

**REPORT ON  
SIALKOT  
INCIDENT**

**BY : KAZIM ALI MALIK**

## IN THE SUPREME COURT OF PAKISTAN

RE: SUO MOTO CASE NO. 14/2010 ACTION REGARDING MURDER OF TWO YOUNG PERSONS BY A MOB AT SIALKOT IN PRESENCE OF POLICE.

### REPORT:

1. To start with, I seek refuge with the might of Allah almighty while recording bitter truth regarding Sialkot incident under inquiry as I genuinely apprehend that a campaign of vilification and character assassination would be launched by unscrupulous elements after submission of this report in the apex court.
2. This is a case of version and counter version I find it convenient to bring on record counter claims of the parties touching this incident for combined examination and analysis.
3. In this incident Hafiz Mohammad Mughees Sajjad (18) and Mohammad Muneeb Sajjad (15) sons of Mohammad Sajjad Butt residents of mohallah Haji pura, Sialkot suffered death by violence on one side while Bilal(20) ,Javed(30) sons of Mohammad Shaukat Ali Bhatti, Zeeshan(12) son of Sabir Hussain caste Mehar, Imran(22) son of Shaukat Araen, all residents of village Buttar, district Sialkot sustained fire arm injuries on the other side, out of whom aforementioned Bill succumbed to his injuries in the hospital. In this way three young boys lost their lives in this happening.
4. Shaukat Ali Bhatti father of Bill deceased lodged FIR No. 437/2010 at police station sadder Sialkot with an allegation, in brief that on 15-8-2010 at about 6am his son Bill deceased was returning home on a motor bike followed by a pickup boarded by 25/30 persons including aforementioned Mohammad Zeeshan, injured and when they reached in front of a mosque located on Buttar road, two unknown motor cycle riders emerged on the road and forced Bilal, deceased to stop in order to deprive him of his motor bike and other belongings. Bilal, deceased offered resistance. In the mean time,

Mohammad Javed and Mohammad Imran aforementioned injured persons also reached there on a motor bike per chance. The unknown robbers snatched cell phone, Rs. 2000 cash and some papers from Bilal, deceased. Javed and Imran, injured proceeded ahead to save Bilal from the clutches of the robbers when one of them fired at Bilal hitting him on the right shoulder upon which he fell down. Thereafter, Zeeshan injured alighted from the pickup and ran towards the robbers when short statured robber fired striking Zeeshan on his neck .subsequent to this both the robbers started firing as a result of which Javed and Imran fell down after receiving bullet injuries. After this incident the robbers attempted to flee on their motor bike, but they fell down when driver of the pickup van blocked their way. In the mean time a large number of people gathered at the spot took them to the main Sialkot Daska road and killed them by violence in retaliation.

5. Zarrar Butt, an uncle of Mughees Sajjad and Muneeb Sajjad put forward counter version through FIR No. 449/2010 to the effect that his nephews used to play cricket in the play ground of village Buttar. A few days before the incident, his brother's sons and residents of village Buttar quarreled with each other. On 15-8-2010 Mughees Sajjad and Muneeb Sajjad offered morning Prayer and left their house for outing on the motor bike No. 1322 STV, of their father. They reached near rescue office and found the people agitating against an incident of robbery, including those with whom Mughees Sajjad and Muneeb Sajjad had quarreled earlier. They availed of an opportunity to avenge the earlier quarrel and caught hold of Mughees Sajjad and Muneeb Sajjad and started beating them with the claim that they committed robbery a little before. Ali peter and others clubbed to death Mughees Sajjad and Muneeb Sajjad and hanged the dead bodies upside down against the pillars of over head tank close to the rescue centre. Media persons, local police and rescue workers remained present on the spot at relevant time.
6. On 22-8-2010, I inspected the spot and got prepared rough site plan, marked A. Thereafter I examined 45 witnesses on oath. Twenty seven witnesses submitted written statements whereas twenty one female and eight male persons residents of village Buttar mostly related to Bilal, deceased appeared before me and supported the aforesaid stance of Shaukat Ali Bhatti without making separate statements. Besides oral evidence, I collected post mortem reports, medico legal reports, photo static

copies of log books maintained by the rescue centre and the police, FIRs, injury statements and inquest reports of all the deceased and injured persons, school certificates of two deceased brothers and record of excise and taxation office, Sialkot regarding motorbike No. STV 1322 used by the deceased boys at relevant time. I also received video tapes from different quarters and viewed them very minutely and carefully. I also conducted discreet inquiry and interviewed a sizeable number of residents of the area, who were not willing to make statements, however they assisted me in reaching the right conclusion.

