

Judgment Sheet

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

Criminal Appeal No.253-A/2021

Muhammad Shafique... (Appellant)

versus

The State etc... (Respondents)

Present: Mr.Shad Muhammad Khan,
Advocate for appellant.

Sardar Waqar-ul-Mulk, Assistant
Advocate General for State.

Mr.Atif Ali Jadoon, Advocate for
complainant.

Date of hearing: **24.10.2023.**

JUDGMENT

MUHAMMAD IJAZ KHAN, J.- This single judgment is directed to decide the instant Criminal Appeal No.253-A/2021 titled “Muhammad Shafique vs The State etc” as well as the connected Criminal Appeal No.12-A/2022 and Criminal Revision No.04-A/2022 both having same title i.e. “Abdur Rasheed vs The State” being outcome of the one and same judgment of learned Additional Sessions Judge/Model

(Jamil)

*(D.B.) Hon'ble Mr.Justice Kamran Hayat Miankhel.
Hon'ble Mr.Justice Muhammad Ijaz Khan.*

Criminal Trial Court, Abbottabad dated 30.11.2021 in a case registered vide FIR No.548 dated 18.05.2018 under sections 302/34 PPC, at Police Station Havelian District Abbottabad, whereby accused Dildar Khan, Zulfiqar Hussain and Ghulam Mustafa (respondents No.2 to 4 in connected Criminal Appeal No.12-A/2022) have been acquitted of the charges levelled against them, while accused Muhammad Shafique (appellant herein) has been convicted under section 302(b) PPC and sentenced to imprisonment for life as Ta'zir and also to pay an amount of Rs.400,000/- under section 544-A Cr.PC to the legal heirs of the deceased. Benefit of section 382-B Cr.PC was also extended to the appellant/convict.


2. Precisely, the facts of the present case as per record are that on 18.05.2018 at 19.40 hours, complainant Abdur Rasheed son of Muhammad Hussain (PW-10) alongwith dead body of his deceased brother Tanveer Ahmed

lodged a report to Cadet Abdul Ghafoor (then) SHO Police Station Havelian (PW-2) in Emergency Room TDH Havelian to the effect that on that day he, on receipt of information about the occurrence, reached his village from Abbottabad where he came to know that on the same day, after offering Assar Namaz, his brother Tanveer Ahmed alongwith Aqeel Faisal son of Ali Bahadur, Muhammad Younis son of Muhammad Yousaf, who are their close relatives, was proceeding towards his house; when they reached at a thoroughfare near the landed property of Muhammad Yousaf at about 06.00 p.m., in the meanwhile Dildar son of Mir Alam loudly commanded his sons namely Zulfiqar, Shafique and Mustafa to kill them, upon which all his three sons duly armed with firearms came there and started firing with the intent to commit their qatl-e-amd; appellant Shafique with his 30 bore pistol fired at his brother namely Tanveer Ahmad, which shot hit him on his head as a

result of which he fell down and died on the spot; the occurrence was stated to be witnessed by Aqeel Faisal and Muhammad Younis; motive behind the occurrence was stated to be a dispute over landed property of PW Aqeel Faisal with the accused party. He charged a father i.e. Dildar Khan (respondents No.2 in connected Criminal Appeal No.12-A/2022) and his three sons namely Muhammad Shafique (appellant herein), Zulfiqar Hussain and Ghulam Mustafa (respondents No.3 and 4 in connected Criminal Appeal No.12-A/2022) for committing qatl-e-amd of his brother Tanveer Ahmad. His report was recorded in shape of Murasila (Ex.PA/1) which resulted into registration of the instant FIR (Ex.PA) and investigation was started.



3. On registration of the case, a full-fledged investigation was carried out and then challan was put in court against the appellant and respondents No.2 to 4 in connected

Criminal Appeal No.12-A/2022. In support of its case, prosecution produced and examined as many as sixteen (16) witnesses including the important statements of PW-2 Cadet Abdul Ghafoor (then) SHO who is scribe of the Murasila Ex.PA/1, and who also prepared the injury-sheet and inquest-report of the deceased. PW-3 is Dr.Suleiman who conducted the post mortem examination on the dead body of the deceased vide post mortem report Ex.PW3/1. PW-10 is complainant himself namely Abdur Rasheed and narrated almost the same facts which were recorded by him at the time of report Ex.PA/1.

