

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. 125 OF 2023

*(On appeal against the judgment dated 14.04.2023
of the High Court of Sindh, Karachi in Cr. Appeal No.
538/2022, Cr. Jail Appeal No. 583/2022 and
Confirmation Case No. 10/2022)*

Juman

... Petitioner

Versus

The State

...Respondent

For the Petitioner: Mr. Khursheed Ahmed, ASC

For the State: Ms. Rahat Ehsan, Addl. P.G. Sindh

Date of Hearing: 06.05.2025


ORDER

ATHAR MINALLAH, J.- The petitioner has sought leave against the judgment of the High Court of Sindh, Karachi dated 14.04.2023. The petitioner was nominated in Crime Report No. 30 registered at Police Station Jhoke Sharif for commission of the alleged offence under Section 302 PPC. The Trial Court upon conclusion of the trial, convicted the petitioner under Section under Section 302(b) PPC and sentenced him to death. He was also directed to pay Rs.100,000/- as compensation to the legal heirs of the deceased. The compensation was ordered to be recovered as arrears of land revenue. The appeal preferred by the petitioner was dismissed by the High Court and the murder reference was answered in the affirmative. However, benefit of Section 382-B Cr.P.C. was extended in favour of the petitioner by the High Court.

2. We have heard learned counsel for the petitioner as well as learned Law Officer at great length and have perused the record with their able assistance.



3. It was a daylight occurrence and it had taken place on 01.10.2018 at 07:00 AM. The prosecution had produced Ali Nawaz and Muhammad Umar as witnesses to depose the ocular account. They had entered the witness box as PW-1 and PW-2 respectively. The testimonies of the witnesses, who had deposed the ocular account were found consistent in all material facts. They were also reliable, trustworthy and confidence inspiring. The ocular account was supported by the medical evidence brought on record by Dr. Abdul Qadeer (PW-4). The petitioner was arrested on 02.10.2018 and he had led to the recovery of the firearm weapon. The firearm weapon and the spent bullets recovered from the crime scene were sent to the Forensic Science Laboratory together. The report of the Forensic Science Laboratory was positive. The prosecution had set up a motive, which was to the effect that the petitioner and the deceased had a dispute regarding an accident and that a criminal case was also registered against the latter. The prosecution had produced seven witnesses to prove its case. We have not been able to persuade ourselves that the concurrent findings of the Trial Court and the High Court regarding the guilt and conviction of the petitioner suffer from any legal infirmity let alone misreading or non-reading of the evidence. The prosecution had proved its case beyond a reasonable doubt and, therefore, we see no reason to interfere with the findings of the two competent courts regarding the guilt of the petitioner. Learned counsel for the petitioner has argued that in the facts and circumstances of this case, the sentence of death was not justified on account of mitigating factors. He has argued that motive was not proved by the prosecution and that the recovery of the firearm weapon could not be relied upon because it was sent together with the spent bullets to the Forensic Science Laboratory.



We have gone through the record and the argument raised by the learned counsel for the petitioner that the prosecution had failed in proving the factum of motive is not without substance. The prosecution did not bring on record the FIR stated to have been registered against the deceased by the petitioner nor any other reliable and credible document to prove the motive as set out by the prosecution. As the firearm weapon and the spent bullets were sent together to the Forensic Science Laboratory, therefore, the recovery was inconsequential. In view of the above, the sentence of death was not justified. Consequently, while maintaining the conviction of the petitioner under Section 302(b) PPC, the sentence of death is modified to imprisonment for life. The amount of compensation, as ordered by Trial Court and upheld by the High Court, is maintained. However, the courts below have not mentioned in their judgments, any sentence of imprisonment on account of non-payment of compensation amount. It is, therefore, directed that the amount of compensation shall be recoverable as arrears of land revenue and in case of non-payment/non-recovery of the compensation amount, the petitioner shall further undergo six months simple imprisonment. Benefit of Section 382-B Cr.P.C. is extended in favour of the petitioner. This petition is converted into appeal and partly allowed in terms noted above and the impugned judgment is modified accordingly.


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