

2018 S C M R 911

[Supreme Court of Pakistan]

Present: Asif Saeed Khan Khosa, Dost Muhammad Khan and Syed Mansoor Ali Shah, JJ

Mst. NAZIA ANWAR---Appellant

Versus

The STATE and others---Respondents

Criminal Appeal No. 206 of 2016, decided on 13th February, 2018.

(Against the judgment dated 22.02.2016 passed by the Lahore High Court, Rawalpindi Bench, Rawalpindi in Criminal Appeal No.372 of 2011 and Murder Reference No. 69 of 2011)

Per Asif Saeed Khan Khosa, J; Syed Mansoor Ali Shah, J agreeing; Dost Muhammad Khan, J dissenting.

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

---S. 302(b)---Qatl-i-amd---Reappraisal of evidence---Accused-lady was alleged to have inflicted dagger injuries to the deceased and the complainant---Trial Court convicted the accused under S. 302(b), P.P.C. and sentenced her to death---High Court upheld the conviction and sentence recorded by the Trial Court; [Per Asif Saeed Khan Khosa, J (Majority view): Occurrence had taken place in broad daylight and inside the house of complainant---First Information Report in respect of the alleged occurrence had been lodged with reasonable promptitude wherein the accused was named as the sole perpetrator of the alleged murder--Complainant was a natural witness of the occurrence being an inmate of the house wherein the occurrence had taken place and the time of occurrence was such that the complainant was likely to be present in her house at that time---Complainant had absolutely no reason to falsely implicate the accused in the murder of the complainant's daughter who was also a friend of the accused---Record of the case showed, and it was so recorded in the FIR itself, that the accused had been apprehended at the spot inside the relevant house and was later on handed over to the local police---Blood-stained dagger had also been recovered from the place of occurrence---Medical evidence had provided full support to the ocular account furnished by the complainant---Prosecution had proved beyond reasonable doubt that accused was responsible for the murder of the deceased--- Appeal against conviction was dismissed accordingly]---[Per Dost Muhammad Khan, J (Minority view): First Information Report was lodged after more than two hours for which no plausible explanation was offered---Complainant waited for the arrival of the police and did not take any step to shift the dead body---Prosecution did not answer the question as to who informed the police about the crime and place of crime---Admittedly deceased and the accused were friends since long---No logic was offered as to for why the accused brought a four months' suckling baby with her when she allegedly had a clear intention to commit murder and the baby was placed within the reach of the complainant, putting his life at grave risk---Deceased was married but she frequently deserted her husband's house and stayed away with the mother (complainant) for no reason---Access of outsiders in the complainant's house raised the possibility of objectionable activities taking place in the complainant's house---Probability could not be ruled out that the husband of the deceased or some close blood relative after getting knowledge of such objectionable activities got annoyed and out of family honour acted so ruthlessly and caused multiple stab wounds to the deceased also slitting her throat, which under no circumstances could be the job of a young and fragile lady like the accused---Inescapable inference was that the accused was made a scapegoat to screen out the real culprit because of the highly objectionable family affairs of the complainant party--- Furthermore the prosecution could not explain as to why the accused stayed for more than two hours in the crime house with blood-stained knife and her suckling baby after committing a heinous crime and fell into the hands of the police after its much delayed arrival---From the facts of the case it appeared that the accused was either arrested from her own house or being a fast and close friend of the deceased when she rushed to

the crime house with the suckling baby and was present there, then with deliberate intention or otherwise suspicion she was randomly implicated for the murder---Sentence of death awarded to the accused was set aside in circumstances and she was acquitted of the charge of murder].

Per Asif Saeed Khan Khosa, J [Majority view]

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

---S. 302(b)--- Qatl-i-amd--- Reappraisal of evidence--- Sentence, reduction in---Death sentence reduced to imprisonment for life---Motive not proved---Motive set up by the prosecution had remained far from being established---According to the FIR as well as the statement of the complainant the motive was based upon borrowing of a sum by the accused from the deceased and on the issue of repayment of that loan a heated exchange had taken place between the accused and the deceased---Complainant was the only witness produced by the prosecution regarding the alleged motive but in her deposition made before the Trial Court the complainant had admitted that the accused and the deceased were on very good and friendly terms--- No date or time of borrowing of the relevant amount by the accused from the deceased had been specified by the complainant---Furthermore complainant was not present when the money had been borrowed by the accused---No date, time or place of the altercation between the accused and the deceased over repayment of the borrowed amount had been specified by the complainant and admittedly the complainant was not present when the said altercation had taken place---Moreover it was not explained as to why the accused had brought her four months old child to the spot and put the child on the floor and then started inflicting dagger blows on the deceased---Real cause of occurrence remained shrouded in mystery and was completely suppressed by both the parties to the case---Such circumstances required caution in the matter of the accused's sentence of death---Sentence of death awarded to the accused was reduced to imprisonment for life---Appeal was disposed of accordingly.

