

In the Supreme Court of Pakistan
(Appellate Jurisdiction)

Present:

Mr. Justice Anwar Zaheer Jamali, HCJ
Mr. Justice Mushir Alam
Mr. Justice Umar Ata Bandial

Criminal Appeals No.24 & 25 of 2010.

(On appeal from judgment of Lahore High Court, Lahore dated 26.5.2009, passed in CrI.A No.123-J/2006 and MR No.4-T/2006)

Javed Iqbal, etc (in CrI.A-24/2010)

Khizar Hayat, etc (in CrI.A-25/2010)

...Appellants

Versus

The State (in both cases)

... Respondents

For the appellants: Dr. Khalid Ranjha, Sr. ASC (in CrI.A-24/10)
Mir Muhammad Ghurran Khurshid Imtiaz, ASC (in CrI.A-25/2010)

For the State: Mr. Asjid Javed Goral, Addl.P.G Punjab.

Date of hearing: 02.10.2015

JUDGMENT

Anwar Zaheer Jamali, C.J. – In the above captioned two criminal appeals, leave was granted by the Court vide its order dated 12.1.2010, which reads as under:-

“As many as 27 persons were charged and tried by the Judge Anti Terrorism Court, Faisalabad, on 6.2.2006, for various offences, including those under Sections 302(b), 324, 295-A, 295-B and 295-C PPC. For the offence under Section 295-C, only the accused, Shahbaz Ahmed, was convicted and sentenced to death and the remaining were awarded imprisonment for life. They all were convicted and sentenced to imprisonment for life of each of the offences under Sections 302(b), 295-B PPC. They were further convicted and sentenced for various other offences, namely, under Sections 295-A,

148, 186, 353 PPC as well as under Sections 7(a) and 9 of the Anti Terrorism Act, 1997. One of the co-accused was a juvenile and was tried separately. On appeal, the Lahore High Court set aside the conviction and sentences of all the accused under Section 295-C PPC whereas it upheld their conviction and sentences for the remaining offences.

2. Javed Iqbal and Tahir Mehmood, have filed Criminal Petition No.692 of 2009 and the remaining convicts have filed Jail Petition No.842 of 2009, out of them Petitioners No.6, 11, 12, 13, 15, 16, 17, 21 and 22 were represented by a private counsel. The remaining petitioners were not presented.

3. The case against the petitioners was that they had proclaimed one of them, Shahbaz Ahmed, as "*Imam Mehdi*" and had invited the people to follow him and warned that if he was resisted, the country as a whole and the City of Faisalabad in particular would face destruction. To further project their view point, the petitioners along with others started a procession in motorcars and proceeded towards the Motorway. It is alleged that the participants of the procession were duly armed. That the police was informed about this incident, who proceeded to stop the procession. According to the police, some of the persons in the procession started firing at the police personnel stationed at the Motorway Interchange of Faisalabad. That when the police party headed by a Deputy Superintendent of Police, reached the spot, the processionist resorted to firing upon them, injuring four of their companions, namely, Navid alias Nazir Tahir Ahad, Babar Shjafi and Abid. Babar Shafi, later on passed away. The petitioners were thereafter arrested, tried and convicted as stated above.

4. We have heard Dr. Khalid Ranjha, Sr.ASC in Criminal Petition No.692 of 2009 and Mr. Inayatullah Cheema, ASC in Jail Petition No.842 of 2009. After hearing arguments of the learned counsel, we grant leave to appeal to re-examine the evidence in the light of contentions raised, particularly whether:

- (i) It was not from the firing of the police party that the petitioners' companions were injured, who received firearms

injuries on the front of their bodies, and when none from the police party was injured in the incident.

(ii) All the accused, 27 in numbers, could be convicted for the above stated offences as there was nothing on record that they shared common intention for the commission of each of such offences and

(iii) Was it possible for the police party to identify each of the 27 petitioners for the commission of the crime alleged to have been committed by them."