PW-11 is Aqeel Faisal. He being alleged eyewitness of the occurrence also narrated the facts regarding the occurrence while trying to toe PW-10/complainant. PW-12 is Muhammad Sarwar (then) Sub-Inspector/Officer Incharge Investigation. He conducted investigation of the case. When prosecution closed its evidence, statements of the accused

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were recorded under section 342 Cr.P.C before the learned trial court, wherein they claimed innocence, however, they neither wished to produce the defense evidence nor desired to be examined as witness under section 340(2) Cr.PC. Then after hearing arguments from both the sides, the learned trial court vide impugned order and judgment dated 31.11.2021 convicted and sentenced the appellant while acquitted respondents No.2 to 4 in connected Criminal Appeal No.12-A/2022, as mentioned in Para No.1 of this judgment. The appellant has now called in question the aforesaid order and judgment through instant criminal appeal and seeks his acquittal, while complainant Abdur Rasheed filed connected Criminal Appeal No12-A/2022 against acquittal of respondents No.2 to 4 as well as Criminal Revision No.04-A/2022 for enhancement of sentence of respondent No.2 (appellant herein).



4. Arguments of learned counsel for the parties and learned Assistant Advocate General were heard in detail and record perused with their able assistance.

5. It is the case of prosecution as reported by PW-10 Abdur Rasheed to Abdul Ghafoor (then) SHO (PW-2) to the effect that on receipt of information about the occurrence, he rushed and reached to his village from Abbottabad where he came to know that on the same day, after offering Assar Namaz, his brother Tanveer Ahmed alongwith Aqeel Faisal (PW-11) and PW Muhammad Younis (abandoned), who were their close relatives were proceeding towards their house and when they reached at the time and place of occurrence, in the meanwhile acquitted respondent Dildar loudly commanded his three sons namely Zulfiqar, Shafique and Mustafa to kill them and in consequence thereof, all the three accused who were duly armed with deadly weapons came there and

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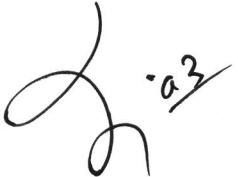
started firing upon them and the fire shot of appellant Muhammad Shafique with his 30 bore pistol hit his brother on his head as a result of which he fell down and died on the spot. The occurrence was stated to be witnessed by Aqeel Faisal and Muhammad Younis and the motive behind the occurrence was stated to be a dispute over the landed property of PW Aqeel Faisal.

6. At the very outset, it was noted that the very story as set up by PW-10/complainant on the information conveyed to him by PW-11 Aqeel Faisal is highly unreasonable and does not appeal to sanity as it is the case of prosecution that all the three nominated accused were equipped with their respective deadly weapons and out of them, appellant Muhammad Shafique was equipped with 30 bore pistol, while acquitted respondents Mustafa and Zulfiqar were equipped with 12 bore and 222 bore guns respectively and statedly all the three have simultaneously

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made firing at them then how the PW/complainant could say with certainty that the fire shot of appellant Muhammad Shafique proved fatal for the deceased who has undisputedly received a single fire shot on his skull, therefore, the very prosecution story does not stand to reason. In the case titled "Mst.NAZIA ANWAR vs. The STATE and others" reported as 2018 SCMR 911, the Apex Court has held that once doubts about the genuineness of the story lurk into the minds of the Judges, the only permissible course is to acquit the accused.

7. It is also an admitted fact and as transpires from the very contents of the FIR that the complainant Abdur Rasheed is not an eyewitness of the occurrence, whereas the said occurrence has stated to be witnessed by PW-11 Aqeel Faisal and Muhammad Younis, however, the prosecution has not been able to prove the presence of Aqeel Faisal on the spot, whereas the other PW Muhammad Younis has been abandoned by the prosecution being



unnecessary. The absence of PW Aqeel Faisal at the place of occurrence is floating on the face of record which is to be dilated upon in the following paras.

8. It is an admitted fact that PW-11 Aqeel Faisal is the nephew of deceased Tanveer as well as of the complainant Abdur Rasheed and it is also an admitted fact that the instant occurrence has taken place in village Kasaki Kalan where at the time of occurrence this PW Aqeel Faisal and PW Muhammad Younis were allegedly present but soon after the occurrence, the said Aqeel Faisal despite being the nephew of the deceased did not bother either to shift the deceased (then injured) to the hospital or at least to approach the nearby police post for the report or to the Police Station for the registration of an FIR but he instead waited and waited for the arrival of the complainant Abdur Rasheed and it was thereafter that the dead body of the

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deceased was shifted to the hospital and then the instant report was lodged therein.

