

2. Facts in brief of the case, as mentioned in complaint Ex.P-C, are that complainant [REDACTED] (PW-4) is resident of Tehsil Minchinabad; that his marriage with Mst. [REDACTED] (accused) was solemnized 8/9 years ago and out of their wedlock, one son namely [REDACTED] aged 5/6 years (PW-6), Mst. [REDACTED] aged 4-years (PW-7) and Mst. [REDACTED] aged 3-years (deceased) were born; that [REDACTED] accused was having family terms with in-laws of the complainant and said [REDACTED] had developed illicit relations with

Mst. [REDACTED] and 5/6 months prior to the present occurrence, he ([REDACTED]) ran away by taking his wife and his children with him. Complainant mentioned in the complaint that he came to know that [REDACTED] accused and his wife Mst. [REDACTED] were living as husband and wife in a quarter, situated in village [REDACTED], Lahore; that on 05.03.2015, at 7:15 p.m., he (complainant) alongwith [REDACTED] s/o [REDACTED] and [REDACTED] [REDACTED] s/o [REDACTED] came to Lahore in order to bring back his children; that accused [REDACTED] and [REDACTED], on seeing them, warned that if anybody stepped forward, they would kill his children and [REDACTED] and [REDACTED] were armed with Dandas. Complainant mentioned that accused [REDACTED] stated that she would never allow the children to go with the complainant and she said to [REDACTED] and [REDACTED] for killing the children. On which, accused [REDACTED] and [REDACTED] started to beat the children with Dandas; that [REDACTED] made a Danda blow which landed on the neck of Mst. [REDACTED] and she fell down to the ground and died at the spot. [REDACTED] accused made Danda blows which landed on different parts of body of Mst. [REDACTED]; that on their hue and cry and beseeching, they let free [REDACTED] and [REDACTED] minors and decamped from the spot while raising Lalkaras. Complainant further alleged in the complaint that the accused mentioned above had committed the occurrence on the abetment of Mst. [REDACTED] [REDACTED]. On the application of the complainant, FIR (Ex.C/2) was registered u/ss. 302/34/109 PPC at police station Defence-A, Lahore, against the above mentioned accused persons.

3. After thorough investigation, the accused were challaned and on entrustment of this case, the accused were summoned, copies as required u/s 265-C of Cr.P.C. were delivered to them and charge u/ss. 302/34 PPC was framed on 15.05.2015. Later on, on 03.08.2016 amended charge was framed by the predecessor of this court by adding offence u/s 109 PPC. The accused persons pleaded not guilty to the charge and claimed trial. Resultantly the prosecution evidence was summoned.

4. Prosecution examined, as many as, eleven (11) PWs in order to establish its case. Learned Public Prosecutor, vide his statement, dated 11.10.2017, gave up prosecution witness Sultan Ahmad 6863/C, and vide statement dated 07.03.2018, gave up PW Muhammad Yasin, and through separate statement on the same day gave up private witnesses Muhammad Yousaf and Muhammad Rasheed as being un-necessary. Learned Public Prosecutor, vide her statement recorded on 23.09.2020, closed oral as well as documentary evidence of the prosecution. The gist of the evidence of the prosecution witnesses recorded in the court is as follows:-

**PW.1**, Dr. [REDACTED], Medical Officer conducted post mortem examination on the dead body of Mst. [REDACTED] deceased. Doctor deposed as follows:-

“On 06.03.2015, at 3:30 p.m., I conducted postmortem examination on the dead body of Mst. [REDACTED] daughter of [REDACTED], Caste [REDACTED], age 3-years, resident of [REDACTED], Bahawalnagar. Dead body was brought by Muhammad Imran 1496/C and Sultan Ahmad 6863/C, P.S. Defence-A, Lahore. Dead body was identified by Muhammad [REDACTED] and [REDACTED]. Time of death was 7:15 p.m. on 05.03.2015. Dead body was received in dead house on 05.03.2015 at 8:45 p.m. Complete documents were received from police on 06.03.2015 at 3:00 p.m.

