

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE MUHAMMAD HASHIM KHAN KAKAR
MR. JUSTICE ISHTIAQ IBRAHIM
MR. JUSTICE ALI BAQAR NAJAFI

CRIMINAL PETITIONS No.1355/2018 &1443/2018

(Against the judgment dated 06.11.2018 in Crl.Appeal No.101/2015 passed by the Lahore High Court Multan Bench Multan).

Ghulam Rasool (in Crl.P.L.A. No.1355/2018)

Abdul Sattar (in Crl.P.L.A. No.1443/2018)

...Petitioner(s)

Versus

The State & another

(in both cases)

...Respondent(s)

For the Petitioner:

M/S Khalid Ibni-Aziz ASC and Syed Rifaqat Hussain Shah, AOR. (in Crl.PLA No.1355/2018)

Sardar M.Shahzad Khan Dhukkur, ASC
With Syed Rifaqat Hussain Shah, AOR
(in Crl.PLA No.1443/2018)

For the State:

*Dy.
Mirza Abid Majeed PG Punjab*

Date of hearing:

13.05.2025

JUDGMENT

ISHTIAQ IBRAHIM, J.- Appellant Ghulam Rasool, along with co-accused Muhammad Ramzan, Muhammad Luqman, Muhammad Waryam alias Sona, Muhammad Farman, and Muhammad Ashraf, was tried in case FIR No. 16 dated 14.01.2014, registered under Sections 324, 336-B, 148, and 149 of the Pakistan Penal Code, 1860 (“PPC”) read with Section 7 of the Anti-Terrorism Act, 1997 (“the Act of 1997”), before the Anti-Terrorism Court, Dera Ghazi Khan (“the Trial Court”). Vide judgment dated 21.02.2015, appellant Ghulam Rasool, and co-accused Muhammad Ramzan and Muhammad Ashraf were convicted under Section 336-B PPC and sentenced to imprisonment for life. They were further directed to pay fine of Rs.1,000,000/- (Rupees one million only) each to the injured Muhammad Saleem, in terms of Section 545 of the Code of Criminal

Procedure, 1898 ("Cr.P.C."). In addition, they were convicted under Section 7(c) of the Act of 1997 and sentenced to life imprisonment, along with a fine of Rs.500,000/- (Rupees five hundred thousand only) each, and in default of payment thereof, to undergo six months simple imprisonment. Moreover, they were convicted under Section 324 PPC and sentenced to ten (10) years' rigorous imprisonment each, with a fine of Rs.20,000/- each, and in default thereof, to further undergo six months simple imprisonment. Furthermore, appellant Ghulam Rasool and co-accused Muhammad Ramzan were also directed to pay Arsh in the sum of Rs.1,087,289/- (Rupees one million eighty-seven thousand two hundred eighty-nine only) each to the injured. All the sentences were ordered to run concurrently, and the benefit of Section 382-B Cr.P.C. was extended to the convicts. However, co-accused Muhammad Luqman, Muhammad Waryam alias Sona, and Muhammad Farman were acquitted by the Trial Court.

2. The Lahore High Court, Multan Bench, vide judgment dated 06.11.2018 ("**the impugned judgment**"), while setting aside the convictions and sentences of co-accused Muhammad Ashraf and Muhammad Ramzan, dismissed the appeal of appellant Ghulam Rasool and maintained his convictions and sentences as awarded by the Trial Court. Aggrieved thereby, appellant Ghulam Rasool has filed the instant criminal petition for leave to appeal. Additionally, complainant/petitioner Abdul Sattar has filed Criminal Petition for Leave to Appeal No. 1443 of 2018, challenging the acquittal of the abovenamed acquitted co-accused.

