be taken into consideration that he did not join the public of the said area but as a whole the said reply did not drop the case of prosecution. More so, the general public usually avoid to become mashirs, therefore in absence of animosity against the police party and I.O did not displace him against the said irregularity committed by him. Besides, the application of section 103 Cr.P.C has not been made hard and fast rule in the cases falling under the domain of Anti-Terrorism Act, 1997.

The evidence of I.Os has not been shattered on any of the material count, rather seems to be natural on all counts when there are some admissions of factual aspects being true, correct deemed to be natural. For all intents and purposes the admissions brought on record by the I.Os are deemed to be true and correct, even did not drop the case of prosecution on any count.

The case of accused as they placed on record at very inception that SHO PI Tarique Mehmood of ACLC along with staff left P.S vide entry No: 13 along with all other remaining accused except P.C Bilal Rasheed and P.C Muhammad Daniyal for investigation of cases and for the checking of pickets and when reached at Khayaban-e-Bukhari DHA 6 Karachi, where they met with PI Tarique Raheem and PI Azhar Ahsan, whereas the remaining officials namely H.C Shahid, P.C Fawad Khan, H.C Ghulam Abbas and P.C Ghulam Abbas were on Bike patrolling in the nearby streets on the pretext that since from sometime in the area of Defence a White Toyota Grandy bearing registration No: 987 since long time the vehicles of Government were snatched on the pointation of weapons, thus such pickets were set and staff were deployed to stop such snatching. It was averred by SHO PI Tarique Mehmood in his 154 Cr.P.C statement that P.C Fawad Khan over cell phone intimated PI Tarique Raheem that a White Toyota Corolla bearing NO: 987 in a suspicious manner found available at Khayaban-e-Bukhari inside streets near a Government Corolla Car. On such information all the staff members along with PI Tarique Raheem went to search the said suspecte car when in the meantime two other White Toyota cars were found inside the streets while passing from there, to which they initiated to stop in order to check those cars having any nexus to the suspected car or otherwise, but in the meanwhile car No: BLE 254 Grandy White passed, which were stopped and the driver of the car stopped it, however as and when the staff reached near the car the driver accelerated and speeded it up. In the meantime, three unknown persons along with P.C Bilal and P.C Daniyal

suddenly arrived there and initiated firing at the tyres of the said car to get it stopp, but the driver being unknown of the said white BLE 254 Corolla car succeeded to drive his car in a higher speed. It is also averred that PI Tarique Mehmood being SHO along with staff raised commotion and directed the staff not to make firing, but the staff did not respond, rather P.C Bilal and P.C Daniyal succeeded to flee and the car No: BLE 254 went to the Khayaban-e-Ittehad which was checked later on and found that the citizens were shifting the said driver in the ambulance to the hospital. SHO PI Tarique Mehmood seized the weapons and licenses of the subordinate staff, arrested them brought at P.S, where he filed his application for the registration of FIR u/s: 80/319/34 PPC. It was further averred that he claimed his grievance against accused H.C Shahid, P.C Fawad, H.C Ghulam Abbas and P.C Ghulam Abbas along with five unknown persons, who fired at the suspect car when it was not stopped and caused injuries /extermination of the said driver.

This narration on the part of SHO/PI Tarique Mehmood on the part of ALC were neither adhered to by the staff of P.S Darakshan nor any action were taken against the accused as requested by SHO Tarique Mehmood, however, police informed Mr. Ishtiaque, the father of deceased Intezar for the occurrence, who preferred to register the case against the unknown accused for unknown motive.

The narration recorded by the SHO Tarique Mehmood even is taken on record, it apparently shows that none of the accused has been exonerated having not participated in the occurrence in any of the manner, rather the said 154 Cr.P.C statement at the very outset left the investigation agency to ascertain the real facts and further evidence in the matter. It is not denied that the information for the occurrence had already reached at P.S through 15 made by caller namely Safi (as appearing in station diary No: 23 recorded at 1928 hours), which were received by the staff of P.s Darakshan. Meaning thereby in order to cover up and to erase the earlier information reached to P.S at the earliest moment, this 154 Cr.P.C statement were subsequently prepared at 1930 hours to keep the case of accused in juxta position to that of information reached earlier at P.S through the 15 when such 15 has been established with the sole mandate and intention to receive the information of cognizable offences at the earliest. No doubt the caller namely Safi has neither been examined nor shown as a witness in the charge sheet, but it is not the requirement of law that every informer even the passerby who put the

