Judgment Sheet
PESHAWAR HIGH COURT, BANNU BENCH
(Judicial Department)

Cr. A No.160 -B of 2021

Zalwanoor
Vs.
The State etc

JUDGMENT

For Appellants: ***Mr. Anwar-ul-Haq advocate***

For State: ***Mr. Saif-ur-Rehman Khattak Addl: A.G***

For respondent: ***Muhammad Rashid Khan Dirma Khel advocate.***
Date of hearing: 02.11.2022

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SAHIBZADA ASADULLAH, J.- The appellant Zalwanoor, assailed the judgment dated 30.09.2021, passed by the learned Sessions Judge, Karak, whereby he was convicted under section 302(b) P.P.C, and sentenced to Life imprisonment (25 years R.I) as tazir, with fine of Rs.2,00,000/- as compensation to the legal heirs of deceased within the meaning of section 544-A Cr.PC, or in default whereof to further undergo six months SI. Benefit of section 382 P.P.C was also extended to the appellant.

The accused/appellant Mubashir Parvez alias Mubashir Noor has also challenged the same impugned judgment, whereby he was convicted under section 324 P.P.C and sentenced to five years RI with fine of Rs. 100000/- or in default of payment of fine, to further undergo six months SI.

The complainant Naqeebullah filed a Cr. R No.41-B of 2021, as well as the state through Advocate General, Khyber Pakhtunkhwa also filed Cr. R No. 02-B/2021, both

against the accused Zalwanoor and Mubashir Pervaz alias Mubashir Noor for enhancement of sentence. As all the four matters are outcome of one and the same judgment, so are decided though this common judgment.

2. Brief facts of the case, as per contents of F.I.R are that, on 21.07.2019 at 21:00 hours, the complainant Naqeebullah along with dead-body of his brother Asadullah, in Civil Hospital, Latamber reported the matter to the effect that he along with his brothers Asadullah and Zahidullah came out from house for offering Magrab prayers, his brother Asadullah was some paces ahead, when they reached near the mosque, they saw accused Zalwanoor and Mubashir Noor duly armed were already present in the mosque. Reaching near the gate of mosque accused Zalwanoor fired at Asadullah, as a result of which he was hit and died at the spot, while accused Mubashir Nawaz fired at them, but they luckily escaped unhurt. Accused after commission of offence decamped from the spot. The occurrence was witnessed by the complainant as well as Zahidullah. Motive behind the occurrence was stated to be dispute over the property. Noor Badshah scribed the report of complainant in shape of Murasila Ex: PA/1 and sent the same to the Police Station through constable Gul Jamal No.128 (PW-02), where Sajidullah Moharrir (PW-01) incorporated the contents of murasila into F.I.R(Ex: PA) and copy of the same was handed over to Rashidullah Khan SI (PW-13), who conducted investigation and on completion of the same submitted complete challan against

the accused before the learned trial Court. Both the accused were summoned and on their appearance, relevant copies were delivered to them in compliance of provision under section 265-C Cr.PC and thereafter formal charge was framed against them on 20.10.2019, to which they pleaded not guilty and claimed trial. The prosecution in order to prove guilt of accused produced and examined as many as 14 witnesses. On close of prosecution evidence, statement of accused were recorded under section 342 Cr.PC, wherein they professed innocence, however, they neither wished to produce evidence in defence, nor wished to be examined on oath as provided under section 340(2) Cr.PC. Learned trial court after hearing arguments of learned counsel for the parties, vide impugned judgment dated 30.09.2021, convicted and sentenced the accused. Both the accused filed their separate appeals, while the complainant and the state have moved their separate criminal revision petitions for enhancement of the sentence. As all the four matters are the outcome of one and the same F.I.R, so we are going to decide the same through this common judgment.

3. The learned counsel for the parties alongwith Asstt: Advocate General were heard at length and with their able assistance the record was gone through.

