

**IN THE SUPREME COURT OF PAKISTAN**  
**(APPELLATE JURISDICTION)**

**PRESENT:**

MR. JUSTICE SAJJAD ALI SHAH

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**JAIL PETITION NO.382/2017**

(Against the judgment of the Lahore High Court  
Lahore dated 02.02.2017 passed in Murder  
Reference No.208/2013 and Criminal Appeal  
No.310-J/2013).

Munir Akhtar @ Munir Ahmad

...**Petitioner(s)**

**VERSUS**

The State

...**Respondent(s)**

For the Petitioner(s):

Miss Tehmina Mohibullah Kakakhel ASC, at  
State expenses

For the State

Mirza Muhammad Usman DPG Punjab

Date of Hearing:

08.10.2020

...  
**ORDER**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J:-**

Crl. MA No.1165/17 in JP No.382/2017:- The instant miscellaneous application is filed for condonation of delay. The matter pertains to criminal appeal against conviction, therefore, delay of filing said petition is condoned in the interest of safe dispensation of justice.

**JAIL PETITION No.382/2017:-** Criminal petition for leave to appeal under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has been sought calling in question impugned judgment dated 02.02.2017 passed by learned Division Bench of Lahore High Court, Lahore.

2. The facts culminated into filing of the instant petition are that the petitioner was booked in case bearing FIR No.365/06 dated 03.11.2006 offence u/s 302/34 PPC registered with Police Station Darya Khan, District Bhakkar.

*As per contents of the crime report, it is alleged that the petitioner committed murder of Tariq Mehmood brother of complainant and Muhammad Abu Bakar son of Noor Muhammad. Motive behind the occurrence was that Mst. Tahira Parveen real sister of accused Muhammad Ilyas @ Lasha had contracted marriage with Tariq Mehmood deceased without consent of her brothers. The petitioner was taken into custody on 12.03.2012. During course of investigation, recovery of Kalashnikov was affected from him on 31.01.2010. During course of investigation, he was found fully involved in the case and as such, his name was placed in column No.3 of the report u/s 173 Cr.PC. The challan of the case was sent to court. The learned trial court vide judgment dated 27.06.2013 convicted the petitioner u/s 302(b) PPC and sentenced to death. He was also burdened with compensation of Rs.1,00,000/- u/s 544-A Cr.PC and in default thereof, he was to suffer six months S.I. Benefit of section 382-B Cr.P.C. was also extended.*

3. *The judgment of the learned trial court was challenged before learned High Court through Criminal Appeal No.310-J/2013 whereas the learned trial court sent the Murder Reference bearing No.208/2013 u/s 374 Cr.PC. The learned High Court while maintaining the compensation but altered the sentence from death to imprisonment for life. Hence, the instant petition for leave to appeal.*

4. *At the very outset, it is argued by the learned counsel for the petitioner that in fact, both the courts below had not taken into consideration the evidence available on record and the same has not been evaluated according to the principles of “appreciation of evidence” enunciated by the superior courts from time to time. Contends that due to vague motive, the petitioner has been roped against the actual facts and circumstances and even the same was alleged against co-accused Muhammad Ilyas alias Lasha. Contends that the presence of the*

*witnesses of ocular account at the place of occurrence at the relevant time is doubtful. Contends that there is no report of Forensic Science Agency regarding the Kalashnikov is available on the record. Finally, it has been prayed that the leave to appeal be granted on this aspect.*

5. *We have heard learned counsel for the petitioner at length and gone through the record.*

*There is no denial to this fact that the instant occurrence has taken place in broad daylight in which two persons were done to death in a brutal manner. It is an admitted fact that the occurrence has taken place at 12.50 p.m. whereas the matter was reported to the police at 03.15 p.m. on the same day whereas the inter-se distance between the place of occurrence and police station is one kilometer. The facts and figures narrated above, rules out any possibility of deliberation and consultation. The petitioner was saddled with responsibility of causing firearm injury with Kalashnikov on the person of deceased Abu-Bakar which hit on his chest, back, backside of head and different parts of the body whereas the injuries sustained by other deceased Tariq Mehmood are attributed to co-accused Muhammad Ilyas alias Lasha, who was convicted by the learned trial court and later on, the offence was compounded to his extent. The ocular account in this case is supported by Muhammad Saeed (PW10) and Khalid Mehmood complainant (PW-11), the statements of the prosecution witnesses coincide with each other on salient features of prosecution version. The ocular account is corroborated by the medical evidence. The petitioner remained absconder for more than five years and four months and he was arrested on 12.03.2012 and during the course of investigation, the petitioner was found involved and his name was placed in column No.03 of the report u/s 173 Cr.PC. All these factors when evaluated conjointly it is abundantly clear that the prosecution has succeeded to establish case without any reasonable doubt. The learned*

*High Court while handing down the judgment impugned before us has already taken care of all established principles of law and converted the sentence of death into imprisonment for life which seems to us appropriate and in accordance with law. A very close scrutiny of evidence available on the record and while evaluating the same, we are of the considered view that there is no scope for interference into the judgment handed down by the learned trial court and modified by the High Court. As this petition is devoid of any legal justification hence, the same is dismissed. Leave to appeal is declined.*

JUDGE

JUDGE

**Islamabad, the**  
08.10.2020  
Approved for reporting  
\*Athar\*