**EXTERNAL EXAMINATION:**

It was dead body of a child (girl), appears to be of above stated age, thin built measuring 90-cm in length. Body was clad in green Kameez, Orange Shalwar. Shalwar was torn. Clothes were seen, signed and handed over to police as case property. Rigor mortis was present. Postmortem staining was present on back in between areas of contact flattening. Mouth was closed. Eyes were semi-open. Bleeding was present from nose. Multiple old healed abrasions with scab and scar marks were present on back of both right, left hands, forearm, right ear and right foot. Black coloured scalp hair were present.

**DESCRIPTION OF INJURIES:**

**Injury No.1:** Multiple swelling was present in an area measuring 15 X 13 cm on head, 1-cm above occipital protuberance and 3-cm above forehead.

**DISECTION:**

On dissection under injury No.1, underlying scalp and soft tissues were bruised and subdural hematoma was present over entire cerebral surface and brain was edematous.

**Injury No.2:** Areas freshly bruised (red purple color) were back of right upper arm, left upper arm, back of chest under abdomen, front of chest abdomen measuring 15 X2 cm, right and left buttocks, thighs and right and left lower legs. The area bruised constitutes 50-60 % of total body surface area.

**Dissection:**

On Dissection under injury No.2, underlying soft tissues were bruised and showed vital reaction.

All structures in chest and abdomen were healthy. Stomach contained 2-3 ounces of straw color liquor. Urinary bladder was empty. Lungs, heart, Pancreas, Liver and Spleen were healthy and pale. Upper and lower limbs stated above.

**Opinion:**

Injury stated above (both fresh and old healed) were ante-mortem in nature and were caused by blunt means. The cause of death in this case was both injury No.1 causing damage to brain leading to coma and death

and injury No.2 causing hemorrhagic shock and death. Both injuries were sufficient independently to cause death in ordinary course of nature.

Probable time elapsed between injury and death was immediate and between death and postmortem was within 20-30 hours. Carbon copy of postmortem report, dead body, police papers and last worn clothes of deceased were handed over to police. Postmortem Report is Ex.P-A and pictorial diagrams are Ex.P-A/1 & Ex.P-A/2.”

**PW-2**, Syed Muhammad Younas Bukhari, Draftsman, took rough notes of the place of occurrence, under the direction of police and on the pointing out of PWs and prepared scaled site plans as Ex.P.B and Ex.P.B/1 and handed over the same to the I.O.

**PW.3**, Muhammad Riaz S.I, deposed that on 05.03.2015, on receiving the information about the occurrence, he reached the place of occurrence where complainant produced before him written complaint Ex.P-C, on which he incorporated police proceeding and sent the same to the Police Station for registration of FIR through Shoukat 23517/C.

**PW.4**, [REDACTED], is the complainant of this case. He deposed that on 05.03.2015 at 7:00 p.m., he had reached at the place of occurrence for taking his kids namely [REDACTED], [REDACTED] and [REDACTED], where he saw accused [REDACTED], [REDACTED] and [REDACTED]. He deposed that he asked for the custody of the minors but accused [REDACTED] refused and she said to [REDACTED] and [REDACTED] to kill the minors. Complainant deposed that at that time [REDACTED], [REDACTED], [REDACTED] and [REDACTED] were with him. He deposed that [REDACTED] picked up a wooden Danda and started to beat [REDACTED] who sustained six injuries. He further deposed that accused [REDACTED] gave Danda blows to [REDACTED] which landed on her right eye, left hand and her private parts. He stated that police had reached there and delivered the custody of the minors to him at the Police Station. He claimed that there were illicit relations of his wife [REDACTED] with [REDACTED] accused and the occurrence was committed on the abetment of Mst. [REDACTED], his mother-in-law.

**Pw-5, Muhammad Akram S.I.**, deposed that on 05.03.2015, he had received complaint Ex.P-C sent by Muhammad Riaz S.I. through constable Shoukat Ali, upon which he had formally chalked out FIR which is Ex.P-C/2.

