

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Maqbool Baqar
Mr. Justice Qazi Muhammad Amin Ahmed

JAIL PETITION NO.461/2013 AND
CRIMINAL PETITION NO.1364-L/2013

(Against the judgment dated 7.10.2013 of the Lahore High Court, Lahore passed in Criminal Appeal No.1698/2009, Criminal Appeals No.,1918/2009 & Cr.R. No.981/2009 and Murder Reference No.437/2009)

Munir Hussain
(In Jail Petition No.461/2013)

Malik Taj Muhammad
(In Criminal Petition No.1364-L/2013)

. . . Petitioner(s)

Versus

The State
(In Jail Petition No.461/2013)

The State and others
(In Criminal Petition No.1364-L/2013)

. . . Respondent(s)

For the Petitioner(s) Mr. M. Mukhtar Talokar, ASC
 (In Jail Petition No.461/2013)
 Malik Mateeullah, ASC
 (In Criminal Petition No.1364-L/2013)

For the State : Mr. Muhammad Jaffar,
 Additional Prosecutor General Punjab

Date of hearing : 5.3.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- Munir Hussain, petitioner was indicted alongside his brother Riaz Ahmed, since acquitted, for committing *Qatl-i-Amd* of Abdul Razzaq, deceased, 44, at 9:30 a.m. on 3.11.2008 within the precincts of Police Station City Mianwali; deceased was on a motorbike followed by the witnesses when the accused confronted him near saw machine of Haji Muhammad Din. Petitioner is attributed consecutive shots; autopsy report confirmed five entry wounds with their corresponding exits besides two lacerated wounds of substantial dimensions on deceased's organ of generation. Prior to the occurrence, the local police had raided the accused and as per crime report the accused suspected the deceased behind the episode, cited as motive for the crime. Trial culminated into

conviction with penalty of death. Complainant questioned co-accused's acquittal while the convict disputed his conviction; the High Court dismissed appeal against acquittal while altered the penalty of death into imprisonment for life vide impugned judgment dated 7.10.2013, *vires* whereof are being assailed by the both sides. It is argued that given the deceased's position, riding on a motorbike, confronted by the petitioner, as per prosecution's own case, from his right flank, there was no occasion for the deceased to receive five shots on his back; injuries on organ of generation have been referred to canvass an hypothesis, incompatible with the crime report besides prosecution's failure qua the co-accused. Learned counsel for the complainant contends that without active participation/support of Riaz Ahmed respondent/co-accused, it was simply not possible for the convict to gun down the deceased and, thus, there was no occasion for the courts below to issue him a clean chit; he further argued that both the accused equally shared the motive. Magnitude of violence has been highlighted to argue that penalty of death is an appropriate wage in circumstances. Leave is granted to the both sides to examine the above contentions.

Judge

Judge

Lahore, the
5th March, 2020
Not approved for reporting
*Ghulam Raza/**