law enforcement agency into motion must and should have been put into the pains and hot waters to face the ordeal of the police department. Specifically in this case when all the accused are police officials even the said caller or anybody else would not dare to attend the police staff. For a moment in case such hard and fast rule is developed in the society then nobody would dare to call at 15 to inform for the cognizable offence. It was not the duty of the caller to show himself as a responsible having indulgence in the transforming of the information of the cognizable offence, therefore, the said point of the accused when argued by the advocates for the accused that the said caller were neither examined by the police nor produced before this Court is out of logical and legal consideration. The case of prosecution did not rests on the sole information of the said caller, rather it has further been clarified not only clarified but supported by the recording of 154 Cr.P.C statement by SHO PI Tarique Mehmood of ACLC. To my mind it was branded seal mark to the information of the occurrence, however when it was thoroughly investigated by the staff of P.s Darakshan and thereafter thoroughly scratched in the JIT , the discreet facts, unearthed coupled with the statements of locality persons, besides the CCTV recording.

None of the accused discredited the proceedings of JIT in any way. It is not the case of accused that all the JIT members either to oblige the complainant or keep the media channels mum, proceeded in a biased manner against accused. On the contrary the JIT proceedings consisting upon six sessions unearthed the case of both the parties and examined the same in juxtaposition. The scope of JIT is protected by the Anti-Terrorism Act, that's why a specific provision in this regard in that context has been inserted by the legislature to keep the investigation in a transparent manner while attending all the facts and circumstances of all the parties connected thereto.

The learned advocates for the accused attacked the admissibility of the JIT, let we may consider that the JIT is not the part and portion of the evidence, rather are the proceedings to be deemed u/s: 173 Cr.P.C. However, 173 Cr.P.C is also a part and portion of the mode and manner of investigation, which has to be seen and requires to be considered in its perspective as a whole, while keeping in juxtaposition to the other portions of the evidence collected during investigation, besides keeping the case of both the parties in juxtaposition. It is not denied by the accused that they were not examined by the JIT in those six sessions and their case has not been placed on

record by the JIT in either way with either of the intention. The case law relied on by the learned advocates for the accused reported in PLD 2018 Supreme Court 178 (Province of Punjab through Secretary Punjab Public Prosecution Department and another Versus Muhammad Rafique and others), in the circumstances requires to be taken into consideration as a guidance in respect of all such cases connected thereto and even to that of the case of accused in hand. The relevant placitum of the said case law is reproduce as under:-

13. “The learned counsel has mainly relied upon the report of JIT and also read certain paragraphs therefrom, but the said report is an opinion of the members of the JIT, and it can be considered as a most as report u/s: 173 Cr.P.C. It is settled by now that report u/s: 173 cR>P.C, is inadmissible in evidence, as laid down by this Court in the case of Syed Saeed Muhammad Shah and another V. The State (1993 SCMR 550). The trial Court will appreciate the same if supported by some admissible material/evidence because the Court has to see the material and cannot decide the case upon any opinion of Police Officer/s, even of a higher rank of Inspector General of police”.

The principle setout by the hon'ble Apex Court is permitting the trial Court to evaluate all the material brought before it and no specific view could be formed only on the basis of JIT report. It has been made permissible that the trial Court has to appreciate the same if supported by admissible evidence. In this case besides the JIT, there is sufficient material available on record, which has also been recognized and certified by the JIT thus the findings of the JIT are also to be taken into consideration as a circumstantial piece of evidence collected under the scheme of Criminal Procedure Code and also protected under Anti-Terrorism Act, 1997.

The findings of the JIT are specific with regard to the case of the both parties and the JIT members thoroughly examined all the material pieces of evidence and set forth investigation into the right direction which has recognized the complicity of the accused in all respects and no other findings and case favouring the accused has been find out. The findings recorded by the JIT members at head note of JIT No: 10 having the title “Findings” reads as under:-

“10. FINDINGS

i. On 13.01.2018 Intezar's car was stopped in front of Castle Lights in Bukhari Commercial Area near Khayaban-e-Ittehad by the following 8 officials of Anti Car Lifting Cell (ACLC).

