

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Irfan Saadat Khan
Mr. Justice Muhammad Hashim Khan Kakar
Mr. Justice Ishtiaq Ibrahim

Jail Petition No. 872 of 2017

and

Criminal Petition No. 1642-L of 2017

Against the judgment dated 06.11.2017 of the Lahore High Court, Lahore passed in MR 17/2015, Crl. A.604-J/2014

Hamid Ullah Khan *alias* Meeda
(in JP 872/2017)

Mehboob Ali
(in Crl.P.1642-L/2017)

...Petitioner(s)

VERSUS

The State etc. ...Respondent(s)

For the Petitioner(s): Mr. Zafar Iqbal, ASC
(in J.P.872/2017)

For Complainant: Mr. Humayun Rashid Ch. ASC
(in Crl.P.1642-L/2017)

For the State: Mr. Humayun Aslam, DPG

Date of Hearing: 03.12.2025

O R D E R

Irfan Saadat Khan, J.- The jail petition, as well as the criminal petition, have been filed to impugn the judgment of the High Court dated 06.11.2017 passed in Murder Reference No. 17 of 2015 and Criminal Appeal No. 604-J of 2014, whereby the death sentence awarded by the Trial Court to the accused, Hamid Ullah Khan *alias* Meeda, for murdering Sadiq Mehboob was converted to a sentence of life imprisonment, while the other convictions awarded by the Trial Court in Sessions Case No. 01 of 2013, *vide* judgment dated 31.10.2014, were upheld and maintained.

2. Briefly stated, the facts of the case are that FIR No. 207 of 2011 was registered on 07.07.2011 at 06:00 p.m. in respect of an incident that took

place on the same date at 05:30 p.m. The FIR was lodged by the complainant, Mehboob Ali, against the accused-petitioner for the murder of Sadiq Mehboob. As per the FIR, at about 05:30 p.m., the complainant, along with the deceased Sadiq Mehboob (his brother), Muhammad Akram, and Tahir Iqbal, were sitting near the shop of Sadiq Mehboob situated at Farooqi Market. All of a sudden, the accused came there on a Honda motorcycle, armed with a 12-bore repeater gun, and instantly raised a *lalkara* threatening Sadiq Mehboob beware. He then made a straight fire with his gun at Sadiq Mehboob, hitting him on his chest, lip, and left hand, causing him to fall down. Hamid Ullah then fired another shot, hitting Anees Ahmad on his left leg and left ear, and that fire also hit Ikram (son of Shafiq) on the right side of his head and the upper portion of his left ear; both were standing nearby. This occurrence was witnessed by Muhammad Akram and Tahir Iqbal along with the complainant. The complainant thereafter took Sadiq Mehboob in an injured condition to RHC Kundian, but he succumbed to his injuries on the way and expired. Anees Ahmad and Ikram were taken to a nearby hospital for treatment.

3. The motive stated in the FIR was that Hamid Ullah had previously killed the real brother and the real uncle of the complainant some years earlier, that matter however was subsequently patched up between the parties through a compromise. As per the said compromise, Hamid Ullah was categorically directed not to come to Kundian city, yet, according to the complainant, he came there and killed Sadiq Mehboob and injured Anees Ahmad and Ikram. Thereafter, FIR was registered.

4. The usual trial took place, and the Trial Court, in Sessions Case No. 01/2013, *vide* order dated 31.10.2014, examined as many as 10 witnesses, also recording the statement of the accused under Section 342 of the Code of Criminal Procedure, 1898 ('Cr.P.C.'). Through an elaborate judgment, the Trial Court concluded that the accused was guilty of

murdering Sadiq Mehboob and injuring Anees Ahmad. He was awarded the death penalty under Section 302(b) of the Pakistan Penal Code, 1860 ('PPC'), along with compensation of Rs. 200,000/- to the legal heirs of the deceased and simple imprisonment for six months in case of non-payment thereof. He was also awarded seven years' rigorous imprisonment along with Rs. 100,000/- compensation under Section 324 of the PPC for injuring Anees Ahmad, while the charge for injuring Ikram could not be proved.

5. Dissatisfied with the order, a murder reference and criminal appeal were filed before the High Court, which, after detailed discussion, came to the conclusion that since the prosecution had failed to prove the motive and recovery, the sentence of death should be converted to that of imprisonment for life, while maintaining the remaining convictions and sentences awarded by the Trial Court. It is against this order that the present jail petition and the criminal petition for enhancement of sentence have been filed by the accused and the complainant, respectively.

6. Mr. Zafar Iqbal, ASC, appeared on behalf of the accused-petitioner and submitted that the deposition of injured witness Anees Ahmad categorically reveals that he failed to give a plausible explanation for his presence at the place of occurrence. He argued that the manner and method in which the accused was allegedly arrested on 30.07.2011 on spy information along with the gun and the motorcycle was doubtful, as it is improbable that at the time when Muhammad Younas, a police official, arrested him, the accused could have been simultaneously carrying the gun and driving the motorcycle.

