

THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MUHAMMAD HASHIM KHAN KAKAR

MR. JUSTICE SALAHUDDIN PANHWAR

MR. JUSTICE ISHTIAQ IBRAHIM

JAIL PETITION NO.190 OF 2025

(Against the judgment dated 17.06.2025, passed by the Lahore High Court, Multan Bench, Multan, in Criminal Appeal No.917-J of 2021 and Murder Reference No.56 of 2021)

Muhammad Amin

...Petitioner(s)

VERSUS

The State

...Respondent(s)

For the Petitioner(s): Mr. Sagheer Ahmed Qadari, ASC

For the State : Mr. Tariq Siddique, Addl. PG Punjab

For the Respondent : Mr. Syed Rifaqat Husain Shah, AOR

Assisted by : **Ms. Tayyaba Munir, Law Clerk**

Date of hearing: 17.02.2026

JUDGMENT

ISHTIAQ IBRAHIM, J.-Petitioner Muhammad Amin, charged for committing murder of his wife Mst. Kausar Ghani, daughter Mst. Zunaira Amin (the deceased), attempting at the lives of his daughter Mst. Insa Amin, his brothers-in-law (*Salay*), namely, Amir Ghani Siddiqui and Kashif Ghani Siddiqui as well as causing injuries with dagger to his daughter Mst. Insa Amin vide case FIR No.182 dated 22.04.201, under sections 302, 324, 337-F(i) and 337-F(ii) of the Pakistan Penal Code, 1860 ('PPC'), registered at Police Station Danewal, District Vehari, was tried by the Additional Sessions Judge Vehari ('Trial Court'). Upon completion of the trial, the Trial Court vide judgment dated 30.11.2021, convicted the petitioner under section 302(b) PPC and sentenced him to death on two counts with direction to pay Rs.10,00,000/- as compensation under section 544-A of the Code of Criminal Procedure, 1898 ('the

Code') and in default thereof to further undergo six months simple imprisonment (S.I) on two counts. The petitioner was further convicted under section 324 PPC and sentenced to undergo seven years rigorous imprisonment and to pay Rs.45,000/- as fine and in default thereof to further undergo six months S.I. Under section 337-F(i) and 337-F(ii) PPC he was sentenced to pay Rs.25,000/- and Rs.50,000/- as Daman, respectively, to injured Mst. Insa Amin. Benefit of Section 382-B of the Code was extended to him.

2. The Lahore High Court, Multan Bench Multan ('the High Court') while dismissing appeal of the petitioner-convict maintained his conviction and sentences and consequently answered Murder Reference No.56 of 2021, sent by the Trial Court for confirmation or otherwise of the death sentence in the affirmative vide judgment dated 17.06.2025 ('impugned judgment').

3. Through the instant Jail Petition, the petitioner-convict, seeks leave to appeal against the impugned judgment of the High Court.

4. The prosecution case, as set forth in First Information Report (FIR) bearing No.182 dated 22.04.2021 (Exh.PE), registered under Sections 302, 324, 337-F(i) and 337-F(ii) PPC at Police Station Danewal, District Vehari, on the written application of the informant Amir Ghani Siddiqui (PW-11), is that Mst. Kausar Ghani (deceased), sister of the informant, had been married to the petitioner-convict, Muhammad Ghani about twenty-five years prior to the occurrence. Out of their wedlock, three children were born, namely, Zain-ul-Amin (PW-12), aged about 23 years; Mst. Zunaira Amin (deceased), aged about 20 years; and Mst. Insa Amin (PW-13), aged about 15/16 years. On 21.04.2021, an altercation allegedly took place between the petitioner-convict and his wife and children on the issue of sale of one acre of agricultural land situated in Chak No.18/WB. The wife and children were opposed to the proposed sale. Upon receiving information about the altercation, the informant Amir Ghani Siddiqui (PW-11), along with his brother Kashif Ghani Siddiqui, both being brothers of the deceased Mst.