- a. Inspector Tarique Mehmood
 - b. Inspector Azhar Ahsan
 - c. Inspector Tarique Raheem
 - d. P.C Shahid Hussain
 - e. P.C Ghulam Abbas
 - f. P.C Fawwad Khan
 - g. P.C Muhammad Bilal Rasheed
 - h. P.C Muhammad Daniyal
- ii. H.C Ghulam Abbas, who has been nominated in the FIR, was not present at the place of incident when the firing took place.
- iii. The entire Police Party of ACLC was in plainclothes, contrary to the SOP issued by SSP ACLC in shape of a written deployment order.
- iv. P.C Bilal and P.C Daniyal, who were gunmen of SSP ACLC, went to the place of incident to deliver some personal items of SHO Inspector Tarqiue Mehmood. They were off duty and took part in the operation at their own, without any authorization by SHO ACLC Inspector Tarique Mehmood or SSP ACLC Muqudas Haider.
- v. P.C Bilal and P.C Daniyal fired on the vehicle, causing death of Intezar.
- vi. Examination of vehicle shows that there are three bullet marks, and two bullet scratch marks on the right/driver side of the vehicle due to ricochet of the bullet from the road. The evidence conclusively suggests that P.C Bilal's bullet hit Intezar and killed him.
- vii. Eighteen (18) empties were recovered from the crime scene. All eight weapons of ACLC officers were sent for forensic examination, along-with the recovered eighteen (18) empties. Forensic examination shows that only two weapons were used in the incident. Twelve (12) empties were fired from P.C Bilal's weapon and six (6) were fired from P.C Muhammad Daniyal's weapon.
- viii. After the incident, the entire police party fled away from the scene of incident. They should have stopped there and tried to evacuate the victim in an attempt to save his life.
- ix. The allegations of any connection or relation between Ms. Madiha Kiyani, who was present with Intezar at the time of firing incident and SSP Muqudas Haider were found to be incorrect and baseless.
- x. So far no involvement of any friend of Intezar namely Suleman and Saad in the firing incident was found.

xi. During the course of JIT proceedings, involvement or nexus of Dr. Murad Wakeel in the killing of Intezar was found to be incorrect and baseless.

xii. So far the JIT could not find any evidence of involvement of Mah Rukh, Mr. Sohail or Inspector Amir Hameed in the shooting incident of Intezar. No technical or investigative link could be established between Mr. Sohail, Inspector Aamir and the ACLC team involved in the incident. The immigration FIA immigration record shows that Mr. Sohail departed from Pakistan on 5th May 2017 and Mahrugh departed from Pakistan on 18th August, 2017.

xiii. JIT is of the opinion that the incident occurred due to stopping of Intezar's car in a highly unprofessional manner by ACLC team in plainclothes, and unmarked vehicles without any police identification.

xiv. So far the JIT could not find any motive behind this killing. It appears cold-blooded rash and negligent killing by police officials in plainclothes.

xv. The JIT noted that there is no general Standing Operation Procedure (SOP) in black and white to guide police officials for stop and search, delineating the role of plain clothes and unformed personnel.

xvi. The viral video of Madiha Kiyani was recorded at the residence of Asif Khudai Advocate, Kazim Shah made Madiha record this statement under influence of drugs. Later on Madiha retracted from her statement.

11. RECOMMENDATIONS

The Joint Interrogation Team (JIT) is of the opinion that the involved 8 police officials should be challaned for their criminal act of merciless and cold-blooded killing of Intezar in a rash and negligent act, and not rescuing him after the incident. Name of H.C/Ghulam Abbas should be placed in column No: 02 of the charge sheet with blue ink as he was not present at the place of incident when firing took place. The JIT also recommends strict departmental action against the involved Police officials. Inspector General of Police may look into the role of supervisory officers, including SSP ACC Muqudas Haider and DSP ACLC for their failure to implement the Deployment Order issued for checking of vehicles in DHA area.

The JIT further recommends Sindh Police to draft and issue a comprehensive Standard Operating Procedure (SOP) for stop and search operations so that such unfortunate incidents could be avoided in future".

After the scrutiny of entire evidence, it has come in the evidence that accused did not dispute the incident and the manner in which it took place as well as participation of accused in the crime but what stress was that accused had acted while discharging their duty assigned to them to check the crime of vehicles' theft and snatching vide SSP ACLC, CIA notification dated 09.01.2013 particularly in the DHA and Clifton areas of Karachi. The participation of accused has been admitted from the evidence of PWs, the statements recorded by accused u/s 342.Cr.P.C, besides, their admission before interrogation team, it is proved that deceased was followed/chased by accused and were intercepted at Lane No: 05 near Castle Lightening, Bukhari Commercial, DHA-V, Karachi. Accused were armed with official weapons, surrounded the car of deceased, in the meantime, accused PC Bilal Rasheed and PC Daniyal fired upon car, which hit at the neck of deceased and caused his immediate death.

