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REGISTERED
No. CrI.P.1106/2017- SCJ
SUPREME COURT OF PAKISTAN
Islamabad, 20 Mar 2018

From The Registrar,
Supreme Court of Pakistan.
Islamabad.

To The Registrar,
Peshawar High Court.
Peshawar. 40 AR/P

Subject: CRIMINAL PETITION NO. 1106 OF 2017

Ali Yar Khan
Versus
Sher Ali & another

Peshawar High Court Peshawar	
Receipt No	313/18
Date:	23/02/2018
1- MIT	
2- Dir (HRC)	
3- Dir (ReG)	
4- Dir (HR.W)	
5- DPD	
6- PSO	
7- DBA	
8- DIT	
9- AR(J)	
10- AR(G)	

On appeal from the Judgment/Order of the Peshawar High Court, Peshawar dated 20/09/2017 in Cr.A.507-P/2016 & M.R.11-P/2016 in case FIR No.553/2010 dated 27/08/2010 registered at Police Station Yar Hussain, Swabi

Dear Sir,

I am directed to enclose herewith a certified copy of the Order/Judgment of this Court dated 23/02/2018 dismissing the above cited case in the terms stated therein for information and further necessary action.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order/Judgment:

Yours faithfully,

(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Dost Muhammad Khan
Mr. Justice Syed Mansoor Ali Shah

Criminal Petition No. 1106 of 2017

(Against the judgment dated 20.09.2017 passed by the Peshawar High Court, Peshawar in Criminal Appeal No. 507-P of 2016 and Murder Reference No. 11-P of 2016)

Ali Yar Khan

...Petitioner

versus

Sher Ali, etc.

...Respondents

For the petitioner: Mr. Asadullah Khan Chamkani, ASC

For the respondents: N.R.

Date of hearing: 23.02.2018

ORDER

Asif Saeed Khan Khosa, J.: Post-mortem examination of the deadbody of Shah Room Khan deceased had been conducted in this case 40 minutes prior to registration of an FIR in respect of his murder and in the Post-mortem Examination Report time of death of the deceased had not been recorded in the relevant column. This factor had irretrievably shaken the credibility of the FIR as well as of the claimed presence of Ali Yar Khan complainant (PW3) with the deceased at the time of occurrence. The other eyewitnesses namely Zahid Khan (PW2) and Ishtiaq Khan (PW4) were related to the deceased and were chance witnesses who ordinarily resided about 5 and 2/3 kilometers away from the place of occurrence respectively. The *Imam* of the concerned mosque wherein the

ATTESTED




Court Associate
Supreme Court of Pakistan
Islamabad

occurrence had taken place had not been produced as an eyewitness nor any other independent eyewitness was produced by the prosecution. No proof regarding the alleged motive had been adduced before the trial court and no weapon had been recovered from the custody of respondent No. 1. In these circumstances the High Court had concluded that the prosecution had failed to prove its case against respondent No. 1 beyond reasonable doubt and we have not been able to take any legitimate exception to the said conclusion reached by the High Court. This petition is, therefore, dismissed and leave to appeal is refused.

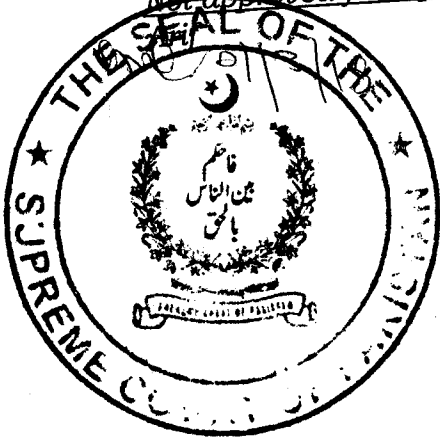
Asif Saeed Khan Khosa Sd/-, J
Dost Muhammad Khan Sd/-, J
Syed Mansoor Ali Shah. Jd/-, 5

Certified to be True Copy


Court Associate
Supreme Court of Pakistan
Islamabad

Islamabad
23.02.2018

Not approved for reporting.



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