

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE ATHAR MINALLAH

MR. JUSTICE MALIK SHAHZAD AHMAD KHAN

**Criminal Petition No.1616 of 2023**

*(On appeal against the judgment dated 01.12.2023 passed by the High Court of Sindh, Bench at Sukkur in Criminal Appeal No.S-92 of 2021)*

Zameer Ahmed

...Petitioner(s)

**Versus**

The State through PG Sindh

...Respondent(s)

For the Petitioner(s): Mr. Aftab Alam Yasir, ASC

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

Date of Hearing: 03.06.2025

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**JUDGMENT**

**MALIK SHAHZAD AHMAD KHAN, J.-** Zameer Ahmed petitioner along with Muhammad Sulleman alias Mullah Sulleman (co-accused since acquitted), was tried by the learned 1<sup>st</sup> Additional Sessions Judge/Model Criminal Trial Court-I, Sukkur, pursuant to a case registered vide FIR No.11/2014, dated 13.01.2014, under Sections 302/148/149/114/337H(2) PPC, at Police Station C-Section, Sukkur. The learned Trial Court vide its judgment dated 10.11.2021, convicted the petitioner under section 302(b) PPC and sentenced him to imprisonment for life as Ta'zir while exercising the powers conferred by section 265-H(2) Cr.P.C. The petitioner was also directed to pay fine of Rs.2,00,000/- as compensation payable to the legal heirs of the deceased as provided under section 544-A Cr.P.C and in default thereof to further undergo three months imprisonment. Benefit of section 382-B Cr.P.C, was also extended to the petitioner. However, vide the same judgment the learned trial Court acquitted Muhammad

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Sulleman alias Mullah Sulleman (co-accused), while extending him the benefit of doubt. The appeal filed by the petitioner was dismissed by the learned High Court while maintaining his conviction and sentence vide impugned judgment dated 01.12.2023.

2. Arguments heard. Record perused.

3. As per contents of the FIR, there was old enmity between the complainant party and one Umar Mahar accused. On 11.01.2014, Ghazi Malang complainant (PW-2) along with his son namely Israr Ahmed (deceased), nephew Haji Khan (PW-4) and grand-son namely Zikriya was going back to his village, after attending Sessions Court, Sukkur. At about 9.30 a.m, when they reached at the District Jail-II, Sukkur Road near Banking Court, they saw that Zameer Ahmad (petitioner), along with Aamil (co-accused since P.O), Sami (co-accused since P.O), Abdul Qadir (co-accused since P.O, Rasoolo (co-accused since P.O, Imamuddin (co-accused since P.O and Muhammad Sulleman alias Mullah Sulleman (co-accused since acquitted) and one unknown accused while armed with firearms emerged at the spot. Muhammad Sulleman alias Mullah Sulleman (co-accused since acquitted) and Imamuddin (co-accused since P.O), raised a *lalkara* and instigated their co-accused, whereupon Abdul Qadir (co-accused since P.O) and Rasoolo (co-accused since P.O), caught hold Israr Ahmed (deceased), whereas Zameer Ahmd (petitioner), Aamil (co-accused since P.O) and Sami (co-accused since P.O), made fire shots, which landed on the head and other parts of the body of Israr Ahmad (deceased), who fell on the ground and succumbed to the injuries. The accused persons thereafter fled away from the spot.

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4. It is noteworthy that there is single deceased in this case and for the said single deceased namely Israr Ahmad, the complainant implicated as many as, seven (07) named and one (01) unknown accused, total eight (08) accused persons in this case.

5. We have further noted that the occurrence in this case took place on 11.01.2014 at 9.30 a.m but the FIR was lodged on 13.01.2014, at 3.00 p.m. There is gross delay of about two days and 5½ hours in reporting the matter to the police, whereas the place of occurrence was admittedly situated adjacent to the District Courts and the Banking Court Sukkur, where police must have been available at the time of occurrence (9.30 a.m). The police station was situated only at a distance of ½ furlong from the place of occurrence. No plausible explanation has been given by the prosecution for the abovementioned gross delay in reporting the matter to the police. The said delay has created serious doubt regarding the truthfulness of the prosecution story making the same as unreliable as observed in the judgments reported as "Shaukat Hussain v. The State through PG Punjab and another" (2024 SCMR 929), "Khial Muhammad v. The State" (2024 SCMR 1490) and "Muhammad Jahangir and another v. The State and others" (2024 SCMR 1741).

6. We have also noted that on the day of occurrence, rurat No.12, dated 11.01.2014, regarding the occurrence of the instant case was lodged at the police station at about 9.40 a.m. The said rurat was lodged by Ghazi Malang complainant (PW-2) and it was brought on the record in the examination-in-chief of Ghulam Nabi SIP/I.O (PW-6). He got exhibited the above-mentioned rurat No.12, in the prosecution evidence as Ex.16/A. Perusal of the

abovementioned rupal shows that the same was lodged against the unknown accused and neither the petitioner nor his above-mentioned co-accused were named therein. The said fact fully supports the argument of learned counsel for the petitioner that in-fact the occurrence was unseen and the petitioner and his co-accused were falsely implicated and were named in this case after two days of the occurrence. Rupal No.12, shows that the occurrence was committed by unknown accused but in the FIR, it was not mentioned by the complainant that as to how he came to know about the names, father names and addresses of the petitioner and his co-accused. FIR in this respect is completely silent, which has created another dent in the prosecution story.