4. The unfortunate incident claimed life of the deceased and the matter was reported by the complainant, where the convict/ appellants were charged for the death of the deceased and ineffective firing upon the witnesses. Soon after

receiving firearm injuries the deceased was shifted to the KDA hospital, Karak, where he was initially examined by the doctor, and his death was confirmed. As the matter was related to the Police Station Latamber, so the doctor, who examined the deceased in KDA, hospital, Karak, referred the deceased for PM examination to RHC, Latamber, where the matter was reported. The scribe visited the hospital, took the report in shape of Murasila and thereafter the injury sheet and inquest report were prepared. After receiving copy of the F.I.R the IO visited the spot and on pointation of the eye-witnesses, prepared the site-plan. During spot inspection, the Investigating Officer collected blood stained earth from the place of the deceased and two empties of .30 bore from the places of the convict/appellants. It is pertinent to mention, that the Investigating Officer also captured the photographs of the premises and the same were produced before the trial court during trial. The convict/ appellants were arrested after a day of the incident and from personal possession of the convict/ appellant Zalwanoor a.30 bore pistol was taken into possession and the same was sent to the Firearms Expert. After its analysis the laboratory concluded that one out of the two empties, recovered from the spot, matched with the pistol.

5. After arrest of the convict/ appellants they faced trial and the learned trial Court, vide impugned judgment was convinced regarding the involvement of the appellants in the episode and as such they were convicted as stated above.

6. There is no denial of the fact that the appellants are directly charged and that the prosecution examined as many as 14 witnesses in support of its claim and that after application of judicial mind the learned trial Court convicted the appellants, but this court is to see as to whether the prosecution succeeded in bringing home guilt against the appellants and as to whether the learned Judge was justified to convict the appellants on the basis of collected evidence and recorded statements. In order to assess the accuracy of the judgment and the authenticity of the collected material and recorded statements, we feel it essential to scan through record of the case and to reassess the evidence on file, so that miscarriage of justice could be avoided.

7. This court is to see as to whether the prosecution succeeded in bringing home guilt against the appellants; as to whether the incident occurred in the mode, manner and at the stated time; as to whether the witnesses were present on the spot at the time of incident and at the time of report.

8. The unfortunate incidence occurred at the time when the deceased and the eye-witnesses were on their way to the local mosque to perform maghrib prayer and the moment they reached in front of the mosque, the accused/ appellants came out of the mosque, where the convict/ appellant Zalwanoor fired at the deceased and the co-convict at the witnesses, who luckily escaped unhurt. The complainant was examined as PW-11, who stated that on the day of incident he along with the deceased and the eye-witness left his house and on reaching to

the spot the accused/ appellants came out of the mosque, started firing at them; that out of the fire shots made by the accused Zalwanoor the deceased was hit, fell to the ground and died on the spot; that the co-convict fired at them, but they escaped unhurt; that soon after the incident the dead-body of the deceased was shifted to KDA hospital, Karak, and on confirmation of his death, the dead-body was referred to RHC, Latamber, where the matter was reported.

9. The prosecution is to tell as to whether at the time of incident the complainant and the eye-witness were available with the deceased and that the incident occurred in the mode and manner. In order to ascertain as to whether the incident occurred in front of the mosque, we went through the site-plan prepared by the Investigating Officer. From the spot blood stained earth was collected along with two empties of .30 bore. We went through the statement of the complainant and the eye-witness. Both the witnesses were examined on material aspects of the case and the witnesses remained consistent regarding the time they left the house and regarding the time they were fired at. The learned counsel for the appellants wanted to build up his case, by submitting that the time of report and the time mentioned in the Postmortem report find no support from the evidence on file. As to him both the complainant and the eye-witness failed to explain the exact time when they left their house and the exact time when the deceased breathed his last. There is no denial of the fact that the mosque, where the deceased and eye-witness

were to go, is situated near the house of the complainant and that they in routine used to go to the mosque to perform their prayers. The witnesses were asked time and again as to whether they used to visit the mosque in routine, to which they replied in affirmative with an explanation that when they were available in village, they in routine used to go to the mosque together, especially for performing *maghrib* prayer. The defence tried its level best to discredit the witnesses on this particular point of time, with an additional attempt to convince this court that the presence of the witnesses at the place of incident, at the stated time was per chance; and that the record is silent regarding their coming together, in routine, to the mosque; and that the witnesses made a conscious attempt to establish their presence on the spot. It was argued that the unnatural conduct, displayed by the witnesses, further deteriorated the prosecution case. The record tells that the incident occurred in the holy month of Ramzan and in this part of the country people available in village do come to their houses to break the fast. It is not unusual that after breaking fast the male (major) members of the house do go to the mosque to perform *maghrib* prayer. The witnesses remained consistent regarding the time the Azan was called and their coming together after breaking fast to the mosque, where they reached at 07:30 p.m. It was suggested time and again to the witnesses that another mosque was situated near their house and that instead visiting the same, why they selected the mosque which was situated at considerable distance. The