2. Briefly stated, facts leading to these criminal proceedings are that on 15.12.2005, FIR No.1081/2005, under sections 7, Anti-terrorism Act, 1997, 16, Maintenance of Public Order Ordinance, 1960, 427, 324, 353, 295-B, 295-C, 149, 186, 146, 148, Pakistan Penal Code and 13, of the Pakistan Arms Ordinance, 1965, was registered by complainant Malik Rasheed Ahmed, DSP City at P.S Nishatabad, District Faisalabad with the following assertions:-

That on 15.12.2005 at about 12:00 noon, DSP/SDPO City, Faisalabad received a wireless message that 25/30 persons, duly armed with firearm weapons and making aerial firing, were coming towards Sargodha Road from Nishatabad bridge. They were holding flags and banners and were making announcement of emergence of Imam Mehdi on mega phone. On receipt of complaint, he along with three other Police officials approached them at Bolay-de-Juggi, near Telephone Exchange, where he asked them to stop firing, whereupon they raised slogans that Imam Mehdi has emerged, who is accompanying them, and all nation should embrace him till 4:00 pm., otherwise they will

destroy the whole Country. They started firing at the Police party, who escaped by taking shelter behind their official vehicle. Thereafter they started proceeding ahead and kept on making aerial firing. The incident was reported to the City Control, and more Police contingents were called to control the situation. One Muhammad Younas son of Noor Muhammad sustained firearm injury at the hands of these persons near Haji Camp, which caused panic and fear in the locality. The accused persons made indiscriminate firing at Motorway Toll Plaza, Kamalpur, due to which all the officials ran away from there and accused persons entered Motorway and after covering a distance of about two furlongs, when they saw the Police party approaching them, they debarked from their vehicles and in a confusion started firing at Police party, as a result whereof 3/4 co-accused persons received injuries. A passenger bus was also made hostage by them. At this spot they entered into negotiation with the Police, during which accused Shahbaz Ahmed, the self proclaimed Imam Mehdi, made derogatory remarks against the Holy Prophet Hazrat Muhammad (PBUH), and demanded that injured co-accused may be shifted to hospital. After the negotiations, following a strategy, all the accused persons were apprehended and crime weapons, as detailed in the recovery memo, were recovered from them. Moreover, crime empties were also recovered from different places on their route. The case was accordingly registered against them.

3. After investigation of the crime, 27 accused named in the FIR were set up for trial before the Special Judge ATC, Faisalabad, where they were accordingly charged for the said offences, to which all of them pleaded not guilty and claimed trial. The trial of the appellants was, therefore held, during which eighteen prosecution witnesses were examined and documents Ex-PD to Ex-PXX were produced by the prosecution, which amongst others contained mushirnamas of recovery of eight 8mm rifles, one 0.12 bore pistol, eight 0.30 bore pistols and one *chhuri*, being alleged crime weapons. After the completion of prosecution evidence, section 342, Cr.P.C, statements of all the accused were recorded before the trial Court. However, none of them offered to examine himself under section 340(2), Cr.P.C, nor any one of them except Shahbaz asked to lead evidence in defence before the trial Court. At the conclusion of trial, arguments were heard and vide judgment dated 06.2.2006, appellant Shahbaz Ahmed, upon his conviction, was awarded following sentences:-

- i) U/S 148/149 PPC and sentenced to 3 years R.I.
- ii) U/S 295-A PPC and sentenced to 10 years R.I.
- iii) U/S 295-B PPC and sentenced to imprisonment for life.
- iv) U/S 295-C PPC and sentenced to death subject to confirmation by the Hon'ble Lahore High Court, Lahore and a fine of Rs.5,00,000/-, in default thereof to undergo for 5 years S.I.
- v) U/S 302(b)/149 PPC and sentenced to imprisonment for life as "Taa'zir". He shall also pay the compensation of Rs.5,00,000/- to the legal heirs of the deceased, in default thereof to undergo for 6 months S.I.