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

---S. 302(b)--- Qatl-i-amd--- Reappraisal of evidence--- Sentence, reduction in---Death sentence reduced to imprisonment for life---Motive not proved---Where the prosecution asserted a motive but failed to prove the same then such failure on part of the prosecution may react against sentence of death passed against a convict on the charge of murder.

Ahmad Nawaz v. The State 2011 SCMR 593; Iftikhar Mehmood and another v. Qaiser Iftikhar and others 2011 SCMR 1165; Muhammad Mumtaz v. The State and another 2012 SCMR 267; Muhammad Imran alias Asif v. The State 2013 SCMR 782; Sabir Hussain alias Sabri v. The State 2013 SCMR 1554; Zeeshan Afzal alias Shani and another v. The State and another 2013 SCMR 1602; Naveed alias Needu and others v. The State and others 2014 SCMR 1464; Muhammad Nadeem Waqas and another v. The State 2014 SCMR 1658; Muhammad Asif v. Muhammad Akhtar and others 2016 SCMR 2035 and Qaddan and others v. The State 2017 SCMR 148 ref.

Per Dost Muhammad Khan, J

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

---S. 302(b)---Qatl-i-amd---Acquittal---Scope---Benefit of doubt---Case of the prosecution open to multiple theories and possibilities---In such a situation benefit of doubt had to be extended to an accused to acquit him/her of capital charge, instead of reducing the sentence---Once doubts about the genuineness of the prosecution story lurked into the mind of a judge, the only permissible course would be to acquit the accused and not go for the alternative sentence of life imprisonment.

Ayub Masih v. The State PLD 2002 SC 1048; Muhammad Zaman v. The State and others 2014 SCMR 749 and Hashim Qasim v. The State 2017 SCMR 986 ref.

Raja Ikram Ameen Minhas, Advocate Supreme Court, Mrs. Rubina Mahmood Khan, Advocate Supreme Court, S.A. Mehmood Khan Saddozai, Advocate Supreme Court and Chaudhry Akhtar Ali, Advocate-on-Record for Appellant.

Muhammad Jaffar, Deputy Prosecutor-General, Punjab for the State.

Date of hearing: 13th February, 2018.

JUDGMENT

ASIF SAEED KHAN KHOSA, J.---Mst. Nazia Anwar appellant had allegedly caused multiple injuries to her friend namely Mst. Fahmeeda Bibi with the use of a dagger inside the house of the deceased as well as of her mother namely Mst. Sadiqa Bibi complainant in Line No. 2, Quaid-e-Azam Colony near Dhamial Camp, Rawalpindi in the area of Police Station Saddar Bairooni, District Rawalpindi at about 10.00 a.m. on 12.10.2010 in the backdrop of a motive according to which the appellant had borrowed a sum of Rs. 5,000/- from the deceased and a heated exchange had taken place between them over demand of repayment of that loan. With the said allegations the appellant was booked in case FIR No. 640 registered at the above mentioned Police Station at about mid-day on the same day and after a regular trial the appellant was convicted by the trial court for an offence under section 302(b), P.P.C. and was sentenced to death and to pay compensation which conviction and sentence of the appellant were subsequently upheld and confirmed by the High Court. Hence, the present appeal by leave of this Court granted on 21.04.2016.

2. Leave to appeal had been granted in this case in order to reappraise the evidence and with the assistance of the learned counsel for the parties we have undertaken that exercise.