**PW-6**, [REDACTED], **aged 8-years (child witness)** is the eyewitness of the occurrence. As this witness was

a child, so, his competency regarding giving evidence was ascertained by the learned processor of this court, vide order dated 14.06.2017, by putting questions to which he had given rational answers. He stated that accused Shakir had given a Danda blow on the backside of the neck of Rabia who died.

**PW-7, Mst. [REDACTED], aged 7-years (child witness)** is also the eye-witness of the occurrence. As this witness also was a child, so, her competency regarding giving evidence was determined by learned predecessor of this court, vide order dated 11.10.2017 by putting questions to which she had given rational answers. She stated that accused [REDACTED] had given a Danda blows on the backside of neck, back and on the head of [REDACTED] (deceased) who succumbed to the injuries.

**PW-8, Muhammad Imran 1496/C**, alongwith Sultan Constable, escorted the dead body of deceased Mst. [REDACTED] to the dead- house. He deposed that after postmortem examination doctor handed over to him the last worn clothes of deceased i.e Qameez **P-1**, Shalwar **P-2** which he produced to the I.O. who secured the same through recovery memo, Ex.P-B. He further stated that on 29.03.2015, he alongwith Sultan Ahmad constable joined the investigation of this case with I.O. Muhammad Boota and at that time accused Shakir was on physical remand and he had made disclosure about the weapon of offence and in pursuance of his disclosure, accused [REDACTED] got recovered Danda (P-2) from his rented residence, situated in Charrar Pind and the I.O. had secured the said Danda through recovery memo, Ex.P-E attested by him and Sultan Ahmad constable.

**PW-9, [REDACTED]**, deposed that on 06.03.2015, he alongwith [REDACTED] had identified the dead body of [REDACTED] in hospital after postmortem examination.

**PW-10, Muhammad Boota S.I.**, is the Investigating Officer of this case. He deposed that on 05.03.2015, investigation of this case was entrusted to him and on the same day at 8:30 p.m., he had went to the spot, prepared rough site plan Ex.P-G, injury statement Ex.P-H and sent the dead body to the dead house of Mayo Hospital in the escort of Sultan and Imran constables. He further deposed that complainant had also submitted his supplementary statement by stating that injuries on the body of the deceased of club were on the head and neck as well. He recorded the statement of [REDACTED] PW u/s 161 Cr.P.C. on 05.03.2015 and prepared injury statement of [REDACTED] injured and sent her to Services Hospital for medical examination. He deposed that he got conducted the postmortem examination of Mst. [REDACTED] on 06.03.2015 from Mayo Hospital and received last worn clothes of the deceased and took into possession by him



through Ex.P-B and he handed over the dead body of the deceased to her legal heirs for burial. He deposed that on 08.03.2015, he had summoned draftsman Younas Bukhari and went to the spot where complainant and PWs were present and draftsman had prepared scaled site plans which are Ex.P-B/1 and Ex.P-B/2. He stated that on 20.03.2015, he had arrested accused Mst. [REDACTED] and [REDACTED], obtained their physical remand on different dates. He stated that accused [REDACTED] during his physical remand got recovered a club of bamboo (weapon of offence) from the bathroom of the house where he was residing which he took into possession through recovery memo, Ex.P-E attested by Imran and Sultan Ahmad constables. He stated that he got the accused sent on judicial remand and prepared report u/s 173 Cr.P.C. He further deposed that on accused [REDACTED] after obtaining pre-arrest bail joined investigation before him and he prepared supplementary report u/s 173 Cr.P.C. of accused [REDACTED] by placing her name in Column No.2 of Report u/s 173 Cr.P.C.

**PW-11, Dr. Qurat-ul-Ain**, is the women Medical Officer who conducted medical examination of Mst. [REDACTED] (PW-7). She has deposed that she examined Mst. [REDACTED] and observed the following injuries on her person.

1. Injury No.1. contused swelling about 3X3 cm around right eye conjunctiva hemorrhage.
2. Contused Swelling about 5X5 cm on left hand.
3. A contused swelling about 5X5 cm on back of right thigh.