7. He further contended that although PW-10 Muhammad Younas stated that he arrested the accused on spy information when the accused was running away on his motorcycle with the gun along with five live cartridges, this version is hardly believable. Learned counsel stated that

the accused was neither present at the scene nor involved in the commission of the offence but has been falsely roped in by the complainant, due to the admitted enmity between the parties. He submitted that although the complainant claims that a patch-up had taken place, but the parties never removed the grudge from their hearts, and this is why the accused has been falsely nominated in the murder of Sadiq Mehboob, who, according to the learned counsel, was killed by unknown persons. He therefore argued that the case is rife with mysteries and doubts which have not been explained. He further stated that all the witnesses are interested, planted, doubtful, and are chance witnesses. Moreover, according to him, contradictions in the depositions of various prosecution witnesses have further rendered the case quite doubtful. According to him, in view of these circumstances, the benefit of doubt ought to have been extended to the accused by acquitting him of the charges levelled against him. The learned counsel also submitted that the enhancement petition filed by the complainant is wholly illegal and uncalled for, and prayed for its dismissal as well. He finally stated that since the High Court has already disbelieved the motive and recovery aspects, thus, the accused, in his view, is liable to be acquitted by extending him the benefit of doubt.

8. Mr. Humayun Rashid Ch., ASC, appeared on behalf of the complainant, who has also filed a criminal petition seeking enhancement of the sentence from life imprisonment to that of death. He submitted that the occurrence took place in broad daylight, leaving no question or room for misidentification. The incident occurred in a market and was witnessed by prosecution witnesses whose depositions have neither been shattered nor were found inconsistent. He argued that the medical and ocular evidence fully corroborate with each other. He next stated that the accused does not deserve any leniency, as he had previously killed the real brother and real uncle of the complainant, and on the present occasion, in a brutal

and gruesome manner, killed Sadiq Mehboob. He added that the accused not only killed Sadiq Mehboob but also made indiscriminate firing, injuring Anees Ahmad and Ikram, which clearly show that he came to the place of occurrence with a predetermined mind. Hence, according to him, the motive stands duly established. He submitted that, in view of these circumstances, the accused does not deserve any leniency and that the sentence of life imprisonment awarded to him may be converted into that of death. He finally prayed that the jail petition filed by the accused may thus be dismissed and the complainant's criminal petition for enhancement of sentence may therefore be allowed.

9. Mr. Humayun Aslam, Addl. P.G. appeared on behalf of the State and partly supported the arguments advanced by the counsel for the complainant. He stated that the occurrence took place in broad daylight and that the accused had killed one person and injured two others, which clearly demonstrates his intent not to spare the complainant's side. He submitted that, insofar as the High Court's order converting the death sentence into that of life imprisonment is concerned, he supports the same. However, he does not support converting the life sentence into death sentence, as the High Court had categorically observed that the motive and recoveries had been disbelieved, and in the absence of these two important factors, death penalty cannot be awarded. He, therefore, stated that he supports the order of the High Court and prays that both these petitions are not sustainable under the law and may accordingly be dismissed.

10. We have heard the learned counsel for the petitioner, the complainant as well as the learned State counsel. We have also perused the record with their able assistance.

11. So far as the commission of the offence is concerned, from the orders of the Trial Court and the High Court, as well as the depositions of the

various witnesses and other factors, it stands proved that the accused killed Sadiq Mehboob and injured Anees Ahmad. The ocular and medical evidence support each other. As per Dr. Ehsan ul Haq (PW-9), Anees Ahmad was admitted to the hospital on 07.07.2011 and discharged on 12.07.2011. In respect of the deceased, firearm injury No. 1 clearly denotes that it was inflicted on the middle part of the chest, firearm injury No. 2 is an entry wound on the left side of the upper lip, while firearm injury No. 3 denotes an entry wound in the middle part of the right arm. The medical report also states that lungs and heart were badly ruptured, and the death occurred due to severe bleeding.

12. However, from the record and the facts, it is evident that the motive is missing in the instant matter. Though it has been alleged that Hamid Ullah had previously killed the brother and uncle of the complainant, no record supporting this allegation was produced, nor was any copy of a compromise entered into between the parties allegedly restraining Hamid Ullah from entering Kundian city brought on the record. Moreover, the recovery of the gun appears inconsequential, as the Forensic Science Laboratory report merely denotes that the gun was in working condition, but no evidence connecting it with the commission of the offence was produced. The manner and method in which the accused was allegedly arrested on 30.07.2011 along with the gun also renders the recovery doubtful. Furthermore, the recovery of the motorcycle has not been properly addressed, as no record relating to its ownership or registration book was ever placed on record.

13. If these two factors are excluded, in our view, the case clearly falls within the category warranting life imprisonment rather than the death penalty.¹ This is because the other factors namely, the medical evidence,

¹ Reference in this regard may be made to the cases of *Ahsin Ali v. The State* (2025 SCMR 1367), *Fida Hussain v. The State* (2025 SCMR 993) and *Muhammad Yasin v. The State* (2024 SCMR 128).

ocular account, and depositions of the various prosecution witnesses sufficiently connect the accused with the commission of the offence and the injury caused to Anees Ahmad. We, therefore, in view of these facts, do not find any legal or lawful justification either to acquit the accused of the charges levelled against him or to convert his life sentence into death sentence. Both these petitions are thus found to be without any merit and are accordingly dismissed.

14. Above are the reasons for our short order by which we have dismissed both the petitions in the following manner:

"Jail Petition No. 872 of 2017 and Criminal Petition No. 1642-L of 2017:

For the reasons to be recorded separately, this jail petition and criminal petition are dismissed."

Lahore
03.12.2025
Naseer

"Approved for Reporting"