- vi) U/S 324/149 PPC and sentenced to 10 years R.I. with a fine of Rs.1,00,000/- in default thereof to undergo for 2 years S.I. U/s 337-L(2) PC and sentenced to 2 years R.I. on four counts.
- vii) U/S 186 PPC and sentenced to 3 months R.I.
- viii) U/S 353 PPC and sentenced to 2 years R.I.
- ix) U/S 7 clause (a) of ATA-1997 and sentenced to imprisonment for life and a fine of Rs.5,00,000/- in default thereof to undergo for 5 years S.I.
- x) U/S 9 of ATA of 1997 and sentenced to 5 years R.I. and a fine of Rs.1,00,000/-, in default thereof to undergo one year S.I.

Twenty-three other accused (1) Khizar Hayat son of Sikandar Ali, (2) Taj Din son of Hashmat Ullah, (3) Javaid Iqbal son of Abdul Waheed, (4) Tahir Mahmood son of Abdul Waheed, (5) Taj Ansari son of Hafiz Noor-ul-Hassan, (6) Zafar Iqbal son of Habib Ullah (7) Ijaz Ahmad son of Ahmad Din, (8) Muhammad Ilyas son of Muhammad Ibrahim, (9) Talib Hussain son of Farzand Ali, (10) Muhammad Yasin son of Abdul Majeed, (11) Imran son of Abdul Hameed, (12) Abdul Rehman son of Qasim Ali, (13) Muhammad Ismail son of Khushi Muhammad, (14) Muhammad Iqbal son of Bashir Ahmad, (15) Ateeq-ur-Rehman son of Ali Muhammad, (16) Ishaq Ahmad son of Muhammad Nawaz, (17) Mukhtar Ahmad son of Muhammad Riaz, (18) Naveed Ali Shah son of Haqdar Shah, (19) Muhammad Sajid Ali son of Jamshaid Ali (20) Shoukat Ali son of Fazal Din (21) Mahmood-ul-Hassan son of Shoukat Ali (22) Muhammad Iqbal son of Muhammad Anwar and (23) Shahbaz Ahmed alias Bholoo son of Ishtiaq Ahmad, were convicted and awarded following sentences:-

- i) U/S 148/149 PPC and sentenced to 3 years R.I. each.

- ii) U/S 295-A PPC and sentenced to 10 years R.I each.
- iii) U/S 295-B PPC and sentenced to imprisonment for life each.
- iv) U/S 295-C PPC and sentenced to imprisonment for life each and a fine of Rs.5,00,000/- each, in default thereof to undergo for 5 years S.I each.
- v) U/s 302(b)/149 PC and sentenced to imprisonment for life each as "Taa'zir". They shall also pay the compensation of Rs.5,00,000/- each to the legal heirs of the deceased, in default thereof to undergo for 6 months S.I. each.
- vi) U/S 324/149 PPC and sentenced to 10 years R.I each with a fine of Rs.100,000/- each, in default thereof to undergo for 2 years S.I. each. U/S 337-L(2) PPC and sentenced to 2 years R.I each on four counts.
- vii) U/S 186 PPC and sentenced to 3 months R.I each.
- viii) U/S 353 PPC and sentenced to 2 years R.I. each.
- ix) U/s 7 clause (a) of ATA-1997 and sentenced to imprisonment for life each and a fine of Rs.5,00,000/- each, in default thereof to undergo for 5 years S.I. each.
- x) U/S 9 of the ATA of 1997 and sentenced to 5 years R.I each and fine of Rs.1,00,000/- each, in default thereof to undergo one year S.I each.

All sentences shall run concurrently and Benefit of section 382-B, Cr.P.C is given to the convicts.

