

Judgment Sheet

IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

...Cr.A.....No...30....Of.....2009.

JUDGMENT

Date of hearing.....09.06.2015.....

Convict-appellant...(Abdul Hameed) by M/S Qazi Muhammad
Arshad and Raheela Mughal, Advocates...

Respondent(s)...(The State etc) by M/S Muhammad Naeem Abbasi,
AAG and Masood Azhar, Advocate

QALANDAR ALI KHAN, J:- This criminal
appeal under Section 410 Cr.P.C is directed
against the judgment of the learned Additional
Sessions Judge-II, Haripur, dated 30.04.2009,
whereby, convict-appellant, Abdul Hameed
son of Khawas Khan, was found guilty of the
charge under section 302(b) PPC and
convicted and sentenced to life imprisonment
and fine of Rs.200,000/-. Additionally, the
convict-appellant was also held liable to pay
half of the amount of fine so recovered, as
compensation to the legal heirs of deceased



Condition to be
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Muhammad Pervez in terms of section 544-A Cr.P.C and in case of default, he was to further suffer simple imprisonment for six months. However, benefit of section 382-B Cr.P.C was extended to him.

2. The prosecution case, as revealed in FIR No.361 dated 25.09.2004 under section 302 PPC Police Station Khan Pur, Haripur, is that complainant Haji Kalu Khan son of Sardar Khan on 25.09.2004 at 1930 hours, alongwith dead body of his son Muhammad Pervez, lodged report in Emergency Ward of DHQ Hospital, Haripur, to Muhammad Riasat, IHC that he alongwith his son, Muhammad Pervez, who was on leave from Pak Army, and other family members had gone to the house of his son-in-law, Haji Gohar Zaman (daughter's husband) to participate in the marriage ceremony of his daughter. At about 6.00 PM, they were sitting on the roof of cattle shed of Haji Gohar Zaman, which was being used as courtyard of the house, situated adjacent to the house of Abdul Hameed, brother of Haji

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Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordms

Gohar Zaman, who were annoyed with each other for the last one year. In the meanwhile, Abdul Hameed duly armed with 12 bore double barrel shotgun came on the roof of his cattle shed and called his brother towards him. They prevented him not to go there. While they were preventing him, Abdul Hameed called Muhammad Pervez to save his life and fired two shots at him with the shotgun, as a result thereof, he was hit on his chest and neck and sustained injuries. The injured was being taken to the hospital in a vehicle but he succumbed to his injuries on the way. The occurrence was stated to have been seen by Haji Gohar Zaman son of Khawas Khan and Bashir son of Zardad besides other male and female members of the family, who were present there. The motive for the occurrence was stated to be the strained relations of two brothers.

3. The said report of the complainant, recorded by Muhammad Riasat, IHC (PW-2) in shape of *Murasila* (Ex.PW 2/1) was sent to

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Examiner
Peshawar High Court
Abbottabad Bench
Authorized under Section 475-A of Cr.P.C.

the Police Station and the case was registered against the convict-appellant Abdul Hameed vide FIR (Ex.PW 1/1) by Abdul Ghafoor, ASI (PW-1). Muhammad Riasat, IHC also prepared injury sheet (Ex.PW 2/2) and inquest report (Ex.PW 2/3) of the deceased.

Dr. Ghulam Kibriya, (PW-4) conducted postmortem examination of the deceased and found the following:-

"External Examination

Stout, fresh warm body, rigor mortis not developed.

INJURIES.

1. *Firearm entry wound circular measuring 1 cm x 1 cm at middle of RT arm lateral aspect, no blackening or charring.*
2. *Firearm exit wound at the same level on inner aspect of right arm.*
3. *Firearm entry wound, circular, each measuring 1 cm x 1 cm on right later chest in mid-auxiliary line at level of 5-7th ribs.*
4. *Firearm exit wound at the level of 5th rib of left mid-auxiliary line.*
5. *A single bullet was recovered 2 cm above the injury No.4.*
6. *Firearm two entry wounds circular, each measuring 1 cm x 1 cm on the right chest in area of nipple, no blackening or charring present.*
7. *Firearm exit wound at level of scapular region on the right side back.*



