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**JUDGMENT SHEET**  
**IN THE LAHORE HIGH COURT, LAHORE**  
**(JUDICIAL DEPARTMENT)**

**Criminal Appeal No.53656/2019**  
(Ihsan Ullah alias Munshi, etc. Vs. The State etc.)

**Criminal Revision No.58451/2019**  
(Sikandar Hayat Vs. Saleem alias Seemu, etc.)

**JUDGMENT**

Date of hearing	17.01.2024
Appellants by	M/s. Abdul Khaliq Safrani, Muhammad Ahmad Jhujh and Muhammad Saadullah, Advocates.
The State by	Mr. Ikram Ullah Khan Niazi, Deputy Prosecutor General.
The Complainant by	M/s. Aqeel Atif Chatha and Takeel Ahmad, Advocates.

**MUHAMMAD AMJAD RAFIQ, J.** Two brothers Ihsan Ullah alias Munshi and Saleem alias Seemu/appellants were finally before the Court after 13/14 years of the occurrence to face the charge of murder of Arshad deceased and injuries to Zaheer in case FIR bearing No.352 dated 29.11.2000 registered under sections 302/324/148/149 PPC at Police Station Satrah, District Sialkot. On conclusion of trial, co-accused Muhammad Saleem son of Ahmad Din stood acquitted while appellants were convicted vide judgment dated 29.06.2019 passed by learned Additional Sessions Judge, Daska as follows;

“Under section 302(b)/34 PPC and sentenced to imprisonment for life each and to pay Rs.5,00,000/- each as compensation u/s 544-A Cr.P.C., to legal heirs of deceased Muhammad Arshad.”

02. November 29, 2000 early in the morning complainant Zulfiqar Ali along with his brother Shaukat Ali and Cousin Sikandar Hayat was going to Court in order to attend the murder Case of his brother Tariq Mahmood; he stopped the car at Adda Kassowala at 7:40 a.m. where his nephew Zaheer Abass son of Shaukat Ali and cousin (Phophizad) namely Arshad (brother of Sikandar Hayat) were standing in wait for a

Public Bus in order to proceed Daska; in the meantime Azeem alias Jimmy (dead), Ihsan Ullah alias Munshi, Muhammad Saleem (appellants) sons of Rehmat Ali, Muhammad Saleem and Muhammad Nawaz sons of Ahmad Din armed with Kalashnikovs alighted from a car and Rehmat Ali already present there raised lalkara to teach a lesson to Arshad and others for pursuing the above murder case and refusing to honour the compromise. Azeem, Ihsan Ullah, Saleem sons of Rehmat Ali and Muhammad Saleem son of Ahmad Din targeted Arshad (since deceased) and Muhammad Nawaz to injured Zaheer. Fire made by Azeem hit Arshad on right side of his neck, cheek and right thigh; Ihsan Ullah's fire hit on the left side of neck, arm and leg; fire of Saleem son of Rehmat Ali landed on right thigh and on the back. Fire of Muhammad Saleem son of Ahmad Din positioned at the mouth, and Muhammad Nawaz targeted Zaheer Abass with a fire on his left shin. On intervention by witnesses, accused went away while firing at the site. Seeing the Arshad dead at the spot and Zaheer as injured, complainant went to report the crime when police met him at Adda Mand where Muhammad Amjad ASI PW-15 recorded his statement Ex.PN and reached at the place of occurrence.

03. Deceased and injured were attended by the police when arrived at the place of occurrence, and completed all formalities like preparation of injury statement of injured, inquest report, application for postmortem of deceased, collection of 40 bullet casings, blood-stained earth, dispatch of dead body and injured to mortuary and hospital respectively, recording of statements under section 161 Cr. P.C. and all other allied functions due in investigation, later issuance of warrants and proclamations, arrest and recovery of weapons from the accused persons as detailed in judgment of trial Court. Muhammad Amjad ASI (PW-15), Razzaq Ahmad SI (PW-16) Akram Shahbaz SI (PW-08), Amanat Ali ASI (PW-09), Muhammad Afzal SI (PW-07) time to time had conducted investigation of this case and ultimately report under section 173 of Cr.P.C. was submitted before the Court. When charge sheeted the accused pleaded innocence and claimed trial, whereupon, apart from above Investigating Officers, the prosecution produced, Zaheer Abbas

PW-01, Muhammad Iqbal PW-02 and Sikandar Hayat PW-03 who furnished the ocular account of the occurrence. Dr. Mukhtar Ahmad PW-10 conducted postmortem examination on the dead body of Arshad deceased whereas Dr. Muhammad Munim Javed PW-17 had medically examined Zaheer Abbas injured while rest of the witnesses are all formal in nature and they made statements in respect to their functions performed during the course of investigation. The prosecution tendered some relevant reports and closed its case; where-after, the accused persons when examined under section 342 Cr.P.C. refuted the prosecution evidence, however, the present appellants produced certain documents in defence but not opted to appear in the witness box as required under section 340(2) Cr.P.C and ultimately the trial ended in result as detailed above.