3. Since both matters arise out of the same impugned judgment, we propose to decide them through this single judgment.

4. The prosecution's case, as set forth in the First Information Report registered on the basis of complaint (Exh.PA) of complainant Abdul Sattar (PW-2), is that Muhammad Saleem, the brother of the complainant, had obtained approximately four acres of land on *Mustajri* situated in the area of Hamzey Wali for the cultivation of wheat. On 14.01.2014, the complainant, accompanied by one Kalo, went to see his brother Muhammad Saleem at Hamzey Wali, where they, along with Akram and Muhammad Saleem, were sitting and conversing. At about 11:15 a.m., the appellant Ghulam Rasool, while holding a bottle containing acid, arrived at the spot along with the acquitted co-accused riding on three motorcycles. Upon arrival, they raised a *lalkara* that Muhammad Saleem would not be spared. As a result, Muhammad Saleem attempted to flee; however, the

accused persons chased, apprehended him, and inflicted him blows with *sotas* and *saria*. Thereafter, appellant Ghulam Rasool and co-accused Muhammad Ramzan poured acid upon Muhammad Saleem, causing him severe burns. The motive for the occurrence, as alleged, was that Muhammad Wasim, the father of the injured Muhammad Saleem, had contracted *Nikah* with the daughter of accused Muhammad Ramzan.

5. We have heard the submissions of learned counsel for the parties advanced at the bar and perused the record and evidence with their valuable assistance.

6. Injured witness Muhammad Saleem (PW-1) furnished the ocular account of the incident and, in his deposition, categorically implicated the appellant Ghulam Rasool as the person who poured sulphuric acid upon him. During the spot inspection, the Investigating Officer recovered acid-stained earth, which was taken into possession vide recovery memo (Exh.PB). The injured Muhammad Saleem after the occurrence shifted to Nishtar Hospital, Multan, where he was medically examined by Dr. Muhammad Bilal Saeed (PW-12). As per the medical evidence, thirty percent of the body surface area of Muhammad Saleem was found to be burnt and his eyes completely damaged. Despite being subjected to lengthy cross-examination, nothing favourable to the defence or detrimental to the prosecution's case could be elicited from the injured. He remained consistent and firm in his stance, reiterating the role of appellant Ghulam Rasool in pouring acid upon him.

7. After thorough evaluation and appraisal of the evidence available on the record, both the learned courts below have concurrently concluded that the prosecution succeeded in establishing the guilt of the petitioner/convict Ghulam Rasool beyond reasonable doubt. The contentions raised by the learned counsel for the petitioner, to the extent of his conviction, have already been duly addressed and repelled by the courts below with due reference to the evidentiary material on record. No specific instance of misreading or non-reading of evidence, particularly with regard to the role attributed to the appellant Ghulam Rasool, has been pointed out by the learned counsel which could warrant interference by this Court in the lawful exercise of jurisdiction by the courts below.

8. However, in view of the motive advanced by the prosecution which rests on a personal vendetta stemming from a *Nikah* contracted by the father of the injured with the daughter of co-accused Muhammad Ramzan and in the absence of any independent evidence establishing the essential ingredients of terrorism as envisaged in the case of *Ghulam Hussain v. The State* (PLD 2020 SC 61), we are

of the view that the learned courts below fell in legal error by convicting the appellant under Section 7(c) of the Anti-Terrorism Act, 1997.

9. For the foregoing reasons, Criminal Petition for Leave to Appeal No.1355 of 2018 is converted into an appeal and is partly allowed. The conviction and sentence of the appellant Ghulam Rasool under Section 7(c) of the Anti-Terrorism Act, 1997, are hereby set aside. However, his conviction and sentences under the remaining penal provisions are upheld and maintained.

10. Insofar as Criminal Petition for Leave to Appeal No.1443 of 2018 is concerned, we find that the acquittal of the co-accused by the trial court and the High Court, as recorded in the impugned judgment(s), is based upon proper appreciation of evidence. Consequently, no ground for interference by this Court is made out. The petition, being devoid of merit, is dismissed and leave to appeal is refused.

Judge

Judge

Judge

Islamabad

13.05.2025

Not approved for reporting.

M.Siraj Afridi PS