

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Revision No. 28/2020

Mst. Saleha Bibi

Versus

The State.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(03)	10.08.2020	Malik Muhammad Ajmal Khan, Advocate for the petitioner. Muhammad Sohail Khurshid, State Counsel. Tasneem, ASI, P.S Noon, Islamabad.

Vide my detailed judgment of even date passed in
Criminal Revision No. 109/2019 titled **Chanda Bib Vs.**
The State & another, the instant criminal revision
stands **dismissed.**

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in open Court on 20 Aug 2020.

JUDGE

RAMZAN

JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD, **JUDICIAL DEPARTMENT**

Criminal Revision No.109/2019
Chanda Bibi v. The State & another

Criminal Revision No.27/2020
Mst. Farzana Bibi v. The State

Criminal Revision No.28/2020
Mst. Saleha Bibi v. The State

and

Criminal Revision No.29/2020
Mst. Farzana Bibi v. The State etc.

Petitioners by: Mian Sohail Mehmood, Advocate for appellant in Crl. Revision No.109/2019
Malik Muhammad Ajmal Khan, Advocate for appellant in Crl. Revision No.28/2020
Malik Muhammad Naeem, Advocate for appellant in Crl. Revisions No.27 & 29/2020

Respondents by: Mr. Muhammad Sohail Khurshid, State Counsel.
Mr. Tasneem, ASI, P.S. Noon, Islamabad.

Date of Hearing: 10.08.2020.

MOHSIN AKHTAR KAYANI, J: Through this single judgment, I intend to decide the captioned criminal revision petitions arising out of case FIR No.307, dated 30.12.2018, under Section 394/411/337-F(i)/337-A(i) PPC, P.S. Noon, Islamabad, whereby the petitioners, vide judgment dated 30.10.2019, have been sentenced as under:

- Under Section 394 PPC to undergo four years rigorous imprisonment along with fine of Rs.5,000/- each. In default of payment of fine, each of the convict/petitioner shall suffer one month simple imprisonment. Benefit of Section 382-B Cr.P.C. has been extended to the petitioners.
- Under Section under Section 337-A(i) PPC to pay an amount of Rs.20,000/- each as Daman to the victim.

- Under Section 337-F(i) PPC to pay an amount of Rs.20,000/- each as Daman to the victim.
2. Through the captioned criminal revision petitions, the petitioners have called in question judgment of the learned Additional Sessions Judge (West), Islamabad, dated 30.11.2019, whereby appeals filed by the petitioners against judgment of the learned Judicial Magistrate (West), Islamabad, dated 30.10.2019, have been dismissed.
 3. Brief and consolidated facts referred in the captioned criminal revision petitions are that Gul Zeb (complainant) filed a complaint (Exh.PA) with allegations that on 20.12.2018, when his wife along with a minor were present in the house, three (03) unknown ladies (petitioners), aged about 20 to 24 years, visited his house on the pretext of getting upper portion of the house on lease. In the meanwhile, the ladies picked up knives from the kitchen and caused injuries to the complainant's wife, whereafter they looted snatched valuables household items including a mobile phone Exh.P1, chain along with locket Exh.P2, a bangle, some artificial jewelry and a licensed pistol belonging to the complainant. After registration of the FIR and investigation of case, charge was framed on 27.06.2019 under Sections 394/411/337-F(i)/337-A(i) PPC against the petitioners, who denied the same and claimed trial. Accordingly, the learned trial Court after recording evidence of 07 prosecution witnesses, recorded the statement of accused persons (petitioners) under Section 342 Cr.P.C. and ultimately held guilty the petitioners of the aforesaid charges vide judgment dated 30.10.2019. The petitioners feeling aggrieved thereof preferred their respective appeals, which were dismissed vide impugned judgment dated 30.11.2019. Hence, the captioned criminal revision petitions.
 4. Learned counsel for petitioners contends that impugned judgment suffers from mis-reading and non-reading of evidence making it liable to be set-aside; that glaring contradictions available in the prosecution evidence have completely been

skipped from the mind of both the Courts below, which caused miscarriage of justice to the petitioners; that both the Courts below have also not appreciated the mode, in which identification parade had been conducted; that the prosecution has failed to produce satisfactory evidence to prove the guilt of petitioners or link the petitioners with the commission of offence in any manner, on the basis of which both the Courts below have held guilty the petitioners of the charge vide the impugned judgment, which is liable to be set-aside in the best interest of justice.

