

CRIMINAL APPEAL No.332 of 2019.

JUDGMENT

COMPLAINANT BY: Mr. Muhammad Imran Ashraf and Muhammad Sajjad Iqbal, Advocates.

Accused/appellant Abdul Rasheed was convicted under Section 302(b) PPC and sentenced to imprisonment for life as *Ta'zir*. He was further directed to pay Rs.200,000/- as compensation to the legal heirs

of deceased Munir Ahmad under Section 544A Cr.P.C., and in default to further undergo six months' simple imprisonment.

Accused/appellants Shabbir, Ramzan, Rashid and Khuda Bakhsh were convicted under Section 337-A(i) PPC and sentenced to pay *Daman* of Rs.10,000/-, to respective injured persons. However, in the impugned judgment, there is no reference to the benefit of Section 382B Cr.P.C.

It is further noted that on the day of pronouncement of the judgment, the accused/appellants Shabbir, Ramzan, Rashid, and Khuda Bakhsh expressed their willingness to pay the respective *Daman* amounts, which were accordingly paid.

2. As per the contents of the FIR lodged by Muhammad Abbas (PW-1) on 14.07.2015 at about 07:15 p.m., the incident occurred when he was watering the cabbage crop owned by him. In the meanwhile, accused Rao Zulfiqar (armed with a pistol), Abdul Rasheed (armed with a repeater), Ashraf Mughal, Shabbir, Rafiq, Ramzan, Manan, Shan, Kaloo, Sadiq, Maqsood Mai, Haleema Mai, Abid Hussain, Arshad (Rashid) along with three unknown persons (armed with clubs) and Khuda Bakhsh (armed with a hatchet) arrived at the place of occurrence.

Accused Rao Zulfiqar raised a *lalkara* that the complainant would be taught a lesson for pursuing the case. Immediately thereafter, accused Abdul Rasheed fired a shot with his repeater, hitting Munir Ahmad on the chest. Accused Rao Zulfiqar fired from his pistol, hitting Ayyaz Ahmad on the left shoulder. Ashraf Mughal struck a club blow on the head of Dildar Ahmad, while Ramzan delivered another club blow to the back of Dildar's head. Arshad (Rashid) struck a club blow on the left side of the head of Muhammad Abbas/complainant, and Khuda Bakhsh hit him with the hind side of a hatchet on the right side of his forehead. Shabbir struck a club blow on Ayyaz Ahmad, hitting the middle of his head. The remaining accused Rafiq, Manan, Shan,

Abid, Kaloo, Bilal, and three unknown persons also assaulted the complainant party with clubs, while Mst. Maqsood Mai and Haleema Mai tortured them with fists and punches.

The motive behind the occurrence, as alleged in the FIR, was a dispute over land.

3. After registration of FIR the investigation commenced, however, feeling dissatisfied with the investigation, the complainant filed the private complaint, wherein, the prosecution story remained almost the same. On receipt of complaint and recording of cursory statements the complainant and witnesses, sixteen accused persons were summoned who joined the trial process. The accused were formally charge-sheeted for the offences alleged against them. Upon framing of the charge, accused denied the allegations, pleaded their innocence, and opted to face trial. In support of case, the prosecution produced its evidence, on close whereof the accused were examined under Section 342 Cr.P.C., wherein accused/appellants neither opted to record their statements under section 340(2) Cr.P.C. nor to produce any defence evidence, except accused/appellant Abdul Rasheed who produced documents as Ex.DA to Ex.DS and the trial proceeded to its conclusion resulting in the conviction and sentence of the accused/appellants as previously detailed.

4. Heard. Record perused.

5. At the very inception, learned Assistant District Public Prosecutor for the State raised an objection, contending that the accused/appellants Shabbir, Ramzan, Rashid, and Khuda Bakhsh are not entitled to file an appeal against their conviction and sentence because by accepting the impugned judgment, they have deposited the respective amounts of *Daman*, which amounts to satisfaction of their sentence. It was therefore argued that once a party acquiesces its conviction and fulfills the corresponding sentential requirement, the right to challenge the same through appeal stands forfeited.

However, the contention raised by the learned Assistant District Public Prosecutor cannot be accepted in the light of clear legal position embodied in Section 415A of Cr.P.C., which specifically provides a special right of appeal in certain cases. For convenience, the said section is reproduced below:

415A. Special right of appeal in certain cases. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any such person, all or any of the persons convicted at such trial shall have a right of appeal.

