

CJS: STUDY OF THE SUPREME COURT JUDGMENTS ON CRIMINAL APPEALS AND CONSTITUTIONAL PETITIONS REPORTED IN THE SCMR 2019 TO 2022

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ABSTRACT

This research article covers determination of flaws in the criminal justice system of Pakistan. This research is based on the overview of the judgments of the Supreme Court in criminal cases and appeals reported in the SCMR 2019 to 2022. In these four year's journal total 173 such criminal appeals and petitions were reported, out of which 40% criminal appeals and jail petitions were allowed by the Supreme Court, conviction and sentences against the accused persons were set aside and accused were acquitted, in 11% criminal appeals and jail petitions either conviction was altered or sentence was reduced. However only 32% criminal appeals and jail petitions seeking leave to appeal were dismissed and convictions and sentences were kept upheld by the Supreme Court.

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1. INTRODUCTION

In every country there is a Criminal Justice System with the object to deter crime, address the grievance of complainant and convict accused if proven guilty. In Pakistan Criminal Justice system has following four main pillars.

- (1) Police (law enforcement);
- (2) Prosecution
- (3) Courts; and
- (4) Prison or corrections

However it appears that accused are not convicted and succeed to get acquittal due to various reasons. To determine the flaws in the criminal justice system and its effects study of the murder cases/appeals/petitions decided by the Supreme Court was conducted. In this regard such cases reported in the SCMR 2019 to 2022 were examined. All the examined cases were murder cases reached at the forum of Supreme Court in the shape of criminal appeals and jail petitions filed against the acquittal, conviction or for the enhancement of the sentence. In these four year's journal total 173 such criminal appeals and petitions were reported, out of which 40% criminal appeals and jail petitions were allowed by the Supreme Court, conviction and sentences against the accused persons were set aside and accused were acquitted, in 11% criminal appeals and jail petitions either conviction was altered or sentence was reduced. However only 32% criminal appeals and jail petitions seeking

leave to appeal were dismissed and convictions and sentences were kept upheld by the Supreme Court. Acquittal ratio shows that the period accused suffered while facing these criminal trials cannot be ignored and there can be no compensation for such sufferings. It also appears from the result of this study that there are lot of flaws in the criminal justice system of the country consequently only 32% convictions and sentences could be upheld at the forum of Supreme Court and rest of the cases whole the process went inconsequential with wastage of resources and time. It also appears from this study that main cause of the allowing appeals by the Supreme Court was that case could not be proved against the accused due to various reasons and mainly it was the prosecution failure to prove its case beyond reasonable doubt.

2. LITERATURE REVIEW

When an offence is registered at Police station, criminal law comes in motion. In Pakistan there are two modes of crime reporting one is manual and second is online. In Sindh and Balouchistan Province for registration of crime victim or informant has to come Police station physically and state his/her case, on the basis of stated facts if cognizable offence is made Police Officer has to write down his case on the prescribed form, however in Punjab and Khyber Pakhtunkhwa Provinces in addition to manually registration of crime there is also an option of registering crime online. (Laghari Raza, 2023) According to Supreme Court “criminal act is injurious to society as a whole, not just to an individual” (NLR, Page 555, 2008) Only precondition required for registration of F.I.R is that the information should disclose a cognizable offence on the face of the allegation. (Mst Khan bibi and others versus Abdul Malik and others, P.Cr.L.J 2012, Page 282) Supreme Court held that like any other accused person petitioner has right of all statutory safeguards but on the basis of holding previously high offices or status of the house of Parliament he has no immunity. Citizens without regard of their status have been guaranteed equality. (Abdul Rehman Malik versus Synthia D Ritchie and others, SCMR 2020, Page 2037). Police conducts investigation of the case. (PLD Lah page 8, 2013). However in many of the cities even Police don't have basic investigation tools (Kausar, 2023).

Investigation is conducted for the purpose of formation of opinion that collected material implicates the accused. (P.Cr.L.J, Page 1357, 1999) Except big cities there is no crime scene unit in Police which is required to be established for proper pursuance of justice (Shabana Kousar, 2023). In every investigation there are administrative, judicial and executive phases (SCMR, Page 304, 1997) In cognizable offences Police is empowered to arrest. For such arrest there is no need to seek warrant of arrest from the Magistrate. Police cannot be left to caprice, arrest and detention of persons without warrant are to be covered by the rules and principles of law (MLD, Page 271, 2010). After completion of investigation Police officer has to submit its report under section 173 of Cr.P.C in case of failure to submit final report; an interim report is required to be submitted, the result of investigation until that time period shall be mentioned in such report. (SCMR, Page 1430, 2011). Police has also the power to withdraw and submit fresh challan (P.Cr.L.J, Page 660 Pesh, 2001) Submission of report under section 173 has no concern with this fact that what mode has been adopted by the investigation officer (PLD, Page 243, 2007) In Sind second largest Province of Pakistan there is a huge gap of forensic medico legal facilities between Karachi and other cities of Sindh and also between city and village. Autopsy centers are not properly equipped and there is a very miserable condition at autopsy centers, even in rape cases medico-legal examination is done very carelessly and delayed by several hours due to non-presence of lady MLO and all evidence destroyed which results in injustice (Shabana Kausar, 2022). Collection of the evidence is not within the domain of the Courts (P.Cr.L.J, Page 1054, 2001). “Behind the process of reinvestigation there is always instance of influential people and by it favourable reports are obtained” with such declaration the Supreme Court of Pakistan has disapproved the system of re-investigation (Bahadur Khan v Muhammad Azam, SCMR 2006, Page 373, Page 373). On the basis of Police report and collected material accused will have to face trial or any order to be passed by concerned Magistrate (SCMR, P.1430, 2011).

Court under section 190 Cr.P.C takes cognizance of the case on the basis of Police report, complaint or information other than Police. Court frame charge against the accused person, after recording evidence of the prosecution side and then accused side, announce judgment, which may be either of acquittal or conviction. In cases covering the death penalty accused persons are awarded and executed death punishment though they have remained in pre-conviction detention for a long period. If an accused person has been awarded a sentence of imprisonment he can be given benefit under section 382-B of Cr.P.C but there is no such provision in the case if an accused is awarded death punishment. (Laghari Raza, CJS: Pre-Conviction Detention and Question of Double Jeopardy. A Critical Study of the Legal Status of Death Penalty in Pakistan, 2023) In a case law reported P.Cr.L.J at page 2892 it has been held by honourable Court that “in administration of justice time is not essence but importance of time cannot be ignored” justice delayed is deemed as justice denied (P.Cr.L.J, Page 2892,

1986) A Public Prosecutor has not to act as counsel of any party but his duty is to assist the Court (P.Cr.L.J, Page 440, 1986) Supreme Court has held that general rule for each criminal case is that case is to be proved beyond reasonable doubt. Accused only have to give explanations of the prosecution evidence which has been required by the section 342 of the Cr.P.C. Accused should be given benefit if such explanation is consistent with his innocence though may not be beyond the doubt. (SCMR, Page 1813, 2011)

In dispensation of the justice which is essential and primary obligation of the Courts; evidence of the case available on record is to be read, consider and conceive accurately by the Courts of Law” (PLD, S.C, 2001) Where there are two explanations possible one favouring the accused is to be accepted (PLD, Kar 152, 2002) It has been held by honourable superior Court that benefit of doubt is a matter of right in case of any doubt, not being artificial. In criminal cases there is no mathematical formula for acceptance or rejection of evidence because of in each case circumstance are different and Court has to consider evidence upon its intrinsic value (FSC, P.Cr.L, Page 374, 2014)It has been held in a case reported in the P.Cr.L.J 2001 page 1507 that an accused should not be deprived of his defence, same being his legal and legitimate right especially when question of his life is involved. (P.Cr.L.J page 1507, 2001)

Court has to base conviction upon a firm and straight forward convincing prosecution evidence and initial onus never shifts upon accused” (YLR, Page 1580, 2011) Before completion of trial court can acquit the accused if on the basis of available evidence and other material it is of the opinion that there is no chance of conviction. High Court has inherent powers under section 561-A Cr.P.C. Under this power Court may pass such order as could be necessary. For this it is not necessary to wait for the orders of trial court under 249-A or 265-K of Cr.P.C. (P.Cr.L.J, P. 897, 2014). Supreme Court has held that “law is a living organ and it is the duty of the Court to adopt a realistic and pragmatic approach for its application, looking to the peculiar facts and circumstances of each case” (PLD, Page 642, 2010)

Problem Statement

It is the responsibility of the State to keep control on crime and provide safe environment to its citizens where they can pass their lives peacefully without any fear. If anyone violates law, he should be convicted. In this regard there is a criminal justice system in the country comprising of Police, Prosecution, Court and Prison. However due to various reasons this system could not succeeded in the smooth delivery of justice and citizens of the country do not feel secure themselves. Trial of murder case and other heinous offences should be conducted at a centralized court/jail (Laghari Raza, CJS: Flaws in the Court system, its effects and an option of centralized Court system, 2024) Though many research articles relevant to Criminal Justice System have been published but still there is need of more exploration. Existence of flaws in the system is a question which through study of the judgments of the Supreme Court reported in the SCMR can be determined.

Research Objectives

Objectives of this research article are given below

1. To determine flaws in the criminal justice system by study of the judgments of Supreme Court on criminal appeals, revisions and constitutional petitions, reported in SCMR
2. To give recommendations for improvement

3. RESEARCH METHODOLOGY

To conduct research on the subject topic this researcher has chosen qualitative research methodology, based on the study of judgments of the Supreme Court on various criminal appeals, revisions and constitutional petitions. In this regard required data has been collected from the judgments reported in the SCMR 2019 to 2022.