While the remaining three accused (1) Muhammad Abid Hussain son of Ali Muhammad (2) Naveed Ahmed son of Shah Muhammad and (3) Tahir Ahmad son of Munir Ahmad, were convicted and sentenced as under:-

- i) U/S 148/149 PPC and sentenced to 3 years R.I. each.
- ii) U/S 295-A PPC and sentenced to 10 years R.I each.
- iii) U/S 295-B PPC and sentenced to imprisonment for life each.
- iv) U/S 295-C PPC and sentenced to imprisonment for life each and a fine of Rs.5,00,000/- each, in default thereof to undergo for 5 years S.I each.

- v) U/S 302(b)/149 PC and sentenced to imprisonment for life each as "Taa'zir". They shall also pay the compensation of Rs.5,00,000/- each to the legal heirs of the deceased, in default thereof to undergo for 6 months S.I. each.
- vi) U/S 324/149 PPC and sentenced to 10 years R.I each with a fine of Rs.100,000/- each, in default thereof to undergo for 2 years S.I. each. U/S 337-L(2) PPC and sentenced to 2 years R.I each on three counts.
- vii) U/S 186 PPC and sentenced to 3 months R.I each.
- viii) U/S 353 PPC and sentenced to 2 years R.I. each.
- ix) U/s 7 clause (a) of ATA-1997 and sentenced to imprisonment for life each and a fine of Rs.5,00,000/- each, in default thereof to undergo for 5 years S.I. each.
- x) U/S 9 of the ATA of 1997 and sentenced to 5 years R.I each and fine of Rs.1,00,000/- each, in default thereof to undergo one year S.I each.

All sentences shall run concurrently and Benefit of section 382-B, Cr.P.C is given to the convicts.

4. Against the judgment of the trial Court (ATC), remedy of appeal was availed by the appellants before the Lahore High Court, Lahore through appeals/jail appeals No.123-J, 124-J, 259 and 260 of 2006. These appeals were heard together with Murder Reference No.4-T of 2006, and by consolidated judgment dated 06.5.2009, the same were disposed of in the manner that criminal appeal No.123-J/2006 was partly allowed in favour of the appellants to the extent that their conviction under section 295-C, PPC was set aside, murder reference was not confirmed, and they were acquitted of the said charge with further observation that the sentences awarded to them shall run concurrently and benefit of section 382-B, Cr.P.C shall also be given to them. It is against this judgment of the Division Bench of the Lahore

High Court that criminal petition and jail petitions were filed, wherein leave was granted in terms of the order reproduced above.

5. Dr. Khalid Ranjha, learned Sr. ASC for some of the appellants in these appeals read the contents of the FIR in verbatim to portray the actual incident forming basis for the registration of FIR No.1081/2005 against the appellants. Thereafter he read the evidence of all material witnesses examined on behalf of the prosecution, particularly the eye-witnesses of the occurrence to show that the whole investigation was conducted with a pre-determined mind and misdirected, inasmuch as on the basis of bare allegations of aerial firing, a peaceful mob was encircled by the Police and fired upon, which action culminated in the incident of murder of one Baba Shafi by some unknown person, may be Police, and injuries to 3/4 appellants. The gist of his submissions was that the whole story is concocted in order to hush-up the highhandedness of the police in badly tackling the situation, due to which a small issue was blown out of proportion, particularly against the appellants, excluding appellant Shahbaz Ahmed son of Shah Muhammad, who had, according to the prosecution, declared himself Imam Mehdi and spoken some derogatory remarks about Holy Prophet Hazrat Muhammad (PBUH). He also emphasized that in the given facts and circumstances of the case, it was quite easy for the police/investigation agency to involve as many persons in the crime as they liked, but this important legal aspect of the case was not at all taken into consideration by both the Courts below, which resulted

in gross miscarriage of justice to the appellants. Making reference to section 342, Cr.P.C statements, he conceded that convict, Shahbaz Ahmed in his section 342, Cr.P.C statement has admitted the case of prosecution in toto to the extent of his own conduct and involvement in this strange incident, but at the same time learned ASC raised objection about the mental state of this appellant, as it was not possible for a man of normal prudence to have taken such stance of being self-proclaimed Imam Mehdi. In the end, learned ASC made reference of some cases in support of his submissions, regarding the principle that benefit of any doubt in the prosecution case was to be extended to the accused. In our opinion, this proposition of law is so well recognized that it needs no further elucidation.