5. Conversely, learned State Counsel opposed the filing of captioned criminal revision petitions on the grounds that the learned trial Court has rightly appreciated the evidence and passed the sentenced in accordance with law, which has also been precisely evaluated by the first Appellate Court vide the impugned judgment; that the petitioners have accurately been identified during the identification parade by the injured witness; that there was no delay in lodging of the complaint/FIR and the recovery of snatched articles by the petitioners links them with the commission of offence, therefore, the impugned judgment may be upheld and captioned criminal revision petitions may be dismissed.

6. Arguments heard, record perused.

7. Perusal of record reveals that all the petitioners have been convicted by learned Judicial Magistrate (West), Islamabad vide impugned judgment dated 30.10.2019 under Section 394 PPC to undergo four years R.I alongwith fine of Rs. 5,000/- each. In default of payment of fine, each of the convict/petitioner shall suffer one month simple imprisonment. Petitioners have also been convicted under Section 337-A(i) PPC to pay an amount of Rs. 20,000/- each as *Daman* to the victim. The said conviction has been maintained by learned Additional Sessions Judge (West), Islamabad. The petitioners have mainly argued the case that conviction awarded by learned Trial

Court is based upon two accounts i.e. identification and recoveries and as such they have not been identified in a proper manner in accordance with law, even their recoveries are not corroborated independently.

8. In order to understand the prosecution case, I have gone through the testimony of the primary witness namely Mst. Nasreen Akhtar, who appeared as PW-2 and reiterated her stance in detail, in which she alleged that on 20.12.2018, present petitioners accused, who introduced themselves, Saleha as Saba, Chanda as Iram, who asked for a domestic work and also asked for the upper vacant portion in order to get the same on lease. They again visited the said house with reference to the previous conversation, however, during the course of conversation, they asked for drinking water, due to which, she allowed them to come inside the house, all of them caught hold Mst. Nasreen Akhtar/PW-2, tied her up and threatened to cut her throat with kitchen knives. Mst. Nasreen Akhtar/PW-2 has referred the role of each of the petitioners, they snatched the jewelry, articles, including Mobile Phone Huawei Y3, which was identified by the Complainant in the Police Station.

9. During the course of cross-examination, Mst. Nasreen Akhtar/PW-2 has been confronted regarding the colours of the knives, which have been explained by the Complainant being a common kitchen knives and she also confirmed that she had called at Police 15. She has been confronted regarding identification of the petitioners, which she asserted in positive and given the details of the identification parade. Even the petitioners referred in the CCTV Footage were also confronted to the said PW-2, she replied in affirmative that these petitioners have been seen in the CCTV Footage of the Camera installed in the back street.

10. The Mst. Nasreen Akhtar/PW-2 has received seven (07) injuries, which have been confirmed by Dr. Irshad Hussain, MLO PIMS, who appeared as PW-4, which includes a lacerated wound, muscle deep on left side of palm of left hand. Fingers and even swelling with bruise and discoloration on left eye neck and

face, which clearly spells out the force used by the petitioners during the course of assault, under which they tied Mst. Nasreen Akhtar/PW-2 with ropes and even confirms that Mst. Nasreen Akhtar was physically assaulted. The recovery witness Rehana Kousar/PW-5 has given the details of mobile phone Exh.P1 recovered from accused Saleha Bibi and also recovered locket from accused Chanda Bibi and even the household knives, as such no discrepancy has been noted in the testimony of this recovery witness viz-a-viz, Tasneem Ahmed, ASI/PW-6, who was Investigation Officer in C.I.A. The recovery of Mobile Phone Huawei Y3, Gold Chain locket was also confirmed by him.