Continued to be tried by,

Extra Judge
Peshawar High Court
Abdullah Bhatti
2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-2023-2024-2025-2026-2027-2028-2029-2030-2031-2032-2033-2034-2035-2036-2037-2038-2039-2040-2041-2042-2043-2044-2045-2046-2047-2048-2049-2050-2051-2052-2053-2054-2055-2056-2057-2058-2059-2060-2061-2062-2063-2064-2065-2066-2067-2068-2069-2070-2071-2072-2073-2074-2075-2076-2077-2078-2079-2080-2081-2082-2083-2084-2085-2086-2087-2088-2089-2090-2091-2092-2093-2094-2095-2096-2097-2098-2099-2100-2101-2102-2103-2104-2105-2106-2107-2108-2109-2110-2111-2112-2113-2114-2115-2116-2117-2118-2119-2120-2121-2122-2123-2124-2125-2126-2127-2128-2129-2130-2131-2132-2133-2134-2135-2136-2137-2138-2139-2140-2141-2142-2143-2144-2145-2146-2147-2148-2149-2150-2151-2152-2153-2154-2155-2156-2157-2158-2159-2160-2161-2162-2163-2164-2165-2166-2167-2168-2169-2170-2171-2172-2173-2174-2175-2176-2177-2178-2179-2180-2181-2182-2183-2184-2185-2186-2187-2188-2189-2190-2191-2192-2193-2194-2195-2196-2197-2198-2199-2200-2201-2202-2203-2204-2205-2206-2207-2208-2209-2210-2211-2212-2213-2214-2215-2216-2217-2218-2219-2220-2221-2222-2223-2224-2225-2226-2227-2228-2229-2230-2231-2232-2233-2234-2235-2236-2237-2238-2239-2240-2241-2242-2243-2244-2245-2246-2247-2248-2249-2250-2251-2252-2253-2254-2255-2256-2257-2258-2259-2260-2261-2262-2263-2264-2265-2266-2267-2268-2269-2270-2271-2272-2273-2274-2275-2276-2277-2278-2279-2280-2281-2282-2283-2284-2285-2286-2287-2288-2289-2290-2291-2292-2293-2294-2295-2296-2297-2298-2299-2300-2301-2302-2303-2304-2305-2306-2307-2308-2309-2310-2311-2312-2313-2314-2315-2316-2317-2318-2319-2320-2321-2322-2323-2324-2325-2326-2327-2328-2329-2330-2331-2332-2333-2334-2335-2336-2337-2338-2339-2340-2341-2342-2343-2344-2345-2346-2347-2348-2349-2350-2351-2352-2353-2354-2355-2356-2357-2358-2359-2360-2361-2362-2363-2364-2365-2366-2367-2368-2369-2370-2371-2372-2373-2374-2375-2376-2377-2378-2379-2380-2381-2382-2383-2384-2385-2386-2387-2388-2389-2390-2391-2392-2393-2394-2395-2396-2397-2398-2399-2400-2401-2402-2403-2404-2405-2406-2407-2408-2409-2410-2411-2412-2413-2414-2415-2416-2417-2418-2419-2420-2421-2422-2423-2424-2425-2426-2427-2428-2429-2430-2431-2432-2433-2434-2435-2436-2437-2438-2439-2440-2441-2442-2443-2444-2445-2446-2447-2448-2449-2450-2451-2452-2453-2454-2455-2456-2457-2458-2459-2460-2461-2462-2463-2464-2465-2466-2467-2468-2469-2470-2471-2472-2473-2474-2475-2476-2477-2478-2479-2480-2481-2482-2483-2484-2485-2486-2487-2488-2489-2490-2491-2492-2493-2494-2495-2496-2497-2498-2499-2500-2501-2502-2503-2504-2505-2506-2507-2508-2509-2510-2511-2512-2513-2514-2515-2516-2517-2518-2519-2520-2521-2522-2523-2524-2525-2526-2527-2528-2529-2530-2531-2532-2533-2534-2535-2536-2537-2538-2539-2540-2541-2542-2543-2544-2545-2546-2547-2548-2549-2550-2551-2552-2553-2554-2555-2556-2557-2558-2559-2560-2561-2562-2563-2564-2565-2566-2567-2568-2569-2570-2571-2572-2573-2574-2575-2576-2577-2578-2579-2580-2581-2582-2583-2584-2585-2586-2587-2588-2589-2590-2591-2592-2593-2594-2595-2596-2597-2598-2599-2600-2601-2602-2603-2604-2605-2606-2607-2608-2609-2610-2611-2612-2613-2614-2615-2616-2617-2618-2619-2620-2621-2622-2623-2624-2625-2626-2627-2628-2629-2630-2631-2632-2633-2634-2635-2636-2637-2638-2639-2640-2641-2642-2643-2644-2645-2646-2647-2648-2649-2650-2651-2652-2653-2654-2655-2656-2657-2658-2659-2660-2661-2662-