6. Another legal aspect of the case argued before us by the learned Sr. ASC was regarding non-compliance of the mandatory requirement of section 196, Cr.P.C, about seeking sanction/permission for trial of an accused charged under sections 295-A, PPC, which was lacking in the present case. In this context, he relied upon the case of Nawaz Sharif v. The State (2000 MLD 946). Indeed, section 196 of Cr.P.C bars the Court from taking cognizance of an offence under section 295-A of PPC, without requisite sanction/approval/permission and failure to obtain such mandatory permission renders the proceedings to that extent a nullity in law. However, we are not impressed by this submission of the learned Sr. ASC, as bar of taking cognizance provided under section 196, Cr.P.C will not apply to the

proceedings before the Anti Terrorism Courts in view of the combined effect of Sections 12, 19, 30 and the overriding effect of section 32 of the ATA, being proceedings under a special statute, which provides exclusion of those provisions of Cr.P.C and other laws which are inconsistent with the provisions of ATA. In this context, a glance at these provisions of the ATA goes to show that section 12, which starts with non-obstante clause, deals with the jurisdiction of Anti-terrorism Courts; section 19 provides for a detailed procedure under sub-sections (1) to (14), regarding the procedure and powers of Anti-terrorism Court; section 30, which also starts with non-obstante clause, provides for modified application of certain provisions of the Code (Criminal Procedure Code), during the proceedings before the Anti-terrorism Court, and lastly section 32 gives overriding effect to the provisions of ATA, and provides that *notwithstanding anything contained in the Code or any other law but, save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before an Anti-terrorism Court, which shall be deemed to be a Court of Session*. The case of Nawaz Sharif (*supra*) relied by the learned Sr. ASC in support of his submission about the applicability of section 196, Cr.P.C to the proceedings before the Anti Terrorism Courts, also negates his arguments. For ease of reference, relevant conclusion in this judgment is reproduced as under:-

“Thus, there being inconsistency and the difference between the provisions of section 30 of the Act and section 196 of the Code, the provisions contained in the latter will not be applicable to the proceeding before the Special Court. Therefore, in view of the inconsistency, as discussed above, section 32 of the Act would come

into play and the bar contained in section 196, Cr.P.C would not in any way affect to the taking of cognizance by this Court in exercising power under section 19 of the Act. Consequently, the application is dismissed."

7. The other learned ASCs appearing on behalf of the appellants in these connected appeals adopted the arguments of learned ASC Dr. Khalid Ranjha with the addition that the few legal heirs of deceased Baba Shafi had pardoned some of the appellants, but unfortunately no final orders could be passed by the Court on such compromise application under section 345, Cr.P.C, as some other legal heirs of the deceased were out of the Country, as evident from the contents of CMA No.325/2015 and orders passed thereon.

8. On behalf of the State, Mr. Asjad Javed Ghoral, learned Additional Prosecutor General, Punjab, strongly supported the impugned judgment passed by learned Division Bench of the Lahore High Court and contended that whatever relief the appellants were entitled to, has already been allowed to them through the impugned judgment, therefore, they are not entitled to any further relief.