A plain reading of the above provision makes it evident that when several persons are convicted in a single trial and an appealable judgment has been passed in respect of any of them, all or any of the co-convicts are equally entitled to prefer an appeal. Therefore, even though the said accused/appellants have deposited the amount of *Daman* in compliance with the impugned judgment, such compliance cannot be construed as a waiver or satisfaction of their conviction so as to extinguish their statutory right of appeal. Their right to challenge the conviction and sentence stands preserved under the clear mandate of Section 415A Cr.P.C.

6. Coming back to case in hand, the contents of the FIR were duly corroborated by Muhammad Abbas (PW-1), the complainant, who appeared before the Court and, with unwavering certainty, reaffirmed the nomination of the accused/appellants, attributing to each of them the specific roles described in the FIR. His testimony found further support in the statements of Dildar Ahmad (injured/PW-2), Ayyaz Ahmad (injured/PW-3), and Rais Mushtaq Ahmad (eye-witness/PW-4), all of whom fully endorsed the prosecution's version in every material particular. These witnesses were subjected to extensive cross-examination by the defence; however, no material contradiction or inconsistency could be elicited to cast doubt on their credibility or

weaken the prosecution's case. Their testimonies remained consistent, coherent, and mutually corroborative throughout.

7. Apart from the ocular account furnished by the prosecution witnesses, the record clearly establishes that the occurrence took place on 14.07.2015 at about 07:15 p.m. on the agricultural land of Muhammad Abbas (PW-1), the complainant. The matter was reported to the police without delay at 08:45 p.m., resulting in the prompt registration of the FIR. This immediacy in reporting lends strong assurance to the authenticity of the occurrence, indicating that it was neither obscure nor unobserved. Rather, it compellingly suggests the presence of witnesses at the place of occurrence. The credibility of their presence is further reinforced by the location of the incident, being the complainant's own land, as per FIR. Hence, the presence of the witnesses, as well as that of the deceased, at the relevant time and place appears entirely natural and credible.

8. Significantly, the defence has not seriously disputed either the venue of occurrence or the presence of these witnesses, thereby lending further support to the prosecution's version. The prompt lodging of the FIR constitutes a strong corroborative circumstance in favour of the prosecution, wherein the complainant not only named the accused with clarity but also specified the roles attributed to each, including the nature and location of the injuries inflicted. Such promptitude, coupled with the detailed narration of facts, denotes a spontaneous and unembellished account of the incident, leaving little room for afterthought, fabrication, or collusion.

9. In legal phraseology, this degree of immediacy is a recognized symbol of truthfulness, particularly when the complainant himself sustained injuries yet managed to present a coherent and consistent version of events. The absence of any material delay or ambiguity further diminishes the possibility of deliberation or manipulation,

thereby imparting substantial weight to the prosecution's case at its very inception.

10. Prosecution's version of FIR finds substantial corroboration from the medical evidence adduced through Dr. Arslan Shahid (PW-10), who testified that the dead body was received at the mortuary at 08:00 p.m., and the post-mortem examination was conducted at 11:45 p.m., within approximately four hours and thirty minutes of the occurrence. Furthermore, the complainant and the two injured persons were medically examined by Dr. Noshab Ahmad (PW-9) within about forty minutes of the occurrence. This remarkable promptness is not merely based on oral assertions but is duly supported by documentary evidence, including the post-mortem report of Munir Ahmad and the medicolegal certificates of the complainant Muhammad Abbas and the injured witnesses, Dildar Ahmad and Ayyaz Ahmad. The timings recorded in these documents precisely correspond with the testimony of the medical officers, thereby lending strong corroborative value to the prosecution's case.

11. Though the learned counsel(s) for the accused/appellants contend that, according to the medical officer, the trajectory of the bullet was superior to inferior, which allegedly contradicts the prosecution version wherein the witnesses claimed that a straight fire was made. While attending to this contention, I went into recitation of deposition of the doctor on this aspect. As per his opinion, the bullet entered the body by fracturing the 4th and 5th ribs and became lodged between the 5th and 6th ribs; hence, no exit wound was observed, and the cartridge shell was recovered from within the chest cavity. The striking of the bullet against the ribs naturally produced a ricochet effect. Therefore, the medical findings do not necessarily negate the prosecution version; rather, they are consistent with a shot which though entered straight into the body but by ricochet effect struck inferior to it. Consequently, the defence cannot take any advantage of this contention.

