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REGISTERED
No. J.P.518/2017- SCJ
SUPREME COURT OF PAKISTAN
Islamabad 31/7/2020

From The Registrar,
Supreme Court of Pakistan.
Islamabad.

To The Registrar,
Peshawar High Court.
Peshawar.

Subject: JAIL PETITION NO. 518 OF 2017
Rahat Ali s/o Taj Ali Khan
Versus
The State

On appeal from the Judgment/Order of the Peshawar High Court,
Peshawar dated 17/05/2017 in CrI.A.393-P/2016 & M.R.09/2016. in case
FIR No.562/2011 dated 07/05/2011 registered at Police Station Lahore,
Swabi

Dear Sir,

In continuation of this Court's letter of even number dated 22.07.2017, I
am directed to enclose herewith a certified copy of the Order/Judgment of this Court
dated 29/04/2020 dismissing the above cited case in the terms stated therein for
information and further necessary action.

I am further directed to return herewith the original record of the High
Court received under the cover of your letter No.16/Judl: dated 01/08/2017.

Please acknowledge receipt of this letter along with its enclosure
immediately.

Encl: Order/Judgment:
2. O/Record of High Court:

Yours faithfully,



(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE SAJJAD ALI SHAH

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

JAIL PETITION NO.518 OF 2017

(Against the judgment of the Peshawar High Court, Peshawar dated 06.04.2017 passed in Murder Reference No. 09 of 2016/Criminal Appeal No. 393-P/2016).

Rahat Ali

... **Petitioner**

Versus

The State

... **Respondent**

For the Petitioner : Mr. Muhammad Amjad Iqbal, ASC

For the (State) : Malik Akhtar Hussain Awan, AAG

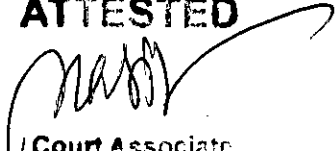
Date of Hearing : 29.04.2020

JUDGMENT

SAYYED MAZAHAR ALI AKBAR NAQVI, J:- The petitioner has sought leave to appeal under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 against the judgment dated 06.04.2017 passed by learned Division Bench of Peshawar High Court, Peshawar in Murder Reference No. 09 of 2016/Criminal Appeal No. 393-P of 2016.

2. At the very outset, it has been argued by learned counsel appearing on behalf of petitioner that both the courts below have not taken the evidence available on the record in its true prospective and same has not been evaluated according to the established principles of law enunciated by superior courts from

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Supreme Court of Pakistan
Islamabad

time to time. Contends that statement of Abdar Ali Shah (PW-7) who is stated to be only eye witness of this occurrence is an interested witnesses and his presence at the spot is doubtful and has been created just to strengthen the prosecution case as his name is not mentioned in the crime report. Further contends that neither there is any sign of fire shot on the alleged rickshaw which was being driven by the said Abdar Ali Shah (PW-7) at the relevant time, nor any blood was taken from the said rickshaw, therefore, it create a doubt in the genuineness of the prosecution version and calling for interference of this Court in the interest of justice.

3. We have heard the learned counsel and gone through the record.

4. Bare perusal of crime report clearly reflects that though the name of Abdar Ali Shah (PW-7) is not mentioned in the FIR but the complainant Salsalat Bacha (PW-6) while lodging the FIR narrated that the occurrence was witnessed by those who were present at the spot at the relevant time. There is no denial to this fact that the statement of Abdar Ali Shah (PW-7) under section 161 Cr.P.C. was recorded at the spot when the police arrived at the spot and later on his statement under section 164 Cr.P.C was recorded on 11.05.2011. All contentions raised by learned counsel relates to minor discrepancies. It is established law that if the discrepancies are shattering the prosecution story on salient feature then it has substance to intervene on the subject otherwise it has no impact on the veracity of the prosecution story. The learned High Court while handing down the judgment impugned before us has already taken care of all established principles of law and converted the sentence

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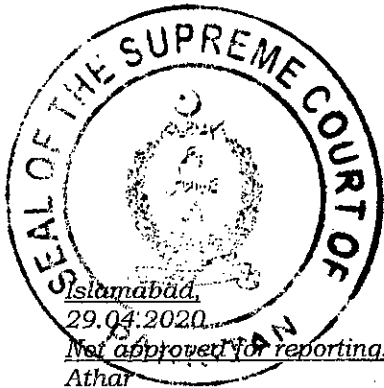

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of death into imprisonment for life which seems to us appropriate and in accordance with law. The contentions raised by learned counsel are without any force which are repelled. As a consequence, this petition is dismissed.

4. Leave to appeal is refused.

Sd/-J

Sd/-J



Athar

Chm/1
6/5/9--

Certified to be True Copy

[Signature] 13/7/2020
Court Associate
Supreme Court of Pakistan
Islamabad