She stated that she had advised for X-ray and injuries were kept under observation. She stated that she issued MLC No.372015 which is Ex.P-B and bears her signature. In cross-examination she stated that the nature of injury were due to beating. She further stated that the said injuries were not declared till then.

5. On closure of the prosecution evidence, the statements of the accused persons u/s 342 Cr.P.C. were recorded. In their statements all the four accused persons denied all the allegations and charges, leveled against them by the prosecution. To a particular question that why this case against them and why the PWs have deposed against them, accused [REDACTED] replied as under:

*“Actual story is that the complainant was suspecting that I had illicit relations with his wife [REDACTED] due to that reason I have been involved in this false case. Actually [REDACTED] had fallen from the stairs and died.”*

6. Other accused namely [REDACTED] while answering the same question, stated as under:-

*“I am innocent. PWs falsely deposed against me with malafide intention. Wrongly roped me in this case on the instigation of complainant through the baseless and false story. [REDACTED] deceased was my niece (Bhanji) and I loved her too much.”*

7. Other accused namely Mst. [REDACTED] (mother of the deceased) and Mst. [REDACTED] (maternal grandmother of the deceased) while answering the same question have stated that they had been involved in this case with malafide intentions and on the instigation of the complainant. Mst. [REDACTED] stated that the deceased was her daughter and she loved her too much. The maternal grandmother of the deceased also stated so.

8. The accused persons neither opted to produce defense evidence nor to appear as their own witnesses on oath as required u/s 340(2) Cr.P.C. in disproof of the allegations leveled against them.

9. Learned Public Prosecutor has contended that the prosecution has established its case beyond any shadow of doubt; that the FIR was promptly lodged and the accused are specifically nominated with specific roles and there was no likelihood of any deliberation and consultation for false implication. She further



argued that the evidence of the prosecution is cogent, consistent and confidence inspiring. She argued that there are no material contradictions and discrepancies in the testimony of the prosecution witnesses and if, there is any, that is not fatal to the case of the prosecution. Learned Public Prosecutor argued that all the accused after hatching conspiracy killed an innocent minor girl, therefore, all the accused deserve to be penalized with maximum sentences provided under the law.

10. On the other hand, learned counsel for accused [REDACTED] (Mr. Tariq Ali Shah, Advocate) and for remaining accused namely [REDACTED], [REDACTED] and [REDACTED] (Mr. Muhammad Anwar Bhatti, Advocate) have contended that the prosecution has failed to bring home guilt of the accused persons. Learned counsel contended that there are material contradictions in the statements of the prosecution witnesses; that the complainant is not eye-witness of the occurrence and falsely claimed to be present at the place of occurrence alongwith given-up PWs. Learned counsel further argued that so far as the remaining evidence of eye-witnesses is concerned, both eye-witnesses namely [REDACTED] and [REDACTED] are minors and they had been tutored, so, no reliance can be placed on the testimony of the child witnesses. Further argued that even the statements of child witnesses are contradictory because they claimed that the complainant was present at the place of occurrence at the time of occurrence but actually he was not present, so the said child witnesses have lied before the court, therefore, their evidence is also liable to outright rejection. Learned counsel further argued that even

the ocular evidence is not corroborated by the medical evidence, so there is no evidence available on the file which connects the accused persons with the commission of offence. Learned counsel for accused [REDACTED] had contended that so far as the recovery of Danda is concerned, the same evidence does not have any evidentially value because the same was recovered from a washroom which was being used commonly by other residents. Learned counsel for accused [REDACTED] has argued that, in fact, Mst. [REDACTED] had fallen from the stairs and due to said injuries which she had received during falling resulted into her death. He argued that the complainant who was already inimical against accused [REDACTED] and his in-laws have falsely involved all the accused with malafide intentions and with ulterior motives. Both the learned counsel for the accused persons have submitted that as the prosecution has failed to prove its case against the accused persons beyond any shadow of doubt and the evidence available on file is full of material contradictions, so, all the accused persons may be acquitted of the charge.

