

STATE V MUHAMMAD WASEEM AND OTHERS: BRIEF OF FACTS & JUDGEMENT

15.07.2016: Murder of Fouzia Azeem aka Qandeel Baloch

As narrated by Muhammad Azeem, father of the victim, his daughter Fouzia Azeem aka Qandeel Baloch had come to stay with them on Eid-ul-Fitr, 2016. Their son Muhammad Waseem also came on 14.07.2016. Qandeel slept downstairs while the parents were upstairs. On the morning of 15.07.2016 they found her dead in her bed, Muhammad Waseem was not at home and the house was unlocked from the inside.

The statement of the complainant was recorded by PW 20 Muhammad Ilyas Haider. Forensic evidence (including DNA, swabs from bruises and food from the house), was collected from the site of incident by the Forensic Crime Scene Unit of PFSA, Multan, CRO and IT Team of CPO Office. Further collection of items from the site of incident was also conducted for analysis.

16.07.2016: Complainant (Muhammad Azeem, father of the victim) nominated his sons Muhammad Waseem and Aslam Shaheen as accused and in another statement nominated Abdul Basit, Zafar, Haqnawaz, Muhammad Arif and Muhammad Abdul Qavi.

17.07.2016: Waseem submitted himself to the police.

Accused Muhammad Waseem was arrested and confined to the police lock-up of Muzaffarbad Police Station, Multan.

18.07.2016: Recorded statement 164 CrPC in front of Muhammad Sarfaraz Anjum, Area Magistrate, from where he was sent to judicial lock-up.

Under section 161 CrPC statement: Waseem admitted that he, alongside Haqnawaz, committed the murder of Qandeel Baloch. Confessed it was in the name of honour. He said he had no guilt.
(pg. 6)

27.07.2016: Primary accused, Muhammad Waseem admitted that his brother Arif, who was in Saudi Arabia at the time, told him to commit the murder, also stating that he would then fly him to KSA to join him (Muhammad Waseem's passport which had been submitted by him to a travel agency was also recovered during the investigation, thus showing the intent to leave the country after the fact), and that he along with Haqnawaz committed the murder of his sister Qandeel Baloch due to her alleged bad character and her fame due to her status as a social media model. He also confessed that his reason for doing it was in the name of honour. He was brought in front of the Area Magistrate and request for physical remand was granted

28.07.2016: Muhammad Waseem's presence in the area was also confirmed by the vendor who sold him milk on the night of 15.07.2016.

Arrested Haqnawaz (accused no. 2) who admitted to the murder in the name of honour, in the DC Multan on 30.07.2016. Qandeel's passport was recovered from his house at Shah Saddar-ud-Din, DG Khan. Physical remand for Haqnawaz was obtained the same day.

1.08.2016: Haqnawaz disclosed that he took Qandeel's iPhone and had concealed the same at his house which was later recovered from an iron box inside his room, as identified by him. He also confessed to giving intoxicant tablets to Qandeel, along with the accused Waseem, by mixing it into milk and then murdering her when she became unconscious. He also stated that while Waseem held Qandeel's hands, he pressed her throat and then Waseem also participated in choking her.

8.08.2016: Accused no. 3 and 6 were arrested and their phones were taken into possession by the police. Their statements were recorded u/s 161 CrPC

09.08.2016: Accused no. 3 Basit admitted that Zafar gave him money to take accused Haqnawaz to Multan for committing the murder (pg. 10). He also gave details, namely regarding the petrol pump he refueled at on his way to Multan, that were later corroborated that provide evidence of their involvement in the crime i.e CCTV footage from the pump, in which Basit pointed himself out and stated that Haqnawaz was also present in the car (however the same was not deemed to be convincing proof of guilt by the Judge as will be seen in the held).

11.08.2016: Accused Haqnawaz sent into judicial remand as he was found to be in connection with the commission of the crime.

As per the statement of Accused no. 4 Zafar, he sent Zafar to Multan and remained in contact with Haqnawaz.

During the investigation it also came to light that the victim was facing threats since her selfies/scandal with Accused no. 5 Muhammad Abdul Qavi were made public, as was also mentioned by her in her press conference dated 28.06.2016.

18.10.2016: Accused Muhammad Abdul Qavi was arrested and interrogated (pg. 12) and Asif Shehzad, SI who was entrusted with investigation of the first instance case, found him involved in the crime to the extent of abetment.

After due process of law, challan/report u/s 173 CrPC against the accused persons was submitted in court and copies required u/s 265-C CrPC were delivered to the accused persons.

First Challan 15.12.2016 against Waseem, Haqnawaz and Basit
Charges framed: 12.12.2018

35 PWs were produced by the prosecution in the attempt to prove the case against the accused..

The accused denied all charges, where as, in Muhammad Waseem and Haqnawaz's case, they recanted their earlier confessions (which, in Haqnawaz's case, was declared extra judicial by the Judge due to the fact that it was not made in front of authorized personnel).

22.08.2019: Parents and legal heirs of the victim, Muhammad Azeem and Anwar Bibi, pardoned the accused Waseem and Aslam Shaheen (their sons and brothers of the victim) under a s. 345 CrPC application. The application was declined on the same day.

HELD:

27.09.2019

S. 311 of PPC

Case of circumstantial evidence, based on judicial confessions and recoveries.

Excerpt from judgement:

From the above narrated gist of prosecution evidence, it is very much clear that it is a case of circumstantial evidence, based on judicial confession, recoveries affected. from the accused persons, polygraph test reports, DNA report, call data records and medical evidence. What tempts the court to believe this type of evidence is the maxim that men may tell a lie but circumstances do not. We do not nor can we doubt and dispute its centuries old tested wisdom.

We rather use it as a touchstone for assessing and evaluating the evidentiary worth of the circumstantial evidence.

Accused 1: Judicial confession of the accused Muhammad Waseem was made voluntarily in accordance with the law and its retraction does not affect its evidentiary value, and it can be made the basis for conviction.

Waseem's DNA also found on/near the dead body.

Not a case of blind murder, Muhammad Waseem admitted in his judicial confession that after seeing the pictures and videos of his sister on social media, he committed the murder.

Statement of Muhammad Waseem recorded in the office of the PFSA before the Polygraph Unit was treated as extra-judicial confession as it was not recorded before a magistrate. It was in the presence of a police officer.

Accused 2: Polygraph of the Haqnawaz was also extra-judicial confession and needed corroboration. The recovery of the appropriated passport from his home was doubtful and police had produced no witness.

Accused 3: Polygraph of accused Abdul Basit was inconclusive. The report cannot be used against him.

Accused 4: Aslam Shaheen was acquitted on the basis of no convincing circumstantial evidence being available against him.

Accused 5: Polygraph test of Muhammad Abdul Qavi considered him not to be truthful when answering the question on instigation to murder as per the PFSA report, which the judge did not find to be a compelling argument in favour of his guilt. The judge also was not moved by the mention of the fact that the victim felt threatened and had expressed her fear, nor did he believe the bank transactions between Muhammad Abdul Qavi and the victim to be compelling evidence.

Accused 6: Polygraph test of accused Muhmmad Zafar was also deemed inconclusive.

Summary of Held:

Additional Sessions Court Judge Imran Shafi held that the prosecution had successfully proven the case of the murder of Qandeel Baloch against the accused Muhammad Waseem through judicial confession corroborated by DNA analyses, beyond the shadow of reasonable doubt. In the case of the rest of the accused, for various reasons as listed above, the charges were deemed to not have been proven by the prosecution.