12. The identification of the accused/appellants is also beyond any doubt in the present case. The occurrence took place on the agricultural land of the complainant at about 07:15 p.m. on 14.07.2015. Considering that the month of July offers sufficient daylight at that hour, the occurrence can rightly be termed a daylight occurrence, leaving little possibility of error in identification. Furthermore, since there existed a land dispute between the parties, the accused were already well known to the complainant and the witnesses, making any likelihood of misidentification highly improbable.

13. In addition, the medical evidence further corroborates the presence of the accused at the place of occurrence. Accused Abdul Mannan and Malik Kaloo were medically examined by Dr. Arslan Shahid (PW-10), while accused Mst. Maqsood Mai and Mst. Meeman Mai were examined by Dr. Namra Khan (PW-18). These medical examinations substantiate the commission of the offence and confirm the presence of the accused persons at the place of occurrence. Hence, there remains no room for any suggestion of mistaken identity or denial of the occurrence at the stated venue.

14. With regard to recovery, the record reflects that CW-2 Muhammad Rasheed, SI/I.O., collected the empties of cartridges from the spot on 14.07.2015. The accused/appellant Abdul Rasheed was subsequently arrested on 09.11.2015, whereas the spent shells had already been forwarded to the PFSA on 19.08.2015, well before his arrest. The recovery of the repeater gun from the accused/appellant was effected on 18.11.2015, and the said weapon was sent to the PFSA on 22.12.2015. The PFSA report was received as positive in this regard which provides a corroboration to ocular account.

15. The motive in this case is not in dispute. Both the parties agree that there was a dispute over the ownership of the land, although they maintain different stances regarding ownership and possession of land. In this view of the matter, since either way aggression between the

parties has not been seriously doubted, therefore, in this case, motive can validly be termed to have acted as a double-edged weapon.

16. Only a single fire shot was attributed to the accused/appellant Abdul Rasheed, and the motive was not solely ascribed to him. Therefore, the learned trial Court considered these factors as mitigating circumstances and awarded the alternate sentence of imprisonment for life. Though certain recoveries were shown to have been effected from the accused/appellants Shabbir, Ramzan, Rashid, and Khuda Bakhsh but such recoveries were of no material consequence. The learned trial Court imposed only *Daman* upon them, rightly holding that they did not qualify as hardened or desperate offenders within the contemplation of Section 337(N), PPC. This finding of the learned trial Court is well-reasoned and calls for no interference.

17. For what has been discussed above, I am of the firm view that here in this case the prosecution remained fully successful in establishing the guilt of the accused/appellants, namely, Abdul Rasheed, Shabbir, Ramzan, Rashid and Khuda Bakhsh beyond reasonable doubt. The findings and conclusions of the learned trial Court viz. conviction and sentence of the accused/appellants have been found perfect being result of correct and proper appraisal of evidence on record. Consequently, while relying upon cases reported as “MUNIR AHMAD Versus The STATE and others” (2025 SCMR 1123), “ALTAH HUSSAIN Versus The STATE” (2025 SCMR 1427), “MUHAMMAD IJAZ alias Jaji Versus The STATE” (2025 SCMR 1591), “GHULAM RASOOL Versus The STATE” (2025 SCMR 74), “ALTAH HUSSAIN Versus THE STATE” (2010 SCMR 1020), “MUHAMMAD KHAN alias MITHU Versus The STATE and others” (PLD 2025 Supreme Court 425) & “MUHAMMAD MISKEEN Versus The STATE” (2025 SCMR 1512), the titled criminal appeal fail and is dismissed. Consequently, their conviction and sentences are upheld and maintained. Benefit of section 382B Cr.P.C. is extended in favour of Abdul Rasheed accused/appellant. The accused/appellant Abdul Rasheed is on bail through suspension of sentence vide order dated

09.11.2021 passed in Crl. Misc. No.2005-M of 2021, therefore, he be sent to concerned jail for serving out of his remaining sentence. The record of the learned trial court be sent back immediately and the case property, if any, shall be dealt with as directed by the learned trial Court.

(Muhammad Amjad Rafiq)
Judge

Approved for reporting

Judge

Signed on 21.11.2025.

M. Umar *