Kausar Ghani, reached the house of their sister situated in Muslim Town, Vehari, at about 10:00 p.m. on 21.04.2021. They remained there and, till the time of *Sehri* on the following morning, made efforts to pacify and persuade the petitioner-convict, but without success. On 22.04.2021, after offering Fajr prayer in a nearby mosque, the complainant, his brother Kashif Ghani and Zain-ul-Amin (PW-12) were returning to the house when they heard hue and cry. Upon entering the house, they witnessed the petitioner-convict standing at the door of the kitchen armed with a dagger and inflicting successive blows upon his wife Mst. Kausar Ghani, and his daughters, Mst. Zunaira Amin and Mst. Insa Amin. As a result of the repeated dagger blows, Mst. Kausar Ghani and Mst. Zunaira Amin fell to the ground, while injured Mst. Insa Amin managed to run towards her maternal uncles. The informant and his brother when attempted to overpower the petitioner-convict, he also tried to attack them and thereafter succeeded in making good his escape from the scene. When the informant attended to his sister and niece, they had succumbed to their injuries. The injured Mst. Insa Amin (PW-13) was shifted to DHQ Hospital, Vehari, through Rescue 1122 for medical treatment. The motive attributed to the petitioner-convict is the dispute over the sale of agricultural land, to which his wife and children were opposed, and on account whereof he allegedly committed the occurrence.

5. We have heard learned counsel for the parties as well as the learned Additional Advocate General, Punjab, representing the State, at considerable length. With their able assistance, we have carefully gone through the entire record, including the evidence adduced and have also examined the impugned judgments passed by the learned Courts below.

6. The complainant Amir Ghani Siddiqui (PW-11), Zain-ul-Amin (PW.12) and the injured Mst. Insa Amin (PW-13) have furnished the ocular account of the occurrence in which the latter two lost their mother Mst. Kausar Ghani and sister Mst. Zunaira Amin, the

deceased respectively. The unfortunate incident took place during the holy month of Ramzan on 22.04.2021 inside the house of the petitioner-convict and his wife Mst. Kausar Ghani deceased along with their children, namely, Zain-ul-Amin (PW-12), Mst. Zunaira Amin deceased and Mst. Insa Amin (PW-13), were residing jointly. The presence of eyewitnesses Zain-ul-Amin and Mst. Insa Amin at the place of occurrence is most natural, probable and free from any doubt being the son and daughter of the petitioner-convict and inmates of the very house where the incident took place. More significantly, eyewitness Mst. Insa Amin sustained injuries during the occurrence, which constitute unimpeachable evidence of her presence at the scene. It is by now a settled principle of law, repeatedly affirmed by this Court, that the testimony of an injured witness which rings true and supported by medical evidence is accorded a special status in the law of evidence. An injured witness, having received injuries in the same occurrence, carries a built-in guarantee of his or her presence at the spot at the time of incident and ordinarily would not falsely substitute the real culprit, unless strong and compelling reasons exist for discarding such testimony. In their statements the eyewitnesses Mst. Insa Amin injured and Zain-ul-Amin have directly and singularly charged their father/the petitioner-convict with specific role of giving the fatal dagger blows upon their mother, Mst. Kausar Ghani, and sister, Mst. Zunaira Amin (deceased), as well as the injuries caused to Mst. Insa Amin. The statements of both these eyewitnesses are natural, coherent and consistent on all material particulars. Despite lengthy and searching cross-examination, nothing material could be elicited to discredit them or to shake the core of the prosecution case. It is of considerable significance that both eyewitnesses Zain-ul-Amin and Mst. Insa Amin are the children of the deceased and of the petitioner-convict. In the same occurrence, they were deprived of the love, care and protection of their mother and the companionship of their sister. It is highly improbable and contrary to the normal course of human conduct that the children would allow the real culprit of the murder of their mother and sister to go scot-free and, instead, falsely implicate their own innocent father,

thereby depriving themselves of his support and protection, especially when they had already lost their mother. In our social set-up, where family bonds are strong and respect for a father holds great importance, a son and daughter would not ordinarily bring an accusation of such grave nature against their own father unless constrained to do so by the truth of the occurrence. The defence has failed to suggest any plausible motive or circumstance which could even remotely indicate that these eyewitnesses harboured such animus against their father as would drive them to falsely implicate him in a double murder case. No ulterior motive, enmity, or extraneous consideration has been brought on record which could persuade the Court to discard their otherwise natural and confidence-inspiring testimony.