7. Keeping in view the counter claims of both the sides, the following questions have arisen for determination.
  - a) Whether Shaukat Ali Bhatti, complainant put forward unadulterated version while lodging FIR No. 437/2010?
  - b) Whether Mughees Sajjad(18) and Muneeb Sajjad(15) sons of Mohammad Sajjad Butt residents of Haji pura Sialkot were not known to aforesaid Shaukat Ali Bhatti(complainant), Bilal (deceased), Javed, Imran and Zeeshan (injured persons) previously?
  - c) Whether Sialkot police deliberately concealed and suppressed identity of Mughees Sajjad and Muneeb Sajjad, deceased boys?
  - d) Whether Zarrar Butt, complainant of cross case could justify presence of his nephews, Mughees Sajjad and Muneeb Sajjad at the spot at relevant time?
  - e) Whether Mughees Sajjad and Muneeb Sajjad were criminals?
  - f) Whether the Sialkot police failed to discharge legal obligations and contributed towards the second part of the incident in which Mughees Sajjad and Muneeb Sajjad had been killed publically on highway?
  - g) Whether Shehen Shah Bukhari, SI/first investigator of the incident and Dr. Mohammad Farooq, post mortem examiner destroyed and suppressed medical evidence about the murder of two brothers?
  - h) Whether the rescue workers attached with rescue station located at the spot did not perform their duty qua the incident under inquiry?

8. Now I propose to examine the following three inter connected questions together in the light of available material and attending circumstances of the case.

a) Whether Shaukat Ali Bhatti complainant put forward unadulterated version while lodging FIR No. 437/2010?

b) Whether Mughees Sajjad(18) and Muneeb Sajjad(15) sons of Mohammad Sajjad Butt residents of Haji pura Sialkot were not known to aforesaid Shaukat Ali Bhatti(complainant), Bilal, deceased, Javed, Imran and Zeeshan (injured persons) previously?

c) Whether Sialkot police deliberately concealed and suppressed identity of Mughees Sajjad and Muneeb Sajjad, deceased boys?

9. Shaukat Ali Bhatti of village Buttar made an allegation before the police as well as during the course of inquiry that his son Bill had been looted by two unknown robbers and that he along with his companions suffered firearm injuries when he resisted robbery attempt. He also claimed to have produced two pistols and other belongings of Mughees and Muneeb before Shehan Shah Bukhari, SI /investigator while lodging the FIR. Here I would say without any fear of contradiction that Shaukat Ali Bhatti concealed and suppressed material facts regarding the incident. I am not ready to believe that the alleged two robbers were not known to Bill deceased and his companions. My said conclusion and observation is not the result of conjectures and is based on evidence which I collected during the course of inquiry. Mughees Sajjad and Muneeb Sajjad, deceased boys were residents of Mohallah Haji pura. Mohammad Naseer Bhatti, a caste fellow and co villager of Bilal deceased, claiming to be an eye witness of the occurrence appeared before me and made statement on oath as witness number 26. To a question, he stated that Bilal, deceased and his brother Javed, injured had been selling and supplying milk at the shop of Basharat Ali(witness no 36), located in Mohallah Haji pura regularly and that the intervening distance between the

aforesaid shop and the residential house of Muneeb and Mughees, deceased brothers was about 2/3 acres. I also examined aforesaid Basharat Ali as witness number 36, who stated that Bilal deceased and his brother Javed had been selling and supplying milk at his shop located at a distance of 4 acres from the residence of Mughees and Muneeb. He has further stated that he has been selling and supplying milk and yogurt to Mughees and Muneeb sons of Mohammad Sajjad butt for about 10 years regularly. Although he expressed ignorance of acquaintance between Bilal and the two deceased brothers yet he did not rule out the possibility that during the past years the deceased brothers and Bilal, deceased might have met each other at his shop. I have another piece of evidence on this point. I have viewed video clip marked E, in which one of the assailants of Mohammad Mughees Sajjad inquired from another assailant as to who was the victim of assault. The latter replied that the victim was resident of Haji pura. I also viewed another video clip, marked E1, wherein one of the assailant was proclaiming that the victim of assault (Mughees deceased) was resident of Shafi's street. It would not be out of place to mention that I inspected the lane wherein the house of Mughees and Muneeb deceased boys was located and found that Shafi's hotel was situated nearby and that is why the residents of the area named the lane as Shafi's street.

