

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE ATHAR MINALLAH  
MR. JUSTICE IRFAN SAADAT KHAN  
MR. JUSTICE MALIK SHAHZAD AHMAD KHAN

**Jail Petition No.493 of 2021 & Crl.M.A.No.2043 of 2022**

*(On appeal against the judgment dated 23.09.2021 passed by the Lahore High Court,  
Lahore in Murder Reference No.143/2017 and Criminal Appeal Nos.1288-J, 1197-J/2017)*

1. Muhammad Tayyab
2. Muhammad Kashif
3. Muhammad Bilal

...Petitioner(s)

**Versus**

The State

...Respondent(s)

For the Petitioner(s): Mr. Aftab Alam Yasir, ASC  
Syed Rifaqat Hussain Shah, AOR

For the State: Mirza Abid Majeed, DPG Punjab

Date of Hearing: 30.06.2025

...

**JUDGMENT**

**MALIK SHAHZAD AHMAD KHAN, J.-**

**Jail Petition No.493 of 2021 &**  
**Crl.M.A.No.2043 of 2022**

Muhammad Tayyab, Muhammad Kashif and Muhammad Bilal (petitioners) along with Munawar Hussain (co-accused since acquitted), were tried by the learned Additional Sessions Judge, Vehari, pursuant to a case registered vide FIR No.317/2015 dated 26.06.2015, under Sections 302/324/34 PPC, at Police Station City Burewala, District Vehari. The learned Trial Court vide its judgment dated 14.10.2017, convicted Muhammad Kashif (petitioner) under section 302(b) PPC for committing murder of Muhammad Waseem and sentenced him to death with a further

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direction to pay Rs.3,00,000/- (rupees three lakh only) as compensation under Section 544-A Cr.P.C to the legal heirs of deceased and in default whereof to further undergo six months simple imprisonment. He was also convicted under Section 302(b) PPC read with Section 34 PPC for sharing common intention of causing death of Muhammad Shoaib and Muhammad Sajid and was further sentenced to imprisonment for life on two counts. He was further convicted under Section 324 PPC and sentenced to rigorous imprisonment for ten years with fine of Rs.50,000/- (rupees fifty thousand only) and in default thereof to further undergo three months simple imprisonment. He was also convicted under Section 337-D PPC and sentenced to pay Arsh amounting to 1/3<sup>rd</sup> of Diyat to the injured Akhtar Hussain. He was also convicted under Section 337-F(iii) PPC and sentenced to pay Daman of Rs.50,000/- (rupees fifty thousand only). In case of non-payment of Arsh and Daman, he was ordered to be kept in jail.

Muhammad Bilal (petitioner) was convicted under section 302(b) PPC for committing murder of Muhammad Shoaib and sentenced to death with a further direction to pay Rs.3,00,000/- (rupees three lakh only) as compensation under Section 544-A Cr.P.C to the legal heirs of deceased and in default whereof to further undergo six months simple imprisonment. He was also convicted under Section 302(b)/34 PPC for sharing common intention of causing death of Muhammad Waseem and Muhammad Sajid and was further sentenced to imprisonment for life on two counts. He was further convicted under Sections 324/34 PPC and sentenced to rigorous imprisonment for five years with fine of Rs.30,000/- (rupees thirty thousand only) and in default thereof to further

undergo two months simple imprisonment. Muhammad Tayyab (petitioner) has been convicted under section 302(b) PPC for committing murder of Muhammad Sajid and sentenced to death with a further direction to pay Rs.3,00,000/- (rupees three lakh only) as compensation under Section 544-A, Code of Criminal Procedure, to the legal heirs of deceased and in default whereof to further undergo six months simple imprisonment. He was also convicted under Sections 302(b)/34 PPC for sharing common intention of causing death of Muhammad Waseem and Muhammad Shoaib and was further sentenced to imprisonment for life on two counts. He was further convicted under Sections 324/34 PPC and sentenced to rigorous imprisonment for five years with fine of Rs.30,000/- (rupees thirty thousand only) and in default thereof to further undergo two months simple imprisonment. All substantive sentences were ordered to run concurrently with benefit of Section 382-B Cr.P.C. The appeal filed by the petitioners was dismissed by the learned High Court while maintaining their convictions, however, their sentences of death under section 302(b) PPC, were converted into imprisonment for life with the direction that the sentences awarded to the petitioners shall run concurrently with the benefit of section 382-B Cr.P.C.

