

THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

41/25

Bench:

Mr. Justice Athar Minallah
Mr. Justice Naeem Akhtar Afghan
Mr. Justice Malik Shahzad Ahmad Khan

Crl. M.A. No.1810 of 2023 in Crl. Appeal No.51 of 2023, Crl. Appeal No.51 of 2023 and Crl. Petition No.198-L of 2021

(Crl. M. A. for suspension of sentence.) (appeal against judgment dated 19.01.2021 of the Lahore High Court, Lahore passed in Crl. A. No.60069-J/2017)

Muhammad Rizwan alias Jana ...Applicant in Crl.M.A.1810/2023
and appellant in Crl.A.51/2023

Naveed Abbas ...Petitioner in Crl.P.198-L/2021

Versus

The State, etc. ...Respondents in all cases

For the applicant/appellant: Sh. Irfan Akram, ASC
(from Lahore Registry *via* video-link)

For the petitioner: Khwaja Awais Mushtaq, ASC
(from Lahore Registry *via* video-link)

For the State: Mr. Sajjad Hussain Bhatti, Deputy
Prosecutor General, Punjab

Date of hearing: 05.06.2025

ORDER

Athar Minallah, J.- Criminal Appeal No.51 of 2023: This Court had granted leave in criminal petition No.205-L/2021 and it was consequently converted into an appeal while in criminal petition No.198-L/2021 notice was directed to be issued. In both these matters the judgment of the High Court dated 19.01.2021 was challenged. The appellant Muhammad Rizwan alias Jana son of Iftikhar Ahmad, along with other co-accused, was nominated in crime report No.164/2014, dated 20.06.2014, registered at P.S. Sabz Peer, District Sialkot for commission of the alleged offences under sections 302, 324, 109, 452, 148 and 149 of the Pakistan Penal Code, 1860 ('PPC'). The investigating officer during the investigation had declared two nominated accused i.e. Fazal Hussain and Iftikhar as not having been involved in the

commission of the alleged offences. The third accused Muhammad Ilyas remained fugitive from law and therefore, proceedings were initiated against him. The present appellant Muhammad Rizwan alis Jana, however, upon conclusion of the trial was convicted under section 302(b) PPC and sentenced to suffer death penalty as *tazir* and also to pay compensation of Rs.10, 00,000/- to the legal heirs of the deceased Nazish Bibi as required under section 544-A of the Cr. P.C. He was also convicted under section 449 PPC and sentenced to rigorous imprisonment for 10 years with fine of Rs.50,000/- and in case of default of payment to further undergo simple imprisonment for six months. He was further convicted under section 324 PPC and sentenced to rigorous imprisonment for 10 years with fine of Rs.2,00,000/- and in case of default of payment of fine to further undergo simple imprisonment for six months. He was further convicted under section 337-D PPC and sentenced to rigorous imprisonment for five years as *tazir* and to pay *Arsh* equal to 1/3 of *diyat*. He was directed to pay compensation of Rs.2,00,000/- to the injured Naveed Abbas and in case of default of payment to further undergo simple imprisonment for six months. The sentences of imprisonment were ordered to run concurrently with benefit of section 382-B of the Cr. P.C.

2. The High Court while maintaining the convictions of the appellant had partly allowed his appeal by converting his sentence of death to imprisonment for life. The reference as answered in the negative.

3. We have heard the learned counsel for the appellant, learned counsel for the complainant and the learned Deputy Prosecutor General, Punjab. The record has been perused with their able assistance.

4. In this case, the occurrence had taken place at 8.45 p.m. on 19.06.2014 and the crime-scene was the house of the complainant


Naveed Abbas (PW-1). The occurrence had led to the unnatural death of the complainant's wife Mst. Nazish Bibi. The ocular account was deposed by Naveed Abbas (PW-1) and Jamil Akhtar (PW-2). The former had also sustained injuries during the occurrence. The medical evidence was brought on record by Dr. Khawar Naeem (PW-11) and Dr. Bushra Shamim (PW-10). The commission of the offence was reported to the police promptly while the post-mortem was also conducted without unexplained delay. The testimonies of the two witnesses who had deposed the ocular account were consistent in all material particulars and we have found them to be reliable, trustworthy and confidence-inspiring. The ocular account was supported by the medical evidence brought on record by the aforementioned two medical specialists. In our opinion, the prosecution had proved its case beyond a reasonable doubt. The factum of motive could not be proved by the prosecution and in the opinion of the High Court the recovery of the firearm weapon at the instance of the appellant was inconsequential because the place from where it had been recovered was owned by someone else. These two mitigating factors had therefore, led the High Court to modify the sentence from death to that of imprisonment for life. The judgment of the High Court is well-reasoned and does not require any interference.

5. As already noted, the prosecution has proved its case beyond a reasonable doubt and the quantum of sentence determined by the High Court was also justified keeping in view the mitigating factors highlighted in its judgment. We see no reason to interfere with the findings of the High Court. The appeal is, therefore, devoid of merits and it is dismissed accordingly.

Criminal Petition No.198-L/2021: The complainant in this case, Naveed Abbas has sought enhancement of the sentence determined by

the High Court. The learned counsel was not able to persuade us that a case is made out for enhancing the sentence of imprisonment for life determined by the High Court to death. We have carefully perused the record and the mitigating factors highlighted in the judgment of the High Court have been found to be based on correct appreciation and reappraisal of the evidence. The motive could not be proved by the prosecution and recovery of the firearm weapon was inconsequential. Both these mitigating factors were sufficient to justify the modification of the sentence of death to imprisonment for life. Learned counsel for the petitioner has not been able to point out any misreading or non-reading of evidence nor has any question of law arisen in this petition for our consideration. Leave is accordingly refused and this petition stands dismissed. The listed Crl. M.A. is dismissed as having become infructuous.

The above are the reasons for our short order of even date.


Judge


Judge


Judge

Islamabad, the

5th June, 2025

M. Azhar Malik/*


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