**CRIMINAL APPEALS AND PETITIONS IN MURDER CASES
REPORTED IN SCMR 2019**

S.No	Title of the case before Supreme Court	Decision	Reasons
1	Munir Ahmad and another versus the State and others	Appeal allowed, accused acquitted	Defective evidence, benefit of doubt
2	Abdul Jabbar and another versus the State	Appeal allowed, accused and co-accused acquitted	Prosecution failure
3	Altaf Hussain versus the State	Appeal against conviction allowed, accused acquitted	Prosecution failure
4	Majeed alias Majeedi and others versus the State and others	Appeal against conviction allowed, accused acquitted	Prosecution failure, benefit of doubt
5	Nazeer Ahmed versus the State and others	Appeal against conviction dismissed	Already sentence was reduced by the High Court
6	Muhammad Akram alias Akrai versus the State	Conviction maintained, death sentence converted into life imprisonment	Prosecution successfully established case
7	Muhammad Arif versus the State	Appeal against conviction allowed, accused acquitted	Defective evidence,
8	Muhammad Ashraf alias ACCHU versus the State	Appeal against conviction allowed, accused acquitted	Defective evidence, benefit of doubt
9	Sajjan Solangi versus the State	Jail petition allowed, accused acquitted	Defective evidence, Extra judicial confession not admissible
10	Somaid and other Versus Ali Gohar alias Gohar Zaman and others	Appeal allowed, accused acquitted	Defective evidence, Person recording dying declaration was not examined,
11	Muhammad Shafi alias Kuddoo versus the State and others	Appeal allowed, accused acquitted	Delay in reporting crime, defective evidence
12	Muhammad Rafique alias Feeqa versus the State	Appeal against conviction allowed	Delay in postmortem
13	The State versus Muhammad Rafiq and others	Appeal against acquittal dismissed	Defective evidence/investigation
14	State versus Hassan Jalil and others	Appeal against acquittal dismissed	Prosecution case doubtful
15	Asad Rehmat versus the State and others	Appeal against conviction allowed, accused acquitted	Police failure, material witnesses not examined
16	Ahsan Shahzad and another versus the State	Appeal against conviction dismissed	Prosecution case successful
17	Mansab Ali versus the State	Appeal against conviction allowed, accused acquitted	Prosecution case doubtful
18	Nazeer Ahmed versus the State and another	Leave to appeal against conviction dismissed	Supporting evidence, Case established
19	Saleem Zada and others versus the State and others	Leave to appeal against conviction dismissed	Supporting evidence, Case established
20	Muhammad Bilal versus the State and others	Appeal dismissed	Prosecution case established
21	Muhammad Sharif and others versus the State and others	Conviction maintained, death sentence converted into life imprisonment	
22	Tariq Ali Shah and another versus the State and others	Appeal against conviction allowed, accused acquitted	Inconsistency in the evidence, recovery, injuries and weapon,
23	Tariq Shah and others versus the State and others	Appeal against conviction allowed, accused acquitted	Prosecution failure in evidence and forensic side
24	Alamgir versus Gul Zaman and others	Appeal dismissed	High Court decision was maintained

Multicultural Education

25	Shewaiz Rasool alias Shabi versus the State and others	Appeal allowed	Rule of consistency
26	Bashir Ahmed and others versus the State	Appeal against conviction allowed, accused acquitted	Defective evidence, I.O and other witnesses not examined, benefit of doubt
27	Wajahat versus Gul Daraz and another	Appeal allowed	Defective evidence
28	Kareem Nawaz Khan versus the State	Death sentence converted into life imprisonment	
29	Rajmeer Khan and another versus Noor ul Haq and others	Appeal against conviction allowed, accused acquitted	Truth mixed with falsehood, benefit of doubt
30	Muhammad Tariq Ramzan versus the State	Conviction maintained, acquitted from the charge of section 7 of ATC	
31	Safdar Mehmood and others versus Tanvir Hussain and others	i.Appeal against conviction allowed ii.Appeal for enhancement of sentence dismissed	i.Case not established, Trial court wrongly concluded ii.12 years old incidence, sentence already served
32	Manzoor Ahmed Shah versus the State and others	Appeal against conviction allowed	Motive not proved, crime empties not recovered, defective evidence
33	Munir Ahmed and others versus the State	Jail petition converted into appeal and allowed, accused acquitted	Exaggeration in the facts of the case
34	Nawab Ali versus the State	Death sentence converted into life imprisonment	Prosecution failed to prove alleged motive
35	Haroon Bin Tariq and others versus the State and others	Jail petition converted into appeal and allowed, Co accused sister acquitted, conviction of the main accused upheld	
36	Muhammad Amin versus the State and another	Appeal against conviction allowed, accused acquitted	Defective evidence
37	Khurram versus the State and others	Appeal allowed	Prosecution failure
38	Noor Ahmad versus the State and other	Appeal against conviction allowed	Delay in conducting post mortem
39	Muhammad Azad alias javaid alias Jodi versus the State and others	Appeal dismissed	Prosecution case dismissed
40	Ali Raza alias Peter and others versus the State and others	Appeal dismissed, conviction and sentence altered	Accused has right of fair trial
41	Muhammad Akbar alias Bhola and others versus the State	Appeal against conviction dismissed	Accused desperate person
42	Mian Sohail Ahmed and others versus the State and others	Appeal against conviction allowed, accused acquitted	Recover of pistol doubtful, identification parade untrustworthy
43	Muhammad Zubair and another versus the State and another	Appeal against conviction allowed, accused acquitted	Prosecution case doubtful
44	Iftikhar Ahmad versus the State	Death sentence converted into life imprisonment	Prosecution lapse
45	State versus Olufemi	Appeal against acquittal dismissed	
46	Nadeem Hussain versus the State	Appeal against conviction allowed, accused acquitted	Prosecution failure, case against accused not established

In SCMR 2019 number of criminal appeals and petitions was 46, out of these 29 criminal appeals and petitions were allowed, conviction and sentences passed against the accused persons were set aside and accused

were acquitted, however in 5 criminal appeals and petitions conviction was either altered or sentence was reduced, where as only 8 criminal appeals and petitions for leave to appeal were dismissed and leave was refused. Study of these judgments shows that mostly appeals were allowed on the basis of doubt in the prosecution case; there was prosecution failure to prove the case against the accused beyond reasonable doubt. Case against the accused and co-accused could not be proved by the prosecution beyond reasonable doubt, consequently appeal was allowed and accused and co accused were acquitted from the charges of murder. (Abdul Jabbar and another versus the State, SCMR, Page 129, 2019).

Failure to establish a case against an accused covers multi sides. There was no independent corroboration for ocular and medical evidence. (Munir Ahmad and another versus the State and others, SCMR 2019, Page 79) Timely reporting crime at Police Station, visit of the place of incident, timely conducting post mortem, and timely recording statement of the persons acquainted with the facts of the case, confessional statement, sending weapon and empties for forensic laboratory report are most important facts affecting the criminal case and in all these time is essence. (Muhammad Shafi alia Kuddoo versus the State, SCMR 2019, Page 1045) Unexplained delay of 22 hours in conducting post mortem report, criminal appeal allowed. (Muhammad Rafique alias Feeqa versus the State, SCMR, Page 1068)

A set of witnesses disbelieved to the extent of some accused then without there being any independent and strong corroboration same could not be believed to the extent of remaining accused facing the same trial, while allowing appeal and acquitting accused from the charge Supreme Court declared that case against accused could not be established by the prosecution beyond the reasonable doubts. Supreme Court (Altaf Hussain versus the State, SCMR 2019, Page 274) Presence of complainant at scene of occurrence was doubtful, appeal against acquittal dismissed by Supreme Court (The State versus Muhammad Rafiq and others, SCMR 2019, Page 1150) In the criminal acquittal appeal State versus Hassan Jalil and others reported in SCMR 2019 page 1155 Supreme Court dismissed criminal appeal against acquittal and upheld the decision of High Court for acquittal. Supreme Court held that the prosecution case was doubtful. (State versus Hassan Jalil and others, SCMR 2019, Page 1155)

One of the flaws noted from these cases is defective Police case made out against the accused persons. Conducting identification parade of the accused person is also one of the part of that. Members of the complainant party got opportunities to see the accused persons before the trial court on many occasions before making their depositions hence identification was unsafe in the case. Apex Court set aside conviction and sentence against the accused by extending benefit of doubt. Supreme Court in its judgment declared that case against accused cannot be proved by the prosecution beyond the reasonable doubt. (Majeed alias Majeedi and others versus the State, SCMR 2019, Page 301)

Eye witnesses were chance witness, they had not witnessed the occurrence and the prosecution story was concocted by the prosecution witnesses. It was further held that motive was always a double edged weapon; benefit of slightest doubt must go to accused. Supreme Court while allowing appeal set aside the conviction and sentence against the accused and acquitted accused from the charge (Muhammad Ashraf alias ACCHU versus the State, SCMR 2019, Page 652)

Importance of calling material witnesses in the witness box and recording their statement cannot be ignored. Besides evidence of the witnesses sole confessional statement of the accused person can also be base of conviction if recorded in accordance with settled principles, however extra judicial confession is not admissible. Supreme Court further held that hearsay evidence cannot made basis of conviction. Father of the deceased was not examined nor was he summoned to confirm the assertion made by the two witnesses. Medical evidence at the most could be supporting evidence to the ocular account but it could not identify the assailant by itself. Supreme Court converted this jail petition into an appeal and allowed the same, conviction and sentence against the accused was set aside, and he was acquitted from the charge. (Sajjan Solangi versus the State, SCMR 2019, Page 872)

Person who recorded dying declaration was conspicuously missing in the array of witnesses and thus dying declaration could not be relied upon. Criminal appeal was allowed and conviction and sentence against the accused was set aside by the Supreme Court, accused acquitted from the charge of murder. (Somaid and others versus Ali Gohar alias Gohar Zaman and others, SCMR 2019, Page 1008)

However where prosecution successfully proved case against the accused at trial court, conviction and sentence remained upheld by the Supreme Court. In the case of Nazeer Ahmed versus the State Supreme Court declined to interfere with the impugned judgment of High Court consequently appeal against conviction was dismissed. (Nazeer Ahmed versus the State and others, SCMR 2019, Page 594) In the criminal appeal Ahsan Shahzad and another versus the State and others Supreme Court dismissed appeal against the conviction and

sentence and held that prosecution had successfully brought home guilt of the accused to hilt so far as the murder of deceased. (Ahsan Shahzad and another versus the State and others, SCMR 2019, Page 1165)