witnesses replied consistently that as the mosque where the incident occurred was their ancestral, so as a matter of right they go to the same to pray. The defence articulated that while reporting the matter the complainant disclosed that, the moment they reached near the mosque the incident occurred, whereas in his court statement he improved and disclosed that when they reached near the mosque the accused/ appellants came out of the mosque and started firing at them. It was highlighted that on one hand the witnesses made dishonest improvement whereas on the other when the accused / appellants were present inside the mosque then how they came to know that the deceased and witnesses have reached near the mosque and that in both the eventualities the prosecution story does not appeal to a prudent mind. We are not impressed with the picture drawn by the defence, as at the time of spot pointation the witnesses pointed out the initial places of the appellants inside the mosque and the subsequent places, where from they fired at the deceased and witnesses, outside the mosque. This is pertinent to mention that out of the two the effective role of fire shot has been attributed to the appellant Zalwanoor and that to his co-accused the ineffective role of firing, so in all probabilities the accused/ appellant Zalwanoor is singularly charged for the death of the deceased.

10. The presence of witnesses on the spot at the time of occurrence and in the hospital, when the dead-body was examined by the doctor, finds support from the fact that the

dead-body was received in KDA hospital, Karak, at 08:05 p.m. the same finds mention in an OPD Chit collected from the hospital and placed on record. After the death was confirmed the concerned doctor referred the dead-body of the deceased to Civil Hospital Latamber for onward proceedings. No sooner did the dead-body arrive to the hospital, the scribe on receiving information reached there, and the complainant reported the matter. At the time of report besides the complainant PW Zahidullah was also present in the hospital, who verified the report of the complainant and also identified the dead-body before the police at the time of report and before the doctor at the time of post mortem examination. The witnesses explained the manner in which the incident occurred, the dead-body shifted and the matter was reported. In order to discredit the witnesses, more particularly, on the point of time when the deceased died, the death was confirmed, the post mortem was conducted and the report was made, the learned counsel for the appellants referred to the statements of all concerned i.e. the scribe, to whom the matter was reported, the doctor who confirmed the death of the deceased and the doctor who conducted post mortem examination of the deceased. The scribe was examined as PW-09, who stated that he was present in the Police Station and was preparing for patrolling, when he got information that a dead-body has been brought to Civil Hospital, Latamber; that he along with other police party rushed to the hospital and at about 21:00 hours, the complainant reported the

matter. The witness was asked regarding the arrival of the dead-body to the hospital, who confirmed the same as 20:40/20:50 hours. He further disclosed that he reached to the hospital at 20:55 hours. The learned counsel for the appellant wanted to convince that when the dead-body was received in the hospital at 20:40/20:50 hours and that when the scribe reached to the hospital at 20:55 hours, then why the matter was not reported soon after his arrival, and that why the report was delayed till 09:25 p.m. In support of his claim the learned counsel invited the attention of this court to the post mortem report where the time between injury and death is mentioned as 20 to 30 minutes, from death to post mortem examination as 2 to 4 hours, and to the time of examination of the dead-body, which is mentioned as 21:30 hours. It was highlighted that when the matter was reported at 09:25 p.m, then how the postmortem could be conducted at 09:30 p.m, i.e. the time when the F.I.R was not chalked out. This limb of the argument of the learned counsel is beyond understanding, as before conducting post mortem examination the chalking of F.I.R is not the condition, rather the legal requirement is the report of the incident which had already been made. Once the matter is reported and inquest report is prepared, then it is not obligatory for a doctor to wait for registration of a case and as such no illegality was committed by the doctor. The stress of defence on this particular aspect of the case was only and only to convince this court that neither the complainant was present on the spot at the time of incident and

at the time of report, nor the eye-witness, and that the matter was reported after the attendance of the witnesses was procured. To assess as to whether this part of the argument has substance in it, we once again revisited the statement of the doctor, who initially confirmed the death of the deceased. The doctor was examined as PW-10, who disclosed that the dead-body was received at 08:05 p.m. in KDA hospital, Karak, the same was entered in the relevant register and after confirming the death it was he, who referred the dead-body to Civil Hospital, Latamber for further proceedings. The veracity of the witness was tested through searching cross-examination, but nothing detrimental, to the prosecution case, could be extracted from his mouth. There is no denial of the fact that the complainant during the days of incident was serving as constable in the police department and was posted in Karak. An attempt was made to impress this court that the complainant used his influence, and as such the investigation was conducted to appease his appetite, but we are not impressed with what was submitted at the bar. As on one hand the record is silent, that the complainant has ever used his influence, whereas on the other, the witnesses right from beginning till the end remained consistent on material aspects of the case.

