

IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

Cr.Misc.QP No.159-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.- Through the instant petition under section 561-A Cr.P.C., petitioner Yar Muhammad seeks quashment of order dated 29.10.2015, passed by learned Judicial Magistrate-V, Peshawar whereby allowing the application of the local police, he order exhumation of dead body of Mst. Parkha Bibi for postmortem examination and order dated 11.11.2015, passed by learned Sessions Judge-V, Peshawar, whereby he maintained the order of learned Judicial Magistrate by dismissing the revision petition of the petitioner.

2. Arguments heard and record perused.
3. According to record, Mst. Parkha, was the daughter of the petitioner, who met unnatural death due to poisoning. Her LRs did not lodge any report before the police as according to them the deceased herself committed

suicide, as such she was buried. The local police upon information about the incident incorporated it in Daily Diary No.06 dated 23.10.2015 under section 174/156 (3) Cr.P.C. during which course, applied before the learned Judicial Magistrate for exhumation of the dead body of the deceased for the purpose of postmortem. The I.O. has not collected any sort of evidence much less tangible to show the death of the deceased to be a murder by someone by administering poison to her. The statements of LRs of the deceased have been recorded wherein they do not suspect any person for murder of the deceased. Rather, as per their statements prior to the incident the deceased had attempted to commit suicide by adopting same exercise of taking poison, but was luckily rescued in the hospital. Had there been any solid evidence regarding the murder of the deceased or any LRs charging any one for her murder, then definitely, the situation would have been different. As stated earlier, all the LRs of the deceased are unanimous qua suicide of the deceased. The petitioner being father of the deceased is the trustee of the grave of her deceased daughter to keep it maintained not only the grave but respect and dignity of the dead body also. Islam accords great respect to the dead body of a Muslim. Exhumation without any justification is a sin in Islam. Order of

exhumation must be based on detailed reasoning, logic and fairness. I see no such reason to justify the exhumation of the dead body of the deceased.

4. In view of the above, both the courts below have landed in the field of error and reached to a wrong conclusion, therefore, this petition is allowed and the impugned order of both the Courts below are hereby quashed, resultantly, the application filed by the local police for exhumation of dead body of the deceased Mst. Parkha stands dismissed.

Announced
15.12.2015

J U D G E.