Ocular evidence in any criminal case is most important and can be base of conviction of the accused. In the case of Muhammad Akram alias Akrai versus the State Supreme Court maintained the conviction however sentences for death was converted into imprisonment for life and held that eye witnesses in their evidence before the Trial Court in a straightforward manner held the accused responsible for the murder of deceased. (Muhammad Akram alias Akrai versus the State, SCMR 2019, Page 610) However if ocular evidence is flawed or exaggerated it can result in the acquittal of the accused. Witness made improvement in his statement hence conviction and sentence of an accused on capital charge on such testimony cannot be bases upon. For this reason Supreme Court allowed appeal, conviction and sentence recorded against the accused were set aside and accused was acquitted of the charges framed against him. (Muhammad Arif versus the State, SCMR 2019, Page 631)

During course of investigation to seal crime empties, recovered weapon and other things and sending them for forensic lab examination or other laboratories is an important technical job which required to be performed by the trained Police officer but in our country most of the Police personnel is not trained in this field. Supreme Court in the criminal appeal Asad Rehmat versus the State and others held that Police failed to secure casings ejected from their own weapons statedly used against the accused. Conviction and sentence of the accused was set aside by the Supreme Court and accused was acquitted from the charges. Apex Court held that material witnesses have not been examined. (Asad Rehmat versus the State, SCMR 2019, Page 1156)

Prosecution case was fraught with doubts, conviction and sentence set aside, accused acquitted. (Mansab Ali versus the State, SCMR 2019, Page 1306) Supreme Court in the matter of Shewaiz Rasool alias Shabi versus the State and others held that all reasons were squarely applicable to the case of accused as well. Apex court allowed this criminal appeal on the basis of rule of consistency and acquitted the accused from the charge. (Shewaiz Rasool alias Shabi versus the State and others, SCMR 2019, Page 1448) Conviction was based upon hearsay queries, accused acquitted from the charge (Wajahat versus Gul Daraz and another, SCMR 2019, Page 1451)

Though the deceased was wounded critically, his narrative with medical officer was straight forward and confidence inspiring besides being in harmony with the ocular account and medical evidence, Supreme Court dismissed leave to appeal and refused leave (Nazeer Ahmed versus the State and another, SCMR 2019, Page 1308) Evidence of the witnesses confirmed circumstances and during cross examination they remained inconsequential and as such conviction and sentences awarded the accused persons consequent thereupon did not call for interference. Apex Court dismissed leave to appeal and leave was refused. (Saleem Zada and others versus the State, SCMR 2019, Page 1309) Supreme Court held in its judgment that cautious analysis of evidence on record irresistibly lead to the conclusion of accused's guilt, criminal appeal dismissed (Muhammad Bilal versus the State and others, SCMR 2019, Page 1362)

Supreme Court in the matter of Tariq Ali Shah and another versus the State and others held prosecution's case failed on investigation and forensic sides that injuries on the deceased mentioned in the autopsy reported were inconsistent with the weapon seized from the accused. Such fact cast away the hypothesis of accused's arrest soon after the occurrence alongside the weapon of the offence. Supreme Court allowed this criminal appeal, conviction and sentence of the accused was set aside and accused was acquitted from charge. (Tariq Ali Shah and another versus the State and others, SCMR 2019, Page 139)

Non examination of the investigating officer alongside some other witnesses exposed the accused to a grievous prejudice. It would not be safe to maintain the conviction of the accused as case against accused was doubtful. Supreme Court allowed criminal appeal and conviction and sentence of the accused was set aside and accused was acquitted from charge of murder by the Supreme Court (Bashir Ahmed and others versus the State, SCMR 2019, Page 1417)

Supreme Court in the criminal appeal titled as Rajmeer Khan and another versus Noor ul Haq and others held in its judgment that truth regarding the occurrence was very heavily mixed with something which was untrue. In such circumstances it was impossible to discern the truth from a heap of falsehood and thus the court was left with no other option but to acquit the present accused. Conviction and sentence of the accused was set aside and accused was acquitted from the charge. (Rajmeer Khan and another versus Noor ul Haq, SCMR 2019, Page 1949)

In the case of Safdar Mehmood and others versus Tanvir Hussain and others Supreme Court allowed criminal appeal against conviction and dismissed appeal to enhance the sentence and held that there was unexplained delay in postmortem examination. (Safdar Mehmood and others versus Tanvir Hussain and others,

SCMR 2019, Page 1978)

Supreme Court in the matter of Manzoor Ahmed Shah versus the State and others accepted compromise between the parties and allowed the appeal. Supreme Court declared that motive was not proved and crime empties are not recovered. No evidence was available regarding sharing of common intention by accused persons with their co-accused, consequently conviction and sentence awarded to accused persons for murder was set aside. (Manzoor Ahmed Shah versus the State and others, SCMR 2019, Page 2000)

In the jail petition titled Munir Ahmed and others versus the State Supreme Court held that exaggerated numbers of assailants were implicated. Circumstances suggest that occurrence did not take place in the manner as alleged, converted jail petition into appeal and allowed and acquitted the accused persons. (Munir Ahmed and others versus the State, SCMR 2019, Page 2006)

Supreme Court in the criminal appeal titled Nawab Ali versus the State held that prosecution failed to establish motive alleged by it. Supreme Court in this criminal appeal exercised caution and converted death sentence to imprisonment for life on each count of charge (Nawab Ali versus The State, SCMR 2019, Page 2009)

Supreme Court in the case of Haroon Bin Tariq and others versus the State and others held that when accused persons could conveniently accomplish the task on their own, it was not expected that they would allow their co-accused sister and mother to join them in the assignment. Conversely it was hard to contemplate that a mother would set off her accused sons on a course that may possibly take them to the gallows, that too, for a trivial motive. Mother had been acquitted by the court below. Supreme Court converted jail petition into appeal and allowed, co-accused sister was acquitted from the charge. Supreme Court acquitted co-accused sister. Supreme Court upheld the sentence under section 302 (b) P.P.C however conviction and sentence of accused under section 7 of Anti Terrorism Act 1997 was set aside. (Haroon Bin Tariq and others versus the State and others, SCMR 2019, Page 2014)

In the case of Muhammad Amin versus the State and another Supreme Court held that positive report of crime empties secured from the place of occurrence sent to the office of Forensic Science Agency was of no avail to the prosecution and was inconsequential as empties were sent after the arrest of accused. Criminal appeal was allowed, conviction and sentence passed against the accused was set aside and accused was acquitted from the charge. (Muhammad Amin versus the State and another, SCMR 2019, Page 2057)

Supreme Court in the case of Khurram versus the State and others declared that advance stage of putrefaction of the dead body with elimination of facial feature without DNA analysis, represented a real issue regarding the identity of the corpse. Corpse was recovered in pursuance of a recorded joint disclosure of accused and co-accused, one by one, but in the same session. Criminal appeal was allowed and the accused was acquitted from the charge by the Supreme Court. Supreme Court held that script of prosecution was far from being plausible. Acquittal of the identically placed co-accused added to the doubts regarding statement of witnesses. (Khurram versus the State and others, SCMR 2019, Page 1317) Supreme Court in the case of Noor Ahmad versus the State and other criminal appeal was allowed, conviction and sentence passed against the accused was set aside by the Supreme Court. It was held by the Supreme Court that there was delay in conduct of post mortem, casing/crime empty was dispatched for forensic analysis a day before the arrest of accused which causes a suspicion. (Noor Ahmed versus the State and other, SCMR 2019, Page 1327)

Supreme Court in the case of Muhammad Azad alias javaid alias Jodi versus the State and others reported in the SCMR 2019 page 1330 dismissed this appeal and held that accused's guilt was proved to the hilt on the basis of chain of circumstances, well synchronized with one another and intrinsically confidence inspiring. (Muhammad Azad alias javaid alias Jodi versus the State and others, SCMR 2019, Page 1330) In the case of Ali Raza alias Peter and others versus the State and others Supreme Court held that the sentencing offenders is a judicial province. Accused is entitled as of right to a fair trial by a tribunal designated by law with a meaningful opportunity to vindicate and defend his position both before prosecuting authority as well as the Court. Supreme Court though dismissed criminal appeal; however conviction was altered to one under section 302© and accused persons were sentenced for ten years in this case of double murder. (Ali Raza alias Peter and others versus the State and others, SCMR 2019, Page 1993)

Supreme Court in the case of Muhammad Akbar alias Bhola and others versus the State and others dismissed the criminal appeal and petition in above case and maintained conviction and sentence of death against the accused persons. Supreme Court held that accused persons appeared to be desperate persons evoking no sympathy in the matter of their sentence of death. (Muhammad Akbar alias Bhola and others versus the State and others, SCMR 2019, Page 2036)

In the case of Mian Sohail Ahmed and others versus the State and others Supreme Court held that recovery of the pistol is doubtful, Joint parade passed for suggestive and indicative identification, rendered test identification unsafe and untrustworthy. Both the accused persons in the present case were jointly seated in the lineup during test identification parade. Supreme Court allowed the appeal, conviction and sentence against the accused was set aside and acquitted him from the charge. Supreme Court (Mian Sohail Ahmed and others versus the State and others, SCMR 2019, Page 956) Supreme Court in the criminal appeal titled Muhammad Zubair and another versus the State and another held that it would not be safe to maintain conviction as on the whole prosecution case was fraught with doubts. Criminal appeal was allowed, conviction and sentence was set aside, and accused and co-accused were acquitted from the charge. Supreme Court (Muhammad Zubair and another versus the State and another, SCMR 2019, Page 1210)