In case titled, ***"Khalid Naseer and another Vs The State and another" (2020 SCMR 1966)*** it is held that:

> ***" Given the timeframe wherein the deceased was initially medically examined under a police docket and***

recording of complaint Ex.PJ shortly preceding therefrom do not support the hypothesis of complainant's absence from the scene; he has comfortably faced the cross-examination by sharing all the relevant details compatible with the salient features of the incident and events collateral therewith."

11. The defence invited the attention of this court to the tampering made in the time between death and post mortem, and also in the inquest report. The doctor who conducted autopsy on the dead-body of the deceased was examined as PW-10, who explained that as it was his first autopsy and that he was deficient in experience, so he consulted his senior and it was on his instructions that he calculated the time as such. On one hand the doctor admitted the over writing which discloses his bonafide whereas on the other he admitted his lack of experience in this particular subject. The discrepancies in the time between death and postmortem cannot be read either to favour the prosecution or to discredit the defence, as the doctor confirmed his inefficiency, so this piece of evidence cannot be read to favour either side. If on one hand the defence wants to reap the harvest of the manipulated time then on the other the prosecution should not suffer for a mistake committed by an incompetent person. When the doctor admitted that he was not expert in the field, then the benefit of his statement can neither be awarded to the appellants, nor that can be pressed into service to discredit the prosecution.

12. The close relationship between the parties cannot be overlooked, as the accused/ appellant happens to be the uncle of the deceased, that when there was no blood feud between the parties and the dispute was over a house, so in the attending circumstances of the present case, we are not ready to accept that the accused/ appellant was substituted for a real culprit, as in the like circumstances substitution is a rare phenomenon.

In case titled ***"Arshad Beg Vs The State (2017 SCMR 1727),*** it is held that:

> ***"Even otherwise this is a case of single accused and substitution in such like cases is a rare phenomenon as normally kith and kin of the deceased (in this case real brothers) would not implicate an innocent person by letting off the real culprits. Therefore, we hold that both the witnesses of ocular account were present at the spot and had witnessed the occurrence."***

13. The medical evidence lends support to the case of the prosecution, as the direction of injury is declared horizontal, that too, on the chest of the deceased, so keeping in view the place where the appellant was standing no ambiguity is left that the same was possible from that position only. The time between injury and death is another factor which supports the claim of the complainant. As the accused is singularly charged for effective fire shot and that one of the empty out of the two, collected from the spot, matched with the recovered pistol and the deceased received only one firearm injury, so the medical

evidence confirms the eye-witness account. There is no cavil to the proposition that medical evidence is confirmatory in nature and in presence of trustworthy and confidence inspiring eye-witness account, it has a little role to play. As the witnesses fully explained and established their presence on the spot and the manner in which the incident occurred, so the same in itself is sufficient to bring home guilt against the accused.

14. The Investigating Officer during spot inspection collected one empty of .30 bore and on arrest of the appellant Zalwanoor a .30 bore pistol was recovered from his personal possession, the same were sent to the Firearms Expert, wherefrom a report was received in positive. Though the recovered articles were sent to the F.S.L on 30.07.2019, yet the defence could not convince that the same was either planted or fabricated. It was argued that when the empties were recovered on 21.07.2019 and the pistol on 23.07.2019, why it took such a long time, in reaching to the Laboratory. It was argued that the delayed sending of the recovered articles is a circumstance which favours the defence and that the prosecution could not succeed in proving the safe custody of the recovered articles. True that the recovered articles were sent and received to the laboratory on 30.07.2019, but while scanning through the record we came across a document duly exhibited as Ex: PW 13/13, where apart from the blood stained earth, empties and pistol collected in the instant case, other recoveries made in other cases were also sent to the laboratory. As the Police Station is situated

in a remote area and as per routine when numerous cases are registered, then for its own convenience the different collected materials are sent to the laboratory on one and the same date, and it happened in the instant case as well. Though we do not approve this procedure, but from the document we could not gather any mala fide on part of the prosecution and this lapse on part of the investigating agency cannot be taken against the prosecution. As the blood stained earth, blood stained garments and the recovered pistol with two empties of .30 bore were received to the laboratory on the same date, so it confirms that the delay caused was not with a sinister design and even we are not ready to accept that either the empties or the pistol was planted against the appellant. As the positive laboratory report is supportive in nature, in case the prosecution otherwise succeeds in bringing home guilt against the accused charged then its absence or otherwise is not detrimental to case of the prosecution. As from the spot two empties were collected, where one matched with the recovered pistol and the other did not, so no ambiguity is left that in the incident more than one accused participated and the laboratory report confirms the stance of the complainant.