9. It also appears to be highly astonishing, if not surprising, that if Aqeel Faisal was present on the spot and he was the direct eyewitness of the occurrence and when his real uncle was done to death in his presence then why he felt shy to be a complainant in the instant case and instead the report was lodged through PW-10 Abdur Rasheed who was admittedly not an eyewitness of this occurrence, therefore, in the given facts and circumstances had Aqeel Faisal been present he would have been the complainant of this case which also speaks of his absence at the time and spot of occurrence. In the case titled

ZAFAR vs The STATE and others" reported as 2018 SCMR 326, the Apex Court has observed that had they been present at the relevant time, they would not have waited for the murder of their father and would have

raised alarm the moment they saw the accused and his co-accused standing near their father.

10. It is also part of the record that in none of the initial documents prepared by the local police, the said PW-11 Aqeel Faisal has been cited as witness. It is an admitted fact that though the FIR was lodged by PW-10 Abdur Rasheed, however, even the contents of the said FIR have not verified by any of the PWs namely Aqeel Faisal and Muhammad Younis. Similarly, neither in the injury-sheet nor in the inquest-report nor in the post mortem report, the name of Aqeel Faisal is find mentioned which speaks volume that in fact he was not accompanying the deceased in the post events of the occurrence. In the case titled "Mst.SUGHRA BEGUM and another vs QAISER PERVEZ and others" reported as 2015 SCMR 1142, the Honourable Supreme Court has observed that even in the inquest-report, prepared at the time of recording the FIR, the two identifying witnesses shown were not the purported eyewitnesses. Such

glaring omissions cast serious doubts about the presence of the purported eyewitnesses at the spot.

11. It is also part of the record and as transpires from the site plan that PW Aqeel Faisal was at point No.6 whereas PW Muhammad Younis was at point No.7 and both of them alongwith the deceased were well within the firing zone allegedly made by the three nominated accused and more particularly one of them was firing through his 12 bore shotgun but surprisingly none of these PWs has received a single scratch or a pallet injury on their body which also falsifies their presence on the spot. In view of above discussion, the presence of Aqeel Faisal has not been established by the prosecution on the spot, therefore, the evidence of this sole eyewitness could not be relied upon as it is settled since long that credibility or otherwise of the evidence of a witness is to be considered secondary and first eyewitness has

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to establish his presence on the spot and if presence of an eyewitness is not established then his evidence, if any, would be of no benefit to prosecution. In the case titled “SUFYAN NAWAZ and another vs. The STATE and others” reported as 2020 SCMR 192, the Apex Court set aside conviction and sentence of appellant Sufyan Nawaz and acquitted him of the charge framed against him by observing that complainant is, by all means, a chance witness and his presence at the spot at the relevant time is not free from doubt. Similarly, in another case titled “ABDUL JABBAR and another vs. The STATE” reported as 2019 SCMR 129, the Apex Court has held that it is the settled principle of law that once a single loophole is observed in a case presented by the prosecution where presence of eye-witnesses is not free from doubt, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused. At the cost of reiteration, it has been observed by us that, in a case, where the learned appellate

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court, after reappraisal of entire evidence available on record, has reached the conclusion that there is unexplained delay in lodging the FIR; the presence of eye-witnesses is not established; there are irreparable dents in the case of the prosecution; the recovery is ineffective and is of no consequence; the ocular account is belied by the medical evidence; the motive behind the occurrence is far from being proved and almost non-existent, the said Court fell in gross error in maintaining the conviction of the appellants. In these circumstances and after an independent evaluation of evidence available on record, we have no manner of doubt in our minds that the prosecution has not been able to prove its case against the appellants beyond reasonable doubt. In another case titled "**KHALID @ KHALIDI and two others vs. THE STATE**" reported as **2012 SCMR 327**, the Apex Court has observed that the ocular account is not of such a character which could be relied upon in order to convict a person on a capital charge when the same is not

corroborated by any other independent evidence as the presence of both the eye-witnesses at the place and time of occurrence is not established as their statements have been disbelieved by the learned appellate court regarding Sultan Mehmood acquitted accused.

In the case titled "Khawaja AHMAD KHAN and 2 others vs. THE STATE" reported as 1998 PCr.LJ 1192, this court by allowing an appeal against conviction has held the ocular testimony of related, interested and inimical witnesses has not been supported by any other independent and unimpeachable source. It was further held that the presence of the eye-witnesses is highly doubtful.