Supreme Court in the case of Iftikhar Ahmad versus the State held that prosecution's failure to carry out DNA profile generation of rectal and vaginal swabs was a most grievous lapse that in retrospect made out a case to revisit the sentence of accused. Supreme Court in this criminal appeal altered the death sentence on all counts to imprisonment for life. Supreme Court held that investigative process and conclusion thereof inexorably pointed toward the accused's culpability. (Iftikhar Ahmad versus the State, SCMR 2019, Page 1224) Supreme Court in the case of State versus Olufemi dismissed appeal against the acquittal and declared that much water had flown under the bridge, and contraband had since been destroyed. (State versus Olufemi, SCMR 2019, Page 1284) Supreme Court in the case of Nadeem Hussain versus the State held that case against accused has not been established by the prosecution beyond reasonable doubt. In normal cases confession before Police is inadmissible however under section 21-II of the Anti Terrorism Act 1997 it is conditionally admissible which require that there must be some other evidence, including circumstantial evidence connecting the accused person with alleged offence. This criminal appeal was allowed, conviction and sentence was set aside by the Supreme Court. Supreme Court acquitted the accused from the charge and (Nadeem Hussain versus the State, SCMR 2019, Page 1290)

CRIMINAL APPEALS AND PETITIONS IN MURDER CASES REPORTED IN SCMR 2020

S.No	Title of the case before Supreme Court	Decision	Reasons
1	Dad Muhammad versus the State	Appeal against conviction allowed, accused acquitted	Defective evidence
2	Sufyan Nawaz and another versus the State and others	Appeal against conviction allowed, accused acquitted	Prosecution failed to prove case beyond doubt
3	Muhammad Mumtaz versus Mehtab and another	Appeal for enhancement of sentence dismissed	Convicted already served sentence
4	Safdar Abbas and others versus the State and others	Appeal against conviction allowed. Complainant petition for enhancement of sentence dismissed	Flawed evidence
5	Fayyaz Ahmed and another versus Muhammad Khan and others	Sentence reduced	
6	Imtiaz alias Taji and another versus the State and others	Conviction upheld, death sentence converted into life imprisonment	Prosecution case successful
7	Nawab Siraj Ali and others versus the State	Leave to appeal granted to consider plea of the petitioner	Flaws and contradictions in the prosecution case
8	Muhammad Ilyas and another versus Ameer Ali and another	Appeal against conviction allowed, accused acquitted	Case not proved beyond doubt, prosecution failed to establish motive
9	Mst Mir Zalai versus Ghazi Khan and others	Appeal against acquittal dismissed	Prosecution evidence was not reliable
10	Ghulam Nabi versus Ikram alias Kama and others	Appeal against acquittal dismissed	Prosecution suppressed the facts
11	Mst Yasmeen versus Javed and another	Appeal against acquittal dismissed	Prosecution case doubtful
12	Farman Ali and others versus the State	leave to appeal against	Material discrepancy was

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		conviction refused	not found in the prosecution evidence
13	Aurangzeb versus the State	leave to appeal against conviction declined	Case proved
14	Mukhtar Alam versus Fazal Nawab and another	Conviction upheld, death sentence converted into life imprisonment	
15	Muhammad Rafique alias Neela and another versus the State and others	leave to appeal against conviction refused, petition dismissed	Case proved
16	Sadiq Ali versus the State	leave to appeal against conviction refused, petition dismissed	Case proved
17	Islam Sharif versus the State	leave to appeal against conviction declined, petition dismissed	Case proved
18	Muhammad Asif and another versus Mehboob Alam and others	leave to appeal against conviction refused, petition dismissed	Prosecution case established
19	Muhammad Imran versus the State	Appeal allowed	Prosecution case doubtful
20	Fateh Sher versus the State	Leave granted for appraisal of evidence	Prosecution failure
21	Raza and another versus the State	Petition for leave to appeal converted into appeal and partly allowed, life imprisonment reduced to 10 years imprisonment	Benefit of doubt
22	Mazhar Elahi versus the State	Petition for leave to appeal dismissed	Benefit of discrepancy already given by the converting death sentence to life imprisonment
23	Bakht Munir versus the State	Appeal partly allowed, death sentence converted into life imprisonment	
24	Bashir Ahmed Laghari versus the State	leave to appeal refused, petition dismissed	Prosecution case proved
25	Farman Ali and another versus the State and another	leave to appeal against conviction declined, petition dismissed	Prosecution case proved
26	Aamir Hanif and another versus the State and others	leave to appeal against conviction not granted, petition dismissed	Prosecution case established
27	Arfan Akram versus the State	leave to appeal against conviction not granted, petition dismissed	Case proved
28	Tasar Mehmood and another versus the State and others	leave to appeal against conviction declined, petition dismissed	Prosecution case successful established
29	Muhammad Shabir and others versus the State	leave to appeal against conviction refused, petition dismissed	Prosecution case successful established
30	Muhammad Yasin and another versus the State	leave to appeal allowed, accused acquitted	Prosecution case was full of doubt
31	Sarwar and another versus the State and others	leave to appeal against conviction refused, petition dismissed	Guilt against the accused successfully proved by the prosecution
32	Wazir Khan and another versus Sherin Dad and others	leave to appeal against conviction declined, petition dismissed	Delay in filing petition for leave to appeal, accused already dealt leniently

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33	Javed Ishfaq versus the State	Petition for leave to appeal against conviction dismissed	Criminal act against accused successfully proved
34	Muhammad Sharif and 2 others versus the State and others	Petition for appeal converted into appeal and allowed, accused acquitted	Case not proved
35	Ibrar Hussain and another versus the State	Petition converted into appeal and allowed, accused acquitted	Prosecution case doubtful
36	Khalid Naseer and another versus the State and another	leave to appeal against conviction refused	Prosecution case established
37	Akhtar versus the State	Petition for leave to appeal against conviction dismissed	Prosecution case successfully proved
38	Muhammad Arshad versus the State	leave to appeal against conviction refused, petition dismissed, death sentence converted into life imprisonment	Prosecution case successfully proved
39	Waris and another versus the State and others	Leave to appeal granted for reappraisal of the evidence	Safe administration of justice
40	Amjad and another versus the State and another	Petition for leave to appeal against conviction converted into appeal and allowed	Prosecution case doubtful
41	The State and others versus Ahmad Omer Shaikh and others	Leave to appeal was granted for reappraisal of the case	Safe administration of justice
42	Muhammad Javed versus the State	Leave to appeal was granted, accused acquitted from the charge	Prosecution case doubtful
43	Ali Muhammad versus the State	Appeal dismissed, conviction maintained, death sentence converted into life imprisonment.	Prosecution case successfully proved
44	Muhammad Ashraf versus the State	Jail petition for leave to appeal was dismissed	Safe administration of justice

In SCMR 2020 number of criminal appeals and petitions was 44, out of these 12 criminal appeals and petitions were allowed, conviction and sentences passed against the accused persons were set aside and accused were acquitted, however in 3 criminal appeals and petitions conviction was either altered or sentence was reduced, where as 21 criminal appeals and petitions for leave to appeal were dismissed and leave was refused. Study of these judgments shows that mostly appeals were allowed on the basis of doubt in the prosecution case; there was prosecution failure to prove the case against the accused beyond reasonable doubt.

Supreme Court in the case of Dad Muhammad versus the State held that volume and standard of evidence, even otherwise, is far from being sufficient to sustain the capital charge. It would be grievously unsafe to maintain the conviction. Supreme Court converted this criminal petition into appeal and allowed impugned judgment was set aside and the accused was acquitted of the charge. (Dad Muhammad versus the State, SCMR 2020, Page 128) In the case of Sufyan Nawaz and another versus the State and others conviction and sentence of accused was set aside and accused were acquitted from the charge. Supreme Court held that case against the accused could not be proved beyond reasonable doubt by the prosecution. (Sufyan Nawaz and another versus the State and others, SCMR 2020, Page 192)

In the case of Safdar Abbas and others versus the State and others Supreme Court held that motive is not specific. Prosecution evidence, substantially found flawed. As a natural corollary, complainant petition seeking enhancement is dismissed. Supreme Court converted petition into appeal and allowed and set aside conviction and sentence of the accused and acquitted from the charge. It was (Safdar Abbas and others versus the State and

others, SCMR 2020, Page 219) Supreme Court in the criminal appeal titled as Imtiaz alias Taji and another versus the State and others upheld conviction and sentence under section 302(b) however death sentence was converted into life imprisonment. Supreme Court held that case has been proved beyond the reasonable doubt by the prosecution. (Imtiaz alias Taji and another versus State and others, SCMR 2020, Page 287)

In the case of Nawab Siraj Ali and others versus the State Leave to appeal was granted by the Supreme Court to consider the submission of accused petitioners that event occurred at the spur of the moment and that there was a material contradiction in the evidence. That crime empties once sent to forensic science laboratory were taken back about seventeen days later and only submitted after alleged recovery of weapon; that there was no direct motive against the accused persons; that a compromise had also been effected between the parties but same could not be materialized because of the conviction of accused persons under S.7 of the Anti Terrorism act 1997 which was a non compoundable offence. (Nawab Siraj Ali and others versus the State, SCMR 2020, Page 119) Supreme Court in the criminal appeal titled Muhammad Ilyas and another versus Ameer Ali and another held that motive set in the FIR was vague, eye witnesses in their evidence before court made material improvements and introduced rather a different motive. Prosecution failed to establish motive, case was not proved beyond reasonable doubt. Criminal appeals allowed and accused acquitted from the charges. (Muhammad Ilyas and another versus Ameer Ali and another, SCMR 2020, Page 305)

Supreme Court in the case of Mst Mir Zalai versus Ghazi Khan and others dismissed appeal against the acquittal of the accused and held that High Court has concluded that evidence of the prosecution eye witnesses is not reliable and in all likelihood they had not witnessed the murder in issue. Such circumstances reached by the High Court were not open to any exception. (Mst Mir Zalai versus Ghazi Khan and others, SCMR 2020, Page 319) In the criminal appeal titled Ghulam Nabi versus Ikram alias Kama and others Supreme Court declared that prosecution had completely suppressed the fact. Supreme Court dismissed criminal appeal against acquittal and upheld the decision of High Court. (Ghulam Nabi versus Ikram alias Kama and others, SCMR 2020, Page 477)