15. Motive alleged is the dispute over a house, it was argued for defence that as motive was common to all the three then what prompted the appellants to kill the youngest by leaving the others. As the Investigating Officer placed on record the copy of an F.I.R that was earlier registered between the

parties, where father of the deceased namely Sar Anjam, is complainant and the deceased Asadullah the eye-witness. In another document, which shows that the Jirga was convened between the parties, where father of the deceased and the deceased himself were signatory to the same, so earlier F.I.R registered between the parties and the arbitration/ Faisla Salsi confirms that it was the deceased, out of his brothers, who constantly participated with his father in matters against the appellants and in such eventuality we can gather that the appellant was nourishing a grudge against him. In support of the motive and arbitration between the parties, the prosecution examined two witnesses one, a mason who during the days of occurrence was constructing the disputed house, and who was stopped by the appellant from work, the said mason has been examined as PW-07, whereas in respect of arbitration between the parties one Molve Ubaidullah was examined as PW-08, both these witnesses appeared before the trial court and recorded their statements. In view of the collected material in shape of an earlier registered F.I.R, arbitration between the parties and the witnesses who were examined in support of the motive, this court lurks no doubt in mind that the prosecution fully succeeded in establishing the motive.

16. As in the instant case the appellant Mubashir Parvez alias Mubashir Noor has been convicted by the learned trial Court for ineffective firing, upon the witnesses, so this Court is to see as to whether the approach of the learned trial

Court on that particular aspect of the case was correct; as to whether any recovery was effected from his personal possession or from the spot to tell that he also made firing upon the witnesses. We deem it essential to see from the record that in case the prosecution could not succeed in establishing charges against the appellant Mubashir Parvez, whether in that eventuality the Maxim *falsus in uno falsus in omnibus* would apply. For this particular purpose, we scanned through the record to see the involvement of the appellant in the episode and the role attributed to him. There is no denial of the fact that the entire case revolves around the character of the principal accused, whose fire shot proved fatal to the deceased, but the role attributed to appellant Mubashir Parvez is only to the extent of in effective firing upon the witnesses. This court is to determine as to whether the learned trial judge was justified in convicting the appellant or that the appellant was convicted only with the apprehension that his acquittal would benefit the principal accused. As the entire record is silent regarding the interest of the appellant to kill the witnesses, as in case of firing upon the witnesses, with the intention to kill, there was hardly an occasion to survive, but the witnesses did not receive a single firearm injury. We are confident in our mind that the role attributed to the appellant is either to implicate him with the principal accused for the reasons best known to witnesses or the witnesses were nourishing a grudge against the appellant. True that the set of witnesses, which once is disbelieved in respect of

one set of accused then its veracity is often looked into with suspicion for placing reliance in respect of the other set of accused, but the approach should not be mechanical, rather the courts of law are under obligation to test the veracity of the witnesses in respect of both set of accused, if the court reaches to a conclusion that the deposition against one set of accused does not appeal to a prudent mind then *ipso facto* the benefit should not be extended to the other, as in that eventuality, the courts of law are bound to look into the role played by the accused in whose respect the evidence is to be believed or to be taken into consideration. As in this case, we have two sets of accused, one to whom the effective role of firing was attributed and the other to whom the ineffective. As the prosecution fully succeeded in bringing home guilt against the principal accused and that the witnesses remained consistent in respect of the role played by the principal accused and also the circumstantial evidence lend support to the testimony of the witnesses, as from personal possession of the principal accused a .30 bore pistol was taken into possession; and that the same matched with the recovered empty from the spot. As the motive alleged is against the principal accused; and that it was a grudge he was nourishing in respect of the under-construction house, that he killed the deceased, but the record is silent regarding the interest of the co-accused and even nothing incriminating was recovered from his personal possession. The Investigating Officer could not succeed in bringing on record that the appellant Mubashir Pervez was

