

**IN THE SUPREME COURT OF PAKISTAN**  
(Review Jurisdiction)

**PRESENT:**

Mr. Justice Asif Saeed Khan Khosa, CJ  
Mr. Justice Sardar Tariq Masood  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Review Petition No. 52 of 2019 in Criminal Petition  
No. 1245-L of 2010**

(Against the judgment dated 05.06.2012 passed by this Court in  
Criminal Petition No. 1245-L of 2010)

***Kareem Nawaz Khan***

*...Petitioner*

***versus***

***The State***

*...Respondent*

For the petitioner:

Mr. Abid Saqi, ASC  
Mr. Mehr Khan Malik, AOR

For the State:

Mr. Ahmed Raza Gillani, Additional  
Prosecutor-General, Punjab

Date of hearing:

21.06.2019

**JUDGMENT**

**Asif Saeed Khan Khosa, C.J.:**

**Criminal Miscellaneous Application No. 512 of 2019**

This miscellaneous application is allowed in the terms  
prayed for therein. Disposed of.

**Criminal Miscellaneous Application No. 513 of 2019**

2. For the reasons mentioned in this miscellaneous application  
the same is allowed and the delay in filing of the present review  
petition is condoned. Disposed of.

**Criminal Review Petition No. 52 of 2019**

3. Karim Nawaz Khan petitioner had allegedly murdered his sister, a brother and a sister-in-law by firing at them with the use of a Kalashnikov in an incident taking place at about 12.00 Noon on 03.06.2007 inside the house of Muhammad Khan complainant in village Whandi Shiapur in the area of Police Station Moch, District Mianwali in the backdrop of a motive based upon a dispute between the parties over some ancestral property. With these allegations the petitioner was booked in case FIR No. 101 registered at the above mentioned Police Station soon after the incident and after a regular trial the petitioner was convicted on three counts of an offence under section 302(b), PPC and was sentenced to death on each count and to pay compensation and *Diyat* to the heirs of the deceased. The petitioner was also convicted by the trial court for an offence under section 7(a) of the Anti-Terrorism Act, 1997 and even on that count of the charge he was sentenced to death and to pay fine. The petitioner was additionally convicted by the trial court for an offence under section 21-L of the Anti-Terrorism Act, 1997 and for the said offence he was sentenced to rigorous imprisonment for five years and to pay fine. The petitioner challenged his convictions and sentences before the High Court through an appeal which was dismissed and all his convictions and sentences recorded by the trial court were upheld and confirmed by the High Court. Thereafter the petitioner approached this Court through Criminal Petition No. 1245-L of 2010 but the said petition was also dismissed by this Court on 05.06.2012 and leave to appeal was refused to him. Hence, the present review petition before this Court.

4. On 05.06.2012 this Court had dismissed Criminal Petition No. 1245-L of 2010 after attending to the merits of the petitioner's case and it had been held by this Court that the courts below were justified in convicting and sentencing the petitioner and in upholding and confirming his sentences. Through the present

review petition it has been brought to this Court's notice that after passage of the said order by this Court upholding and maintaining the petitioner's convictions and sentences the heirs of all the three deceased had entered into a compromise with the petitioner which compromise was presented before the trial court, i.e. the Anti-Terrorism Court, Sargodha and *vide* judgment dated 19.02.2014 the learned Judge, Anti-Terrorism Court, Sargodha was pleased to accept the said compromise on all the three counts of the charge under section 302(b), PPC whereas the said compromise was rejected to the extent of the petitioner's convictions and sentences for the offences under sections 7(a) and 21-L of the Anti-Terrorism Act, 1997. We have gone through the said order passed by the trial court on 19.02.2014 and have noticed that the trial court had felt satisfied regarding genuineness and completion of the acclaimed compromise between the parties. Through the present review petition the learned counsel for the petitioner has urged that in view of the compromise affected between the parties *vis-à-vis* the offences under section 302(b), PPC the sentence of the petitioner for the offence under section 7(a) of the Anti-Terrorism Act, 1997 may be reduced from death to imprisonment for life. In support of this submission the learned counsel for the petitioner has referred to the cases of *Muhammad Nawaz v The State* (PLD 2014 SC 383), *Shahif Zafar and 3 others v The State* (PLD 2014 SC 809) and *M. Ashraf Bhatti and others v M. Aasam Butt and others* (PLD 2006 SC 182). The learned Additional Prosecutor-General, Punjab appearing for the State has submitted that in the above mentioned precedent cases this Court had indeed utilized a compromise between the parties for reduction of a convict's sentence of death to imprisonment for life on a charge under section 7(a) of the Anti-Terrorism Act, 1997 and, thus, the matter of reduction of the petitioner's sentence on such a score in the present case lies within the discretion of the Court.

