

**THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Bench:**

Mr. Justice Athar Minallah  
Mr. Justice Irfan Saadat Khan  
Mr. Justice Malik Shahzad Ahmad Khan

**Jail Petition No.950 of 2017 and  
Criminal Petition No.143 of 2018**

(Against judgment dated 16.11.2017 of the  
Lahore High Court, Rawalpindi Bench  
passed in Crl. Appeal No.55-J of 2014 and  
M. R. No.43 of 2014)

Yasir Ishaq  
Abdul Ghaffar

...Petitioner in Jail Petition No.950 of 2017  
...Petitioner in Crl.P. No.143 of 2018

**Versus**

The State ...Respondent in J.P. No.950/ 2017  
Yasir Ishaq and another ...Respondents in Crl. P. No.143/2018

For the petitioners: Mr. Rehan Iftikhar, ASC  
(in JP-950/2017)

Syed Zulfiqar Abbas Naqvi, ASC  
(in Crl.P. No.143/2018) and for  
complainant in JP-950/2017

For the State: Mr. Abid Majeed, Deputy Prosecutor General,  
Punjab

Date of hearing: 23.05.2025

**ORDER**

**Athar Minallah, J.- Jail Petition No.950/2017:** The petitioner has sought leave against the judgment dated 16.11.2017 of the High Court. The petitioner was nominated in crime report No.189/2012, dated 07.05.2012 registered at P.S. Dina, District Jhelum for commission of the alleged offences under sections 302 and 34 of the Pakistan Penal Code, 1860 ("PPC"). The trial court, upon conclusion of the trial, had convicted the petitioner under section 302(b) PPC and sentenced him to death. He was also directed to pay Rs.5,00,000/- as compensation to the legal heirs of the deceased as required under section 544-A of the Cr. P. C. and in default thereof to further undergo S.I. for six months.

2. The High Court partly allowed the appeal preferred by the petitioner by modifying the sentence of death into imprisonment for life while the conviction was maintained and to this extent the appeal was dismissed.

3. We have heard the learned counsel for the petitioners as well as the learned Deputy Prosecutor General, Punjab at considerable length. The record has been perused with their able assistance.

4. It was a daylight occurrence which had taken place outside the house of the petitioner. The prosecution in order to prove its case had produced Abdul Ghaffar (PW-08) and Yasir Ghalib (PW-09) to depose the ocular account. The ocular account was supported by the medical evidence brought on record by Dr. Asim Raza (PW-01). The prosecution had produced 11 witnesses. The petitioner did not opt to be examined under oath while recording his statement under section 342 of the Cr. P.C. Nonetheless three witnesses were produced by the petitioner in his evidence to establish that he suffered from mental disorder. The prosecution had proved the guilt of the petitioner. The High Court had modified the sentence of death to that of imprisonment for life on account of mitigating factor i.e. that the occurrence had taken place at the spur of the moment and that it appeared from the medical evidence that the injuries were caused on account of one blow of the dagger. We have noted that the prosecution was not able to prove the factum of motive. The prosecution had set up the motive to the effect that the petitioner had obtained some loan from the deceased-victim and upon the latter's refusal, the occurrence had taken place. No evidence had been placed on record in order to establish this factum of motive. The learned counsel for the petitioner, however, has argued that the occurrence had taken place at the spur of the moment and from the medical evidence which had been brought on record it cannot be ruled out and that the injuries were caused on account of one blow of the

dagger. The learned counsel has, therefore, argued that it was a case which attracted the offence which falls under section 302(c) of the PPC rather under section 302(b) PPC. We are of the opinion that the argument raised by the learned counsel is not without force. As we have already noted above, the occurrence had taken place at the spur of the moment and the evidence brought on record clearly establishes that there was no premeditation. According to the testimonies of the witnesses, the petitioner and the deceased-victim did not have any ill-will, rather they were on cordial relations with each other before the occurrence had taken place. It cannot be ruled out that the injuries shown to have been caused on the hand and palm were also a result of the same blow of the dagger, which had led to the loss of life of the victim. We are, therefore, of the opinion that in the facts and circumstances of this case, the offence under section 302(c) PPC is made out, rather under section 302(b). Reliance in this regard can be placed on the judgments of this Court rendered in the cases of *Muhammad Abbas vs. State* (2023 SCMR 487) and *Azmat Ullah vs. State* (2014 SCMR 1178).

5. In view of the above, this petition is converted into an appeal and the same is partly allowed. The conviction under section 302(b) of PPC is set aside and it is substituted with conviction under section 302(c) of PPC and the petitioner is sentenced to rigorous imprisonment for 15 years. The compensation ordered by the trial court and the sentence required to be served in default thereof are maintained. The benefit of section 382-B, Cr. P.C. is extended in favour of the appellant. The appeal is therefore, partly allowed in the above terms.

**Criminal Petition No.143/2018:**

The learned counsel for the petitioner has not been able to persuade us that a case for enhancement of the sentence is made out.

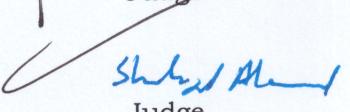
In any case, we have converted the conviction of the petitioner under section 302(b) PPC to that of 302(c) PPC. Learned counsel for the petitioner has not been able to persuade us that a question of law has arisen in this petition for our consideration. Leave is accordingly refused and this petition being without merit is, therefore, dismissed.



Judge



Judge



Shahzad Ali

Judge

**Islamabad**

23<sup>rd</sup> May, 2025

M. Azhar Malik/\*