2. During the pendency of this petition, an application was moved in this case by the petitioners for grant of permission to compound the offence with the legal heirs of the deceased. According to the report submitted by learned Sessions Judge, Vehari, all the legal heirs of Muhammad Shoaib (deceased), have compounded the offence with the petitioners, whereas all the legal heirs of Muhammad Waseem except his widow namely Mst. L

Shahida Parveen had also compounded the offence with the petitioners, however, none from the legal heirs of Muhammad Sajid (deceased), compounded the offence with the petitioners. As all the legal heirs of Muhammad Sajid and Muhammad Waseem (deceased), have not compounded the offence with the petitioners, therefore, we proceed to decide the instant case on merits, as well as, while keeping in view the effects of the offences compounded by the legal heirs of the abovementioned deceased with the petitioners.

3. Arguments heard. Record perused.

4. We have noted that Muhammad Bilal (petitioner) was assigned a specific role of making a fire shot, which landed on the back side of the head of Muhammad Shoaib (deceased) and he has not been attributed the role of causing any injury on the body of other deceased namely Muhammad Sajid and Muhammad Waseem. The motive of the prosecution case has already been disbelieved by the learned High Court in paragraph No.14, of the impugned judgment, whereas the recovery of weapon of offence from the said petitioner has also been disbelieved by the learned High Court in paragraph No.15, of the impugned judgment, on account of negative report of PFSA qua the pistol recovered at the pointing out of Muhammad Bilal (petitioner). As mentioned earlier, the motive regarding quarrel between the complainant and the accused party one day prior to the occurrence on account of fight of children of the parties has already been disbelieved by the learned High Court, therefore, possibility cannot be ruled out that the occurrence took place due to some sudden quarrel. As Muhammad Bilal (petitioner), had not caused any injury on the

body of Muhammad Sajid (deceased) and Muhammad Waseem (deceased), or on the body of Muhammad Akhtar (PW-8), though the deceased and Muhammad Akhtar (PW-8), were at the mercy of the said petitioner but he did not cause a single scratch on their bodies, therefore, it cannot be held that Muhammad Bilal (petitioner), shared common intention with his co-accused for committing murder of Muhammad Sajid (deceased) and Muhammad Waseem (deceased) or for causing injuries on the body of Muhammad Akhtar (PW-8), therefore, the leave is granted and appeal is partly allowed. The convictions and sentences of Muhammad Bilal (petitioner) under sections 302(b)/324/34 PPC, for sharing common intention for the murders of above-referred deceased and causing injuries to Muhammad Akhter (PW-8), are hereby set-aside.

Insofar as the conviction and sentence awarded to Muhammad Bilal (petitioner) for causing a specific injury on the head of Muhammad Shoaib (deceased), is concerned, though the said role is supported by the medical evidence but according to the report of the learned Sessions Judge, Vehari, all the legal heirs of Muhammad Shoaib (deceased), have compounded the offence with Muhammad Bilal (petitioner). Perusal of the said report further shows that the legal heirs of Muhammad Shoaib (deceased), have compounded the offence with their free and consent with Muhammad Bilal (petitioner) without any duress or pressure. Even the learned DPG has no objection on the acceptance of compromise between Muhammad Bilal (petitioner) and the legal heirs of Muhammad Shoaib (deceased). Consequently, Muhammad Bilal (petitioner), is also acquitted from the charge of murder of

Muhammad Shoaib (deceased), under section 302(b) PPC, on the basis of compromise, whereas he has already been acquitted from the remaining charges of sharing common intention for causing murders of Muhammad Sajid and Muhammad Waseem (deceased) or causing injuries to Muhammad Akhtar (PW-8) and as such he is acquitted of all the charges. This petition is, therefore, converted into an appeal and partly allowed to the extent of Muhammad Bilal (petitioner). Impugned judgments dated 23.09.2021 and 14.10.2017, of the learned High Court and the learned trial Court respectively are hereby partly set-aside to the extent of Muhammad Bilal (petitioner). He shall be released from the jail forthwith unless required to be detained in any other case.

5. As regard the case of Muhammad Tayyab and Muhammad Kashif (petitioners), are concerned, on account of our findings/ observations made in paragraph No.5, of this judgment, the application of section 34 PPC, with respect to sharing common intention between the accused has not been proved in this case. It is noteworthy that Muhammad Tayyab and Muhammad Kashif (petitioners), both were armed with pistols 30-bore at the time of occurrence but Muhammad Tayyab (petitioner) has been assigned a specific role of causing injuries on the body of Muhammad Sajid (deceased), whereas Muhammad Kashif (petitioner), has been assigned a specific role of causing injuries on the body of Muhammad Waseem (deceased). No specific injury on the body of Muhammad Waseem (deceased) or Muhammad Shoaib (deceased), was attributed to Muhammad Tayyab (petitioner). Likewise, no specific injury on the body of Muhammad Sajid (deceased) or Muhammad Shoaib (deceased), was assigned to Muhammad Kashif

(petitioner), though a general role of firing at Muhammad Shoaib (deceased), was assigned to him.

