

**JUDGMENT SHEET.**

**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD.**

**Criminal Appeal No.235-2019**

Fida Hussain

**Versus**

The State, etc.

Appellant By : Malik Khalid Mansoor, Advocate.  
Respondents By : Mr. Muhammad Sana Ullah, State  
Counsel,  
Muhammad Nadeem, S.I.  
Date of Decision : 22.02.2022.

**AAMER FAROOQ, J. –** This consolidated judgment shall decide the above-mentioned appeal as well as Criminal Appeal No.308/2019 and PSLA No.1/2020, as common questions of facts and law are involved.

2. On the complaint of Fida Hussain (Appellant in Criminal Appeal No.235/2019) an FIR No.188/16, dated 30.11.2016, under sections 302/201 PPC, Police Station Secretariat Islamabad was registered wherein the appellant accused Zia ur Rehman (respondent No.2) to have committed murder of his mother. Subsequently, the appellant also filed criminal complaint with respect to the same set of facts implicating Zia ur Rehman and Raja Tahir Zaman Kiani as the accused persons. In the referred complaint, Raja Tahir Zaman Kiani was acquitted under section 265-K Cr.P.C vide order dated 21.05.2019 and to the extent of Zia ur Rehman, trial under the FIR was ordered. Order of acquittal of Raja Tahir Zaman Kiani is the subject matter of PSLA No.1/2020. Trial in FIR against Zia ur Rehman culminated in his acquittal under section 265-K Cr.P.C vide judgment dated 01.06.2019, which is the subject matter of Criminal Appeal No.235/2019, and the State has also challenged the said order through Criminal Appeal No.308/2019.

3. Learned counsel for the appellant and applicant in PSLA No.1/2020, *inter alia*, contended that acquittals have been made on the basis of applications under section 265-K Cr.P.C. In this behalf, it was contended that in the case arising from the FIR instead of recording version of accused under section 342 Cr.P.C, section 265-K Cr.P.C was attracted and even in the complaint case filed by the daughter of complainant namely Sawaira Mushtaq, no justification is provided for acquittal. It was contended that after the deceased had gone missing, Zia ur Rehman and Raja Tahir Zaman Kiani were approached and they undertook her production, which clearly signifies that they knew about the whereabouts of the deceased person. It was further contended that when the dead body was recovered and was given bath before burial and women doing the same opined that the deceased had been raped before she was murdered, which evidence is also ignored by the learned Trial Court.

4. Learned State counsel took the Court through evidence to substantiate that acquittals be reversed in light of evidence.

5. Arguments advanced by the learned counsel for the parties have been heard and the documents placed on record examined with their able assistance.

6. We take up PSLA No.1/2020 first wherein orders dated 21.05.2019 and 01.06.2019 have been challenged with respect to acquittal of Raja Tahir Zaman Kiani. The examination of nature of allegation and evidence available on record clearly shows that there is nothing on record which connects Raja Tahir Zaman Kiani to the murder of mother of the complainant, hence no exception can be taken to the said finding inasmuch as there no evidence that both the accused namely Raja Tahir Zaman Kiani and Zia ur Rehman sought time for production of the deceased or otherwise knew anything about her.

7. Zia ur Rehman was also acquitted in the State case in the FIR; though the mobile phone of the deceased has been recovered from Zia ur Rehman but it

is of no avail to substantiate the case of the prosecution inasmuch as all it establishes is that the deceased and Zia ur Rehman had some kind of relationship as there was exchange of phone calls. Call Data Record has not been brought on record through any authorized representative of the phone company, hence also cannot be relied upon. Other than the referred pieces of evidence, nothing is available on record connecting Zia ur Rehman to the murder of the deceased. Learned Trial Court though has acquitted Zia ur Rehman under section 265-K Cr.P.C but has discussed the evidence and the learned counsel for the appellant and the State failed to point out any misreading and/or non-reading of the same. In view of the referred position of facts and circumstances, even acquittal of Zia ur Rehman does not require any interference.

8. For the above reasons, no ground is made out to grant leave to appeal, hence PSLA No.1/2020 is **dismissed**. Similarly, on the basis of above reasoning, Criminal Appeals No.235 & 308 of 2019 are also **dismissed**.

**(SARDAR EJAZ ISHAQ KHAN)**  
**JUDGE**

**(AAMER FAROOQ)**  
**JUDGE**

M. Shah/\*