11. I have heard the arguments of learned counsel for the accused persons and learned DDPP for the State and examined the whole evidence available on the file.

12. The evidence produced by the prosecution can be bifurcated into the following categories:-

- i). Ocular Account:**
- ii). Medical Evidence:**
- iii). Recoveries:**
- iv). Abetment**
- v). Investigation:**
- vi). Defense Plea:**

13. **Ocular Account**

The whole ocular account of the prosecution consists of complainant (PW-4), [REDACTED] (PW-6) and Mst. [REDACTED] (PW-7). Complainant while appearing as PW-4 has deposed that on 05.03.2015, at about 7:00 P.M, he had reached at the place of occurrence for getting custody of his minor children namely [REDACTED], [REDACTED] and [REDACTED]. He deposed that accused [REDACTED] had refused to hand over the custody of minors and she asked [REDACTED] and [REDACTED] to kill the minors. He further stated that at that time [REDACTED], [REDACTED], [REDACTED] and [REDACTED] [REDACTED] also with him. It is pertinent to mention her that said [REDACTED] [REDACTED] while appearing as PW-9 did not utter even a single sentence to the effect that he had witnessed the occurrence. Complainant further stated that accused [REDACTED] had picked up a wooden Danda and started to beat Mst. [REDACTED] who sustained six injuries. Complainant further stated that accused [REDACTED] had given Danda below which landed on right eye, left hand and private parts of Mst. [REDACTED]. Complainant deposed that the police had reached the place of occurrence. He claimed that at the police station, the police had handed over both the minors to him. He further reiterated the allegation mentioned in his complaint that occurrence was committed on the abetment of Mst. [REDACTED], his mother-in-law. In cross-examination, he has stated that:

“Before occurrence, I was not having knowledge as to whereabouts of my children and wife accused [REDACTED] Bibi. I got the knowledge of their whereabouts on the day of occurrence on 05.03.2015. I received a call that my children were being beaten by accused [REDACTED] and [REDACTED]. I received this call at my home at Bahawal Nagar

[REDACTED] Village Muhammad Pur, Mahnwan,  
Tehsil Minchanabad.

He further stated in his cross-examination that he had received phone call after Zohar prayer at Passco Center where he was working and thereafter he came home and he alongwith [REDACTED] [REDACTED] and [REDACTED] came to Lahore in a car. He stated that [REDACTED] and [REDACTED] (given-up PWs) were already present there. It is pertinent to mention here that in complaint Ex.P-C, he has written that he alongwith [REDACTED] and [REDACTED] [REDACTED] had come to Lahore for getting his children. Now he states in the witness-box that [REDACTED] and [REDACTED] were already waiting for him in front of Police Station Defence-A, Lahore. Complainant further stated that:

“When we reached Lahore, we found dead body of my daughter namely [REDACTED] in Hospital. Volunteered that [REDACTED] my daughter was received by me from police station, it is correct that my son [REDACTED] also met me in police station when we reached Lahore”

14. The next eye-witness of the occurrence is minor [REDACTED] [REDACTED] whose age at the time of occurrence was about 5/6 years. Before recording his evidence the learned predecessor of this court examined him about his competence regarding giving evidence by putting some question and observed that the witness gave rational answers to the questions put to him. So his testimony was recorded as PW-6. PW-6 ([REDACTED]) who is son of complainant and was admittedly living with his mother Mst. [REDACTED] accused, at the time of occurrence, has stated in his cross-examination that:

”It is correct that my father after the occurrence had met me at the police station for the first time.”

PW-6 further stated that his father (complainant) was informed about the occurrence by the police. In these circumstances, it is crystal clear that complainant was not present at the place of occurrence at the time of occurrence.

15. This witness [REDACTED] (PW-6) deposed that accused [REDACTED] had given a Danda below on the backside of neck of Rabia who died at the spot. In cross-examination, he categorically denied the suggestion put to him by the defense that Mst. [REDACTED] had died by falling from the stairs.