The case of prosecution did not give any other look to declare it to be concocted and managed with either of the design to book the accused at any cost. Not only this but the higher authorities of accused being hierarchy falsified their all pleas, rather did not accept their version adduced in their 154 Cr.P.C, thus this sole aspect at its own even has further strengthened the case of prosecution and drops the pleas of accused put forth in defence.

The accused did not suggest any enmity to complainant or any other private person. The accused PI Tarique Mehmood has admitted presence along with other staff except P.C Bilal Rasheed and P.C Muhammad Daniyal at spot for the chasing and surrounding of car in his statement. So far accused Ghulam Abbas (HC), he has recorded that he was not available at spot as he was at Papas Tea and Food for easement and nothing to do with the alleged offence.

It has been fully established through the ocular and circumstantial evidence that deceased Intizar lost his breath resulting from the fire arm injuries. The defence plea adduced by the accused did not attract the prudent mind, therefore, the defence plea stands repelled and discarded as a whole. No doubt the advocates for the accused attacked the veracity of prosecution witnesses on each count but did not succeed to establish that the case at the outset is false, managed and was concocted to rope the accused falsely.

I seek guidance from the case law reported in 2016 YLR 1028 Karachi wherein it has been held the mere simple denial of accused in statement u/s: 342 Cr.P.C got no value where the prosecution has

successfully discharged its burden in proving the charge against the accused, then the accused cannot take the advantage merely by denying the allegation or pleading innocence in their statements.

So far the accused HC Ghulam Abbas S/o Niaz Ali is concerned, the admission of complainant that as per the police report there is no role of accused Ghulam Abbas (HC) in the CCTV footage, besides, he admitted that he had seen the CCTV footage, in which the accused H.C Ghulam Abbas is not seen. Besides, the admission of PW Muhammad Ashraf Jogi (SIP), that during investigation he came to know that H.C Ghulam Abbas were not available at spot at the time of occurrence. No weapon were recovered from the possession of accused H.C Ghulam Abbas and FSL report also did not show for the weapon used by him. Thus, prosecution has failed in establishing its case against the accused HC Ghulam Abbas S/o Niaz Ali beyond any reasonable doubt. All the material collected during the investigation nowhere amplifies the role of participation and commission of offence by this accused namely HC Ghullam Abbas S/o Niaz Ali, thus charge against him has not been established beyond reasonable doubt.

From the above discussion, I have come to the conclusion that prosecution has proved its case against the accused namely PC Bilal Rasheed and PC Danial for causing fire short injuries at the person of deceased Intizar Ahmed S/o Ishtique Ahmed without any lawful reason and caused his murder through their officials licensed weapons beyond any shadow of doubt. So far the accused PI Tarique Mehmood, PI Tarique Raheem, PI Azhar Ahsan, HC Shahid Usman, PC Fawad Khan and PC Ghulam Abbas, they all participated in the occurrence with their common intention and object in a conjoint manner, rather abeted in the occurrence to the accused PC Bilal Rasheed and PC Danial, did not prevent them nor resist, not to repeat the fire shots and even intentionally and deliberately left the scene without intimating to their high-ups. They also did not perform their lawful duty by arriving at the car of deceased, after the occurrence getting him evacuated by shifting to the hospital to save his life when all such occurrence was within their presence and view and even did not report at hospital to establish their innocence through any of the action. The demeanor of the accused also established that all the accused except HC Ghullam Abas S/o Niaz Ali, who admittedly was not available at spot, created fear, terror and insecurity in the mind of general public available at spot. Resultantly the point Nos. 2, 3 , 4 & 5

stands answered in affirmative, against the accused above named, except accused HC Ghulam Abbas S/o Niaz Ali.