10. Motor bike No. STV 1322 on which the two deceased brothers reached the spot had been taken into possession by the police on the day of occurrence. It was not difficult for the police to establish identity of the two deceased boys by making a reference to the excise and taxation office, Sialkot as to who was the registered owner of the bike. I could not understand as to why the police did not inquire from the excise and taxation office regarding ownership of the bike used by the two deceased boys during the alleged incident. I requisitioned record of the motor bike No. 1322 STV and found that the owner of the bike was Mohammad Sajjad father of Mughees Sajjad and Muneeb Sajjad, deceased boys. Attested copy of registered form (VI) maintained by motor registering authority marked, L and a certificate issued by Motor Registering Authority, Sialkot dated, 24-8-2010 marked M, are to the effect that any government department did not seek any information regarding the ownership of the aforesaid motor bike registered in the name of Mohammad Sajjad. The police did not ascertain identity of the two deceased boys, for reasons best known to them.

11. Najam ul Hassan Zia, LFR 1122 service Sialkot (witness no 1) stated that the words "Shabab e milli" and "Butt" had been written on the number plate of aforesaid motor bike, which clearly indicated to the police that the deceased boys belonged to butt family and were associated with Shabab e milli, a youth wing of Jamat e Islami. The occurrence took place on 15-8-2010 early in the morning. The police prepared injury statements and inquest reports at about 4.30pm and then the post mortem examination on the dead bodies had been conducted vide post mortem reports, marked AA and marked B. In the police papers and the post mortem reports both the dead bodies had been shown as that of unknown persons. The police had ample time and opportunity to ascertain identity of unknown dead bodies from Mohallah Haji pura, Shafi's street or by establishing contact with local leadership of Jamat e Islami/ Shabab e milli or an elder of Butt tribe residing in Mohallah Haji pura to which the unfortunate boys belonged. I am, therefore, of the considered opinion that the rival party as well as the police deliberately concealed and suppressed identity of the two deceased boys obviously with a motive to portray them as unknown robbers. Had the local police disclosed identity of the two boys immediately after the occurrence, which was not difficult for them in the light of the facts discussed in the preceding lines, the story of robbery committed by two unknown robbers would have fallen to the ground there and then. For the sake of arguments if the above said version of Shaukat Ali Bhatti is believed and accepted even then fate of the case under inquiry would remain the same. In fact the subsequent occurrence in which the two brothers had been killed publically on highway in presence of police diminished significance of the earlier incident.

12. Shaukat Ali Bhatti, complainant and his injured witnesses made statements before the police that only two robbers later on identified as Mughees and Muneeb had committed the crime. They did not blame any other for the incident. In fact Shaukat Ali Bhatti, complainant and his injured witnesses improved upon their first stance which they introduced before Mr. Waqar Ahmed Chohan, DPO and the rescue workers during the incident. Mr. Waqar Ahmed Chohan, DPO (witness no 2) stated that when he reached the spot on the day of occurrence he found the dead bodies hanging when it was agitated and complained that the third robber made good his escape and that he should be arrested. While viewing video clip marked E/1, I could hear one of the assailants as saying that first of all victim of assault (Mughees

deceased) should be inquired about his accomplices who made good their escape. Now the question which requires consideration is as to whether the alleged robbers were two in number or more than that. The first version before the DPO was that the robbers were more than two. On reconsideration the number of alleged robbers had been reduced from three to two. This state of affairs has adversely affected the stance of Shaukat Ali Bhatti, complainant.