5. After hearing the learned counsel for the parties and going through the record we have noticed that the appellant was very closely related to all the three murdered persons in this case, i.e.

he was a brother of two of the deceased and a brother-in-law of the third deceased and the incident in issue had taken place because of a dispute between the parties over some ancestral property. According to the prosecution itself there was no enmity between the parties and the present incident had taken place about half an hour of an earlier incident wherein the petitioner and the deceased and some others had quarreled with each while discussing the matter of ancestral property. It could, thus, be said that in the absence of any on-going enmity between the parties the present occurrence had taken place because of some very recent provocation offered to the petitioner by the complainant party while discussing the issue regarding ancestral property. It may, therefore, be a case not of grave and sudden provocation but a case which was based upon some provocation recently offered to the petitioner although the same was not sudden. In a case of such a situation this Court has held that the least that a Court can do in such a case is to reduce the sentence of death to imprisonment for life and a reference in this respect may be made to the case of *Ghulam Abbas v Mazhar Abbas and another* (PLD 1991 SC 1059). There is an additional factor available in this case for reduction of the petitioner's sentence of death to imprisonment for life and that is that a valid compromise had been arrived at between the parties which has already been allowed by the trial court *vis-à-vis* three counts of the charge under section 302(b), PPC. In the cases of *Muhammad Nawaz v The State* (PLD 2014 SC 383), *Shahif Zafar and 3 others v The State* (PLD 2014 SC 809) and *M. Ashraf Bhatti and others v M. Aasam Butt and others* (PLD 2006 SC 182) this Court has already considered a valid and accepted compromise in the coordinate offence to be a valid ground for reduction of a sentence of death to imprisonment for life on the charge of terrorism or of a non-compoundable offence.

6. For what has been discussed above this review petition is allowed, the order under review dated 05.06.2012 passed by this Court in Criminal Petition No. 1245-L of 2010 is recalled, the said petition is converted into an appeal and the same is partly allowed

with the result that the sentence of death passed against the petitioner/appellant for the offence under section 7(a) of the Anti-Terrorism Act, 1997 is converted into a sentence of imprisonment for life. The order passed by the trial court regarding payment of fine on that charge is maintained but it is ordered that in default of payment of fine he shall undergo simple imprisonment for six months. On account of a valid compromise having been arrived at between the heirs of the three deceased and the present appellant, which compromise has already been allowed by the trial court, his convictions and sentences on three counts of the charge under section 302(b), PPC are set aside and he is acquitted of the said counts of the charge. The appellant has already served out his sentence of imprisonment for the offence under section 21-L of the Anti-Terrorism Act, 1997 which shall be deemed to have run concurrently with his other sentence of imprisonment. The appellant shall be allowed the benefit under section 382-B, Cr.P.C. as far as his reduced sentence under section 7(a) of the Anti-Terrorism Act, 1997 is concerned. This review petition and the appellant's petition converted into an appeal are disposed of in the terms noted above.

Chief Justice

Judge

Judge

Islamabad

21.06.2019

Approved for reporting.

Arif