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From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

The Registrar,
Peshawar High Court,
Peshawar.

Subject: CRIMINAL APPEAL No.288 OF 2015

Alamzeb s/o Firdous Khan

Versus

- (i) The State
(ii) Shabib Hussain s/o Muhammad Hanif

**(On appeal from the Judgment/Order of the
Peshawar High Court, Peshawar dated 09.04.2015 in
Crl.A.No.123-P of 2012)**

Dear Sir,

In continuation of this Court's letter of even number dated 04.07.2015, I am directed to enclose herewith a certified copy of the Judgment of this Court dated **06.10.2015 allowing the above cited Criminal Appeal in the terms stated therein** for information and further necessary action.

Please acknowledge receipt of this letter alongwith its enclosure immediately.

Yours faithfully,

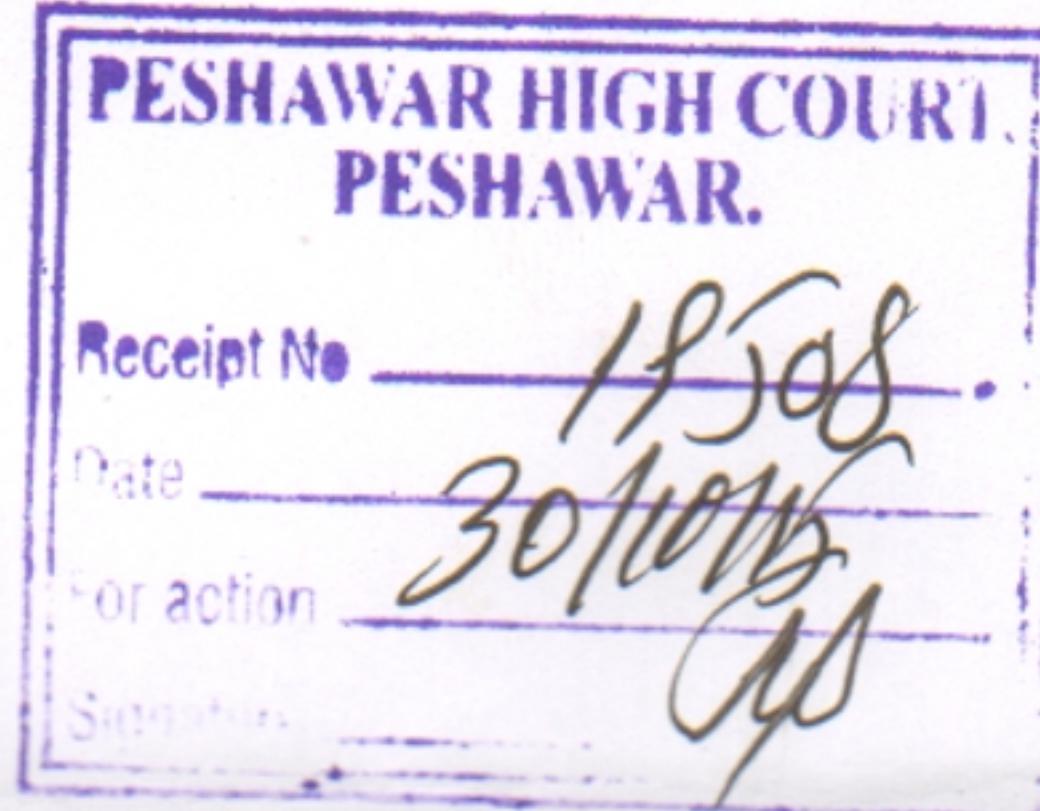
Encl: Judgment:

(NAZAR ABBAS)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

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31/10/2015

LC. 641/015
Peshawar.
REGISTERED
No.Crl.A.288/2015-SCJ
SUPREME COURT OF PAKISTAN
Islamabad, dated 22nd Oct, 2015



IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Mushir Alam
Mr. Justice Dost Muhammad Khan

Criminal Appeal No. 288 of 2015

(Against the judgment dated 09.04.2015 passed by the Peshawar High Court, Peshawar in Criminal Appeal No. 123-P of 2012)

Alamzeb

...Appellant

versus

Shabib Hussain, etc.

...Respondents

For the appellant:

Ch. Abdul Aziz, ASC

For the State:

Mr. Mujahid Ali Khan, Additional Advocate-General, Khyber Pakhtunkhwa

For respondent No. 2:

Mr. Tariq Mehmood Khokhar, ASC

Date of hearing:

06.10.2015

JUDGMENT

Asif Saeed Khan Khosa, J.: Without going into the details and the background of this case and restraining ourselves from commenting upon the merits of the case we may straightaway observe that the High Court had remanded the case of respondent No. 2 to the trial court for holding a *de novo* trial because the trial of the said respondent could not be said to be a fair trial as he had been facing difficulties in his representation before the trial court. We have gone through the order-sheet of the trial court and have found that respondent No. 2 did face some difficulties in his representation before the trial court prior to 06.08.2011 but on the

ATTESTED
Superintendent
Supreme Court of Pakistan
ISLAMABAD

said date Mr. Muhammad Waqas, Advocate filed his Power-of-Attorney on behalf of the respondent and then till conclusion of the trial the said learned counsel kept on representing the respondent. During such representation the said learned counsel had cross-examined all the prosecution witnesses and at no stage of the trial any objection had been raised by respondent No. 2 regarding lack of proper representation on the part of the said learned counsel. There is nothing available on the record to show that representation of respondent No. 2 by the said learned counsel had caused any prejudice to the said respondent or to his case. In these circumstances the very premise on which the High Court had remanded the case of respondent No. 2 to the trial court for holding a *de novo* trial has been found by us to be misconceived and against the record. In this view of the matter this appeal is allowed and the impugned judgment passed by the Peshawar High Court, Peshawar in Criminal Appeal No. 123-P of 2012 on 09.04.2015 is set aside. It is ordered that the said Criminal Appeal shall be deemed to be pending before the Peshawar High Court, Peshawar and the same shall now be decided by the High Court on its merits.

Sd/- Asif Saeed Khan Khosa, J
Sd/- Mushir Alam, J
Sd/- Dost Muhammad Khan, J

Certified to be true Copy

Superintendent
Supreme Court of Pakistan
ISLAMABAD

Islamabad
06.10.2015

Not approved for reporting.
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