7. The other eyewitness, Amir Ghani Siddiqui (PW-11), has also plausibly explained his presence at the spot. He had reached the house of his deceased sister a day prior to the occurrence upon receiving information regarding an altercation between her and her husband/petitioner-convict over the sale of certain land. On the following morning, after returning from prayer, he witnessed the occurrence. His presence has been satisfactorily accounted for and appears natural and probable. He too has categorically implicated the petitioner-convict in the commission of the murders of his sister and niece and in causing injuries to his niece Mst. Insa Amin. Being the brother-in-law of the petitioner-convict, there is no reason to presume that he would shield the real culprit and falsely substitute him with the petitioner-convict. No material contradiction could be elicited from his cross-examination to discredit his testimony by the defence. All the eyewitnesses are consistent with each other on all material particulars of the occurrence. Their statements are in harmony regarding the manner of assault, the weapon used, and the role attributed to the petitioner-convict. They were subjected to lengthy and searching cross-examination; however, nothing favourable to the defence or adverse to the prosecution could be extracted except minor discrepancies of trivial nature, which do not go to the root of the

8. The ocular account is further corroborated by the medical evidence. Dr. Anam Maqsood (PW.6), conducted the post-mortem examinations of deceased Mst. Kausar Ghani and deceased Mst. Zunaira Amin. She observed as many as 21 incised wounds on the body of deceased Kausar Ghani and 8 incised wounds on the person of deceased Mst. Zunaira Amin. Dr. Farwa Batool Akhtar (PW.7), medically examined injured Mst. Insa Amin and noted two incised wounds along with a linear abrasion on her person. The nature, seat and number of injuries, as described by the medical officers, are fully consistent with the ocular account that the assailant inflicted repeated dagger blows upon the two deceased and the injured eyewitness. Thus, the medical evidence provides strong support to the trustworthy ocular account furnished by the eyewitnesses.

9. The prosecution has also proved the motive alleged in the FIR. The prosecution in this regard produced copy of sale deed Exh.P.12 and bank receipts Exh.P.12/1-2) which were taken into possession through recovery memo Exh.PV by the Investigating Officer. This documentary evidence proves selling of one-acre agricultural land by the petitioner-convict and deposit of sale consideration in his account. The positive PFSA report Exh.PAA regarding the crime dagger stained with blood further corroborate the prosecution's case.

10. The learned Courts below, after a comprehensive appraisal and perusal of the entire evidence available on record, have rightly concluded that the prosecution has succeeded in establishing the guilt of the petitioner-convict in respect of the murder of his wife, Mst. Kausar Ghani, and his daughter, Mst. Zunaira Amin, as well as the attempt on the life of his other daughter, Mst. Insa Amin, by inflicting dagger blows beyond reasonable doubt. The manner of this unfortunate occurrence, the deadly nature, number and seat of injuries, clearly manifest the brutality, ferocity and determination with which the offence was committed by the petitioner-convict. The repeated blows with a very sharp-edged

weapon obviously reflect the intention of the petitioner-convict and the cruel manner in which he dealt with his own wife and daughter. No mitigating circumstance, in the facts and circumstances of the case, has been pointed out which may warrant a lesser sentence on the touchstone of general sentencing principles.

11. However, while considering the question of sentence, the provisions of Sections 302, 304 and 306 PPC coupled with Article 17 of the Qanun-e-Shahadat Order, 1984 (QSO), cannot be lost sight of. For ready reference the above sections are reproduced below:-

S.302.Punishment of qatl-i-amd:-Whoever commit *qatl-i-amd* shall, subject to the provisions of this Chapter be:

(a) Punished with death as qisas

(b) Punished with death or imprisonment for life as *Ta'zir* having regard to the facts and circumstances of the case, if the proof in either of the form specified in section 304 is not available; or

(c) Punished with imprisonment of either description for a term which may extend to twenty-five years, where according to injunction of Islam the punishment of qisas is not applicable.

Provided that nothing in clause(c) shall apply where the principle of *fasad-fil-arz* is attracted and in such cases only clause(a) or clause (b) shall apply

Section 302 PPC provides three modes of punishment for *qatl-i-amd*, death as qisas under clause (a); death or imprisonment for life as *ta'zir* under clause (b), having regard to the facts and circumstances of the case where proof in either of the forms specified in Section 304 PPC is not available; and imprisonment up to twenty-five years under clause (c) where, according to the Injunctions of Islam, the punishment of qisas is not applicable, subject to the principle of *fasad-fil-arz*.

Section 304 PPC prescribes the modes of proof required to render an offence of *qatl-i-amd* liable to qisas, namely, a voluntary and true confession before a competent Court, or the evidence as contemplated under Article 17 of the Qanun-e-Shahadat Order, 1984.