Supreme Court in the case of titled Mst Yasmeen versus Javed and another held that circumstances cast serious doubts about the veracity of prosecution case against the accused and the claim of the eye witnesses to have witnessed the occurrence. Appeal against the acquittal was dismissed by the Supreme Court. (Mst Yasmeen versus Javed and another, SCMR 2020, Page 505) In the case of Farman Ali and others versus the State petitions for leave to appeal against the conviction were dismissed by the Supreme Court and held that in the evidence of the witnesses material discrepancy was not found, sentences of imprisonment for life were maintained. (Farman Ali and others versus the State, SCMR 2020, Page 597) Supreme Court in the case of Aurangzeb versus the State dismissed jail petition for leave to appeal against conviction and held that occurrence being a broad daylight affair before a large gathering, did not admit hypothesis of substitution. (Aurangzeb versus the State, SCMR 2020, Page 612)

Supreme Court in the case titled as Mukhtar Alam versus Fazal Nawab and another held by the Supreme Court that confessional statement of accused was duly signed. At the stage of recording statement under section 342 Cr.P.C raising objection on the proceeding for recording confessional statement is immaterial. Accused did not deny his signature on the confessional statement. Disputing signature at present stage before the Supreme Court was hardly of any significance nor was any such suggestion regarding the confessional statement put to the judicial magistrate. Report of forensic science laboratory was positive. Ocular version was also supported by the medical evidence. Supreme Court in this criminal appeal upheld the conviction of the accused under section 302(b) however death sentence was altered to that of imprisonment for life. It was (Mukhtar Alam versus Fazal Nawab and another, SCMR 2020, Page 618)

In the case of Muhammad Rafique alias Neela and another versus the State and others reported in the SCMR 2020 page 664 Supreme Court dismissed petitions for leave to appeal against conviction and held that occurrence was broad daylight affair on a thoroughfare within the vicinity of inhabitation. Infliction of the fatal blow at the hands of accused had unanimously been confirmed by the witnesses. (Muhammad Rafique alias Neela and another versus the State, SCMR 2020, Page 664) In the case of Sadiq Ali versus the State petition for leave to appeal against conviction was dismissed, conviction and sentence of the accused as modified by the High Court was maintained by the Supreme Court. (Sadiq Ali versus the State, SCMR 2020, Page 679)

In the case of Islam Sharif versus the State Supreme Court held that witnesses despite lapse of considerable time furnished graphic details of the occurrence, in a manner consistent straightforward and confidence inspiring; and their cross examination remained inconsequential. This petition for leave to appeal was dismissed, conviction and sentence of accused was maintained by the Supreme Court. (Islam Sharif versus the State, SCMR 2020, Page 690) In the case titled as Muhammad Asif and another versus Mehboob Alam and others it

was held by the Supreme Court that post mortem delayed by 12 to 24 hours is not significant. Consumption of time in transportation may have led delay in postmortem examination which was good as the doctor had opined that it proximately ranged from twelve to twenty four hours. This petition for leave to appeal was dismissed, conviction and sentence under S. 302(b) of P.P.C awarded to the accused was upheld by the Supreme Court. (Muhammad Asif and another versus Mehboob Alam and others, SCMR 2020, Page 837)

Supreme Court petition for leave to appeal titled as Muhammad Imran versus the State converted into appeal and allowed. Accused was acquitted from the charge. Supreme Court held that case was fraught from the doubts. (Muhammad Imran versus the State, SCMR 2020, Page 857) In the case of Mazhar Elahi versus the State petition for leave to appeal against the conviction was dismissed by the Supreme Court and held that High Court by converting death sentence into life imprisonment already has extended benefit for absence of forensic report and a misdirected motive. (Mazhar Elahi versus the State, SCMR 2020, Page 586) Supreme Court in the case of Bashir Ahmed Laghari versus the State held that witnesses supported prosecution version. A directionless and inconsequential cross examination hopelessly failed to create a space to admit any hypothesis other than petitioner's guilt. View concurrently taken by the Courts below has been found by us in accord with the principles of safe administration of criminal justice and thus does not call for interference. Supreme Court dismissed petition for leave to appeal (Bashir Ahmed Laghari versus the State, SCMR 2020, Page 595)

Supreme Court in the case of Farman Ali and another versus the State and another dismissed petitions for leave to appeal, upheld the sentence of life imprisonment awarded to the accused persons. Supreme Court held that as no weapon was recovered hence non dispatching of the empties to the firearm expert was not fatal to the prosecution case. (Farman Ali and another versus the State, SCMR 2020, Page 597) In the case of Tasar Mehmood and another versus the State and others Supreme Court held that injured person of the incident identified the accused persons in identification parade. Recovered weapons forensically matched with the casings dispatched earlier than arrest of accused and co accused. (Tasar Mehmood and another versus the State and others, SCMR 2020, Page 1013)

Supreme Court in the case of Muhammad Yasin and another versus the State reported in the SCMR 2020 page 1237 held that alleged motive was vague and non specific, there were no consequential recoveries from the accused and co accused persons. Acquittal of four other co accused persons, who were assigned role of indiscriminate firing only, further dented the prosecution case. On the whole prosecution case was full of doubt, maintaining conviction of the accused would be unsafe. Supreme Court converted criminal petition into appeal and allowed. (Muhammad Yasin and another versus the State, SCMR 2020, Page 1237) In the case of Javed Ishfaq versus the State Supreme Court held that acquittal of co accused persons by itself did not pave way for the accused to escape consequences of his individual criminal act, which otherwise was established beyond doubt. (Javed Ishfaq versus the State, SCMR 2020, Page 1414)

Supreme Court in the case of Muhammad Sharif and 2 others versus the State and others held that exoneration of two co accused persons during the investigation was one of the dilemma confronting prosecution. In the absence of proof beyond doubt it would not be safe to maintain the convictions of accused persons. Supreme Court converted jail petition and criminal petitions into appeal and allowed the same. (Muhammad Sharif and 2 others versus the State, SCMR 2020, Page 1818) Supreme Court in the case of Akhtar versus the State declared that extra judicial confession of accused has been corroborated by medical evidence. Conviction of the accused was maintained with conversion of death sentence into life imprisonment and held that case against accused beyond reasonable doubt has been successfully proved. (Akhtar versus the State, SCMR 2020, Page 2020).

Supreme Court in the case of Amjad and another versus the State and another acquitted the accused and co accused from the charge. (Amjad and another versus the State and another, SCMR 2020, Page 2084) In the case of the State and others versus Ahmad Omer Shaikh and others to consider as to whether after en bloc acquittal of the co accused persons and rejection of bulk of prosecution's evidence, the High Court was still justified to convict and sentence the accused in isolation to the totality of charge leave was granted (The State and otehrs versus Ahmad Omer Shaikh and others, SCMR 2020, Page 2096) Supreme Court in the case of Muhammad Javed versus the State held that prosecution case was found fraught with doubts, benefit whereof, could not be withheld, particularly after its failure qua the co accused. (Muhammad Javed versus the State, SCMR 2020, Page 2116)

CRIMINAL APPEALS AND PETITIONS IN MURDER CASES

REPORTED IN SCMR 2021

S.No	Title of the case before Supreme Court	Decision	Reasons
1	Muhammad Adnan and another versus the State and others	Criminal appeal and petition allowed, conviction set aside, accused acquitted	Prosecution case doubtful
2	Ghulam Abbas and another versus the State and another	Petition for leave to appeal for enhancement of the sentence of the accused and assailing acquittal of the co accused dismissed	Prosecution case was doubtful
3	Muhammad Imran versus the State	Criminal appeal against the conviction and sentence dismissed	Prosecution case established beyond doubt
4	Muhammad Hayat and another versus the State	Shariat appeal against conviction dismissed	Case against accused proved
5	Akbar Ali and others versus the State and others	Appeal against conviction and petition for leave to appeal against acquittal dismissed	
6	Zeshan alias Shani and another versus Muhammad Ayub and others	Leave for reappraisal of the evidence granted, acquittal upheld	Safe administration of justice, Contra view cannot be ground for interference
7	Ghulam Murtaza versus the State	Criminal appeal dismissed	Case proved
8	Ishtiaqu Hussain and another versus the State and others	Criminal appeal allowed	Discrepancy in the ocular account
9	Muhammad Afzal versus the State	Leave to appeal against conviction declined, petition dismissed	Prosecution case successfully proved
10	Munir Akhtar alias Munir Ahmad versus the State	leave to appeal against conviction not granted, petition dismissed	Prosecution successfully established its case
11	Abdul Khaliq versus the State	leave to appeal against conviction refused, petition dismissed	Prosecution successfully established its case accused
12	Abbas Ali and another versus the State	leave to appeal against conviction refused, petition dismissed	Prosecution successfully established its case accused, case of co-accused was distinguish
13	Ghaffar Ali versus the State	leave to appeal against conviction refused, petition dismissed	Prosecution successfully established its case accused
14	Muhammad Mehboob versus the State	Appeal allowed, accused acquitted	Prosecution failed to bring its case without doubt
15	Gul Muhammad and another versus the State	Appeal allowed, accused acquitted	Prosecution failed to bring its case without doubt
16	Liaqat Ali and others versus the State and others	Appeals allowed, conviction and sentence set aside, accused acquitted	Prosecution evidence was untruthful
17	Tariq Mehmood versus the State	Appeal allowed, accused acquitted	Doubtful evidence
18	Muhammad Farhan alias Irfan versus the State	Appeal partly allowed, conviction to the extent of section 7(a) of ATC was	Safe administration of justice