16. The third eye-witness of the occurrence is Mst. [REDACTED] whose age at the time of occurrence was about 4 years. When her evidence was recorded, she was about 7 years old. She also undergone through the process of ascertaining her competence regarding giving evidence and the learned predecessor of this court before recording her evidence observed that she had given rational answers to each and every questions and could conceive the facts. She while appearing as PW-7 has deposed that accused [REDACTED] and [REDACTED] were habitual in torturing her. She stated that her father had arrived there and forbade them. She stated that accused [REDACTED] gave Danda blow on the backside of neck and on the head of Mst. [REDACTED] who succumbed to the injuries. In cross-examination, she denied that her sister [REDACTED] had died by falling from the stairs.

17. It is an admitted fact that at the time of occurrence both the child witnesses namely [REDACTED] and [REDACTED] were present at the place of occurrence alongwith their mother Mst. [REDACTED] accused. They are the natural witnesses of the occurrence.

The evidence of a child witness is delicate matter and normally it is not safe to rely upon it unless as a rule of prudence, the same is not corroborated, and great care is taken so that element of coaching or tutoring may not be involved in the evidence of the child witness. In the case in hand, the evidence of one child witness is being supported by another child witness. The stance of both these witnesses even after the occurrence remained that accused [REDACTED] gave Danda blows which landed on the head and neck of their sister [REDACTED] (deceased) who was just 3-years old at the fateful time. Due to the said Danda blows, she fell to the ground from the bed and then accused [REDACTED] gave kick blows hitting her waist and she died at the spot. Both these witnesses in their examination-in-chief made improvement by deposing that their father forbade accused [REDACTED] and then [REDACTED] pulled his pistol and threatened them. In the facts and circumstances of the case and they being minors, the said improvement seems to be negligible, as the same might be the tutoring of their father (complainant) in order to show the presence of their father (complainant) at the place of occurrence at the time of occurrence which presence otherwise as discussed above, in no circumstance, stood proved. From the testimony of both these eye-witnesses namely [REDACTED] (PW-6) and [REDACTED] (PW-7), it stands established that it was only accused [REDACTED] had given Danda blows to [REDACTED] (aged 3-years) which blows resulted into her death at the spot. So far as the remaining story of the prosecution that accused [REDACTED] had given Danda blows to [REDACTED] (PW-7) and [REDACTED] accused had asked [REDACTED] and [REDACTED] to kill the minors does not stand proved and established.



18. **Medical Evidence**

Postmortem examination of deceased Mst. [REDACTED] was conducted by Dr. [REDACTED]. She got her evidence recorded as PW-1. She deposed that on 06.03.2015, at 3:40 p.m., she had conducted postmortem examination on the dead body of Mst. [REDACTED], aged about 3-years whose time of death was stated as 7:15 p.m. on 05.03.2015. She described about injury No.1 that multiple swelling was present on her head, and on dissection, underlying scalp and soft tissues were bruised and subdural hematoma was present over entire cerebral surface and brain was edematous. About injury No.2, this medical witness deposed that areas freshly bruised were back of right upper arm, left upper arm, back of chest under abdomen, front of chest, right and left buttocks, thighs and right and left lower legs. She deposed that bruised areas constituted 50/60 % of total body surface of the deceased. She concluded that both the injuries were ante-mortem in nature and were caused by blunt means. She stated that:

“The case of death in this case was both injury No.1 causing damage to brain leading to coma and death and injury No.2 causing hemorrhagic shock and death. Both injuries were sufficient independently to cause death in ordinary course of nature.”

In cross-examination, she stated that there was no external bleeding in this case as the weapon was blunt. She categorically denied that the pattern of injuries and weapon described in the complaint (Danda P-2) would be the same if anybody falls from the roof of a house. There is no doubt that the medical evidence does not tell the name of the inflicter of an injury sustained by the deceased but it

can safely describe the nature of injury, seat of the injury, the weapon used for causing such injury and also its probable time of infliction. In the case in hand, the medical witness categorically denied that the injuries suffered by the deceased could have occurred due to falling from the roof, therefore, the medical evidence fully corroborates and lends full support to the case of prosecution to the effect that death of Mst. [REDACTED] had occurred due to beating with blunt means and not by falling from roof/stairs.