POINT NO: 06

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 P.C Bilal Rasheed and PC Muhammad Daniyal for the offences falling u/s: 7 (1) (a) of ATA, 1997 r/w section 302/34 PPC & 25 of Sindh Arms Act, 2013 for causing murder of deceased Intizar Ahmed through firearm weapons. The prosecution has also been able to establish the charge against accused Tarique Mehmood S/o Ghulam Kibriya (PI), Tarique Raheem S/o Fazal Raheem (PI), Azhar Ahsan S/o Muhamamd Ahsan (PI), Shahid Usman S/o Usman Ghani (PC), Fawad Khan S/o Abdul Qayoom (PC), and Ghulam Abbas S/o Ghulam Raza (PC), for the offence punishable u/s: section 7 (1) (a) and 21-I of ATA, 1997 r/w section 302/109/113 for facilitation, aiding and abetment with their common intention and object, abetted the offence of extermination of deceased Intizar shot by Bilal Rasheed (PC) S/o Muhammad Rasheed and Muhammad Daniyal (PC) S/o Muhammad Naeem Azam with their common intention and object infront of Castle Lightening, Lane No: 05, DHA Karachi. 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 namely Muhammad Daniyal (PC) S/o Muhammad Naeem Azam and Bilal Rasheed S/o Muhammad Rasheed (P.C) for the offence under section 7 (1) (a) of Anti-Terrorism Act, 1997 for causing death of deceased Intezar Ahmed, sentenced and both the accused shall be hanged by neck till they dead 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 namely Muhammad Daniyal (PC) S/o Muhammad Naeem Azam (PC) and Bilal Rasheed S/o Muhammad Rasheed for the offence 302 (a) PPC r/w section 34 PPC and sentenced them to death/ hanged by neck till their death.
- iii) I hereby convicted the accused namely Muhammad Daniyal (PC) S/o Muhammad Naeem Azam for the offence

under section 25 of SAA, 2013, and sentenced him to suffer imprisonment for (10) Ten years and to pay fine of Rs. 50,000/- (Fifty Thousand), in case of default he shall suffer S.I for three months.

- iv) I hereby convicted the accused namely Bilal Rasheed (PC) S/o Muhammad Rasheed for the offence punishable under section 25 of SAA, 2013, and sentenced him to suffer imprisonment for (10) Ten years and to pay fine of Rs. 50,000/- (Fifty Thousand), in case of default he shall suffer S.I for three months.
- v) I hereby convicted the accused namely Tarique Mehmood S/o Ghulam Kibriya (PI), Tarique Raheem S/o Fazal Raheem (PI), Azhar Ahsan S/o Muhamamd Ahsan (PI), Shahid Usman S/o Usman Ghani (HC), Fawad Khan S/o Abdul Qayoom (PC), and Ghulam Abbas S/o Ghulam Raza (PC) 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.
- vi) I hereby convicted the accused namely Tarique Mehmood S/o Ghulam Kibriya (PI), Tarique Raheem S/o Fazal Raheem (PI), Azhar Ahsan S/o Muhamamd Ahsan (PI), Shahid Usman S/o Usman Ghani (HC), Fawad Khan S/o Abdul Qayoom (PC), and Ghulam Abbas S/o Ghulam Raza (PC) for the offence u/s: 302 PPC r/w section 109/113 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.

The sentences on all accounts shall run concurrently. The accused are entitled to the benefit of section 382 (b) Cr.P.C. In that case the period undergone by them as under trial prisoners should be adjusted towards the substantive sentence now imposed upon them. The fine amount if recovered shall be paid to the legal heirs of deceased us/: 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.

The accused namely H.C Ghulam Abbas S/o Niaz Ali is present on bail and against him prosecution has failed to establish the charge, therefore, he is hereby acquitted u/s: 265-

H(i) Cr.P.C. He is present on bail, his bail bonds stand(s) cancelled and surety is discharged.

The reference/proceedings for confirmation of death sentence be made/submitted to the Hon'ble High Court of Sindh, Karachi through Worthy Registrar as required u/s: 374 Cr.P.C forthwith.

Let the copy of this judgment be supplied to the accused free of cost and so also to the prosecution, the judgment and R&Ps be submitted to the Honourable High Court of Sindh, at Karachi pursuant to the section 25(2) of Anti-Terrorism Act, 1997.

Pronounced in open Court.

Given under my hand and seal of the Court

This 25th Day of October, 2021.

(ABDUL QUDOOS)

Judge

**Anti-Terrorism Court No: VII,
Karachi.**

PROPERTY ORDER

The Case property viz eight 09mm official pistols, 18 empties of 09mm bore pistols recovered from the place of occurrence, be deposited in District Armory concerned for disposal according to law after expiry of appeal period, whereas, Toyota Corolla Grande Car bearing No: BLE-254 of deceased along with his belongings be restored to father of deceased accordingly, after the expiry of appeal period. If appeal is preferred after the fate of such appeal.

(ABDUL QUDOOS)

Judge

**Anti-Terrorism Court No: VII,
Karachi.**