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		set aside, conviction and sentence under PPC was maintained	
19	Shaheen Ijaz alias Babu versus the State	Jail petition for leave to appeal dismissed	Case against accused proved, case of co accused was distinguish
20	Ghulam Murtaza versus the State	Appeal allowed, accused acquitted	Prosecution failure
21	Muhammad Idrees versus the State and others	Petition for leave to appeal against conviction allowed, accused acquitted	Case against accused not proved
22	Fareed and others versus the State and others	Petition for leave to appeal dismissed, conviction and sentence maintained	Case against accused proved
23	Muhammad Ramzan versus the State	leave to appeal converted into appeal and allowed, accused acquitted	Prosecution case doubtful
24	Qaisar Mehmood and another versus the State	Shariat appeal disposed of, conviction and sentences against the accused maintained, death sentence against co accused converted into life imprisonment	Guilt against accused proved
25	Muhammad Hanif versus the State	Shariat appeal allowed, accused acquitted	Prosecution case not proved, benefit of doubt
26	Muhammad Ashraf versus the State	Petition for leave to appeal dismissed, conviction and sentence against the accused upheld	Prosecution case proved
27	Liaqat Ali and another versus the State and others	Appeal allowed, accused acquitted, acquittal of co-accused was maintained	Prosecution case doubtful
28	Muhammad Sohail alias Sohaila versus the State	Appeal dismissed	Prosecution case successfully established
29	Khalid Mehmood and another versus the State and others	Jail petition converted into appeal and allowed, accused acquitted	Prosecution case not proved
30	The State versus Ahmed Omar Sheikh and others	Appeal against acquittal dismissed, appeal against conviction allowed	Prosecution evidence doubtful
31	Zulfiqar Ali versus the State	Criminal appeal allowed, accused acquitted	Prosecution has not come with full truth
32	Abdul Wasay and others versus the State and others	Leave to appeal against conviction refused, petition dismissed	Prosecution case fully established
33	Asim Bashir versus the Federation of Pakistan and 3 others	Petition dismissed, leave to appeal refused,	Accused failed to point out any prejudice
34	Muhammad Ameer alias Kali and others versus the State and others	Petition for leave to appeal disposed of, conviction against accused maintained, conviction and sentence against co-accused set aside	Prosecution case against accused established successfully but against co-accused it was doubtful
35	Zulfiqar Ali versus the State	Appeal allowed, accused acquitted	Prosecution case not truthful
36	Abdul Latif versus the Noor Zaman and another	Leave to appeal against acquittal refused, petition dismissed	Defective evidence against accused

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37	Muhammad Yaqoob versus the State	Leave to appeal against conviction refused, petition dismissed	Case against accused proved
38	Nazir Jan versus Sail Khan and another	Petition for leave to appeal against acquittal dismissed, leave refused	Trial court's view upheld
39	Gulshan Shah versus the State	Leave to appeal against conviction refused, petition dismissed	Evidence fully proved case against the accused
40	Gul Zarin and others versus Fazal Khaliq and another	Leave granted to consider contention of prosecution against the acquittal	Material evidence
41	Muhammad Daud and others versus Syed Abid Ali and another	Leave to appeal against acquittal granted for reappraisal of evidence	Reappraisal of evidence
42	Saleem Khan versus the State and others	Leave for appeal challenging acquittal refused, petition dismissed	Prosecution case doubtful
43	Ghulam Abbas and another versus the State	Petition for leave to appeal disposed of, sentence of accused maintained, sentence of co accused reduced	Safe administration of justice, case against accused proved
44	Ilyas versus Waris Khan and others	Leave challenging acquittal granted for considering the contention of complainant	
45	The State versus Hakim Zada and others	Petition for leave challenging acquittal granted to consider the contention of prosecution	
46	Iftikhar Ali versus Gul Rehman and another	Petition for leave challenging acquittal granted for reappraisal of entire evidence	Secure ends of justice
47	State versus Amanat Khan and others	Petition for leave challenging acquittal granted for reappraisal of entire evidence	To meet ends of justice
48	Zia Ullah and another versus the State	Leave to appeal against conviction refused, petition dismissed,	Case against accused proved, Plea of accused regarding false implication rejected.
49	State versus Sabz Khan	Leave challenging acquittal granted to consider contention of prosecution	
50	Mst Naseem versus Farhad Khan and another	Petition for leave challenging conversion of sentence granted to consider contention of prosecution	
51	Mst Rukhsana versus Rehmanullah and another	Petition for leave challenging acquittal granted to consider contention of prosecution	
52	Nasir alias Nasiree and another versus the State and another	Leave to appeal against conviction refused, petition dismissed	Prosecution case fully proved

53	Muhammad Makki and another versus the State and others	Leave to appeal against conviction refused, petition dismissed	
54	Mushtaque Hussain versus the State	Leave to appeal seeking enhancement of sentence declined, petition dismissed	Accused already served his sentence
55	Jabar Ali versus the State	Leave to appeal against conviction refused, petition dismissed, conviction and sentence maintained	Case against accused proved, safe administration of justice calls no interference
56	Asfandyar versus the State	Leave to appeal against conviction refused, petition dismissed, conviction and sentence upheld	Criminal charge against accused proved

In SCMR 2021 number of criminal appeals and petitions was 56, out of these 19 criminal appeals and petitions were allowed, conviction and sentences passed against the accused persons were set aside and accused were acquitted, however in 4 criminal appeals and petitions conviction was either altered or sentence was reduced, where as 20 criminal appeals and petitions for leave to appeal were dismissed and leave was refused. Study of these judgments shows that mostly appeals were allowed on the basis of doubt in the prosecution case; defective evidence, and such other flaws, there was prosecution failure to prove the case against the accused beyond reasonable doubt. However conviction remained upheld till the forum of Supreme Court in the cases in which guilt was proved against the accused and prosecution successfully established case beyond reasonable doubt. Whereas 13 criminal appeals and petitions were allowed either for the reappraisal of the evidence or to consider further contention of the prosecution or complainant.

In the case of Muhammad Adnan and another versus the State and others Supreme Court held that prosecution case against the accused was doubtful in nature. Motive behind the occurrence had not been believed by the High Court. Supreme Court acquitted accused from the charge. (Muhammad Adnan and another versus the State and others, SCMR 2021, Page 16) Supreme Court in the case of Ghulam Abbas and versus the State and another held that prosecution case against the accused was doubtful in nature. This petition seeking enhancement of the sentence of accused and assailing acquittal of co accused was dismissed. (Ghulam Abbas and another versus the State and another, SCMR 2021, Page 23)

In the case of Muhammad Imran versus the State Supreme Court dismissed criminal appeal against the conviction and sentence and held that prosecution had successfully driven home the charge against accused beyond reasonable doubt. (Muhammad Imran versus the State, SCMR 2021, Page 69) Supreme Court in the case of Muhammad Hayat versus the State reported in the SCMR 2021 page 92 held that for conducting exercise of identification parade law does not require any specific place. Supreme Court dismissed shariat appeal and maintained death sentences awarded to the accused persons. (Muhammad Hayat and another versus the State, SCMR 2021, Page 92)

In the case of Akbar Ali and others versus the State and others Supreme Court dismissed petition for leave to appeal challenging the acquittal of the accused on charge of murderous assault and refused to grant leave. In the same case Supreme Court dismissed criminal appeal against the conviction and sentence however death sentence was converted into life imprisonment. (Akbar Ali and others versus the State and others, SCMR 2021, Page 104) In the case of Zeshan alias Shani and another versus Muhammad Ayub and others Supreme Court upheld the acquittal and held that reversal of acquittal required strong grounds and possibility of contra view cannot be ground for interference. (Zeshan alias Shani and another versus Muhammad Ayub and others, SCMR 2021, Page 142)

Supreme Court in the case of Ghulam Murtaza versus the State held that the motive for the occurrence was not established from the record. Question as to what prompted the accused to take away the life of the deceased were circumstances which had rightly been considered by the Courts below as mitigating circumstances and thus the accused was rightly sentenced (Ghulam Murtaza versus the State, SCMR 2021, Page 149) Supreme Court in the case of Ishtiaqu Hussain and another versus the State and others allowed criminal appeal and acquitted accused, held that evidence was most intriguing. (Ishtiaqu Hussain and another versus the State and others,

SCMR 2021, Page 159)

In the case of Munir Akhtar alias Munir Ahmad versus the State Supreme Court refused leave to appeal and held that prosecution had succeeded to establish its case without any reasonable doubt. (Munir Akhtar alias Munir Ahmad versus the State, SCMR 2021, Page 298) Supreme Court in the case of Abdul Khaliq versus the State held that prosecution's failure on motive and acquittal of co-accused assigned an inconsequential and vastly distinguishable role, did not have any bearing on the case of accused which was firmly structured on more than one piece of evidence. This petition for leave to appeal was dismissed and leave was refused. (Abdul Khaliq versus the State, SCMR 2021, Page 325)

In the case of Abbas Ali and another versus the State Supreme Court held that acquittal of a co-accused with a role vastly distinguishable as well as inconsequential appeared to be inspired by judicial caution and as such did not adversely impact upon the integrity of the charge against the accused persons. Supreme Court dismissed petitions for leave to appeal, leave was refused, and conviction and sentence was maintained. (Abbas Ali and another versus the State, SCMR 2021, Page 349) In the case of Ghaffar Ali versus the State Supreme Court maintained the conviction and held that case has been proved. (Ghaffar Ali versus the State, SCMR 2021, Page 354) Supreme Court in the case of Muhammad Mehboob versus the State allowed the appeal and acquitted the accused from the charge. Supreme Court held that in the totality of circumstances prosecution had failed to bring forth proof beyond doubt. (Muhammad Mehboob versus the State, SCMR 2021, Page 366)

In the case of Gul Muhammad and another versus the State Supreme Court held that case has not been proved against the accused by the prosecution. Supreme Court declared that practice of recording extra judicial confession was nullity and no credence could be extended to such piece of evidence. Supreme Court further held that finding of the medical officer qua the cause of death only from external observation of the dead body had no legal sanctity, accused was acquitted by the Supreme Court. (Gul Muhammad and another versus the State, SCMR 2021, Page 381)

Supreme Court in the case of Liaquat Ali and others versus the State and others held that witnesses found to be false in some material aspect were not to be relied upon to the extent of the other aspects deposed about by them. Supreme Court allowed appeals, set aside the convictions and sentences of the three accused persons and acquitted them from the charge on the benefit of doubt. (Liaquat Ali and others versus the State, SCMR 2021, Page 455) Supreme Court in the case of Tariq Mehmood versus the State held that fractional reliance to maintain solitary conviction of accused on the statements of witnesses disbelieved qua their own assailants was an option fraught with potential risk of error. Supreme Court allowed appeal and accused was acquitted of the charge and (Tariq Mehmood versus the State, SCMR 2021, Page 471)