3. The occurrence in this case had taken place in broad daylight and inside the house of Mst. Sadiqa Bibi complainant. An FIR in respect of the alleged occurrence had been lodged with reasonable promptitude wherein the present appellant was named as the sole perpetrator of the alleged murder. Mst. Sadiqa Bibi complainant (PW2) was a natural witness of the occurrence being an inmate of the house wherein the occurrence had taken place and the time of occurrence was such that the complainant was likely to be present in her house at that time. The complainant had absolutely no reason to falsely implicate the appellant in the murder of the complainant's daughter who was also a friend of the appellant. The record of the case shows, and it is so recorded in the FIR itself, that the appellant had been apprehended at the spot inside the relevant house and was later on handed over to the local police. A blood-stained dagger had also been recovered from the place of occurrence. The medical evidence had provided full support to the ocular account furnished by Mst. Sadiqa Bibi, complainant (PW2). Both the courts below had undertaken an exhaustive analysis of the evidence available on the record and had then concurred in their conclusion regarding guilt of the appellant having been established to the hilt and upon my independent evaluation of the evidence I have not been able to take a view of the matter different from that concurrently taken by the courts below. There can conceivably be many theories as to why the appellant was found inside the house of the complainant with a baby-boy aged about four months but all such theories lie within the realm of conjectures which have no place in the criminal law. There is also little room available for drawing an inference in that regard as some foundational facts necessary for drawing an inference are missing in that respect.

4. I have particularly attended to the sentence of death passed against the appellant and have noticed in that context that the motive set up by the prosecution had remained far from being established. According to the FIR as well as the statement of the complainant the motive was based upon borrowing of a sum of Rs. 5,000/- by the appellant from the deceased and on the issue of repayment of that loan a heated exchange had taken place between the appellant and the deceased. Mst. Sadiqa Bibi complainant (PW2) was the only witness produced by the prosecution regarding the alleged motive but in her deposition made before the trial court the complainant had admitted that the appellant and the deceased were on very good and friendly

terms, no date or time of borrowing of the relevant amount by the appellant from the deceased had been specified by the complainant, the complainant was not present when the money had been borrowed by the appellant from the deceased, no date, time or place of the altercation taking place between the appellant and the deceased over repayment of the borrowed amount had been specified by the complainant and admittedly the complainant was not present when the said altercation had taken place. In these circumstances it is quite obvious to me that the motive asserted by the prosecution had remained utterly unproved. The law is settled by now that if the prosecution asserts a motive but fails to prove the same then such failure on the part of the prosecution may react against a sentence of death passed against a convict on the charge of murder and a reference in this respect may be made to the cases of Ahmad Nawaz v. The State (2011 SCMR 593), Iftikhar Mehmood and another v. Qaiser Iftikhar and others (2011 SCMR 1165), Muhammad Mumtaz v. The State and another (2012 SCMR 267), Muhammad Imran alias Asif v. The State (2013 SCMR 782), Sabir Hussain alias Sabri v. The State (2013 SCMR 1554), Zeeshan Afzal alias Shani and another v. The State and another (2013 SCMR 1602), Naveed alias Needu and others v. The State and others (2014 SCMR 1464), Muhammad Nadeem Waqas and another v. The State (2014 SCMR 1658), Muhammad Asif v. Muhammad Akhtar and others (2016 SCMR 2035) and Qaddan and others v. The State (2017 SCMR 148). After going through the entire record of the case from cover to cover and after attending to different aspects of this case I have found that although it is proved beyond doubt that the appellant was responsible for the murder of the deceased yet the story of the prosecution has many inherent obscurities ingrained therein. It is intriguing as to why the appellant would bring her four months old baby-boy to the spot and put the baby-boy on the floor and then start belabouring the deceased with a dagger in order to kill her. I have, thus, entertained no manner of doubt that the real cause of occurrence was something different which had been completely suppressed by both the parties to the case and that real cause of occurrence had remained shrouded in mystery. Such circumstances of this case have put me to caution in the matter of the appellant's sentence and in the peculiar circumstances of the case I have decided to withhold the sentence of death passed against the appellant.

5. For what has been discussed above this appeal is dismissed to the extent of the appellant's conviction for the offence under section 302(b), P.P.C. but the same is partly allowed to the extent of her sentence of death which is reduced to imprisonment for life. The order passed by the trial court regarding payment of compensation by the appellant to the heirs of the deceased as well as the order regarding imprisonment in default of payment of compensation are, however, maintained. The benefit under section 382-B, Cr.P.C. shall be extended to the appellant.

Sd/-

Asif Saeed Khan Khosa, J.

I respectfully disagree with my learned brother Asif Saeed Khan Khosa, J. and have recorded my separate reasons.