19. Mst. [REDACTED] PW-7 was also medically examined by Dr. Qurat-ul-Ain (PW-11). Injured [REDACTED] in her statement generally stated that her mother, [REDACTED] and [REDACTED] oftenly beat her. In the witness-box, she did not specifically state that in the present occurrence accused [REDACTED] had made a Danda blow which landed on her body. Her statement and statement of other PW [REDACTED] (PW-6) are totally silent in this respect. So, it is observed that the injuries of swellings mentioned by the doctor allegedly sustained by PW [REDACTED] cannot be taken as caused during the present occurrence.

20. **Recoveries.**

Now, I advert to the evidence of the recoveries. During the interrogation when accused [REDACTED] was on physical remand, he made disclosure regarding the weapon of offence i.e. Danda with which he had killed Mst. [REDACTED], and in pursuance of his said disclosure, he got recovered on 29.03.2015, the said Danda (P-2) from the bathroom of the quarter which he had hired on rent as residence. The investigating officer of this case while appearing as PW-10 has deposed that accused [REDACTED] had made disclosure

regarding the weapon of offence and he had taken him to his house where he was residing and from the eastern corner of the bathroom of his house, he picked up a club of bamboo and produced the same before the I.O. which he took into possession through recovery Ex.P-E witnessed by Muhammad Imran (PW-8) and Sultan Ahmad constable. Muhammad Imran recovery witness appeared in the witness-box as PW-8 and deposed that on 29.03.2015, accused [REDACTED] had got recovered weapon of offence Danda (P-2) concealed in the bathroom of his rented house, situated in Charrar Pind and he and Sultan constable had attested memo of recovery Ex.P-E. In view of above, the evidence of recovery of weapon of offence also lends fully support to the case of the prosecution and corroborates the ocular account of the prosecution witnesses.

21. **Abetment.**

Complainant (PW-4) alleged in the complaint that the occurrence was committed by the accused on the abetment of Mst. [REDACTED], his mother-in-law. It is pertinent to mention here that the complainant had neither mentioned the time of abetment, the place of abetment, the day of abetment and who were the witnesses when the conspiracy for killing the deceased was being hatched. Accused Mst. [REDACTED] against whom he has leveled the allegation of abetment was declared innocent during investigation and she was placed in column No.2 of the supplementary report sent up u/s 173 Cr.P.C. It is reflected after going through all the material available on the file that complainant who had got estranged with his wife and his in-laws as his wife Mst. [REDACTED] had left him, so, he got an opportunity due to this occurrence to involve

his wife, brother-in-law and his mother-in-law. It is manifestly clear that as his mother-in-law was not present at the place of occurrence, at the time of occurrence, so, she was involved in this case with allegation of abetment. Therefore, it is observed that the allegation of abetment against accused Mst. [REDACTED] is unproved and not unsubstantiated.

22. **Investigation:**

Investigation of this case was conducted by Muhammad Boota S.I. The record reveals that on the day of occurrence, accused [REDACTED] had a fight with [REDACTED] accused and [REDACTED] had given Danda blows to deceased [REDACTED] as she had urinated in the bed. During giving Danda blows, [REDACTED] fell to the ground and then he gave kick blows on her waist and she succumbed to the injuries at the spot. It is further mentioned here that in the record during investigation, it was not found that accused [REDACTED] was armed with Danda and he had given Danda blows to [REDACTED] (PW-7). It was also not found during investigation that accused [REDACTED] had made Lalkara by saying to other accused persons to kill the minors. During the investigation, it was found that there was no role directly or indirectly of accused [REDACTED] qua the allegation of abetment. I.O. Muhammad Boota (PW-10) stated that he had placed [REDACTED] accused in column No.2 of report u/s 173 Cr.P.C. as she was declared innocent. Regarding accused [REDACTED], he had stated in his cross-examination that according to his investigation, accused [REDACTED] was in possession of Danda which he had got recovered later on, whereas accused [REDACTED] and [REDACTED] were empty handed at the spot.