7. The ocular account of the prosecution was brought on the record through the evidence of Ghazi Malang complainant (PW-2) and Haji Khan (PW-4). Both the abovementioned eye-witnesses were residents of village Haji Qalu Khan Qadranai, Shah Belo, whereas the occurrence took place near the District Courts and Banking Court Sukkur. The abovementioned witnesses were not residents of the place, where the occurrence took place, therefore, they were chance witnesses and as such they were bound to prove the reason of their presence at the spot at the relevant time. The abovementioned witnesses stated that on the day and time of occurrence, they came to attend the Court proceedings in the Sessions Court, Sukkur. Ghazi Malang complainant (PW-2), was father of Israr Ahmed (deceased), whereas Haji Khan (PW-4), was nephew of the complainant. Ghazi Malang complainant (PW-2), stated during his cross-examination that he had forgotten the name of the complainant of that case, wherein he had appeared

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before the Court on the day of occurrence. He and Haji Khan (PW-4), both have also conceded that they had not produced any proof to the I.O of their appearance on the day of occurrence before the Court. They had also conceded that they had not produced any such proof before the Court during recording of the prosecution evidence. It is, therefore, evident that the reason of presence of the abovementioned chance eye-witnesses at the spot on the day of occurrence could not be proved, hence their evidence is not worthy of reliance as observed in the judgments reported as "Mst. Sughra Begum and another v. Qaiser Pervez and others" (2015 SCMR 1142) and "Muhammad Irshad v. Allah Ditta and others" (2017 SCMR 142).

8. It is further noteworthy that in the contents of the FIR, no specific injury on the body of the deceased was assigned to Zameer Ahmad (petitioner) and a joint role of firing at the deceased was assigned to Zameer Ahmad (petitioner) and his two co-accused namely Aamil (co-accused since P.O) and Sami (co-accused since P.O) but while appearing in the witness box before the learned trial Court, the prosecution witnesses made dishonest improvements in their statements qua the role of the petitioner and his co-accused while assigning them specific firearm injuries on the body of Israr Ahmad (deceased).

As mentioned earlier, in the contents of the FIR, a joint role of firing at the deceased was assigned to the petitioner and his two co-accused namely Aamil (co-accused since P.O) and Sami (co-accused since P.O) but while appearing in the witness box, the prosecution eye-witnesses assigned specific injuries on the head, right armpit and abdomen of the deceased to the petitioner and his

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abovementioned co-accused respectively. It is true that the injury on the head of the deceased was mentioned in the contents of the FIR but the said injury was not specifically attributed to Zameer Ahmad (petitioner). Likewise, no injury on the armpit or on the abdomen of the deceased was specifically attributed to any accused in the contents of the FIR but while appearing before the learned trial Court, the said injuries were assigned to Aamil (co-accused since P.O) and Sami (co-accused since P.O), respectively. The prosecution eye-witnesses were conformed with their previous statements and the dishonest improvements qua the specific roles of Zameer Ahmad (petitioner) and his co-accused were duly brought on the record. This Court has repeatedly observed that a witness, who makes dishonest improvements in his statement on the material aspects of the case, is not worthy of reliance as observed in the judgment reported as 'Akhtar Ali and others v. The State' (2008 SCMR 6).

9. It is also noteworthy that there is conflict between the ocular account and the medical evidence of the prosecution. According to the statement of Ghazi Malang complainant (PW-2), the fire shots were made by the accused while keeping the pistols at the body of the deceased but as per medical evidence, no blackening, tattooing or burning was noted on the entry wounds of the deceased. The said fact also shows that the prosecution eye-witnesses were not present at the spot at the relevant time.

10. As per contents of the FIR, the motive behind the occurrence was previous enmity between the complainant party and one Umar Mahar accused. No motive was alleged therein against Zameer Ahmad (petitioner). Ghazi Malang complainant (PW-2), has



conceded during his cross-examination that he had no direct enmity with the present accused party. He also conceded that no criminal case was registered against him or the deceased by the present accused. Relevant part of his statement in this respect reads as under:-

*"It is true we have no direct enmity with the present accused party. It is true no criminal case was registered against me or my deceased son by the present accused....."*

It is, therefore, evident that there was no previous enmity between the petitioner and the deceased/complainant party. Although it was alleged in the contents of the FIR that there was old enmity between the complainant party and one Umar Mahar accused but no such motive was alleged by Ghazi Malang complainant (PW-2), while appearing in the witness box, whereas Haji Khan (PW-4), changed the motive alleged in the FIR and stated that they (complainant party) had old bloody dispute with Aamil (co-accused since P.O). No relationship of Zameer Ahmad (petitioner), with the above-refereed Umar Mahar co-accused and Aamil (co-accused since P.O), has been brought on the record. Moreover, no proof of any civil or criminal litigation between the complainant party and the abovementioned co-accused or the petitioner was brought on the record. In the light of abovementioned admission of the complainant during his cross-examination that he had no enmity with the petitioner/present accused, coupled with the above-referred remaining facts, we are of the view that no motive was alleged or proved against Zameer Ahmad petitioner.

11. No weapon was recovered at the pointing out of the petitioner during the course of investigation of this case to support

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the joint role of firing at the deceased attributed to Zameer Ahmad (petitioner) and his co-accused.

12. Keeping in view all the aforementioned facts, we have come to this irresistible conclusion that the prosecution has failed to prove its case against the petitioner beyond the shadow of doubt. It is by now well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused, whereas the instant case is replete with number of circumstances, which have created serious doubts in the prosecution story. Reference in this context may be made to the judgments reported as "Tariq Pervez Vs The State" (1995 SCMR 1345) and "Muhammad Akram Vs The State" (2009 SCMR 230). Consequently, this petition is converted into an appeal and allowed. The judgments dated 01.12.2023 and 10.11.2021, of the learned High Court and the learned trial Court, respectively are set aside. The petitioner is acquitted of the charge while giving him the benefit of doubt. He shall be released from the jail forthwith unless required to be detained in any other case.



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Islamabad, the  
03<sup>rd</sup> of June, 2025  
Not Approved For Reporting  
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