Supreme Court in the case of Shaheen Ijaz alias Babu versus the State held that acquittal of co-accused persons did not adversely impact the prosecution's mainstay qua the role of repeated fire shots assigned to the accused. This jail petition for leave to appeal was dismissed leave was refused, modified conviction and sentence of accused was maintained by the Supreme Court. (Shaheen Ijaz alias Babu versus the State, SCMR 2021, Page 500) In the case of Ghulam Murtaza versus the State Supreme Court held that prosecution's failure on motive and recovery of weapon as well as co-accused persons grievously undermined its case vis-a-viz the accused as well. Supreme Court allowed criminal appeal. (Ghulam Murtaza versus the State, SCMR 2021, Page 542) In the case of Muhammad Idrees versus the State and others reported in the SCMR 2021 page 612 accused was acquitted of the charge against him, conviction and sentence was set aside. (Muhammad Idrees versus the State, SCMR 2021, Page 612)

In the case of Fareed and others versus the State and others Supreme Court dismissed petition for leave to appeal and refused leave. It was held by the Supreme Court that prosecution's failure to effect recovery reflected adversely upon the allegation of infliction of butt blows, and the violence inflicted upon deceased appears to be result of modes other than conventional. High Court had rightly maintained the conviction of accused persons. (Fareed and others versus the State, SCMR 2021, Page 621) Supreme Court in the case of Muhammad Ramzan versus the State held that circumstances inescapably intrigue upon the integrity of the prosecution story; though ominous, nonetheless, calculated to have massively withheld relevant details of the events that occurred on the fateful day; concomitant uncertainty would inevitably cast away the entire case. Supreme Court converted petition for leave to appeal and allowed appeal. (Muhammad Ramzan versus the State, SCMR 2021, Page 655)

In the case of Muhammad Hanif versus the State Supreme Court held that prosecution case was fraught with doubts, benefit where could not be withheld from the accused. (Muhammad Hanif versus the State, SCMR 2021, Page 684) In the case of Muhammad Ashraf versus the State conviction and sentences recorded against the accused was maintained by the Supreme Court and held that reliance upon the testimonies by the Court below being in accord with the principles of safe administration of criminal justice calls for no interference.

(Muhammad Ashraf versus the State, SCMR 2021, Page 758) Supreme Court in the case of Muhammad Sohail alias Sohaila versus the State dismissed appeal and held that prosecution had successfully established case against the accused. (Mohammad Sohail alias Sohaila versus the State, SCMR 2021, Page 795) In the case of Khalid Mehmood and another versus the State and others Supreme Court converted jail petition into appeal and allowed, set aside the conviction and sentence of accused and acquitted him from the charge and held that case against the accused could not be proved. (Khalid Mehmood and another versus the State and others, SCMR2021, Page 810)

In the case of the State versus Ahmed Omar Sheikh and others Supreme Court dismissed appeals against the acquittal and held that prosecution evidence was full of doubts. Appeal filed by accused was allowed and he was acquitted. (The State versus Ahmed Omar Sheikh and others, SCMR 2021, Page 873) Supreme Court in the case of Muhammad Bilal and another versus the State and others held that extra caution should be taken by the Court while recording confession of a juvenile accused. In case of a juvenile accused it was desirable and appropriate that the accused should be provided counseling/consultation facility of his natural guardian or any close blood relative. Confession should be voluntary, based on true facts and corroborated by other evidence available on record. Supreme Court allowed the appeal, accused was acquitted against him, conviction and sentence was set aside. (Muhammad Bilal and another versus the State and others, SCMR 2021, Page 1039)

Supreme Court in the case of Abdul Wasay and others versus the State and others held that case against accused is proved but the motive alleged by the prosecution was not proved, so the benefit to that extent i.e conversion of death sentence to life imprisonment had already been extended. (Abdul Wasay and others versus the State, SCMR 2021, Page 1059) Supreme Court in the criminal appeal titled as Zulfiqar Ali versus the State held that prosecution had not come forward with the whole truth and that presented a situation which did not allowed, in the absence of evidentiary certainty to maintain conviction of accused without potential risk of error. Supreme Court acquitted accused from the charge famed against him. (Zulfiqar Ali versus the State, SCMR 2021, Page 1373)

In the case of Abdul Latif versus the Noor Zaman and another Supreme Court held that accused cannot be sentenced merely on the strength of moral certainty regarding his guilt. High Court had rightly acquitted the accused. (Abdul Latif versus the Noor Zaman and another, SCMR 2021, Page 1428) In the case of Nazir Jan versus Sail Khan and another petition for leave to appeal was dismissed, Supreme Court held that trial court's analysis where under the accused was acquitted from the charge presented a possible view that did not call for interference. (Nazir Jan versus Sail Khan and another, SCMR 2021, Page 1451) In the case of Gulshan Shah versus the State Supreme Court held that testimony of the witness did not suffer from any serious infirmity or flaw reflecting upon credibility of the deponent. Accused's long absence from the law was yet another aspect that intriguingly reflected upon the hypothesis of his innocence. Court below had rightly relied upon the prosecution evidence to return and uphold a guilty verdict against the accused that called for no interference. (Gulshan Shah versus the State, SCMR 2021, Page 1456)

In the case of Saleem Khan versus the State and others Supreme Court and held that there was doubt in the prosecution case. (Saleem Khan versus the State, SCMR 2021, Page 1472) Supreme Court in the case of Zia Ullah and another versus the State held that plea of false implication raised by accused persons when seen in light of medical evidence merited outright rejection. Petition dismissed, conviction was maintained by the Supreme Court. (Zia Ullah and another versus the State, SCMR 2021, Page 1507) Supreme Court in the case of Nasir alias Nasiree and another versus the State and another held that evidence of the witnesses shows no doubts in the prosecution case. Supreme Court dismissed appeal against the conviction and refused leave. (Nasir alias Nairee and another versus the State, SCMR 2021, Page 1614)

Supreme Court in the case of Jabar Ali versus the State held that finding of guilt recorded by the court, calls for no interference. Conviction and sentence recorded against the accused were maintained. (Jabar Ali versus the State, SCMR 2021, Page 1902) Supreme Court in the case of Asfandyar versus the State held that testimony of a solitary witness was sufficient to sustain conviction of an accused if the same rang true and inspired confidence. To prove a criminal charge particular number is not required. (Asfandyar versus the State, SCMR 2021, Page 2009)

CRIMINAL APPEALS AND PETITIONS IN MURDER CASES REPORTED IN SCMR 2022

S.No	Title of the case before Supreme Court	Decision	Reasons
1	Muhammad Akram versus the State	Jail petition converted into appeal and partly allowed	
2	Muhammad Ajmal versus the State	Appeal partly allowed, conviction altered and sentence reduced	
3	Pervaiz Khan and another versus the State	Appeal against conviction allowed, accused acquitted	Doubtful evidence
4	Muhammad Sadiq versus the State	Leave to appeal refused, petition dismissed, conviction and sentence maintained	Prosecution case fully proved
5	Rooh Ullah and others versus the State and others	Leave to appeal against conviction declined, petition for leave to appeal dismissed	Prosecution case fully proved
6	Ashfaque alias Shaka versus the State	Leave to appeal against conviction refused, petition dismissed	Delay in autopsy was justified, prosecution case proved
7	Muhammad Iftikhar versus the State	Appeal allowed, accused acquitted	Prosecution case was doubtful
8	Bashir Muhammad Khan versus the State	Appeal against conviction allowed, accused acquitted	Prosecution case doubtful
9	Noor Zaman versus the State	Leave to appeal refused, petition dismissed	Prosecution case fully proved
10	Gul Zarin and others versus Kamal ud Din and others	Petition for leave to appeal against conviction converted into appeal and partly allowed	Discrepancies in the prosecution case
11	Rafaqat Ali versus the State	Appeal allowed, accused acquitted	Prosecution case doubtful
12	Khalid Mehmood alias Khaloo versus the State	Appeal allowed, accused acquitted	Prosecution case doubtful, benefit of doubt
13	Bashir Ahmed and others versus the State	Appeal allowed, conviction set aside, case remanded to trial court to revisit its judgment	Case remanded to trial court to revisit its judgment
14	Ghafar Mahesar versus the State and others	Leave to appeal refused, petition for leave to appeal against conviction dismissed	Accused proved guilty
15	Muhammad Ashraf alias Nikak versus the State	Petition for leave to appeal against conviction converted into appeal and partly allowed	
16	Shaukat Hussain versus the State	Appeal against conviction allowed, accused acquitted	Prosecution case negated by autopsy report, case against accused doubtful
17	Abdul Ghafoor versus the State	Appeal against conviction allowed, accused acquitted	Delay in FIR
18	Tajmal Hussain Shah versus the State and others	Appeal against conviction allowed, accused acquitted	Matching report of pistol and empties negative, motive not established
19	Ijaz Ahmed versus the State	Petition for leave to appeal converted into appeal and partly allowed, acquitted	Robbery case not proved against accused, in murder case motive not proved

		in the case of robbery, conviction and sentence in murder case upheld	
20	Muhammad Shoban versus the State	Petition for leave to appeal converted and partly allowed, death sentence converted into life imprisonment	Motive not proved
21	Majeed Masifh versus the State	Appeal partly allowed, death sentence converted into life imprisonment	Prosecution failed to prove motive
22	Sajid Mehmood versus the State	Appeal dismissed, conviction and sentence maintained	Prosecution case proved, number of witness is not important,
23	Azhar Hussain and another versus the State and others	Leave to appeal against conviction refused, petition dismissed, conviction and sentence upheld	Prosecution case fully proved
24	Shamsher Ahmad and another versus the State and another	Leave to appeal against conviction refused, petition dismissed	Prosecution case fully proved
25	Sbtain Haider versus the State	Petition for leave to appeal converted into appeal and partly allowed, conviction upheld, sentence reduced	Diminished liability
26	Muhammad Usama versus the State	Petition for leave to appeal converted into appeal and partly allowed, conviction altered, sentence reduced	
27	Sajjad Hussain versus the State and others	Appeal allowed, accused acquitted	Prosecution case doubtful

In SCMR 2022 number of criminal appeals and petitions was 27, out of these 9 criminal appeals and petitions were allowed, conviction and sentences passed against the accused persons were set aside and accused were acquitted, however in 8 criminal appeals and petitions conviction was either altered or sentence was reduced, where as 8 criminal appeals and petitions for leave to appeal were dismissed and leave was refused. Study of these judgments shows that mostly appeals were allowed on the basis of doubt in the prosecution case; defective evidence, and such other flaws, there was prosecution failure to prove the case against the accused beyond reasonable doubt. However conviction remained upheld till the forum of Supreme Court in the cases in which guilt was proved against the accused and prosecution successfully established case beyond reasonable doubt.