12. It is also astonishing that it is the stance of PW-11 Aqeel Faisal that he shifted his uncle to the hospital, however, surprisingly while shifting his uncle in such a critical injured condition who has received a fatal fire shot on his head, neither his hands smeared with blood of the deceased nor his clothes got stained with his blood as it has never been the

case of prosecution that while shifting the deceased, PW-11 has come across the aforesaid situation. In the case tilted "MUHAMMAD NOOR vs. RIAZ SHAH and another" reported as 2016 MLD 757, this court has held that in such eventualities had he been present, damage to him at the hands of assailant/ assailants was natural. He has not showed his hands or clothes smeared with the blood of the deceased because it would be against a natural human conduct that someone real cousin will be lying on the spot dead and he would not even bother to touch him.

13. It is also part of the record that though the instant occurrence is stated to have been witnessed by PWs Aqeel Faisal and Muhammad Younis while PW Aqeel Faisal was having a direct motive against the accused party, whereas to this extent PW Muhammad Younis was comparatively a disinterested witness as the accused party was not having any direct motive against him, therefore, he being a disinterested witness was required to

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be produced by the prosecution but he was abandoned being unnecessary and thus in view of Article 129(g) of Qanun-e-Shahadat Order, 1984 an adverse inference has to be drawn that had he been produced in the witness-box, he would have not supported the prosecution version. In the case tilted **“MUHAMMAD ASIF vs. The STATE”** reported as **2017 SCMR 486** the Honourable Supreme Court has held that in our considered opinion these two independent witnesses could provide the first degree of evidence of reliable nature, thus, adverse inference has been drawn that because they were not supporting the prosecution case so set up, therefore, they were dropped at the trial. In this way, the best evidence, independent in nature, was withheld from the court for obvious reasons. This fact by itself is sufficient to discard the evidence of the interested and related witnesses because their evidence is not only of the second degree but also for the reason given above due to their

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unnatural conduct. In another case tilted

**"MUHAMMAD RAFIQUE vs. THE STATE
and others"** reported as **2010 SCMR 385** the

Apex Court has held that it is well-settled that if any party withholds the best piece of evidence then it can fairly be presumed that the party had some sinister motive behind it.

The presumption under Article 129(g) of Qanun-e-Shahadat Order can fairly be drawn that if P.W. Amir Ali would have been examined, his evidence would have been unfavourable to the prosecution.

14. In this case it was also noted that on this case the ocular account is materially contradicted by the post mortem report. Post Mortem Report Ex.PW-3/1 would show that the deceased has received a sole fire shot on his top skull having its exit on the forehead which means that he has been fired from an upper place, however such locale of injury is falsified by the site plan as well as by the statement of the Investigation Officer which states that the house of the appellant is situated in depression

which means that they were at the lower level, whereas the deceased was at the upper level and thus with such physical position, the bullet should have been travelled from downward to upward but as per post mortem report the same is vice versa. In the case titled "TAJAMAL HUSSAIN SHAH vs The STATE and another" reported as 2022 SCMR 1567, the Apex Court has held that according to two witnesses of the ocular account, the accused while armed with .30 bore pistol made a straight fire shot on deceased, which landed on his chest, due to which he fell down and ultimately succumbed to the injury. However, this stance was contradicted by the medical evidence, as according to the doctor, who conducted postmortem examination of the deceased, the injury on the chest, just above the nipple of the deceased, was an exit wound and the margins of the wound were black whereas the entry wound was on the back of the deceased

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i.e. at thoracic spine. Such major discrepancy raised serious doubts on the credibility of the prosecution witnesses of the ocular account. Prosecution had failed to prove its case beyond any reasonable shadow of doubt. In the above-cited case titled "**ABDUL JABBAR and another vs. The STATE**" reported as **2019 SCMR 129**, the Apex Court has also held that it is the settled principle of law that once a single loophole is observed in a case presented by the prosecution much less glaring conflict in the ocular account and medical evidence, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused.

15. It is also part of the record and as spelling out from the contents of the FIR that the deceased alongwith two PWs, after offering Assar Namaz was on his way to his home, however, the site plan would show that the deceased was at point No.1 and PW-11 Aqeel Faisal was at point No.6 and PW Muhammad Younis was at point No.7 which

places are not on any thoroughfare/path leading towards the house of complainant party rather these places are in the lands of one Yousaf which fact also shows that the prosecution has suppressed the actual mode and manner of the occurrence.