2663-2664-2665-2666-2667-2668-2669-2670-2671-2672-2673-2674-2675-2676-2677-2678-2679-2680-2681-2682-2683-2684-2685-2686-2687-2688-2689-2690-2691-2692-2693-2694-2695-2696-2697-2698-2699-2700-2701-2702-2703-2704-2705-2706-2707-2708-2709-2710-2711-2712-2713-2714-2715-2716-2717-2718-2719-2720-2721-2722-2723-2724-2725-2726-2727-2728-2729-2730-2731-2732-2733-2734-2735-2736-2737-2738-2739-2740-2741-2742-2743-2744-2745-2746-2747-2748-2749-2750-2751-2752-2753-2754-2755-2756-2757-2758-2759-2760-2761-2762-2763-2764-2765-2766-2767-2768-2769-2770-2771-2772-2773-2774-2775-2776-2777-2778-2779-2780-2781-2782-2783-2784-2785-2786-2787-2788-2789-2790-2791-2792-2793-2794-2795-2796-2797-2798-2799-2800-2801-2802-2803-2804-2805-2806-2807-2808-2809-2810-2811-2812-2813-2814-2815-2816-2817-2818-2819-2820-2821-2822-2823-2824-2825-2826-2827-2828-2829-2830-2831-2832-2833-2834-2835-2836-2837-2838-2839-2840-2841-2842-2843-2844-2845-2846-2847-2848-2849-2850-2851-2852-2853-2854-2855-2856-2857-2858-2859-2860-2861-2862-2863-2864-2865-2866-2867-2868-2869-2870-2871-2872-2873-2874-2875-2876-2877-2878-2879-2880-2881-2882-2883-2884-2885-2886-2887-2888-2889-2890-2891-2892-2893-2894-2895-2896-2897-2898-2899-2900-2901-2902-2903-2904-2905-2906-2907-2908-2909-2910-2911-2912-2913-2914-2915-2916-2917-2918-2919-2920-2921-2922-2923-2924-2925-2926-2927-2928-2929-2930-2931-2932-2933-2934-2935-2936-2937-2938-2939-2940-2941-2942-2943-2944-2945-2946-2947-2948-2949-2950-2951-2952-2953-2954-2955-2956-2957-2958-2959-2960-2961-2962-2963-2964-2965-2966-2967-2968-2969-2970-2971-2972-2973-2974-2975-2976-2977-2978-2979-2980-2981-2982-2983-2984-2985-2986-2987-2988-2989-2990-2991-2992-2993-2994-2995-2996-2997-2998-2999-3000-3001-3002-3003-3004-3005-3006-3007-3008-3009-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4010-4011-4012-4013-4014-4015-4016-4017-4018-4019-4020-4021-4022-4023-4024-4025-4026-4027-4028-4029-4030-4031-4032-4033-4034-4035-4036-4037-4038-4039-4040-4041-4042-4043-4044-4045-4046-4047-4048-4049-4050-4051-4052-4053-4054-4055-4056-4057-4058-4059-4060-4061-4062-4063-4064-4065-4066-4067-4068-4069-4070-4071-4072-4073-4074-4075-4076-4077-4078-4079-4080-4081-4082-4083-4084-4085-4086-4087-4088-4089-4090-4091-4092-4093-4094-4095-4096-4097-4098-4099-4100-4101-4102-4103-4104-4105-4106-4107-4108-4109-4110-4111-4112-4113-4114-4115-4116-4117-4118-4119-4120-4121-4122-4123-4124-4125-4126-4127-4128-4129-4130-4131-4132-4133-4134-4135-4136-4137-4138-4139-4140-4141-4142-4143-4144-4145-4146-4147-4148-4149-4150-4151-4152-4153-4154-4155-4156-4157-4158-4159-4160-4161-4162-4163-4164-4165-4166-4167-4168-4169-4170-4171-4172-4173-4174-4175-4176-4177-4178-4179-4180-4181-4182-4183-4184-4185-4186-4187-4188-4189-4190-4191-4192-4193-4194-4195-4196-4197-4198-4199-4200-4201-4202-4203-4204-4205-4206-4207-4208-4209-4210-4211-4212-4213-4214-4215-4216-4217-4218-4219-4220-4221-4222-4223-4224-4225-4226-4227-4228-4229-4230-4231-4232-4233-4234-4235-4236-4237-4238-4239-4240-4241-4242-4243-4244-4245-4246-4247-4248-4249-4250-4251-4252-4253-4254-4255-4256-4257-4258-4259-4260-4261-4262-4263-4264-4265-4266-4267-4268-4269-4270-4271-4272-4273-4274-4275-4276-4277-4278-4279-4280-4281-4282-4283-4284-4285-4286-4287-4288-4289-4290-4291-4292-4293-4294-4295-4296-4297-4298-4299-4300-4301-4302-4303-4304-4305-4306-4307-4308-4309-4310-4311-4312-4313-4314-4315-4316-4317-4