9. Before the hearing of these appeals, we have called for the jail rolls of the 26 appellants, which reveal that appellant Muhammad Iqbal son of Bashir Ahmed has died during the pendency of these appeals, therefore, the appeal to his extent, became infructuous. As regards the remaining appellants, Khizar Hayat, Taj Din, Javed Iqbal, Tahir Mehmood, Taj Ansari, Zafar Iqbal, Ejaz Ahmed, Muhammad Ilyas, Talib Hussain, Muhammad Yasin, Imran, Abdul Rehman, Muhammad

Ismail, Attiq-ur-Rehman, Ishaq, Mukhtar, Naveed Ali, Muhammad Sajid, Shaukat Ali, Mehmood-ul-Hassan, Muhammad Iqbal, Shahbaz Ahmed, Muhammad Abid, Naveed Ahmed and Shahbaz Ahmed, by now they have all served their substantive sentences for over 9-years and 9-months, but having been also convicted under sections 7(a) and 9 of Anti-Terrorism Act, 1997 (ATA), they have not been granted any remissions in view of the bar provided by section 21F of the said Act of 1997, vis-à-vis the ratio of judgments in the case of Shah Hussain v. The State (PLD 2009 SC 460) and Nazar Hussain and another v. The State (PLD 2010 SC 1021). The learned Additional Prosecutor General further made reference to the depositions of prosecution witnesses to show that the question of indiscriminate firing from the side of appellants was answered by the trial Court and the appellate Court on the basis of undeniable testimony of the eye-witnesses of occurrence, thus, their conviction and sentences are fully justified. The learned Additional Prosecutor General, however, when confronted with the deposition of PW-8 Ch. Mushtaq Ahmed, DSP, did not dispute that he had directed the Police to respond to the firing of the appellants and they did; not only this but the injured witness Muhammad Younas (PW-10) also deposed that Police was making firing at accused persons. He also did not dispute that no one from the general public, except Muhammad Younas, received bullet injury, which could not be attributed to any particular appellant. Moreover, no Police personnel received any bullet injury as against three of the appellants, who admittedly suffered bullet

injuries; which lend credence to the case of the appellants that it was due to the Police firing at the appellants that some of them received firearm injuries, and fatal injury was caused to one Baba Shafi, who was also from amongst them, as evident from the deposition of Dr. Muhammad Naeem (PW-16), who stated that the deceased had on his body one light blue colour belt with written name of "BABA SHAFI" in Urdu and one badge with printed words in Urdu "DIN-E-YOUNAS". Besides, the learned Additional Prosecutor General conceded that all crime empties recovered from the place of occurrence, which were 205 (70+75+60) in number, were attributed to the appellants. But strangely recovery of no crime empty from the bullets fired by the Police was shown by the IO, though he promptly carried out the process of investigation of the crime.

10. In the light of above submission made by the learned ASCs and the learned Additional Prosecutor General, Punjab, we have carefully examined the case record of sessions case No.01/ATC/2006 in the form of paper book in Criminal Appeal No.124-J/2006, and other connected appeals. We have also examined the case record of these appeals, which reveals that through Crl.M.A No.325/2015, some of the legal heirs of Baba Shafi, the only deceased of this incident, have pardoned two of the accused i.e. Javed Iqbal and Tahir Mehmood. However, such attempt of compromise did not materialize due to the absence of other legal heirs of the deceased, who are statedly abroad.

11. Reverting to other material aspects of the case, we find that the prosecution has examined 18 witnesses, out of whom PW-7 Malik Rashid Ahmed, DSP, PW-8 Ch. Mushtaq Ahmed, DSP, PW-10 Muhammad Younas (injured), PW-12 Malik Khalid Mahmood, Inspector and PW-13 Muhammad Abid Aziz, Inspector, were eye-witnesses of the occurrence. However, none of these witnesses attributed direct role of firing at deceased Baba Shafi to any particular appellant. Moreover, the prosecution did not produce/examine any official from the motorway police as well as the driver or any passenger of the bus which was allegedly taken hostage by the appellants. Similarly, in their statements under section 342, Cr.P.C, none of the appellants owned or accepted the liability of causing fatal injury to deceased Baba Shafi or injuries to four others, out of whom three are the appellants before us. Rather they all, including three injured appellants Abid, Naveed, and Tahir, attributed this role specifically to police firing. Admittedly, the incident dated 15.12.2005 occurred in broad daylight at 12:00 noon, when a larger contingent of Police was called and after the whole occurrence, as detailed in the FIR, matter was tactfully settled, number of appellants were arrested at the spot and purported recovery of crime weapons was made from them. These facts simply prove that a serious law and order situation was created by the appellants under the leadership of self-proclaimed Imam Mehdi i.e. the appellant Shahbaz Ahmed. During this incident, as evident from the statement of PW-8 DSP Ch. Mushtaq Ahmed and PW-10 Muhammad Younas, injured, the