16. It is also to be noted that PW-11 Aqeel Faisal for the first time has stated in his court statement that the accused party was hiding in a place, however, such stance has neither been stated earlier nor the same finds any support from the site plan. Similarly, PW-11 Aqeel Faisal has also improved his statement in the court by stating that after firing, they took refuge behind a big stone (Parri), however, the factum of both these places of hiding of the accused party and of the PWs have neither been stated in their statements before the I.O. nor the same are shown in the site plan, therefore, such aspects of the case goes a long way that PW-11 has not come with the whole truth and thus his evidence could not be relied upon.



17. As far as recovery of pistol on pointation of appellant is concerned, admittedly the same was neither effected at the time and date of his arrest i.e. 08.06.2018 nor from his direct possession rather it was effected on the third day of his arrest i.e. on 10.06.2018 and that too after obtaining his three days police custody by the I.O. Recovery memo Ex.PW-7/13, vide which the pistol was allegedly taken into possession reflects that the recovery proceedings were conducted after completion of pointation proceedings of the place of occurrence by the appellant, while PW-07 constable Jehanzeb (who is also one of the marginal witnesses to the said recovery memo) has categorically stated in his cross-examination that there were many persons of locality at the time of pointation. He further stated that I.O did not record statements of those persons of locality, however, no private person is visible in the pictures available on file which fact was also admitted by the

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I.O./PW-12 in his cross-examination. In case of availability of many local persons, non-associating them with the recovery proceedings rather preferring only his subordinate police officials by the I.O. as marginal witnesses to the recovery proceedings, makes the same dubious and unreliable.

18. Furthermore, recovery sketch Ex.PW-12/15 of the alleged recovery of pistol also shows that the house from which the pistol was recovered is undisputedly a joint house used for dwelling by other major family members of the appellant. Though statedly the room from which the pistol was allegedly recovered was locked, however, undisputedly the same was unlocked by father of the appellant but interestingly neither his father is shown in recovery sketch Ex.PW-12/15 nor in photographs alongwith the appellant at the relevant time.

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19. It is also part of the record and as admitted by PW-11 Aqeel Faisal in the opening sentence of his cross-examination that he is having a direct motive with Dildar (one of the acquitted respondents) as they are locked in civil litigations against each other, therefore, when the main and prime target i.e. Aqeel Faisal was available then why the appellant/convict opted to spare him and to kill an innocent person. Had Aqeel Faisal been present on the spot then due to direct motive against him, the appellant would have fired at him but surprisingly he was spared and an innocent person was done to death. In the case titled "The STATE through Advocate General Khyber Pakhtunkhwa, Peshawar vs. ARIF MOMEN" reported as 2022 MLD 617, this court has observed that it is astonishing that why the deceased was chosen as the target, when the complainant being the prime target was present on the spot. The complainant, eyewitness and the deceased were maintaining a distance of two paces, whereas the

respondent has been shown at a distance of 9 paces, with no hindrance in between, so while lying on the ground, the complainant if present would have been the easiest target.

20. It is the case of prosecution from the very inception qua the motive set up in the First Information Report that they have got civil litigations with the accused party, however, on the available record they have not exhibited any decided or pending proceedings of the court(s) of law so as to establish the said motive, therefore, the prosecution has miserably failed to establish the very motive behind the occurrence. It is settled law that prosecution is not bound to set a motive, however, when once it opted to set a motive then it has to be proved and in case of its failure to do so, benefit thereof has to be given to the accused. In the above cited case titled "TAJAMAL HUSSAIN SHAH vs The STATE and another" reported as 2022 SCMR 1567, the Honourable Supreme Court has also held that according to the prosecution the motive of the occurrence was previous quarrel between



co-accused Nazakat Hussain Shah (tried separately) and Wajid, son of the complainant. However, the prosecution failed to produce the said Wajid in order to prove the motive part, therefore, it can safely be concluded that prosecution could not prove the motive part of the story. The Honourable Supreme Court of Pakistan in another case titled "SARFRAZ and another vs The STATE" reported as 2023 SCMR 670, has also held that it is now well established that if a specific motive has been alleged by the prosecution then it is duty of the prosecution to establish the said motive through cogent and confidence inspiring evidence. Otherwise, the same would go in favour of the accused.