8. Firearm single entry wound on right side of neck, size 1 cm x 1 cm x circular, no blackening or charring.
9. Firearm exit wound in supra sternal notch.
10. Firearm entry wound circular, 1 cm x 1 cm below the right clavicle.
11. Firearm exit wound in supra scapular region in the right side of back.
12. Firearm entry wound, circular measuring 1 cm x 1 cm on left side of chest just below clavicle. A single bullet was recovered from the post auxiliary fold.

INTERNAL EXAMINATION

In cranium and spinal cord region, organs were intact. In the thorax region, walls, ribs, cartilages, pleura, larynx and trachea, right lung, left lung, pericardium and heart, blood vessels were injured / damaged. In the abdominal region, mouth, pharynx, esophagus, diaphragm were damaged, while the remaining organs were intact. Stomach, chyme was present. The muscle, bones and joint, ribs and sterna bone were fractured.

OPINION

Multiple firearm injuries caused extensive damage to heart both lungs, blood vessels of heart and lung, all this lead to neurogenic and carcinogenic plus hemorrhagic shock and death. Two bullets recovered during dissection, were sealed, signed alongwith clothes of victim duly packed and signed, were handed over to the police.

Probable time between injury and death:

A. 5-10 minutes

Between death and postmortem:

B. 1-2 hours."

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4. Safdar Khan, ASI (PW-8), the investigating officer, visited the spot and prepared site plan (Ex.PB). During spot inspection, he also recovered blood stained earth as well as two empties of 12 bore shotgun giving fresh smell of discharge and blood stained clothes of the deceased sent by the doctor alongwith phial containing spent bullets. He sent the blood stained articles to the FSL and placed on record report thereof (Ex.PW 8/3). The I.O arrested the convict-appellant on 06.10.2014 and issued his card of arrest. He also recovered 12 bore shotgun on the pointation of the convict-appellant. He sent the shotgun alongwith two empties and spent bullets to the Firearms Expert and received report (Ex.PW 8/7). After investigation, complete challan was submitted by Mehmood Hussain SHO (PW-7) against the convict-appellant.

5. After compliance with provisions of section 265(c) Cr.P.C, charge under section 302

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PPC was framed against the convict-appellant, to which he pleaded not guilty and claimed trial. During trial against the convict-appellant, the prosecution also produced PWs. Zafar Iqbal, Abdul Rasheed son of Zardad and Abdul Rashid IHC (PW-3, PW-5 and PW-6), the marginal witness to the recovery memos. Kalu Khan complainant and Muhammad Bashir son of Sardar Khan (PW-9 and PW-10) were produced to furnish ocular account of the occurrence.



6. The convict-appellant was examined under section 342 Cr.P.C, wherein, he denied the allegations of the prosecution against him, but declined to be examined on oath under section 340(2) Cr.P.C or produce defence evidence. After conclusion of the trial, the learned trial Court / Additional Sessions Judge-II, Haripur, recorded conviction and sentence of the convict-appellant through impugned judgment dated 30.04.2009. The convict-appellant filed Criminal Appeal (J.Cr.A No.30/2009) against the impugned conviction,

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while, complainant Kalu Khan filed Criminal Revision (Cr.R No.13/2009) for enhancement of the sentence awarded to the convict-appellant, which are being disposed of through this single judgment.

7. Arguments of the learned counsel for the convict-appellant, learned State counsel assisted by learned counsel for the legal heirs of deceased/complainant heard, and record perused with their assistance.