13. The recovery of two pistols from Mughees and Muneeb, deceased is highly doubtful. Shaukat Ali Sajid, station in charge 1122 (witness no 4), stated that he saw the elder boy who was latter on identified as hafiz Mughees while coming from the spot to the main road holding a pistol in his hand, which was collected by Majid, fire rescue worker (witness no 9), who handed it over to Najam ul Hassan, LFR (witness no 1). Majid (witness no 9), introduced another story to the effect that two unknown persons handed him over two pistols one after the other with the claim that they had snatched the same from the robbers. This witness explicitly stated that he neither saw Haliz Mughees while holding a pistol nor he snatched the same from him as stated by witness No.4. Peeran Ditta, rescue worker (witness no 10), put forward another version regarding the recovery of pistols. He stated that a bearded man removed pistol and bandolier from the body of Mughees deceased in his presence and then handed them over to Majid Ali, FR (witness no 9) and that a little thereafter another bearded man brought a bag and a pistol and gave it to aforesaid Majid, FR by saying that he snatched the same from the robbers. The rescue workers stated that they produced the pistols before the police. Shehan shah Bukhari, Sub Inspector/first investigator (witness no 43) prepared recovery memo, marked N, to the effect that on 15-8-2010 Shaukat Ali, complainant of case FIR 437/2010 joined investigation at the spot and produced two pistols 30 bore and a bag containing some belongings of the deceased boys, which were taken into possession. In this way it has become a case of rescue workers vs. Shehen Shah Bukhari, investigator and Shaukat Ali Bhatti, complainant qua the recovery of pistols. Is it possible to believe and accept any one of the aforesaid contradictory versions regarding recovery of pistols. The answer is certainly in negative.

14. For the aforesaid reasons I feel no difficulty in concluding that Shaukat Ali, complainant and the police reshaped the incident. In case Mughees and Muneeb were

armed with pistols with which they fired at Bill, deceased and his companions then what was the necessity to fabricate the recovery of pistols against them.

**d) Whether Zarrar Butt, complainant of cross case could justify presence of his nephews, Mughees Sajjad and Muneeb Sajjad at the spot at relevant time?**

15. Now adverting to the counter version put forward by Zarrar Butt, complainant of FIR No. 449/2010, I would say very conveniently that no cogent and convincing evidence could be brought on record to prove beyond any shadow of doubt that the two deceased brothers reached Buttar road, near rescue station at about 6am just for outing. Likewise, no evidence whatsoever could be adduced to support the motive incident. Had the police and the rival party succeeded to prove recovery of pistols from Mughees and Muneeb, I would have drawn adverse inference against the deceased brothers on account of their presence on Buttar road early in the morning without any justification. The two brothers who reached the spot in the morning are no more in this world. Their parents, close relations and friends are not in a position to produce conclusive evidence justifying presence of two brothers at the spot. However, there is no cogent evidence from the other side to establish that at relevant time the two brothers were armed with pistols. If the assailants had snatched the pistols from the two brothers there was no occasion to fabricate the recovery of pistols. Needless to add that in the preceding paragraph I have already concluded with reasoning that the pistols had been planted. What prompted the two deceased brothers to reach the spot early in the morning remained shrouded in mystery. This issue can only be resolved by analyzing and scrutinizing the evidence of both the sides with the yard stick of trial court.

**e) Whether Mughees Sajjad and Muneeb Sajjad the two deceased brothers were robbers and criminals?**

16. After combined examination of the collected material I can say for the following reasons that Mughees Sajjad (18) and Muneeb Sajjad (15) were not robbers and criminals.

- i. Admittedly and undoubtedly the two brothers were without previous criminal record. Not a single case on any charge had ever been registered against them with any police station.
- ii. Hafiz Mohammad Mughees Sajjad and his younger brother Mohammad Muneeb Sajjad were regular students of government Murray College, Sialkot and Pak Grammar high school, Fateh Garh, Sialkot respectively. It is evident from certificates, marked O, P and Q that at relevant time Mohammad Mughees Sajjad and Mohammad Muneeb Sajjad were studying in class xi and ix respectively. The younger brother passed matriculation annual ninth class examination 2010 by securing 342 marks out of 525. The elder brother Mughees Sajjad was Hafiz e Quran and was so recorded in the college record.
- iii. The DPO himself stated before me that the deceased brothers belonged to a noble family. Mr. Safdar Buttar, advocate (witness NO.12) resident of village Buttar appeared on behalf of Shaukat Ali Bhatti, complainant and stated that in his opinion the deceased boys belonged to a very noble family. I had a talk with a sizeable number of persons belonging to different walks of life. They all have stated with one voice and in a sure footed manner that the father, the grandfather and the uncles of the unfortunate deceased brothers are treated with respect by the society.