Sd/-

Dost Muhammad Khan, J.

I agree with my learned brother Asif Saeed Khan Khosa, J.

Sd/-

Syed Mansoor Ali Shah, J

JUDGMENT OF THE COURT

By a majority of two against one (Dost Muhammad Khan, J. dissenting) this appeal is dismissed to the extent of the appellant's conviction for the offence under section 302(b), P.P.C. but the same is partly allowed to the extent of her sentence of death which is reduced to imprisonment for life. The order passed by the trial court regarding payment of compensation by the appellant to the heirs of the deceased as well

as the order regarding imprisonment in default of payment of compensation are, however, maintained. The benefit under section 382-B, Cr.P.C. shall be extended to the appellant. This appeal is disposed of in these terms.

Sd/-

Asif Saeed Khan Khosa, J

Sd/-

Dost Muhammad Khan, J.

Sd/-

Syed Mansoor Ali Shah, J.

Dissenting Note in Crl. Appeal No.206 of 2016

DOST MUHAMMAD KHAN, J.---After attending to the reasons given by my lord brother Judges, Mr. Justice Asif Saeed Khan Khosa (author Judge) and Mr. Justice Syed Mansoor Ali Shah, J., with utmost respect my view is entirely different and in favour of acquittal of the appellant. The reasons for my view are as follows:-

Reasons for Dissent:

1. The facts and evidence of the case is presenting extremely inextricable, highly complexed and much confounded theories about the tragedy.
2. Before us there are two mothers in the field and we have to judicially determine their respective roles during the tragedy and enacting the tragedy.

Before making reappraisal of evidence, I am constrained in citing below certain Quotes of Wisdom about mother-love for her child of any age:-

1. "To describe my mother would be to write about a hurricane in its perfect power. Or the climbing, falling colours of a rainbow."- Maya Angelou
2. "A mother turns lioness when her child is troubled."- Jennie Finch
3. "Mother bird protects until her chicks are grown and can fly free."- Unknown
4. A mother's arms the most secured and sound place for children."- Victor Hugo
5. "The strength of motherhood is greater than natural laws."- Barbara Kingsolver
6. "There is eternal influence and power in motherhood."-unknown
7. Mother's love is limitless, eternal, endless, untiring, unmatched and inexpungible." - unknown

The conduct of the complainant Mst. Sadiqa Bibi (PW-2) the mother of the deceased Mst. Fehmeeda Bibi and the convict appellant Mst. Nazia Anwar who is charged for the murder is also to be judged at the touchstone of Article 129 of the Qanun-e- Shahadat Order, 1984, which is reproduced below:

"129. Court may presume existence of certain facts.-The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case."

3. Brief and relevant facts are that on 12.10.2010 at about 10:00 a.m. the appellant entered the crime house in residential colony "Makhan", brought her four months' suckling baby, put it on the ground close to the complainant, entered the room where the deceased was inflicted upon seven injuries of different dimensions and also slit her throat. The motive for the crime was that the deceased had given Rs.5000/- to the appellant as loan and when it was demanded back, the appellant reacted violently.
4. The most vital point in the case attracting the court's attention is the fact of FIR, having been lodged at the crime spot after more than two hours, no reason much less plausible has been given by the prosecution at any stage. The FIR lodged at the crime spot, in a murder case, would create reasonable suspicion that the crime was un-witnessed one, therefore, preliminary investigation are carried out and witnesses are set up.

It is the prosecution case itself that immediately after the occurrence many men reached the crime house and the dead body could be conveniently taken within no time to the police station but instead, the complainant waited for the arrival of the police not taking a single step to shift the dead body. Who informed the police about the crime and crime place, is another begging question, having no answer from the prosecution.

True that in each and every case if FIR is lodged at the crime spot, the entire case of the prosecution cannot be thrown away but there must be some plausible reasons in that regard and when the very reason is absent, many suspicions and doubts would arise and inference against the prosecution has to be drawn in this regard.

5. Adverting back to the story set up by the prosecution, the complainant who was the mother of the deceased acted like silent rather amused character during the tragic incident as according to her claim her daughter was killed in her presence, seven incised wounds were inflicted also slitting of her throat. She did not react motherly to prevent the appellant from causing so much number of injuries in her presence or to make loud-cries for help from the nearby houses.

