

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. 872 OF 2018 AND
CRIMINAL PETITION NO. 1350-L OF 2018

(On appeal against the judgment dated 26.11.2018 of the Lahore High Court, Lahore passed in Murder Reference No. 101/2016 and Cr. Appeal No. 241/2016)

Khizar Hayat Khan
Ghulam Haider Khan

(In JP 872/2018)
(In Cr.P. 1350-L/2018)
... Petitioners

Versus

The State etc

(In both cases)
... Respondents

For the Petitioners:

Mr. Aftab Alam Yasir, ASC
(In JP 872/2018)

For the Complainant:

Mr. Ghulam Haider, in person
(The petitioner in Cr.P. 1350-L/2018 and the respondent/complainant in JP 872/2018)

For the State:

Ms. Memoona Ehsan ul Haq, DPG Punjab

Date of Hearing:

11.09.2025

ORDER

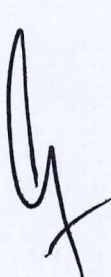
ATHAR MINALLAH, J.- The petitioner Khizar Hayat

Khan has sought leave against the judgment of the Lahore High Court, Lahore dated 26.11.2018. The petitioner along with four co-accused was nominated in Crime Report No. 26 dated 26.01.2012 registered at Police Station Saddar District Mianwali for the commission of the alleged offences under Sections 302, 109, 34 PPC. The investigation led to the filing of report under Section 173 Cr.P.C. and pursuant thereto charge was framed. The petitioner did not plead guilty and, therefore, upon conclusion of the trial, he was convicted under Section 302(b) PPC and was sentenced to death. He was also directed to pay compensation amounting to

Rs.200,000/- to the legal heirs of the deceased or in default thereof to further undergo simple imprisonment for six months. However, the Trial Court acquitted the four co-accused of the petitioner. In appeal, the learned High Court while maintaining the conviction of the petitioner under Section 302(b) PPC altered the sentence of death into imprisonment for life. The amount of compensation and the sentence in default thereof was maintained. Benefit of Section 382-B Cr.P.C. was also extended in favour of the petitioner. Being aggrieved by the impugned judgment, the petitioner/convict Khizar Hayat Khan has filed Jail Petition No. 872/2018 whereas the complainant has filed Criminal Petition No. 1350-L/2018 seeking enhancement of the sentence awarded to the petitioner/convict.

2. We have heard learned counsel for the petitioner, the complainant in person as also learned Deputy Prosecutor General at length and have perused the record with their able assistance.

3. The occurrence in this case had taken place on 26.01.2012 at 04:15 PM. The crime report was promptly registered on the same day at 06:00 PM. The prosecution in order to prove its case had produced Ghulam Haider Khan (PW-10) and Iqbal Ahmed Khan (PW-11). These witnesses were consistent on all material facts and their testimonies have been found to be reliable, trustworthy and confidence inspiring. The confidence inspiring ocular account was supported by the medical evidence brought on record by Dr. Muazzam Ali Awan (PW-4). The petitioner was declared as a proclaimed offender and after a long period of remaining fugitive from law he was arrested on 13.01.2013 i.e. after one year from the date of occurrence. This factor also corroborates the guilt of the petitioner. In this case, the report of



the Forensic Science Laboratory was negative and the prosecution in the opinion of the High Court had failed to prove the factum of motive i.e. that seven months prior to the incident, the uncle of the petitioner was caused injuries by the deceased party. The High Court while keeping in view the facts and circumstances of this case had rightly modified the sentence of death to imprisonment for life on account of the afore-mentioned mitigating factors. In our opinion, the prosecution had indeed proved the guilt of the petitioner beyond a reasonable doubt and, therefore, the conviction handed down by the Trial Court and later upheld by the High Court does not require any interference. Learned counsel for petitioner/convict has not been able to point out any misreading or non-reading of the evidence nor was he able to persuade us that a question of law has arisen for our consideration. Likewise, no case for enhancement of the sentence has been made out in the peculiar facts and circumstances of this case. Consequently, leave is refused and both these petitions are dismissed.

Islamabad, the
11th of September, 2025
Not Approved For Reporting
Khurram