17. Someone on the condition of anonymity provided call history of cell numbers of the deceased boys and their father according to which the deceased brothers had been changing their mobile sets. The source also attempted to blame that stolen or snatched mobile sets had been used by the deceased boys during their life time. For two reasons I do not feel inclined to attach much importance to the call history. Firstly, the first cousin of the deceased boys; namely, Abu Bakar has been running a mobile phone shop in Sialkot since long and when confronted with the allegation, the father of the

deceased boys dismissed the allegation of cell phone snatching against his sons with the plea that his sons were in a position to change mobile sets with the blessing of their first cousin Abu Bakar. For a moment if it is presumed that the deceased boys used any snatched or stolen cell phone during their life time, even then it cannot be said with certainty that they were cell phone snatchers or robbers. This is a question of common knowledge and is an open secret that nowadays snatched and stolen cell phones are being traded openly by cell phone shops as well as by individuals. Unless and until there is cogent evidence to show that any particular cell phone had been snatched or stolen away by a particular person, the mere fact that someone had changed cell phone sets with intervals would not provide a valid basis to say that he indulged in phone snatching. Secondly, no one can deny that raw youth nowadays is crazy for changing cell phone sets. Shaukat Ali Bhatti, complainant introduced a few witnesses with the claim that they had been deprived of their belongings and cell phone sets in the past by unknown robbers and that on 15-8-2010 Mughees Sajjad (18) and his brother Muneeb Sajjad (15) were identified as those robbers. To my mind this is an afterthought story. Not a single incident had been reported to the police. The rival party of deceased boys got examined Mst. Ghulam Fatima aged 65 years as witness No. 25 that 16/17 days before this incident she had been deprived of her gold ear rings by two unknown robbers and that on 15-8-2010 she reached the spot and identified the robbers when their dead bodies were hanging. How can I believe that 65 years old lady identified the two brothers when their bodies were hanging upside down with disfigured faces? This statement of 65 years old woman leaves no room for a doubt that under some legal advice the rival party attempted to create and fabricate evidence to prove them as robbers.

18. I am not in a position to certify that Mughees Sajjad (18) and his brother Muneeb Sajjad (15) possessed angelic character. They might have committed some wrongs during their life time intentionally, unintentionally, innocently or even foolishly without realizing the enormity of their wrongs but in the given circumstances it can be safely said that they were not robbers/dacoits/hardened criminals, particularly when not a single case of mobile snatching or any other crime had ever been registered or reported against them during their life time.

f) Whether the Sialkot police failed to discharge legal obligations and contributed towards the second part of the incident in which Mughees Sajjad and Muneeb Sajjad had been killed publically on highway?

19. The first alleged occurrence originated in between 6 and 6.30am. The rescue workers heard fire shots; removed two injured persons from the spot to the hospital and immediately informed the police that alleged dacoits fired at Bilal and his companions and that they were being subjected to torture. Police station saddar Sialkot having territorial jurisdiction of the case and police station Haji pura Sialkot are located at a little distance from the spot. After receiving the aforesaid message from rescue 1122, the police officials attached with above said two police stations were in a position to reach the spot within 10 minutes. Unfortunately, the information passed on by rescue 1122 fell on deaf ears. It is evident from the log books maintained by police, wireless station control Sialkot, police wireless station, police station Saddar Sialkot, rescue centre 1122 Daska road Sialkot and report of incident by District Emergency Officer rescue 1122, marked S/1-3, marked T/1-3, marked U, marked V, marked W respectively, that all concerned learnt about the incident within 5min from 6:36 am on 15-8-2010. The available record does not tell nor the police officials could explain as to what prevented the Sialkot police, particularly police station Saddar Sialkot and police station Haji pura Sialkot to reach the spot promptly where the two young brothers were being tortured and assaulted on highway publically. However, as per police record/statements, marked R, R/1, and R/2 following police officials remained present at the spot when two brothers were killed.

- 1) Mohammad Ilyas, Inspector/SHO GI. 447, police station Saddar Sialkot.
- 2) Riaz Tariq, ASI No. 1128/GL police station Saddar Sialkot.
- 3) Mohammad Nawaz, Constable No. 84 armed with rifle G3 police station Saddar Sialkot.
- 4) Mohammad Usman, Constable/driver No. 1796, police station Saddar Sialkot.
- 5) Abdur Razzaq, Constable/driver No. 1506 police station Saddar Sialkot.
- 6) Mohammad Sarfraz, ASI No. 184/SKT, armed with revolver police station Saddar Sialkot.