04. Through Criminal Appeal No.53656/2019 Ihsan Ullah alias Munshi and Saleem alias Seemu accused/appellants have challenged their above conviction, whereas, through Criminal Revision No.58451/2019 Sikandar Hayat witness/brother of deceased has sought enhancement of sentence against the appellants. Both these matters are being decided through this single judgment.

05. Learned Counsel for the appellants submits that prosecution has set up an exaggerated false case involving two set of accused; one consists of three brothers and a father Rehmat Ali and other set with two brothers, sons of Ahmad Din; he had an argument that both sets have no relation inter se for communion of minds for one objective, therefore, it's a wider net scheme by the complainant party to book all their enemies in one case. While commenting on the deficiency of evidence he has pointed out that record of Court was not produced to show fixation of murder case of Tariq. Arrangement of witnesses was also under fire that three witnesses Zaheer (PW-1), Muhammad Iqbal (PW-2) and Jamal Din (not produced) were present at Adda Kassowala whereas Zulfiqar complainant (since dead), Shaukat Ali and Sikandar Hayat (PW-3) were sitting in the car at a distance of 50 feet from the place where Arshad and Zaheer received fires. He submitted that Sikandar Hayat (PW-3) was brother of Arshad deceased, neither he volunteered to

become the complainant of case nor did appear as a witness in earlier trial of Muhammad Nawaz (acquitted accused). It was also an argument that Arshad deceased was neither complainant nor witness or in any capacity was part of investigation of murder case of Tariq, therefore, targeting him by the appellant did not provide any justification. Further stated that witnesses were not present at the spot and in an earlier trial statement of Zaheer injured was disbelieved and he had improved his statement in the present trial; weapon recovered from the appellants did not match the crime empties. In an earlier trial Muhammad Nawaz son of Ahmad Din, and in the present trial Muhammad Saleem son of Ahmad Din stood acquitted on the same set of evidence. Lastly prayed for acquittal of appellants while justifying their abscondence that warrants and proclamation were not served upon them as per law.

06. Learned Deputy Prosecutor General on the other hand stated that it was a daylight occurrence, ocular account is supported by medical evidence and abscondence of accused for 13/14 years is a corroborative fact which verifies their criminal liability and non-matching of weapon with crime empties cannot be considered a ground for acquittal. He placed reliance on cases reported as “QASIM SHAHZAD and another versus The STATE and others” (2023 SCMR 117); “MUHAMMAD BASHIR and another versus The STATE and others” (2023 SCMR 190); “NASIR AHMED versus The STATE” (2023 SCMR 478); “AMANULLAH versus The STATE and another” (2023 SCMR 527); “ALI ASGHAR alias AKSAR versus The STATE” (2023 SCMR 596). Learned Counsel for the complainant stated that in earlier trial Zulfiqar was produced from the set of witnesses who were sitting in the Car and after his murder, Sikander Hayat was produced as PW-3 which makes no difference or in any manner diminishes the value of prosecution evidence. Further states that Muhammad Ashraf (father of deceased Arshad and Sikandar PW-3) was the witness in murder case of Tariq, and Zaheer injured was the nephew of said Tariq; therefore, they can be the target by the appellants to force the complainant party for compromise. He further submitted that injuries attributed to Muhammad Nawaz (acquitted accused of earlier trial) and Muhammad Saleem

(acquitted accused of present trial) were observed by the doctor as exit wounds and if in earlier trial evidence of Zaheer injured was not properly appreciated by the trial court, it in no way affects the statement made by him in the present trial because every criminal case is to be decided independently on the basis of evidence recorded therein. Continued on his submissions that fires attributed to the appellants were found on the body of deceased by the doctor exactly at the same locale as stated by the PWs which were also the cause of death; after the present occurrence, appellants have repeated the crime and committed murder of Zulfiqar, complainant of present case for which an FIR is available in the evidence as Ex.DQ. Car used in the occurrence stood recovered and due to long abscondence, weapon recovered on the lead of the appellant could not be matched with crime empties which does not affect the prosecution case.