On the other hand, the appellant brought four months' suckling baby with her when she was having a clear intention to commit murder and the baby was placed within the reach of the complainant, putting to grave risk the life of the baby. One fails to understand the logic and compelling reason for conducting herself in a manner expected only of insane or mentally deranged person. Secondly it is established on record that the deceased and the appellant were intimate friends since long on visiting terms. The motive has been disbelieved by the majority judgments and once the motive disappears then, what was the sudden impulse given to the appellant, blowing her sentiments of anger so high, which could not retake its seat, not a shred of evidence is present on record in that regard. The question thus, arises that without any cause of a grave nature, how the virtuous lady turned a villain ruthlessly slaughtering and stabbing the deceased, her best friend. When the very cause and reason for the violent act is absent then, the entire story becomes susceptible to many interpretations. It is the sacred obligation of the court to uncover the truth and husk out the lies and if this process also fails then the benefit of doubt has to be extended to the appellant as of right entitling her to clean acquittal because century old golden rules of benefit of doubt in the administration of criminal justice never approve lesser sentence rather to acquit the accused. If such course is not adopted this golden principle being old as hills are, would be reduced to naught.

6. Another aspect of the case is, discarding the testimony of Muhammad Zahid (PW-3) alien to the family and an outsider. He has claimed to be the frequent visitor to the complainant house without being needed. This fact speaks very loudly about the objectionable activities going inside the family. The complainant, a middle age lady of about 50 years with sound health is a widow as her husband died earlier. Her source of income has not been brought on record. Wherefrom family was meeting the needs of their daily life, would further re-enforce the view and the necessary inference would be that all was not going well in the crime house.

7. The deceased herself was married but she frequently deserted her husband's house and was staying away in the crime house with the mother (complainant) for no reason much less convincing one. The very access of outsiders including PW Muhammad Zahid due to frequent visits there would definitely disturb every prudent mind, much less a judicial one about the objectionable activities, going on in the family.

It has come in the evidence that the other daughter of the complainant namely Mst. Hafeeza Bibi had gone nearby to a local doctor for check up and treatment accompanied by her own daughter. Being mother, the complainant was supposed to accompany Mst. Hafeeza Bibi to the doctor when she was having no domestic work at home therefore, the deceased alone was left behind at home to look after it. Judged from this angle there is a probability that the husband of the deceased or some close blood relative of him after getting knowledge of such objectionable activities of the family including the deceased got annoyed irretrievably

and out of family honour acted so ruthlessly and mercilessly causing multiple stab wounds to the deceased also slitting her throat, which under no circumstances could be the job of a young lady, soft and fragile hand. The autopsy report would show that one thumb of the hand was completely cut including the hard bone of it. Such injury could only be caused with butcher chopper and not the dagger or kitchen knife, planted against the appellant in this case.

8. Another quite intriguing aspect of the case is that the role of the complainant (mother of the deceased) highlighted above is not in conformity with the natural reaction of a mother when her daughter was under a ruthless attack. The prosecution decided to make the court to believe that it was Muhammad Zahid (PW-3) and Muhammad Ameer (not produced), reached the crime house immediately after the occurrence and detained the appellant there with the crime knife and the baby.

9. My lord brothers themselves have kept out of consideration the presence of Muhammad Zahid (PW-3) and his testimony has been discarded being not present on the spot. There are strong reasons favouring that view as Muhammad Zahid was in a sensitive police wing (Special Branch) and on the fateful day he was on V.V.I.Ps duty. He could not convincingly explain as to how he left the place of duty entrusted to him with a highly sensitive job and once these two persons are kept aside then the detention of the appellant in the crime house with the crime knife and her suckling baby becomes absolutely unbelievable as the complainant did nothing but only wept for a moment. There was no earthly reason present that in the absence of any hurdle in her way why the appellant stayed for more than two hours in the crime house with blood stained knife, clothes and her suckling baby after committing such a heinous crime and fell into the hands of the police after its much delayed arrival there. The story so set up deserves to be rejected by the court with strong disapproval being false and tailored made.