- 7) Mohammad Saleem, Constable No. 833, armed with G3, police station Saddar Sialkot.
- 8) Yasir, Constable/driver No. 1801, police station Saddar Sialkot.
- 9) Gulzar Khan, Commando sub inspector No. 684/GIL, armed with revolver, police station Saddar Sialkot.
- 10) Nathay Khan, Head Constable No. 1456, armed with SMG, police station Saddar Sialkot.
- 11) Mohammad Khalid, Constable No. 50, armed with G3, police station Saddar Sialkot.
- 12) Rizwan Ali, Constable No 1839, police station Saddar Sialkot.
- 13) Waris Ali, ASI No: 510/NWL, armed with revolver, police station Saddar Sialkot.
- 14) Mubarak Ali, Constable No 1826, armed with G3, police station Saddar Sialkot.
- 15) Ghulam Qammar, ASI, police station Haji pura Sialkot.
- 16) Abdul Hafeez, Head constable No. 1320, armed with rifle, police station Haji pura Sialkot.
- 17) Shehbaz Ahmad, Constable No. 1302, armed with rifle, police station Haji pura Sialkot.

20. Witnesses of both the sides and the rescue workers stated that in presence of the aforesaid police officials the assailants gave merciless beating to Mughees Sajjad and Muneeb Sajjad. The armed and unarmed police officials witnessed the barbaric incident like disinterested spectators which is evident from the video clips. What a pity that none from the onlookers and police officials felt pity for the two brothers who were in their teens, when they were being subjected to violence with sticks and bricks. I examined statements of the witnesses particularly that of rescue workers. I also viewed different video clips, which have been made part of record and was left with no other option but to say with heavy heart that the police officials present at the spot under the command of SHO, police station Saddar Sialkot allowed rather facilitated the assailants to attack the two brothers like a pack of hounds. Dignity and life of citizens is their fundamental and inviolable right which has been guaranteed under Constitution of Islamic Republic of Pakistan. Such a right cannot be taken away or suspended by any government agency. The honorable superior courts of the country in exercise of constitutional jurisdiction have always jealously guarded fundamental rights of the people. In the case in hand the assailants with the active

support of the police officials receiving remunerations from government exchequer for protection of life and honor of the citizens, not only committed the crime of murder and terrorism but also disgraced the dead bodies.

21. After watching the video clips I have formed an opinion that the assailants who actively participated in the occurrence were not more than 20. With assistance of a few residents of the area who were not willing to become a witness to avoid bad blood, I succeeded to establish identity of 13 assailants whose particulars are as under.

- 1) Ali peter son of Altaf.
- 2) Amen son of Mohammad Ashraf.
- 3) Jameel alias Jeela son of Allah Rakha.
- 4) Javed alias Jeeda son of Shaukat Ali.
- 5) Asghar son of Ahmad.
- 6) Qaiser son of Ahmad Ali. (All Bhatti by caste).
- 7) Hassan son of Mukhtar caste khokhar.
- 8) Mohsin son of Qaiser caste Araen.
- 9) Asghar son of Muneer caste Araen.
- 10) Ikram son of Rasheed caste Mochi.
- 11) Nosha son of Arshad caste Mochi.
- 12) Shafiq Fauji son of unknown (all residents of village Buttar).
- 13) Shams son of Shaukat caste khokhar, resident of Pakki Kotli.

The above said list of assailants is not complete because the remaining accused who attacked and assaulted the deceased boys could not be identified. The case is under investigation and the investigation team would certainly take effective legal steps to identify those assailants who could not be identified during the course of this inquiry.

22. Undisputedly, the assailants were not armed with deadly weapons. The SHO, police station Saddar accompanied by a heavy contingent of police force remained present at the spot, but did nothing. He was in a position to save the two brothers from the clutches of the assailants very easily. The action rather inaction on the part of SHO and the other police officials is not only illegal, but is also offensive to passion, kindness and mercy. It appears that perverted sense of authority drove the SHO towards misuse of his official position. Majid Ali, fire rescue worker (witness no 9), stated that the SHO proclaimed at the spot that, "let the boys die as they are robbers".

I am pained to say that it is inapt and detrimental conduct of the criminal justice system as a whole which calls for reforms otherwise the unholy tendency to exercise official authority over and above the law in a self styled manner may erode the system.

23. Mr. Waqar Ahmed Chohan, DPO did not bother to reach the spot unless and until killings of the two brothers had been confirmed to him. I am not ready to believe the DPO that he had not been informed about the incident well in time. The DPO also suspended wireless operator, DPO house on the ground that he withheld the information from him. How can I believe that the SHO, police station Saddar who was witnessing the killings did not inform the district police commander during the whole occurrence? After about one hour of the incident the DPO reached the spot and found the dead bodies hanging upside down. He was also accompanied by the following police officials.