S.306. Qatl-i-amd not liable to qisas:-Qatl-i-amd shall not be liable to qisas in the following cases, namely:-

(a) when an offender is a minor or insane

Provided that, where a person liable to qisas associates with himself in the commission of the offence with a person not liable to qisas with the intention of saving himself from qisas, he shall not be exempted from qisas.

(b) when an offender causes death of his child or grandchild how low-so-ever; and

(c) when any wali of the victim is a direct descendant how low-so-ever, of the offender.

Section 306 PPC, on the other hand, enumerates cases where qatl-i-amd shall not be liable to qisas. Clause (b) thereof expressly provides that when an offender causes the death of his child or grandchild, how low-so-ever, he shall not be liable to qisas. Likewise, clause (c) bars the enforcement of qisas where any wali of the victim is a direct descendant of the offender.

12. In the present case, it is an admitted position that the prosecution failed to prove the offence in either of the forms contemplated under Section 304 PPC read with Section 17 of the Qanun-e-Shahadat Order (QSO), by resorting to the process of *Tazkiya-tul-Shahud*. However, for the sake of argument, even if it is presumed that the petitioner-convict made a confession or pleaded guilty before the Trial Court, or that the prosecution succeeded in proving the case in terms of Section 304(b) PPC, the petitioner-convict, being the father of the deceased, Mst. Zuraina Amin and husband of Mst.Kausar Ghani deceased respectively, could not have been awarded the sentence of death in view of Section 306 PPC. The said provision expressly excludes the applicability of *Qisas* in such like cases.

13. Furthermore we are of the view that there exists a silent victim in every capital case involving a parent: the child. When the judiciary imposes the death penalty upon a surviving parent, it inadvertently sanctions what can only be described as 'Judiciary-Sponsored Orphanhood.' While the law seeks to punish the offender, the ultimate weight of the execution falls upon the

innocent descendants who, having already lost one parent to a crime, are deprived of the second by the State. Article 3 of the United Nations Convention on the Rights of the Child (UNCRC) dictates that in every action concerning children, their best interests must remain a primary consideration. Consistent with this international obligation, we are of the view that the presence of minor children can serve as a mitigating factor in capital sentencing. When the accused is the sole surviving parent of minor children, commuting a death sentence to life imprisonment serves the ends of justice while upholding the state's duty to protect rather than extinguish the child's last remaining familial link. To commute a death sentence to life imprisonment is not to excuse the crime, but to prevent the State from becoming the architect of a child's total abandonment. Justice must be tempered with the realization that the law should preserve the remnants of a broken family, rather than completing its destruction. The spirit of avoiding 'judiciary-sponsored orphanhood' is arguably already embedded in the legislative wisdom of Section 306(c) PPC, which wisely recognizes that when the wali of victim is the direct descendant of the accused, Qisas cannot be enforced. It can be inferred from this clause that the law must prioritize the preservation of the remaining parental lineage over Qisas. In the instant case, the petitioner is the sole surviving parent of a minor daughter, Mst. Insha Amin, aged approximately 15/16 years. In these circumstances, treating the above two aspects as a mitigating factors, we are of the considered view that awarding the sentence of imprisonment for life to the petitioner-convict would adequately meet the ends of justice.

14. For the foregoing reasons, this petition is converted into an appeal and is partly allowed. The conviction and sentences of the petitioner-convict under the relevant provisions of law except his sentence under section 302(b) PPC, as recorded by the learned trial Court and affirmed by the High Court, are maintained, as the same are well-founded and based upon a proper and correct appreciation of the evidence available on record. However, for the

reasons discussed in the preceding paragraphs with regard to the question of sentence, the punishment of death as ta'zir awarded to the petitioner-convict on two counts under Section 302(b) PPC is commuted to imprisonment for life on two counts. All substantive sentences of imprisonment shall run concurrently. As regards the benefit of Section 382-B, Cr.P.C., the same is declined in the peculiar facts and circumstances of the case. The occurrence reflects extreme brutality and mercilessness, wherein the petitioner-convict inflicted as many as twenty-one incised wounds upon his wife and eight stab wounds upon his own daughter, in addition to causing injuries to another daughter. The manner of commission of the offence and the conduct displayed by the petitioner-convict do not entitle him to the discretionary relief contemplated under Section 382-B, Cr.P.C. Accordingly, the benefit of the said provision is withheld. With the above modification in the sentence, this appeal stands disposed of.

Judge

Judge

Judge

Islamabad the

17th February, 2026

Approved for Reporting

M.Siraj Afridi PS, *Tayyaba Munir Law Clerk*