8. The case under Section 302 PPC set up by the prosecution against the convict-appellant, Abdul Hameed, is based on the report of complainant, Kalu Khan, who charged the convict-appellant for the 'Qatl-i-Amd' of his son, Muhammad Pervez, at 06.00 PM on 25.09.2004, in his report lodged with the police at 19.30 hours in the Emergency Ward of DHQ Hospital, Haripur. The report shows that the complainant alongwith his deceased son, who was on one month leave from Pak Army, 7-FF Lahore Chunnian, was present on the roof of cattle shed of his son-

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in-law, Haji Gohar Zaman, in connection with the marriage ceremony of daughter of the said Haji Gohar Zaman and his granddaughter. The report would further show that brother of Haji Gohar Zaman, the convict-appellant, emerged on the roof of cattle shed of his nearby house armed with double barrel 12 bore shotgun and fired two shots at the deceased, Muhammad Pervez, who was hit on his chest and neck and succumbed to the injuries on his way to the hospital. The occurrence was stated to have been witnessed by Haji Gohar Zaman son of Khawas Khan and another son in law of the complainant namely Bashir son of Zardad Khan, besides other male and female relatives of the complainant present at the time of occurrence. The motive for the occurrence was cited as strained relations between Haji Gohar Zaman and his brother Abdul Hameed, the convict-appellant. The immediate cause was shown as annoyance of the convict-appellant because he was not invited by his

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Resident Magistrate
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Authorized under Sec 475 Acts Ordng

brother, Haji Gohar Zaman, to participate in the marriage ceremony of his daughter.

9. The report was lodged by the complainant in the Emergency ward of DHQ Hospital, Haripur, within 1½ hours of the occurrence, which is, indeed, with utmost promptitude by all standards. It was urged on behalf of the defence that a police post (P.P.) was situated on the way to the hospital, but report was not lodged there. However, non-lodging of report in the PP by the complainant can, by no stretch of imagination, be termed as a departure from a normal course, as a father would naturally take his seriously injured young son to the hospital, in the first instance, instead of even thinking about taking him to other places or even to the police post / police station for first lodging the report.

10. The presence of the complainant alongwith his son and another son-in-law and eyewitness Bashir at the residence of his son-in-law on the eve of marriage ceremony of his granddaughter and daughter of his son in law,

Haji Gohar Zaman, was but natural. Nothing has been brought on record even by the defence to question presence of the complainant, deceased and eyewitnesses at the scene of occurrence on the fateful day in order to participate in the marriage ceremony of daughter of Haji Gohar Zaman. Besides, the suggestions/trend of cross-examination of the defence regarding attack by the complainant party and alleged firing and causing firearm injuries to the convict-appellant and other inmates of the house would not only show presence of the convict-appellant, deceased, complainant and eyewitnesses at the time of occurrence but would also go a long way to establish and confirm the scene of occurrence as shown in the site plan (Ex.PB), which is even otherwise confirmed by the positive report (Ex.PW 8/3) of the FSL in respect of blood stained earth secured from the spot by the I.O and blood stained garments of the deceased. Needless

Certified to be True Copy to say that location of house of Haji Gohar

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Zaman i.e. the scene of occurrence and house of the convict-appellant adjacent to each other is not even denied by the defence. After defence could not establish its plea of aggression by the complainant party, and deceased sustaining injury due to the indiscriminate firing by the complainant party, particularly in the absence of any report or even a medical report regarding firearm injuries sustained by inmates of the house of the convict-appellant; it, on the other hand, proved presence of the convict-appellant on the spot at the time of occurrence. In short, nothing is forthcoming on behalf of the defence to show the alleged aggression, thus falsifying the plea of the defence, and, rather, reinforcing version of the complainant / prosecution. **(2005 SCMR 810)**. Moreover, the postmortem report further belied the defence plea by showing absence of blackening or charring marks on the entry wounds of the deceased, which should have been there, in all probability, in case the

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deceased was hit by the firing of his companions who were in close proximity with him.

11. It is something beyond imagination that the complainant, being a father, would spare the guilty and charge an innocent person for the murder of his young son who was on one month leave from army and was there on the spot only to participate in the marriage ceremony of his niece. Not only presence of the complainant, deceased and eyewitnesses at the time of occurrence is natural but annoyance of the convict-appellant with his brother was also not something unnatural when he was not invited by his brother on the occasion of marriage ceremony of his daughter.

12. The occurrence took place in the month of September at 6.00 PM, roughly at evening time, when there is, normally, sufficient light. Even otherwise, sufficient lighting arrangements are made at places where marriage ceremonies are taking place.