07. Before the evidence of prosecution is discussed, it is essential to know the inter se relation of witnesses and that of accused persons present at crime scene. Zulfiqar, and Shaukat Ali are brothers, Sikandar Hayat (PW-3) and his brother Arshad deceased are their Phophizad, Zaheer injured is son of Shaukat Ali and nephew of Zulfiqar Ali. As per prosecution case, Zulfiqar, Shaukat and Sikandar while in a car were proceeding to Court for attending the murder case of Tariq (brother of Zulfiqar & Shaukat and paternal uncle of Zaheer Injured and Phophizad of Arshad deceased & Sikandar PW-3). They saw Zaheer Ahmad son of Shaukat Ali, and Arshad brother of Sikandar were standing at Adda Kassowala. Zaheer was going to school being student of Class-10 and Arshad being milkman was present for the purpose of supply of milk to Daska. Rehmat Ali and his three sons Azeem, Ihsan Ullah, Saleem, while Muhammad Nawaz and Muhammad Saleem sons of Ahmad Din, their cousins were also the accused party of murder of said Tariq, who were pressing hard the complainant party to compromise the murder of Tariq; therefore, targeted Arshad and Zaheer in this case. Important to note Muhammad Ashraf father of Arshad deceased was also a witness of murder case of said Tariq. With this information let's see what the witnesses deposited in this case.

08. Three witnesses were chosen to depose ocular account of prosecution case; Zaheer Abass injured witness as PW-1, Muhammad Iqbal PW-2 and Sikandar Hayat PW-3. First in the row was Zaheer who took the driving seat of prosecution case because Zulfiqar complainant who appeared as witness in earlier trial now had been murdered. Occurrence was of year 2000 when he was student of Class-10, after about 17 years he appeared as witness in the present trial and deposed that he was present at Adda Kassowala for going to school where deceased Arshad, Phophizad of his father was also present when occurrence took place at 7:45 AM. He stated perfectly the role of both the appellants and other accused persons. He was confronted with his statement under section 161 Cr.P.C. but nothing favourable to defence could be elicited from his mouth. He responded correctly about passing of information to police by his uncle Zulfiqar, complainant while he along with deadbody of Arshad remained at the place of occurrence till the arrival of police in whose company he was shifted to the hospital in an injured condition where he was examined just after half an hour. He further deposed that his statement was recorded by the police not only at the place of occurrence but also interrogated him in the hospital. He denied the suggestion that it was a blind murder. He was suggested that after acquittal of Muhammad Nawaz in earlier trial, he has dishonestly improved his statement, he categorically denied and stated as under;

I do not remember that I got recorded in my statement recorded in the court on 21.04.2004, that Saleem s/o Ahmad Din is Phuphizad of co-accused Muhammad Azeem, Ihsan Ullah and Muhammad Saleem sons of Rehmat Ali. I can collect my memory after going through the said earlier statement. It is correct that in my earlier statement it is recorded that accused Saleem s/o Ahmad Din is Phuphizad of Muhammad Azeem, Ihsan Ullah and Muhammad Saleem. I had not recorded in my statement recorded on 21.04.2004, that fire shot made by accused Nawaz hit to the deceased, however, I recorded that burst fired by accused Nawaz hit on left leg. Confronted with Ex.DB, wherein it is written that accused Nawaz made a burst landing on the deceased as well as on left leg and backside of calf of Zaheer Abass PW.

This part of his statement in earlier trial that fire hit the deceased as well as on his person was considered by the court in earlier trial as a major contradiction to extend benefit of doubt to Muhammad Nawaz accused. Was that statement an exaggeration or based on truth cannot be focused in this trial because no such contradiction is found by the Court in his present statement which rings true and every criminal case is to be decided on the basis of evidence recorded in the trial of that case only. Even subsequent hostility of a witness is no ground to reject his testimony in the present trial. Case reported as “NOORULLAH versus THE STATE” (2012 YLR 168) is referred. However, it is trite that its intrinsic value is diminished if it is not corroborated with any other evidence, whereas in the present case it is very much available in the form of statement of two more witnesses of ocular account. As a legal question whether a witness once disbelieved in a trial can be relied upon in subsequent trial has also been dealt in para-16 of this judgment.