Supreme Court in the case of Pervaiz Khan and another versus the State held that conviction and sentence of accused persons was not sustainable on the same set of evidence, which was found doubtful to the extent of three acquitted co-accused. Supreme Court allowed the appeals, set aside the convictions and sentence and accused were acquitted of the charge. (Pervaiz Khan and another versus the State, SCMR 2022, Page 393) In the case of Muhammad Iftikhar versus the State Supreme Court allowed appeal and held that mystery of the occurrence was fraught with doubts. (Muhammad Iftikhar versus the State, SCMR 2022, Page 973)

Supreme Court in the case of Bashir Muhammad Khan versus the State held that without explanation with justifiable reasoning delayed recording of statement of witness value to nil. Supreme Court further held that where question of abscondence was not put to the accused in his statement under section 342 Cr.P.C the same cannot be used against him. There was no independent corroboration; hence it would be unsafe to only rely upon the statement of the prosecution witnesses to sustain conviction of the accused. Supreme Court held that there should be reliable, trustworthy and unimpeachable evidence for conviction Supreme Court allowed the appeal and acquitted the accused from the charge against him. Supreme Court held that forensic science laboratory report of the crime empties did not match with the recovered pistol, medical evidence was inconsistent with the ocular account. (Bashir Muhammad Khan versus the State, SCMR 2022, Page 988)

Supreme Court in the case of Noor Zaman versus the State dismissed petition for leave to appeal and refused leave and held that preponderance of ocular account, being consistent with medical evidence and duration given therein, itself constitute proof beyond doubt inescapably pointing towards culpability of accused. Death sentence on three counts awarded to the accused was conscionable in circumstances. (Noor Zaman versus the State, SCMR 2022, Page 1002) In the case of Rafaqat Ali versus the State Supreme Court allowed appeal and acquitted accused of the charge and held that prosecution's case contained several doubts, each deducible from prosecution's own evidence, benefit whereof, could not be withheld from the accused. (Rafaqat Ali versus the State, SCMR 2022, Page 1107)

In the case of Khalid Mehmood alias Khaloo versus the State Supreme Court held that postmortem report and statement of doctor recorded in the trial of co-accused was used in the trial of accused without the same being exhibited, the conviction of accused could not be based on such evidence. Supreme Court held that there should be reliable, trustworthy and unimpeachable evidence for conviction, accused was acquitted from the charge. (Khalid Mehmood alias Khaloo versus the State, SCMR 2022, Page 1148) In the case of Bashir Ahmed and others versus the State Supreme Court remanded the case to the Trial Court for the limited purpose of re-visiting the judgment within two months on the basis of existing judicial record in accordance with law and the guidelines. (Bashir Ahmed and others versus the State, SCMR 2022, Page 1187)

Supreme Court in the case of Shaukat Hussain versus the State held that prosecution story was negated by the autopsy report. Out of four alleged eye witnesses none of them intervened to rescue the deceased. Acquittal of the co-accused was not challenged which was yet another predicament confronting the prosecution. Supreme Court allowed the appeal (Shaukat Hussain versus the State, SCMR 2022, Page 1358) Supreme Court in the case of Abdul Ghafoor versus the State held that unless and until plausibly explained delay in lodging the FIR is serious lapse. Accused was acquitted from the charge (Abdul Ghafoor versus the State, SCMR 2022, Page 1527) Supreme Court has held that absconson cannot be made basis for conviction. In the case of Tajmal Hussain Shah versus the State and others Supreme Court held that case was not proved beyond the reasonable doubt and prosecution had failed, recovery of pistol is inconsequential as because of matching report of pistol with recovered crime empties was negative. Motive also has not been proved; accused was acquitted of the charge. (Tajmal Hussain Shah versus the State and others, SCMR 2022, Page 1567)

Supreme Court has held that there is no universal principle for the determination that evidence of an interested witness should be disbelieved or that evidence of a disinterested witness should be trusted. In the evidence given statement is to be looked instead of person. What is to be seen and adjudged is the statement of the witness and not the person. Quality of evidence is most important instead of quantity, if court is satisfied with the reliability of witness. Supreme Court has held that testimony of witnesses cannot be discarded mere on the relationship of prosecution witnesses with the deceased. Supreme Court further held that minor discrepancies not affecting the salient feature of the prosecution case should be ignore and should not be given undue importance by the court. If such insignificant inconsistencies are given importance by the court then there would hardly be any conviction. Premium of such minor discrepancies cannot be claimed by the accused. (Sajif Mehmood versus the State, SCMR 2022, Page 1882)

Supreme Court held that if an accused person suffers from such state of mind substantially affecting his responsibility of being a party to an alleged criminal act, his case falls under diminished liability doctrine. In the case of Sbtain Haider versus the State reported in the SCMR 2022 page 2012 petition for leave to appeal was converted into appeal and partly allowed by the Supreme Court. Though in the offence of qatl-i-ama Supreme Court maintained conviction of accused however it was altered from section 302(b) P.P.C to 302(c) P.P.C which accused already had undergone. (Sabtain Haider versus the State, SCMR 2022, Page 2012) Supreme Court has held that occurrence of minor discrepancies is natural, benefit of such discrepancies cannot be claimed by the accused. In the case of Muhammad Usama versus the State Supreme Court converted petition for leave to appeal and partly allowed. Conviction of accused under section 302(b) P.P.C was altered to one under section 302(c) and his sentence of imprisonment for life was reduced to the period already undergone by him. Supreme Court held that prosecution had brought on record reliable evidence against the accused, however provisions of section 302(c) P.P.C has been attracted. (Muhammad Usama versus the State, SCMR 2022, Page 2143) In the case of Sajjad Hussain versus the State and others Supreme Court allowed this criminal appeal and acquitted the accused of the charge and held that prosecution had failed to prove its case. No incriminating evidence was available against the accused to distinguish his case from that of the co-accused persons since acquitted. (Sajjad Hussain versus the State, SCMR 2022, Page 1540)

4. CONCLUSION

Research conducted by this researcher shows that Criminal Justice System of Pakistan has become outdated and untrustworthy. People of the country don't trust over the system. From the research it appeared that most untrustworthy pillar of the Criminal Justice System of the country is Police and second number is prosecution. Study of the four years criminal appeals and petitions reported in the SCMR also shows that criminal justice system of the country is most flawed, consequently people do not get justice. In these four year's journal total 173 such criminal appeals and petitions were reported, out of which 40% criminal appeals and jail petitions were allowed by the Supreme Court, conviction and sentences against the accused persons were set aside and accused were acquitted, in 11% criminal appeals and jail petitions either conviction was altered or sentence was reduced. However only 32% criminal appeals and jail petitions seeking leave to appeal were dismissed and convictions and sentences were kept upheld by the Supreme Court. Perusal of the judgments of the Supreme Court in criminal appeals and petitions reported in the SCMR 2019 to 2022 as discussed above shows following flaws in the criminal justice system of Pakistan, consequently accused were acquitted. It also appears that those who were acquitted by the Supreme Court; their detention period amounts to injustice and there is no compensation for their sufferings caused due to flawed criminal justice system of the country.

- i. Delay in crime reporting
- ii. Delay in conducting post mortem
- iii. Delay in dispatching empties and recovered weapon for forensic laboratory examination
- iv. Defective evidence
- v. Defective investigation
- vi. Defective autopsy report
- vii. Case doubtful
- viii. Prosecution failure to prove case
- ix. Police failure in preparing case
- x. Contradiction in the evidence
- xi. Non examination of material witnesses
- xii. Forensic side failure
- xiii. Failure to prove motive
- xiv. Improper conducting identification parade
- xv. Suppression of facts by the prosecution
- xvi. Exaggeration
- xvii. Mixing truth with falsehood

5. RECOMMENDATIONS

- i. Online registration of FIR should be introduced
- ii. Centralized system for investigation of crime should be introduced, a committee of the Prosecutors and Police officers should be constituted for checking out come of the investigation of any case
- iii. Resources to Police should be increased
- iv. Police should be given training to use scientific and modern technology
- v. Modern and scientific equipment/devices be provided to Police
- vi. Coordination between Police and Prosecution be increased
- vii. Steps should be taken to stop/reduce corruption in Police

- viii. There should be check on Police to avoid misuse of power, Police officers violating and not performing their duties as required should be penalized.
- ix. To ensure submit case/challan without defects and doubts
- x. Prosecutors should be encouraged to strictly check challans/final reports submitted by Police and return it if found defective
- xi. Judicial officers and prosecutors also should be given special training about scientific and modern technology used in the investigation and evidence
- xii. Trials of heinous crime cases be conducted at centralized court system/in jails
- xiii. Witnesses should be given protection and facilitation during and till completion of trial.
- xiv. A time frame should be fixed for completion of trial
- xv. There should be accountability of the judicial officers if trial is not completed within time.
- xvi. Presumption of innocence should be encouraged and applied
- xvii. In less heinous crimes arrested persons should be released on bail or on executing bond by Police Officers
- xviii. Pre conviction detention should be discouraged and release of accused persons on bail, probation and parole should be encouraged.
- xix. Award and exucation of capital punishments should be discouraged specifically to those who have remained in custody before judgment which even may by a single day.
- xx. In prisons arrangements should be made for the rehabilitation of prisoners.

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