21. It is settled since long that for giving benefit to an accused, it is not essential that there should be many circumstances creating doubts, even a single doubt is sufficient to extend its benefit to an accused person as it is the cardinal principle of criminal administration of justice that let hundred guilty persons be acquitted but one innocent

person should not be convicted. In the case titled “**SAGHIR AHMAD vs The STATE and others**” reported as **2023 SCMR 241**, the Apex Court has held that it is a well settled principle of law that for the accused to be afforded the right of the benefit of the doubt, it is not necessary that there should be many circumstances creating uncertainty and if there is only one doubt, the benefit of the same must go to the petitioner. The august Supreme Court of Pakistan in its judgment rendered in the case titled “**BASHIR MUHAMMAD KHAN vs The STATE**” reported as **2022 SCMR 986**, has held that single circumstance creating reasonable doubt in a prudent mind about the guilt of accused makes him entitled to its benefits, not as a matter of grace and concession but as a matter of right. The conviction must be based on unimpeachable; trustworthy and reliable evidence. Any doubt arising in prosecution's case is to be resolved in favour of the accused and burden of proof is always on prosecution to prove its case beyond reasonable shadow of doubt.

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Similarly, in the case titled “**KHALID MEHMOOD alias KHALOO vs The STATE**” reported as **2022 SCMR 1148**, the Apex Court has reiterated the same rational by observing that in these circumstances, a dent in the prosecution's case has been created, benefit of which must be given to the appellant. It is a settled law that single circumstance creating reasonable doubt in a prudent mind about the guilt of accused makes him entitled to its benefits, not as a matter of grace and concession but as a matter of right. The conviction must be based on unimpeachable, trustworthy and reliable evidence. In another case titled “**KASHIF ALI alias KALU vs. The STATE and another**” reported as **2022 SCMR 1515**, the Apex Court has held that it is settled law that a single circumstance creating reasonable doubt in a prudent mind about the guilt of accused makes him entitled to its benefits, not as a matter of grace and concession but as a matter of right. The conviction must be based on unimpeachable, trustworthy and reliable evidence. Any doubt



arising in prosecution case is to be resolved in favour of the accused. Reliance in this behalf can be made upon the cases Tariq Pervez v. The State (1995 SCMR 1345), Ghulam Qadir and 2 others v. The State (2008 SCMR 1221), Muhammad Akram v. The State (2009 SCMR 230), Muhammad Zaman v. The State (2014 SCMR 749) and Muhammad Mansha v. The State” (2018 SCMR 772).

22. In view of the foregoing discussion and exposition of law, the conviction and sentence of appellant Muhammad Shafique are not sustainable in the eye of law, therefore, on acceptance of this appeal, the impugned judgment and order of Additional Sessions Judge/Model Criminal Trial Court, Abbottabad dated 30.11.2021 to the extent of appellant Muhammad Shafique is set aside and he is acquitted of all the charges levelled against him. He be set free forthwith if not required in jail in any other case.

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23. As far as the case of complainant/appellant against the acquitted respondents is concerned as while acquitting the principal

accused Shafique we have disbeliefed the presence of sole eyewitness namely Aqeel Faisal (PW-11) on the spot at the time of occurrence and has found that the prosecution story is doubtful all around, therefore, the connected **Criminal Appeal No.12-A/2022**, titled "**Abdur Rasheed vs. The State and other**" too could not succeed as the complainant/appellant has attributed the role of ineffective firing upon the deceased to the acquitted respondents, therefore, the learned trial court has rightly extended them the benefit of doubt. Resultantly, the impugned judgment and order to the extent of the acquitted respondents namely Dildar Khan, Zulfiqar Hussain and Ghulam Mustafa is maintained and upheld and the aforesaid connected **Criminal Appeal No.12-A/2022** being meritless is also dismissed.



24. Since we have allowed the instant criminal Appeal and set aside judgment and order of Additional Sessions Judge/Model Criminal Trial Court, Abbottabad dated

30.11.2021 to the extent of appellant Muhammad Shafique vide which he was convicted and sentenced, therefore, the connected **Criminal Revision No.04-A/2022** titled "**Abdur Rasheed vs. The State**" for enhancement of his sentence has become infructuous and the same is accordingly dismissed.

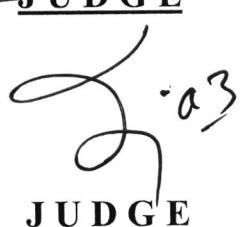
These are the detailed reasons of our short orders of even date whereby we allowed Criminal Appeal No.253-A/2021 titled "Muhammad Shafique vs. The State etc" and dismissed the connected Criminal Appeal No.12-A/2022 as well as the connected Criminal Revision No.04-A/2022 both having same title i.e. "Abdur Rasheed vs The State and other".

ANNOUNCED
24.10.2023.

(Jamil)



Kamran Hayat Miankhel
JUDGE



Muhammad Ijaz Khan
JUDGE