- 1) Sabir Hussain, Driver/constable.
- 2) Abid Ali, ASI, armed with revolver.
- 3) Abdul Qayum, Constable No. 900, armed with SMG.
- 4) Mohammad Shabbier, Constable No. 469 armed with revolver 38 bore.
- 5) Mohammad Tahir, Constable No. 34, armed with SMG.
- 6) Mohammad Sikander, Constable No. 1929, armed with SMG.
- 7) Mohammad Asghar, Constable No. 772, armed with SMG.
- 8) Mohammad Fayez, Constable/driver No. 1374.

The DPO behaved like the SHO. He did not take cognizance of the crime. He did not reprimand the assailants and instead appreciated their crime. The rescue workers and the DPO himself stated before me that the assailants welcomed the DPO with clapping. This is a conduct which cannot be approved on any ground.

24. The police did not remove the dead bodies from the spot to the dead house to get them post mortemed. In presence of the DPO and other police officials, the assailants placed the dead bodies in a tractor trolley and paraded on the roads. The SHO and the other police officials also remained on parade. The most disturbing aspect of the matter is that the SHO led the parade of dead bodies in compliance with the orders of Mr. Waqar Ahmed Chohan, DPO which had been recorded in the log book. Mohammad Aslam, wireless operator city control (witness No.41) certified on oath

that the parade had been led by the SHO under the instructions of the DPO. There was no legal and factual justification for the police to pre suppose that the two brothers were robbers. For the sake of argument if it is believed that the police officials treated them as robbers in good faith even then there was no justification to facilitate their killing. Keeping in view the manner of the incident and shameful role of the local police, I must say here that the assailants killed the two deceased brothers by giving them merciless beatings whereas the DPO and the SHO slaughtered them(Mughees and Muneeb) with the sword of official position/authority. The DPO and the SHO did not use their head and heart. They should not have forgotten that while being possessed with authority over the people they were subject to the supreme sway and rule of Allah, the supreme lord. The DPO, the SHO and other police officials witnessing the incident not only made themselves liable for an action on judicial and administrative side but also invited wrath of Allah. No one, howsoever high in this world and possessed with power and authority can ever be free from the need of mercy and compassion from Allah almighty. The DPO and the SHO being proud of their official status and position and probably under the perverse sense of authority hurriedly decided to allow the assailants to punish the two brothers publically for their alleged crime. Such a conduct by persons in authority is not going to be of much help in the administration of justice. Under law of the land, which is obviously subject to the injunctions of Islam, the persons in authority are required to keep an eye over the people and watch them as parents watch their children. Mutual trust between the persons in authority and the people, particularly the less important section of society, is an important pillar of the state. In order to secure trust of the commoners, the government functionaries particularly in uniform must be friendly and kind towards them. It would not be out of place to mention here that the police officers seized of the matter in hand lowered prestige of the Punjab police and attempted to scandalize the two deceased brothers belonging to a noble family without realizing that scandal mongers have never been treated with respect in the society.

25. The DPO and the SHO facilitated the killings of two unfortunate brothers hoping that the case might prove a feather in their cap and the incident might be regarded as a crime dealt with successfully and worthy of a place in the category of good police work in their performance sheet. The DPO and the SHO came out of the wishful thinking when the august supreme court of Pakistan, honorable Lahore high court

Lahore and the government of Punjab took exception to the brutal killings. The police attempted to blindfold the criminal justice system as they did not pass on true facts of the case to the Punjab government. The police officials stepped over their legal authority by allowing the assailants to kill the two brothers publically on highway. This is an extreme example of miss use of official position. The need of the hour is to nip the evil in the bud. This is high time to dispel common impression amongst the masses that police is not amenable to law of the land or that fundamental rights are not available to the lay man. Rule of law cannot be achieved without elimination of the unbridled and uncontrolled police-whim- factor in the administration of criminal justice system. The police order, 2002 has not attended to the deficiencies in the legal framework of the police. Without unqualified allegiance to rule of law, whimsy, defective, poor, artificial, motivated and dishonest investigation of criminal cases is not going to be of much help for improvement of the system because such investigation is like a festering sore, which may prove fatal to the whole system. Without building statutory checks on arbitrary exercise of powers of the police, no improvement in the system can be expected. Fortunately, the opportunity to make good on lost prospects still exists. This is a question of common knowledge that the distance between the area magistrate and investigator has drastically minimized. Hence, parameters for the area magistrate qua his working relationship with the police and the scope of his legal functions need to be redefined in order to avoid police autocracy as exhibited by the Sialkot police.