either sharing common intention or he had an individual interest in killing the witnesses. True that the maxim *Falsus in uno falsus in omnibus*, plays a vital role in criminal cases; and that it has been made the basis for testing the overall veracity of the witnesses against an accused charged, but it has never restrained the courts of law from scrutinizing the deposition of witnesses in respect of different accused charged with different roles. If the veracity of the witnesses is out rightly rejected in respect of all the accused charged, regardless of their individual roles, then in those circumstances not only the prosecution, but the defence would also suffer. In order to rescue both the sides from irreparable loss, we deem it essential that the rule must be applied with care and caution, as in criminal cases different accused are charged with different roles, as is the case in hand, if in the instant case the veracity of the witnesses is disbelieved just because of their credence in respect of the accused, who is charged for ineffective firing, then the same would not lead to an automatic acquittal of the principal accused, who is not only charged for effective firing, but also from his possession a .30 bore pistol was recovered which matched with the collected empty, so much so, the motive has been proved against him, that too, by producing independent witnesses in that respect, otherwise the consequences would be far reaching and absurd. In this particular case we deem it essential to apply the test of accuracy independently, as in respect of the appellant Mubashir Pervez apart from the testimony of the witnesses nothing

substantial was brought on record which could confirm the statements of the witnesses in respect of the role, he played. When the witnesses were at his mercy and when the appellant was armed with a .30 bore pistol then there was hardly an occasion for the witnesses to go unhurt, but the role of ineffective firing is a circumstance that favours the appellant to a greater extent. When such is the state of affairs, we lurk no doubt in mind that the prosecution case is on weak footings qua the involvement and participation of the appellant in the incident. We are not persuaded that the appellant Muhasbir Parvez was present on the spot duly armed to commit the murder of the witnesses, but as the place of incident was common to all then his presence at the place of occurrence can be taken in a different manner. The record does not suggest that the appellant was sharing his mind with the principal accused, when such is the state of affairs then the role of both the accused/ appellants must be tested individually. The learned trial Court was highly swayed with the role played by the principal accused and the charge against the appellant Mubashir Parvez, and as a matter of extreme caution it decided to convict the appellant as well. Had the trial court applied its judicial mind to the facts and circumstances of the case, then it would have not hesitated in convicting the principal accused and in acquitting the appellant. We in the instant case feel it necessary to apply the test of accuracy independently, as in that eventuality, we would be in a better position to rescue both the sides from a greater loss.

In case titled, ***"Khalid Vs the State and another" (2017 YLR Note 272)***, it is held that:

> ***"Similarly, there is no rule having universally applicable that where some accused were not found guilty, other accused would ipso facto stand acquitted, rather it is the primary duty of the Court to sift the grain from chaff. "***

17. The cumulative effect of hat has been stated above, leads this court nowhere but to hold that the appellant Zalwanoor is rightly held guilty for the offence and correctly convicted and sentenced by the learned trial court, hence, the impugned judgment to his extent is maintained and the instant criminal appeal No.160-B of 2021, is dismissed, while the learned trial judge fell into error while handing down the impugned judgment in respect of the appellant Mubashir Parvez, the same calls for interference, therefore, criminal appeal (Cr. A No. 159-B of 2021) is allowed, conviction and sentence of appellant Mubashir Parvez is set aside. He is acquitted of the charges leveled against him. He shall be released from confinement forthwith if not required to be detained in connection with any other criminal case.

18. Though the complainant/ respondent after feeling dissatisfied from the impugned judgment approached this court though Cr.R No.41-B of 2021, for enhancement of the sentence awarded to the appellants, but as the prosecution could not succeed in bringing home guilt against Mubashir Pervez and he

has been acquitted of the charges, so the criminal revision against his sentence has lost its efficacy and the same is turned down. So far, the case of principal accused is concerned, as the dispute between parties was over a house, under construction and that the deceased constantly contested his claim against the principal accused on different forums, so his constant confrontation with the principal accused turned to be a cause of annoyance and as such the appellant Zalwalnoor was infuriated to an extent that he killed the deceased, but the deceased received a single firearm entry wound with no repetition of fire shot, so both these factors, are the circumstances, which restrained this court to enhance the conviction, as the awarded sentence is not only fully justified but it also meets the ends of justice. The instant criminal revision for enhancement of the sentence is lacking substance and the same is dismissed as such.

Above are the detailed reasons of our short order of the even date.

Announced
Dt: 02.11.2022
Azam/P.S

JUDGE

JUDGE

(D.B)
Mr. Justice Sahibzada Asadullah &
Mr. Justice Shahid Khan

30 NOV 2022