23. **Defense Plea of Accused [REDACTED]:**

Accused [REDACTED] in his statement recorded u/s 342 Cr.P.C. took the plea that complainant was suspecting his illicit relations with his wife [REDACTED] accused, so, he was involved in this case. He claimed that deceased [REDACTED] had died due to falling of stairs. The suggestion of falling of [REDACTED] from roof was also put by the defense counsel to the doctor (PW-1) who conducted the postmortem examination of the deceased has categorically denied that the patron of injuries suffered by the deceased was due to falling from roof of a house. Therefore, there is no substance in the defense plea of accused [REDACTED]. He did not deny his presence at the place of occurrence, at the time of occurrence. He also did not say that he was not residing with accused [REDACTED] who was not his legally wedded wife along with her children in the quarter which he had hired for residence. Therefore, his defense plea being devoid of any substance is hereby rejected.

**CONCLUSION:**

24. For what has been discussed above, a conclusion is inescapable that the prosecution has succeeded to prove its case against accused [REDACTED] beyond any shadow of doubt. Therefore, accused [REDACTED] is held guilty for the Qatl-i-Amd of minor [REDACTED], aged 3-years (deceased).

25. So far as accused [REDACTED], Mst. [REDACTED] and Mst. [REDACTED] are concerned, the prosecution has failed to prove its case against them beyond any reasonable doubt. Therefore, accused [REDACTED], Mst. [REDACTED] and Mst. [REDACTED] are acquitted of the charge, by extending benefit of doubt in their favour. Accused

[REDACTED], Mst. [REDACTED] Mst. [REDACTED] are present before the court on bail. Their bail bonds are discharged and sureties are relieved of their liabilities.

26. Next comes the question of quantum of sentence, to be awarded to accused [REDACTED]. No motive was alleged by the prosecution for the commission of occurrence. Even otherwise, there does not come on surface that there was any planning or conspiracy hatched for the murder of deceased Mst. [REDACTED]. The consequence of the acts of accused of giving Danda blows and kick blows to a minor of just three years of age was certainly to be a grievous hurt or death of the minor which in this case has occurred. Therefore, keeping in view all the evidence available on the file and the attending circumstances of the case, I have concluded that it would be appropriate and just to impose life imprisonment on the accused. Therefore, accused [REDACTED] s/o [REDACTED] is convicted under section 302(b) of PPC as Ta'zir for causing Qatl-i-Amd of Mst. [REDACTED] daughter of Haji Muhammad and is punished with imprisonment for life as Ta'zir. He is further ordered to pay Rs.300,000/- (Rupees three lacs only) as compensation u/s. 544-A of Cr.P.C. to the legal heirs of the deceased, which shall be recoverable as arrears of land revenue and in default thereof he shall undergo S.I. for six months. The convict is extended the benefit of Section 382-B Cr.P.C. A copy of this judgment is handed over to the convict, free of costs, in compliance of section 371 Cr.P.C. The copy of the judgment is also forwarded to the officer-in-charge of the prosecution as per section 373 Cr.P.C. The convict is present before



the court in police custody. He be sent back to jail to serve out the sentences imposed upon him.

27. Case property be kept intact till the expiry of period of appeal or revision, if any, and thereafter be disposed of in accordance with law, as the case may be. Ahlmad, (Mr. Muhammad Abubakar) is directed to cosign the file to the record room after its completion.

Announced.  
23.12.2020.

( **IFTIKHAR AHMAD** ),  
Addl. Sessions Judge/Juvenile Court  
Lahore.

Certified that this judgment consists of twenty one (21) pages. Each page has been dictated, read, corrected and signed by me.

Dated: 23.12.2020.

( **IFTIKHAR AHMAD** ),  
Addl. Sessions Judge/Juvenile Court  
Lahore.