

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
(JUDICIAL DEPARTMENT)

Criminal Revision No.16/2020

Mujahid Hussain
Vs.
Muhammad Khalil alias Muno and another

Petitioner By:	Mr. Tallat Mahmood Zaidi, Advocate.
Respondent No.1 By:	Raja Rizwan Abbasi, Advocate.
State By:	Mr. Zohaib Hassan Gondal, State Counsel.
Date of Hearing:	28.02.2020.

GHULAM AZAM QAMBRANI,J.: The instant Criminal Revision Petition has been filed by the petitioner (Mujahid Hussain) against the impugned order dated 27.11.2019, passed by the learned Additional Sessions Judge-V (East), Islamabad, whereby the application filed by petitioner for sine-die adjournment of case was dismissed.

2. Briefly stated facts of the petition are that the petitioner is the complainant of case F.I.R No.154 dated 11.06.2017 offence under section 302/34 P.P.C registered at Police Station, Lohi Bher, Islamabad, against accused persons namely Raja Muhammad Hanif and Muhammad Khalil alias Muno, wherein respondent No.1 is on bail and other co-accused Raja Muhammad Hanif has been declared as Proclaimed Offender. The petitioner came to know that Raja Muhammad Hanif accused has been apprehended by Interpol in Qatar and proceedings are in progress for bringing him back to

Pakistan. As such, the petitioner filed an application before the learned Trial Court with the prayer that the case be adjourned sine-die till production of accused Raja Muhammad Hanif which was dismissed vide order dated 27.11.2019, hence the instant Criminal Revision Petition.

3. The learned counsel for the petitioner has contended that Raja Muhammad Hanif is the main accused of the case, who brutally murdered the father of petitioner. He was specifically nominated in the F.I.R, but the learned Trial Court while passing the impugned order failed to examine the record available; that the impugned order is result of miscarriage of justice and is liable to be set-aside

4. The learned State Counsel assisted by the learned counsel for the complainant vehemently opposed the arguments advanced by the learned counsel for petitioner. They have supported the order passed by the learned trial Court and prayed for dismissal of the instant revision petition.

5. I have heard arguments of the learned counsels for the parties and perused the available record with their able assistance.

6. Perusal of the record reveals that the case F.I.R No.154/2017 was registered under Section 302/ 34 P.P.C with history of murder of the father of petitioner wherein specific role of firing has been attributed to respondent No.1 and his father. The petitioner filed an application for sine-die adjourn the matter till production of the proclaimed offender/ accused. Learned trial Court called for a report

from the S.S.P, Islamabad, regarding extradition of the Proclaimed Offender Raja Muhammad Hanif which was submitted, stating therein that the said Proclaimed Offender is not under the custody of Interpol Authority, as such, the learned trial Court, vide order dated 27.11.2019 dismissed the application filed by the petitioner for adjourning the case sine-die till production of the accused Raja Muhammad Hanif Proclaimed Offender and directed the prosecution to produce its evidence on 04.12.2019.

7. Section 344 Criminal Procedure Code, 1898 empowers a trial Court to postpone or adjourn the proceedings for the reasons to be recorded in writing. For better understanding reproduction of the Section will be beneficial:-

" Section 344 Power to postpone or adjourn proceedings.

(1) If, from the absence of a witness or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of or adjourn any inquiry or Trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefore from time to time, postpone or adjourn the same on such terms as it thinks it, for such time as it considers reasonable, and may be a warrant remand the accused if in custody."

8. From the bare reading of the above quoted section, it is manifest that the Court may if it thinks fit by order in writing stating the reasons, postpone or adjourn the proceedings for a definite reasonable time. The significant clause of section 344, Cr.P.C, curtails the powers of Sessions Judge to keep the case pending without passing order of adjournment or to adjourn the case sine-die for an indefinite period. The Sessions Judge may adjourn the trial for justified reason, but for a reasonable time. There is no bar against

the adjournment from time to time, but the same may not be granted at a stretch.

9. In the case reported as "Mukhtar Ali Versus The State" [1990 P Cr. L J (Lahore) 555] it has been held as under:-

"It is beyond the jurisdiction of the learned sessions Judges to keep the case with them without passing orders of adjournment or to adjourn the cases sine die or for a very long period. They can postpone the trial for good reasons and upto a reasonable time. Against adjournment can be made from time to time and not at a stretch. It is also necessary to remand the accused to the judicial lock-up if in custody. In cases where the accused is in custody, it is all the more necessary that the adjournment should be for a reasonable time, and not an indefinite period. There may be some justification for postponing a case sine die where none of the accused is in custody. But where one or more accused are in the custody, it is necessary that they should be sent for from judicial lock-up after reasonable intervals when the adjournment of the case is to be ordered."

10. In the case reported as "Saad ullah Khan versus The State and others" [2014 Y L R 2638] it has been held as under:-

"A bare reading of the above section reveals that the court may if it thinks fit by order in writing stating the reason therefor from time to time, postpone or adjourn proceedings for a definite reasonable time. The section 344, Cr.P.C. restricts the powers of Sessions Judge to adjourn the case sine die for an indefinite period. The Sessions Judge may adjourn the case for good reason, but up to a reasonable time. The section ibid never provides that for procuring evidence of a fugitive from law the case be kept pending for an indefinite period. If such practice is allowed, I am afraid no sessions case would reach to a conclusion. In frivolous and concocted cases, a witness would deliberately absent himself and the Court would have to do nothing except waiting. The policy of criminal law aims at bringing accused persons to justice as speedily as possible, so that if they are found guilty, they may be punished and if they are found innocent, they may be acquitted and discharged."

11. In the present case, the learned trial Court has already recorded statements of seven prosecution witnesses. In the meanwhile, the petitioner filed an application which was dismissed after taking a report from the S.S.P Islamabad, with regard to extradition of Raja Muhammad Hanif Proclaimed Offender, wherein It was mentioned that the said proclaimed offender is not in the custody of Interpol Authority, therefore, to adjourn the case sine-die was not just and proper, because there was no probability of appearance of the proclaimed offender in near future before the learned trial Court. The indefinite postponement of a criminal case is undesirable.

12. For what has been discussed above, learned counsel for the petitioner has failed to point out any irregularity, illegality, jurisdictional infirmity, calling for interference by this Court. Resultantly, this petition being devoid of any force is **dismissed**.

(GHULAM AZAM QAMBRANI)
JUDGE

Announced in open court, on 10 - 3 /2020.

JUDGE

"Rana.M.It"