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Even in the absence of evidence with regard to availability of lighting facility, no question could possibly be raised about the identification of the convict-appellant, being the real brother of Haji Gohar Zaman and closely related to the complainant and eyewitnesses. (2003 SCMR 581 (c)) and (PLD 1993 SC 895).

The defence forcefully pointed out absence of place assigned to the complainant in the site plan in order to raise question about the admissibility and authenticity of the site plan, but it lost sight of the fact that the site plan is not a substantive piece of evidence. (2005 SCMR 1568) and (PLJ 2006 Cr.C.(Peshawar) 635 (DB)). At the most, the omission can be attributed to the incompetency of the I.O, which should not dislodge the overwhelming evidence of the prosecution. In any case, the preparation of site plan on the pointation of the complainant would make up the deficiency to a greater extent when the other evidence, including

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Abdullah B. B. Bench
Authorized Under Sec 275 of the Ordinance

13. The postmortem examination also substantiated the prosecution case, as all the firearm injuries on the deceased were found on the front side, while a slight change in the direction of the entry wounds can be explained in the light of two firing shots from a double barrel rifle, especially when there is always a likelihood of change of direction of the bullet by striking bone, tissues, even skin, muscles, tendons and membranes. (PLJ 2006 Cr.C (Peshawar) 635 (DB).

14. The prosecution laid much stress on the failure of the prosecution to prove recovery of weapon of offence, particularly in the light of negative report of the firearms expert relating to the non-matching of crime empties recovered from the spot with the alleged weapon of offence. It may be added


here that the convict-appellant has been acquitted of the charge under section 13 A.O, and no appeal has been lodged against his acquittal of the charge. However, it may be pointed out here that recovery of crime weapon and empties were pieces of evidence of corroboration and even if recovery was not proved in the presence of reliable and unimpeachable ocular testimony and other circumstantial evidence, it would not adversely affect the prosecution case. (2005 SCMR

1568).

15. The next ground of attack of defence was the non-production of eyewitness Haji Gohar Zaman; but apart from the fact that the said PW had since passed away, the order sheets of the trial Court would show his presence on a number of occasions, during his lifetime, without his statement recorded on one or the other pretext. As such, not only his non-production can not be attributed to the prosecution but in the circumstances, explained above, the prosecution would stand

absolved of the responsibility of his production.

16. The defence also focused on the weakness of motive for the offence; but it is by now well established that absence or weakness of motive would not render case of the prosecution false or fabricated. (2005 SCMR 1568 (c)), (2005 SCMR 427), (2006 SCMR 1744), (2006 SCMR 954) and (2008 SCMR 796).



17. On the other hand, there is overwhelming, confidence inspiring, coherent and trustworthy evidence in support of the prosecution case, comprising the promptly lodged FIR, charge of single accused, supporting medical evidence and consistent and mutually corroborative eyewitness account furnished by the complainant and the eyewitness, the absence of even distant possibility of false implication and substitution of the actual accused, together with abortive attempt to establish a plea of defence, proved

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case of the prosecution against the convict-appellant beyond any shadow of doubt.



18. Having said that, the reason furnished by the learned trial Court / Additional Sessions Judge-II, Haripur, for awarding the lesser punishment than the capital one seems also plausible in view of the fact that the motive, if any, was against Haji Gohar Zaman and not against the deceased, who fell victim to the firing of the convict-appellant when he was in extreme rage.

19. The last leg of the arguments of learned counsel for the convict-appellant was that there was no provision of fine in section 302(b) PPC where-under the convict-appellant was convicted and sentenced; but the 'fine' of Rs.200,000/- stands clarified as compensation when the learned trial Court directed that half of the amount of 'fine', if recovered shall be paid to the legal heirs of the deceased in terms of section 544-A Cr.P.C as compensation. Therefore, Instead of 'fine' the amount of Rs.200,000/- is treated as

compensation under section 544-A Cr.P.C;
and to be paid to the legal heirs of the
deceased in accordance with the aforesaid
order / direction of the learned trial Court /
Additional Sessions Judge-II, Haripur, dated
30.04.2009.

20. In view of the foregoing discussion,
both the appeal of the convict-appellant
against his conviction and sentence and
criminal revision by the complainant for
enhancement of the sentence awarded to the
convict-appellant are dismissed.

Announced.
Dt.09/06/2015.


JUDGE

JUDGE

V*M.S.AWAN*/

RECEIVED
JUDGE-II
ADDITIONAL SESSIONS JUDGE
HARIPUR
09/06/2015