26. It was an ordinary incident in the eyes of local police. The SHO did not reach the spot promptly. The DPO kept sitting at his residence till the two brothers breathed their last. The RPO, Gujranwala reached Sialkot about 5-6 days after the incident. All these circumstances clearly indicate that it was not an unusual or alarming incident in their assessment. This mind set of the police requires serious thought.
27. For what has been stated above, I am of the considered view that all the police officers and officials present at the spot contributed towards the killings of two brothers. Whether the presence of the police officials at the spot like silent spectators amounts to an overt act on their part or an abetment of the offence is left to the judgment of the trial court.

g) Whether Shehen shah Bukhari, SI/first investigator of the incident and Dr Mohammad Farooq, post mortem examiner destroyed and suppressed medical evidence about the murder of two brothers?

28. Shehen shah Bukhari, SI/investigator, police station sadder Sialkot prepared injury statement, marked X, regarding unknown dead body, which was later on identified as that of Mughees Sajjad and observed that there were only seven injuries in the nature of lacerated wounds on forehead, left side of head and contusions on the nose, lips, jaws and left wrist. The SI also prepared injury statement of Muneeb Sajjad, deceased and observed only four lacerated wounds and two contusions vide injury statement, marked Y. Doctor Mohammad Farooq, senior medical officer conducted post mortem examination on both the bodies at about 4:30 pm. He noted only 18 injuries on the dead body of Mughees, deceased and twelve injuries on the dead body of Muneeb, deceased. After viewing the video clips, marked F, G1, H, J, K and still photographs marked I, it is not difficult to say that both the deceased persons sustained countless injuries all over their bodies as a result of brutal violence. Their faces had been disfigured. The dead bodies had been dragged on roads. The assailants struck the dead bodies with sticks and bricks. In other words there were multiple post mortem and anti mortem injuries on both the dead bodies. Shehen shah Bukhari, SI and the post mortem examiner concealed and suppressed the brutal violence and recorded their respective reports as if both the deceased persons suffered a few injuries. The doctor and the investigator are liable to face the legal consequences for having destroyed and suppressed medical evidence in support of the charge of murder on two counts. I propose that both the dead bodies of Mughees and Muneeb may be exhumed and re examined by a board of senior doctors well versed in medical jurisprudence and enjoying good repute, failing which ocular account furnished by eye witnesses would remain un corroborated.

h) Whether the rescue workers attached with rescue station located at the spot did not perform their duty qua the incident under inquiry?

29. The rescue workers initially discharged their duty honestly and passed on information of the incident to the police promptly. Later on, they mortgaged their legal functions and duties to the crowd and the local police. The officials of the Rescue Centre made contradictory statements regarding the recovery of pistols. Soon after inception of the incident, the rescue workers were in a position to shift the two brothers to hospital, but they chose to inform the local police first. Later on the situation took an ugly turn and the rescue workers became helpless and acted as the assailants desired. Majid Ali, rescue worker appeared before me all alone after making his statement and disclosed while weeping that he had been forced and compelled to make a statement that he snatched the pistol from the hands of Hafiz Mughees, deceased. However Majid, rescue worker was not ready to disclose the identity of the person, who forced him to make a false statement, definitely out of fear. In fact inaction of the police persuaded the rescue workers to leave themselves to the mercy of the assailants.
30. Mr. Mujahid Sher Dill DCO and Administrator District government, Sialkot wrote a letter to the District Police Officer, Sialkot, marked Z, whereby he dismissed the police version regarding the incident and termed the police officials as accomplices to man slaughter. Although, the DCO did not hold an inquiry into the incident, but his observations, marked Z, cannot be ignored lightly because being head of district administration he had an opportunity to have heart to heart talk with residents of the area.
31. Before parting, I must state that during the course of inquiry I did not seclude myself from the people of the area so that truth may not get confused with falsehood. After all I am a human being and cannot have knowledge of things which people kept hidden from me. Nothing was writ large on the face of truth to differentiate its various phases from falsehood. In spite of all this I made all humanly possible efforts to arrive at the truth.

  
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