Police also resorted to firing to disburse this mob, which in one way or the other resulted in panic and a fight free for all, causing damage to certain private properties and vehicles. In our opinion, in this background, the prosecution evidence, lacking examination of any independent witness from the locality and many other material witnesses; containing vague/general allegations with material contradictions about the whole incident, particularly about suppression of fact of Police firing etc, was not sufficient either to fix the responsibility of murder of Baba Shafi, injuries to some of the appellants and another person on the appellants or showing any of the ingredients of sections 6 and 8 of the ATA, except against appellant Shahbaz Ahmad, so as to justify their conviction under section 7(a) and 9 of the ATA. Moreover, considering the plea of the appellants, except appellant Shahbaz Ahmed, that cross firing took place between Police personnel and accused persons, which is proved from the record, the possibility that death of Baba Shafi and injuries to the appellants might have been the result of Police firing also cannot be ruled out. It also seems rather strange and affects the credibility of whole investigation that despite exchange of firing, no crime empties of police firing were recovered from the place of occurrence and all the crime empties recovered from the place of occurrence matched with the weapon allegedly recovered/attributed to the appellants. This aspect of the case coupled with the fact that parcels of crime empties and weapons were sent to the Forensic Science Laboratory together on 26.12.2005, after

an unexplained delay of 11 days, cast further doubt about the case of the prosecution.

12. To move further, when we look at the case of the appellants as per their own assertions, except appellant Shahbaz Ahmed, we find that they all had totally denied any highhandedness on their part during the occurrence and unanimously taken the plea that they had taken out a peaceful procession against one Riaz Gohar Shahi, whom they considered "Dajjal" and appellant Shahbaz Ahmed rescued them from the clutches and obnoxious belief of that "Dajjal". Therefore, to celebrate this occasion, such procession was taken out under the command of Shahbaz Ahmed, who solely claimed himself as Imam Mehdi, being under some spiritual power.

13. From the evidence brought on record by the prosecution, which is, as mentioned earlier, bald, vague and in general terms, the commission of offence under sections 295-A and 295-B, PPC by the appellants, other than appellant Shahbaz Ahmad, is not proved upto the mark, but all of them in their section 342, Cr.P.C statements, in reply to questions number 2, 3 and 4 have admitted their guilt in unequivocal terms. Hence on this count, their conviction under these provisions of PPC is to be maintained/sustained.

14. In the light of aforementioned, it is clear that case of appellant Shahbaz Ahmed son of Shah Muhammad is distinguishable from other appellants, therefore, by extending them benefit of doubt, their appeals are partly allowed to the extent that conviction of all the

appellants, except appellant Shahbaz Ahmed, under sections 302(b), 324, 337L(2), PPC and sections 7(a) and 9 of the ATA is set aside, while their convictions under other provisions of law awarded by the trial Court, as modified by the appellate Court, are upheld. As a result they will be entitled for the benefit of all the remissions and benefit of section 382-B, Cr.P.C from the date of their arrest. The jail authorities be informed accordingly.

15. Insofar as appellant Shahbaz Ahmed son of Shah Muhammad is concerned, his appeal is also partly allowed to the extent that his conviction under section 302(b) and 324, PPC is set aside, while sentences under other provisions of law awarded to him by the trial Court, as modified by the appellate Court, are upheld.

Chief Justice

Announced.
Islamabad,
22nd February 2016.

Judge

Judge

Chief Justice

Not approved for reporting.

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