

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Appeal No.225/2019
Yasir Bashir
Versus
Iftikhar Ahmed Khan and another

| S. No. of order / proceedings | Date of order/ Proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
|-------------------------------|----------------------------|---|
| | 01.07.2019 | Mr. Muhammad Shahid Kamal Khan, Advocate for the appellant |

Through the instant criminal appeal under Section 417(2-a) of the Code of Criminal Procedure, 1898 ("Cr.P.C."), the appellant, Yasir Bashir, impugns the judgment dated 03.05.2019, passed by the Court of the learned Judicial Magistrate (Section-30) Islamabad, whereby respondent No.1 (Iftikhar Ahmed Khan) was acquitted in case F.I.R. No.82/17, dated 15.04.2017, registered at Police Station Margalla, Islamabad, under Sections 279 and 320 of the Pakistan Penal Code, 1860 ("P.P.C.").

2. Learned counsel for the appellant submitted that the learned Trial Court erred by not appreciating that respondent No.1 had caused the death of Mst. Shehnaz Yasir and her daughter, Masooma Maqaram Yasir as a result of rash and negligent driving; that the learned Trial Court erred by not giving due weight to the testimony of the Traffic Sergeant (PW.4) who had deposed that the accident had taken place due to the rash and negligent driving of respondent No.1; and that since there were no break marks on the road, this shows that respondent No.1 did not attempt to save the life of two pedestrians who had lost their lives due to respondent No.1's rash and negligent driving. Learned counsel for the appellant prayed for the appeal to be allowed and for the impugned judgment dated 03.05.2019 to be set-aside.

3. I have heard the contentions of the learned counsel for the appellant and have perused the record with his able assistance.

4. It is an admitted position that the accident in question took place on Jinnah Avenue/Shahrah-e-Quaid-e-Azam. The Metro Bus lane is in the middle of the two roads of Jinnah Avenue. The Metro Bus lane is protected in either side by an iron fence. Pedestrians are not permitted to cross the Jinnah Avenue through the iron fence. At various places on the Jinnah Avenue, there are underpasses for the pedestrians to cross the road. The presence of the two deceased females undoubtedly contributed to the accident which took place on the fast lane of Jinnah Avenue. There were no eye witnesses to testify that respondent No.1 was over speeding or that he was driving rashly or negligently. The mere fact that there were no break marks on the road is not enough to find respondent No.1 guilty of the offences under Sections 279 and 320 P.P.C.

5. The contentions of the learned counsel for the appellant have not convinced me to interfere with the elaborate and well reasoned judgment dated 03.05.2019, passed by the learned Trial Court. Consequently, the instant appeal is dismissed in limine.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Sultan*