09. An independent witness PW-2 Muhammad Iqbal was also present at the place where Arshad and Zaheer sustained injuries. He deposed about presence of Rehmat Ali and his location in front of National Bank when complainant’s car reached at the place of occurrence and immediately thereafter accused persons arrived there. About the arrival of Zulfiqar complainant and others on car, he deposed like as under;

“Sikandar, Zulfiqar and Shaukat came together on a car at Adda Kassowala. They reached about 1/2 minutes prior to happening of occurrence and they were still in the car when the occurrence took place. I had no knowledge that where they were proceeding. Car of said PWs was at a distance of 35/40 feet from the place of occurrence”.

He deposed correctly the role of accused persons including the appellants. Though most of the question asked from this witness was responded by him as ‘I do not remember’ yet defence put into his mouth a conceding fact which he responded that “*it is correct that as the Zaheer PW stated to be present at the Adda to go to school, likewise other students were also present at the Adda to go to school*”. It supports the version of Zaheer PW-1 that he was present at the place of occurrence for going to school. This witness was Chairman of Union

Council and was not the relative of any party; therefore, did not exaggerate the occurrence, rather responded only those questions which were in his knowledge and did not try to improve his statement in any manner nor shown desperation to fix the offenders at every cost which shows his impartiality and is expected from man of such status. While denying the fact of his support to complainant party he deposed as under;

“It is incorrect that I was supporting the complainant party; volunteered that I was not in a position to support the complainant party”.

He also deposed that he shifted the Injured to the hospital; what he actually deposed is as under;

“I and father of Injured PW Zaheer brought Zaheer to Civil Hospital, Daska, on car.”

And

“We shifted the injured PW to Civil Hospital, Daska, after arrival of police. Zulfiqar complainant had informed the local police about the occurrence”.

He deposed about his presence at the place of occurrence that he was going to purchase the diesel and was on motorcycle of his friend Mohsin Iqbal who was also present at the place of occurrence. Thus, being independent witness his presence at the spot cannot be doubted in any manner.

10. Third in the row was Sikandar Hayat PW-3 being brother of deceased claimed his presence in a car with complainant Zulfiqar (now dead) and Shaukat Ali, (brother of complainant and father of Zaheer Injured). He was got confronted with his previous statement recorded under section 161 Cr.P.C. with respect to presence of witnesses, nearby surroundings, role of accused persons and injuries sustained by the deceased and injured. This witness has deposed his family profession as milk man which was being run by four brothers including deceased Arshad. Duty of Arshad deceased was to supply milk early in the morning. When asked about means of bringing milk at Adda Kassowala, he responded in following words;



On the day of occurrence, Arshad deceased brought 2 or 2-½ mands of milk for suppling to shopkeepers due to month of Ramazan, however, in other months, he used to supply 5/6 mands of milk to shopkeeper at Daska. we used to bring milk to Adda Kassowala on horse cart and there from on bus to Daska. On the day of occurrence, deceased Arshad brought the milk on cycle from village to Adda Kassowala. No specific bus was used to bring milk from Kassowala to Daska. whichever bus was available, the milk was brought thereon from Kassowala to Daska.

He further deposed that his village is at a distance of one kilometer from Adda Kassowala. It took  $\frac{3}{4}$  minutes on motorcycle,  $\frac{6}{7}$  minutes on bicycle and 12/14 minutes by foot for reaching Adda Kassowala. He further deposed that they proceeded to Daska, perhaps to attend court proceedings or some other work at Katcharay from village on the day of occurrence. This natural narration clearly reflects his presence at the spot and reason for availability of deceased at Adda kassowala. He denied the suggestion that accused/appellants had no enmity with them rather volunteered that his father was witness in case FIR No. 78/2000 (Murder case of Tariq). Deposition of all three witnesses of ocular account despite being recorded after 17 years of the occurrence had a touch of truth and minor contradiction due to efflux of time are natural; therefore, have not affected the prosecution case in any manner. Reliance is on cases reported as “MUHAMMAD BASHIR and another versus The STATE and others” (2023 SCMR 190); “NASIR AHMED versus The STATE” (2023 SCMR 478); “ALI ASGHAR alias AKSAR versus The STATE” (2023 SCMR 596).