10. The fallaciousness of the story does not end here because in the entire episode, during the course of investigation on the crime spot, there is no reference whatsoever as to what happened to the suckling baby of the appellant as no evidence has been brought on record. It is evident from the order sheet of the trial Court that on her first appearance, the appellant appeared with the same suckling baby in her lap duly observed and recorded in the order by the Trial Court but the prosecution had kept intriguing silence on this vital aspect of the case during the course of investigation on the fateful day. The inescapable inference thus would be that the appellant was made a scapegoat to screen out the real culprit because of the highly objectionable family affairs of the complainant party. It is noticeable fact that neither during the investigation nor during the trial proceedings the husband or any relative of the deceased, Mst. Fehmeeda, appeared on the scene or to prosecute the appellant in any manner. Distancing himself from the proceedings by the husband was a loud message to everyone and the necessary inference to be drawn is that either he himself was involved in the crime or his brother or father and why the deceased was killed in a very cruel manner as the murder had taken place inside the house of the complainant so she was required to blame someone else otherwise she herself would have been the suspect for the crime. Another strong reason is the dirty role of Muhammad Zahid (PW-3) who was not otherwise related within the prohibitory degree with the complainant or her daughters but used to visit and stay in the crime house frequently when he was neither feeding them nor it has come on record that his presence was required for genuine reason. His shady role diverting the course of investigation is palpable on record why the investigation commenced too late and the FIR was drawn at the crime spot and the story was manufactured with connivance of the police.

11. Here I am constrained to observe that the learned Judges of the High Court seized of the Murder Reference could not attend to these aspects and the incompleteness of the story besides being fallacious it did not perform its obligatory duty under the provision of section 375, Cr.P.C. and the matter was decided in vacuum and was left to suffer from suspicions/hypothesis. For confirmation of Murder Reference or otherwise it is the duty of the High Court to see as to whether the story set up is doubtful or not upto the

mark or it was left incomplete and some crucial aspects of it need further inquiry, it shall have to record evidence to clear all doubts and suspicions and fill up the left out vacuum for doing substantial justice.

12. My lord brothers have equally held that the case of the Prosecution has led to multiple theories and possibilities. The cardinal principle in the criminal justice system in a situation like this, is to extend benefit of doubt to an accused to acquit him/her of capital charge, instead of reducing the sentence. Once doubts about the genuineness of the story lurk into the minds of the Judges, the only permissible course is to acquit the accused and not go for the alternative sentence of life imprisonment. In this regard reference may be made to the following case laws:-

(i) Ayub Masih v. The State (PLD 2002 SC 1048)

(ii) Muhammad Zaman v. The State and others (2014 SCMR 749)

(iii) Hashim Qasim v. The State (2017 SCMR 986)

It is also well entrenched rule and principle of law that on the basis of probabilities, accused person may be extended benefit of doubt acquitting him/her of a capital charge however, such probabilities, high howsoever, could not be made basis for conviction of an accused person and that too on a capital charge.

13. The prosecution is under legal obligation to prove the guilt of an accused person beyond any shadow of doubt through evidence, coming from unimpeachable source which is not only convincing, reliable but also sufficient to satisfy the judicial mind about the guilt of an accused person. With utmost respect, in para 4 of the judgment, my lord brother Judges have acted on high probabilities and also for the reason that the complainant being inmate of the house therefore, her presence could not be lightly brushed aside. If at the fateful time her other daughter and grand daughter were away from the same home and being mother of her ailing daughter in all probabilities she was supposed to have accompanied her to the doctor, also could not be ruled out, why the FIR was delayed and made at the crime spot and it appears that the appellant was either arrested from her own house or being a fast and close friend when there was nobody in the house, after getting the news of her tragic murder she might have rushed to the crime house with the suckling baby and was present there till the arrival of the police and with deliberate intention or otherwise the suspicion fell on her and was at random implicated. The Investigating officer too has acted dishonestly and deprived the court of law by his action in collecting false evidence to reach at a fair and proper conclusion, doing substantial justice in the case.

14. For what has discussed above, I am of the considered view that once the case of the prosecution has been found susceptible to many interpretations and different theories are coming on record sufficient to disturb judicial mind about the guilt of the appellant then, after spending seven years in prison with a suckling baby and also from 20.9.2011 to 22.2.2016 (05 years) in death cell is serious injustice caused to her and on the basis of benefit of doubt she is entitled to clean acquittal. Therefore, this appeal is allowed. The impugned judgment of the High Court maintaining the sentence of death of the appellant with compensation amount is set aside and the appellant is acquitted of the charge/charges leveled against her. She be set free forthwith along with her baby from the jail by the jailor concerned if not required to be detained in any other case.

MWA/N-4/SC Order accordingly.