11. The identification parade was conducted by Waseem Ahmed Khan, Assistant Commissioner, Islamabad, who appeared as PW-7 and confirmed that all the petitioners have been identified during the course of identification parade in Adyala Jail Rawalpindi and also confirmed that the role has been ascribed to each of the petitioner.

12. At last I have gone through the statement of the petitioners recorded under Section 342 Cr.P.C, whereby they have denied their involvement in the alleged incident.

13. While considering each and every aspect of this case including the recovery of Gold jewelry, Mobile Phone Huawei Y3, 9MM Pistol with license and cash amount, which has specifically been mentioned in complaint Exh.PA lodged by the husband of Mst. Nasreen Akhtar/PW-2, which has been proved, even the medical report Exh.PF confirms the injuries of the victim of Mst. Nasreen Akhtar/PW-2, similarly, the identification report also reveals that injured eye-witness namely Mst. Nasreen Akhtar/PW-2 has identified the petitioners with specific role and as such no illegality has been observed. Gold jewelry with locket recovered from petitioner have also been produced in the Court. In view of these reasons, the learned Trial Court has given proper appreciation of all the factual aspect of the case and convicted the petitioners and as such arguments

advanced by the petitioners have not been made out from record, even learned First Appellate Court has given a proper appreciation to the recovery of Mobile Phone Huawei Y3 Exh.P1, Chain alongwith locket Exh.P2, a bangle, some other articles, which were recovered from petitioners, no ill-will or malafide has been attributed nor claimed.

14. The entire scenario clearly spells out that Mst. Nasreen Akhtar/PW-2, injured victim, wife of the Complainant had met with petitioners on different occasions at her own house on the day of occurrence as well as day prior to the occurrence and even they have made certain conversation, due to which, there is no eventuality of mis-description of any of the accused. The corroborative piece of evidence i.e. recoveries have fully been justified from the record, the witnesses are in line with each other qua the recoveries as well as role of the petitioners. All the petitioners are collectively responsible for committing this robbery and physical assault, which has been confirmed from the evidence of Doctor. The common intention has to be considered against each and every accused, despite the fact that the recovery has been made separately, especially, Mobile Phone Huawei Y3 Exh.P1 was recovered from Saleha Bibi, Chain alongwith locket was recovered from Chanda Bibi and remaining recoveries from Mst. Farzana Bibi and even kitchen knives were recovered from Saleha and Chanda Bibi, but this does not mean their role could separately been considered, rather they have shared their common intention.

15. While considering the entire proposition, the Revisional Court had jurisdiction to correct misreading of evidence, or if Courts below failed to exercise its jurisdiction vested to them, which is not the case, as such petitioners have failed to make out their case through the instant criminal revisions. It is not denied that the scope in revisional jurisdiction of the High Court is very wide and the Revisional Court can interfere into the findings recorded by the Courts below.

16. From the facts and circumstances narrated above, I am persuaded to hold that prosecution has fully established and substantiated its case against the petitioners and the learned Trial Court has rightly convicted the petitioners on the basis of corroborative evidence of recovery, identification parade and the medical evidence. The presence of the petitioners at the relevant place i.e. home of the injured witness Mst. Nasreen Akhtar/PW-2 has fully been attracted and proved by the prosecution and as such no illegality has been observed, therefore, instant Criminal Revision, Criminal Revision No. 27/2020, Criminal Revision No. 28/2020 as well as Criminal Revision No. 29 are meritless and same are hereby **Dismissed.**

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in open Court on 20th Aug 2020. 11.

JUDGE

RAMZAN