11. Corresponding to role of firing by the appellants, Dr. Mukhtar Ahmad PW-10 observed as many as 20 firearm injuries including entry and exit wounds on the person of Arshad deceased. Though a photographic narration of injuries by the witnesses in such a situation of indiscriminate firing by five accused at the site is not expected yet being daylight occurrence fact of firing by the appellants cannot be overlooked. Reading it by narration of witnesses, the role assigned to Ihsan Ullah appellant for hitting of his fires on the left side of neck, arm and leg were counted by the doctor as injuries No. 5, 11, 12 & 19 and of Saleem appellant on right thigh and on the back of deceased as injuries

No. 16 & 17. Learned counsel for the appellants stated that injury was also attributed to Saleem son of Ahmad Din accused but he stood acquitted from the charge. It has been observed that injury attributed to said Saleem was on the mouth of deceased which was observed by the doctor as exit wound reflected as injury No. 4 and no recovery of weapon was effected from him, therefore, his case was distinguished from the present appellants. Thus, medical evidence stands in conformity to ocular account providing a support to the prosecution case.

12. Abscondence of accused/appellants for about 13/14 years is another factor which runs against the appellants. Abscondence of accused after the occurrence is a relevant fact as per Article 21 of the Qanun-e-Shahadat Order, 1984; relevant illustration is as under;

(i) A is accused of a crime.

The fact that, after the commission of the alleged crime he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.

The above illustration not only makes his abscondence as relevant fact but also fact of concealing things with which offence was committed as relevant and, in this case, concealing the weapons of offence is also a relevant fact. It is trite that abscondence is always considered as corroborative evidence, though not a sole reason to convict the accused. Reliance is on cases reported as “ROHTAS KHAN Versus THE STATE” (2010 SCMR 566); “ABDUL KHALIQ Versus THE STATE” (2006 SCMR 1886); “HAROON RASHEED and 6 others Versus THE STATE” (2005 SCMR 1568).

13. Learned counsel for the appellants submitted that though warrants of arrest and proclamations were tendered in the evidence and also put to the appellants for their response in statement under section 342 Cr.P.C. yet process server/PW did not appear in the dock in support of such evidence, therefore, abscondence of the appellants could not be proved as per law, benefit of which must be given to the appellants that they

were not aware of such occurrence nor they had any hand in it. Contrary to above fact, Zahid Hussain 234/C appeared as PW-19 and deposed that on 06.02.2001, warrants of arrest against Azeem, Ihsan Ullah and Saleem accused were handed over to him for execution and similarly the proclamations on 27.02.2001; he submitted his reports in this respect as Ex.PW/1-5/A & Ex.PX/1-5/A. Thus, prosecution has succeeded to prove the observance of legal process and resultantly the willful abscondence of the appellants.

14. Recovery of weapons of offence Kalashnikovs from Ihsan Ullah and Saleem appellants is another factor which lends support to prosecution case. Though no report of matching of such weapons with 24 bullet casings of Kalashnikov collected from the spot is available, yet by recovery of weapon after such a long period, availability of matching report is hardly expected. This inconsequential effect of recovery in no case affects the prosecution case. Reliance is on “QASIM SHAHZAD and another versus The STATE and others” (2023 SCMR 117); “AMANULLAH versus The STATE and another” (2023 SCMR 527).

15. Both the appellants were also found involved in commission of alleged offence as per investigation which has not been challenged anywhere throughout; even after committing this occurrence said appellants were also nominated in another FIR bearing No. 35/2003 P/S Civil Line Gujranwala Ex. DQ, relating to murder of Zulfiqar, complainant of present case and one Sajid accused was executed, because present appellant were also absconders in that case. Even before this occurrence present appellants were also accused of murder of Tariq brother of complainant of present case. Therefore, enmity between the parties as a motive of present case is also proved.

16. Coming to the hunch of learned counsel for the appellants that in an earlier trial against Muhammad Nawaz accused, the statement of injured Zaheer was disbelieved whom said accused caused a firearm injury; therefore, his statement being confronted in present trial cannot be believed in any manner. Record of earlier trial was perused, said Zaheer has exaggerated the prosecution version with the touch that fire of

Muhammad Nawaz hit Arshad deceased and then to him as well. This exaggeration was resulted in disbelieving him in that trial, but in this trial, he has not stated any like in an earlier trial. A witness if missed or exaggerated a fact in an earlier trial cannot be termed as untruthful in subsequent trial if his testimony is straight forward and natural. If this be permitted then once some witnesses are disbelieved in an earlier trial their testimony cannot be relied upon in subsequent trial, then the accused later tried would receive a clean chit on the basis of statement earlier made by the said witnesses. Competency of a witness is regulated under Article 3 of Qanun-e-Shahadat Order, 1984 which runs as under;

**3. Who may testify:** All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind or any other cause of the same kind:

Provided that a person shall not be competent to testify if he has been convicted by a Court for perjury or giving false evidence:

Provided further that the provisions of the first proviso shall not apply to a person about whom the Court is satisfied that he has repented thereafter and mended his ways:

Provided further that the Court shall determine the competence of a witness in accordance with the qualifications prescribed by the injunctions of Islam as laid down in the Holy Qur'an and Sunnah for a witness, and, where such witness is not forthcoming the Court may take the evidence of a witness who may be available.

