

# IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)



**Present:**

Mr. Justice Sardar Tariq Masood  
Mr. Justice Mazhar Alam Khan Miankhel

**Crl.P.L.A.No.759/2024 and Crl.M.A.No.1143/2024 IN Crl.P.L.A.No.759/2024**

(On appeal against the order/judgment dated 04.06.2024 passed by Peshawar High Court, Bannu Bench in Cr.A.No.347-B/2023)

...Petitioner(s)

Abdul Sattar Khan

...Respondent(s)

The State through Advocate General KPK and others

## **VERSUS**

For the Petitioner(s) : Mr. Shahid Qayum Khattak, ASC

For the State : Mr. Altaf Khan, Additional Advocate General, Khyber Pakhtunkhwa

Date of Hearing : 29.05.2025

## **ORDER**

**Sardar Tariq Masood, J:-** The petitioner namely, Abdul Sattar Khan was tried in case FIR No. 381 dated 05.06.2020 registered at Police Station Karak, District Karak under Sections 324 and 34 of the Pakistan Penal Code (PPC). After a regular trial, he was convicted as under:-

- i. Under Section 324 PPC to simple imprisonment for ten years with fine of Rs.50,000/- or to undergo three months S.I. in default of its payment.
- ii. Under section 337-D PPC to simple imprisonment for three months as Ta'zir. The convict shall also pay 1/3rd of Diyat to the victim in lump sum. In case of failure, he may be kept in jail and dealt with in the same manner as if sentenced to simple imprisonment until payment of Diyat as provided in section 337-X(2) PPC.
- iii. Under section 337-F(iii) PPC to undergo simple imprisonment for two years as Ta'zir. The convict shall also pay Rs.40,000/- as Daman to the victim in lump sum. In case of failure, he may be kept in jail and dealt with in the same manner as if sentenced to simple imprisonment until payment of Daman as provided in section 337-Y(2) PPC.
- iv. Under section 337-F(i) PPC to undergo simple imprisonment for six months as Ta'zir. The convict shall also pay Rs.30,000/-

of Daman to the victim in lump sum. In case of failure, he may be kept in jail and dealt with in the same manner as if sentenced to simple imprisonment until payment of Daman as provided in section 337-Y(2) PPC.

All the sentences were ordered to run concurrently. The benefit under section 382-B Cr.P.C was extended to the convict. The appeal filed by him was partly allowed by the High Court and his sentence was reduced from 10 years S.I to 05 years S.I under Section 324 PPC and rest of the conviction and sentences were maintained by the High Court vide impugned judgment dated 04.06.2024; hence, instant petition for leave to appeal.

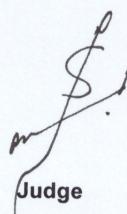
2. Learned counsel for the petitioner contends that the petitioner was convicted and sentenced under Section 324 PPC which was reduced by the High Court through impugned order from 10 years S.I. to five years S.I. which he had already served out. He further contends that there is no allegation of firing upon Noor Khan against the petitioner and Noor Khan received the injuries on his chest etc. at the hands of co-accused Qadir Khan; whereas the allegation against the petitioner is that his fire shot hit Irshad Khan injured on his right thigh (non-vital part). So, with no stretch of imagination *Jaifah* can be attracted under the said injury attributed to the petitioner. He further contends that so far the conviction and sentence under Section 324 PPC is concerned, the petitioner is not pressing and challenging the said conviction under Section 324 PPC, however, contends that the conviction under the head of Sections 337-D, 337-F(i) and 337-F(iii) PPC is unwarranted so far the petitioner is concerned because the doctor had categorically stated that he had not declared the nature of the injuries and even their duration and he also had confirmed that no X-ray was conducted so far Irshad Khan injured is concerned. We have asked from learned counsel for the complainant as to whether there is any evidence on the file to establish that the petitioner can be convicted under Sections 337-D, 337-F(i) and 337-F(iii) PPC, learned counsel for the complainant conceded that the doctor had not stated so but according to him, he may have been convicted under Section 34 PPC with his co-accused Qadir Khan who is still absconding but again when confronted as to

whether the doctor has given any result of any of the injured, the answer is 'NO' and the same was the position of the learned Additional Advocate General.

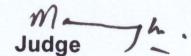
3. After hearing learned counsel for the petitioner, learned counsel for the complainant and learned Additional Advocate General, we observe that learned counsel for the petitioner is not contesting the conviction and sentence of the petitioner under Section 324 PPC and he confines himself only to the extent of conviction and sentences regarding the other offences i.e. 337-D, 337-F(i), 337-F(iii) mentioned above. We have also observed that the doctor neither declared the nature of the injuries nor stated that he had probed into them even no X-ray was conducted, and no duration of the injuries was provided by the doctor. Even the trial Court and the High Court did not convict the petitioner under Section 34 PPC and convicted him individually for each injury which is not born out or established from the statement of the doctor.

4. Consequently, we convert this petition into an appeal and partly allow the same. As the conviction and sentence under Section 324 PPC is not contested, hence, the same is maintained and without commenting further upon the merits of the case, we set aside the conviction and sentences passed against the petitioner under Sections 337-D, 337-F(i) and 337-F(iii) PPC and he is acquitted only to the extent of charges under the said penal sections.

5. The observation made above will not prejudice the case of the prosecution during the trial of Qadir Khan absconder whose fate will rest upon the evidence recorded by the trial Court in his trial.



Judge



Judge