It has already been noted by us that the motive regarding previous quarrel between the parties on account of fight between the children of the parties has already been disbelieved by the learned High Court, therefore, possibility with regard to happening of the occurrence of this case due to sudden quarrel cannot be ruled out. However, it is noteworthy that the specific role of Muhammad Tayyab (petitioner) of causing injuries on the leg and neck of Muhammad Sajid (deceased), has been supported by the medical evidence. Likewise, the specific role attributed to Muhammad Kashif (petitioner) of causing two firearm injuries on the chest of Muhammad Waseem (deceased) and causing injuries at the abdomen and left shoulder of Muhammad Akhtar (PW-8), has also been fully supported by the medical evidence brought on the record through Dr. Muhammad Zeewaqr Akhter (PW-1), Dr. Waseem Akhter (PW-2) and Dr. Muamber Hussain (PW-12). Moreover the occurrence took place in the broad-day light i.e., 26.06.2015, at 9.45 a.m. The ocular account of the prosecution was furnished by Asghar Hussain complainant (PW-8), Lariab Asghar (PW-9) and Muhammad Akhter (Injured/PW-10). Muhammad Akhter (PW-10), was an injured eye-witness of the occurrence. The evidence of the abovementioned eye-witnesses was confidence inspiring and trustworthy.

Keeping in view all the above-mentioned facts, we have come to this irresistible conclusion that the prosecution has proved its case against Muhammad Tayyab (petitioner), beyond the shadow of any doubt to the extent of committing murder of Muhammad Sajid

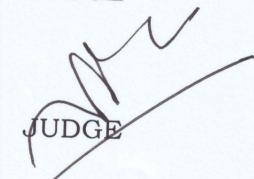
(deceased). Likewise, the prosecution has proved its case beyond the shadow of any doubt against Muhammad Kashif (petitioner) for committing murder of Muhammad Waseem (deceased) and causing injuries to Muhammad Akhter (PW-10). However, the allegation of sharing common intention by Muhammad Tayyab (petitioner) along with his co-accused for causing murders of Muhammad Waseem (deceased) and Muhammad Shoaib (deceased) and causing injuries to Muhammad Muhammad Akhter (PW-8), has not been proved beyond the shadow of doubt. Likewise, the allegations levelled against Muhammad Kashif (petitioner) for sharing common intention with his co-accused for committing murders of Muhammad Sajid (deceased) and Muhammad Shoaib (deceased), have not been proved beyond the shadow of doubt because no injury on the bodies of Muhammad Shoaib (deceased) and Muhammad Sajid (deceased), was caused by Muhammad Kashif (petitioner). Consequently, this petition is converted into an appeal and partly allowed while acquitting Muhammad Tayyab (petitioner) from the charge under sections 302(b)/34 PPC for sharing common intention to commit the murders of Muhammad Shoaib (deceased), Muhammad Waseem (deceased) and causing injuries to Muhammad Akhter (PW-10). Likewise, Muhammad Kashif (petitioner), is also acquitted of the charge under sections 302(b)/34 PPC, for sharing common intention to commit the murders of Muhammad Shoaib (deceased) and Muhammad Waseem (deceased). However, the conviction and sentence awarded to Muhammad Tayyab (petitioner) for committing murder of Muhammad Sajid (deceased), under section 302(b) PPC, on one count is upheld and maintained. The amount of compensation and

the sentence in default thereof as awarded by the learned trial Court and upheld by the learned High Court are maintained. Likewise, the convictions and sentences awarded to Muhammad Kashif (petitioner) for committing murder of Muhammad Waseem (deceased), under section 302(b) PPC on one count and under sections 324/337-D/337F(iii) PPC, for causing injuries to Muhammad Akhter (PW-10), are upheld and maintained. The amount of compensation, fine, Arsh, as well as, Daman and the sentences in default thereof awarded to Muhammad Kashif (petitioner), under sections 302(b)/324/337-D/337F(iii) PPC, are also upheld and maintained. Benefit of section 382-B Cr.P.C, is also extended to Muhammad Kashif and Muhammad Tayyab (petitioners). All the sentences of imprisonment except the sentences to be undergone by Muhammad Kashif and Muhammad Tayyab (petitioners) on account of non-payment of compensation, fine, Arsh and Damans shall run concurrently.

6. This petition (Jail Petition No.493/2021), as well as, criminal miscellaneous application (Crl.M.A.No.2043 of 2022), are decided in the aforementioned terms.



JUDGE



JUDGE



JUDGE

Islamabad,  
Announced on 04-07-2025 by Shahzad Hussain  
Not Approved For Reporting  
Aitzaz