Explanation: A lunatic is not incompetent to testify unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

The first proviso to above Article clearly speaks that only that person shall be prevented to be testified if he is convicted of perjury or giving false evidence. As per 2<sup>nd</sup> proviso to above Article, even such witness can also be permitted if court is satisfied on his repentance. It has been held in case reported as “Syed ALI NAWAZ SHAH GARDEZI versus Lt. Col. MUHAMMAD YOUSAF KHAN, COMMISSIONER, QUETTA DIVISION” (PLD 1962 (W. P.) Lahore 558) as under;

“The fact that a person has been disbelieved in another case cannot in law be conclusive of saying that he is untrustworthy witness, but it can hardly be denied that a finding of a Court of competent jurisdiction that a person had perjured himself cannot but have some effect on the Court which has to deal with his evidence.”

It has also been held in a Case reported from Indian Jurisdiction as “Bolisetti Venkatarathanamma (Died) By.....vs Nadakuduti Vekateswara Rao And Ors.” (1999 (1) ALD 422) (1999 AIHC 1912) as under;

“It should be noticed that a witness should be believed or disbelieved with reference to the evidence that was brought on record and not with reference to the evidence in another case. It is held in Chandreshwar Prasad Narain Sutgh v. Bishweslnvar Pratap Narain Singli, AIR 1927 Patna 61, that the opinion of the Court upon the character of a person is not admissible in evidence for the reason that there is no material for judging whether he was rightly disbelieved or wrongly disbelieved. The question whether a witness is entitled to credit or not, must be decided by the Court thought of the witness in another case.”

In cases reported as “MUHAMMAD ILYAS versus THE STATE” (1997 SCMR 25) and “DEEDAR ALI versus THE STATE” (PLD 1994 Karachi 309), evidence of witnesses was rejected only because they were convicted of perjury. As referred above “NOORULLAH versus THE STATE” (2012 YLR 168), even subsequent hostility of a witness cannot be considered as ground to acquit the accused of earlier trial.

17. Learned counsel for the appellants urged that on the same set of evidence Muhammad Nawaz in an earlier trial and Muhammad Saleem in present trial stood acquitted, therefore, under the principle of falsus in uno falsus in omnibus, present appellants cannot be convicted. It has been observed that injuries attributed to Muhammad Nawaz (acquitted accused of earlier trial) and Muhammad Saleem (acquitted accused of present trial) were observed by the doctor as exit wounds and no recovery was effected from Muhammad Saleem; thus, their case is distinguished and under the principle of abundant caution, present accused/appellants can be singled out; reliance is on cases reported as “MUHAMMAD SHARIF and others versus The STATE and others” (2019 SCMR

1368), “*SALEEM ZADA and others versus The STATE and others*” (2019 SCMR 1309) and “*MUHAMMAD BILAL versus The STATE and others*” (2019 SCMR 1362).

18. Therefore, in the given circumstances, the learned trial court has rightly convicted both the appellants and sentenced them to imprisonment for life under section 302 (b) PPC because both have joint role of firing which is always considered as mitigation; reliance is on case reported as “*MUHAMMAD YAQOOB versus THE STATE*” (2009 SCMR 1273). In view of above, titled appeal is **DISMISSED**, the conviction and sentence of the appellants is upheld. Benefit of section 382-B Cr.P.C. already extended by the trial Court shall hold the field. The case property, if any, be disposed of in accordance with law and the record of the learned trial court be sent back immediately.

19. For the reasons recorded above, the sentence imposed upon the appellants fully commensurate with the charge and the evidence on record, therefore, criminal revision seeking enhancement being without any merit is also **DISMISSED**.

(MUHAMMAD AMJAD RAFIQ)  
JUDGE

**Approved for reporting:**

JUDGE

This judgment was pronounced on  
17.01.2024, however after preparation,  
was signed on 12.02.2024.

*M. Azhar\**