

*Judgment Sheet*  
**IN THE PESHAWAR HIGH COURT,  
ABBOTTABAD BENCH**  
**JUDICIAL DEPARTMENT**  
*Cr.Appeal No.96-A/2019.*  
**JUDGMENT**

Date of hearing.....**07.09.2022**.....

Appellant (Javed Awan) By Mr.Waji-ur-Rehman  
Swati, Advocate.

Respondent. (State) By Mr.Sardar Ali Raza,  
Additional Advocate General.

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**KAMRAN HAYAT MIANKHEL, J:-** This criminal appeal is directed against the judgment dated 02.04.2019 of the learned Additional Sessions Judge-VI, Abbottabad delivered in case FIR No.499 dated 20.06.2015 under section 15 AA, KPK, Police Station Mirpur Abbottabad, whereby the appellant Javed Awan has been convicted under section 15 AA KPK and sentenced to a rigorous imprisonment for seven years and a fine of Rs.50,000/- and in default of payment of the same fine, he shall further undergo three months S.I. Benefit under section

382-B Cr.P.C has been extended in favour of appellant/convict.

2. Facts of the case, in brief, are that on 20.06.2015 during patrolling, SHO Police Station Mirpur receipt a spy information that Javed Awan nominated accused in case FIR No.498 dated 20.06.2015 u/s 324 PPC, Police Station Mirpur is present in his hostel. On this information after calling mobile rushed to Javed Awan Hostel situated near Ruqia Sultana Hospital for the arrest of accused and conducted raid. Accused was found present in the hostel, he was arrested in the aforesaid case, his personal search was conducted during which one 30 bore pistol No.30276, country made alongwith four cartridges loaded in a magazine. On further search six cartridges of the same bore were also recovered from right side pocket of his shirt. The accused could not produce any valid licence/permit for the recovery arm and cartridges. The same was sealed into parcel No.1 and was taken into possession as a weapon of offence in aforesaid case. In the wake thereof,

instant case was registered against the appellant/accused.

3. On completion of investigation, challan was put in court. After compliance of provisions of section 265-c Cr.PC, charge was framed and served upon the appellant/accused for the crime to which he pleaded not guilty and claimed trial. Prosecution produced five (05) witnesses in support of its case. On conclusion of prosecution evidence, statement of accused was recorded u/s 342 Cr.PC. Learned trial court after hearing arguments from both sides found the appellant guilty of the charge and, while recording his conviction, sentenced him as mentioned above.

4. Arguments of both sides heard and record gone through.

5. Scrutiny of record depicts that the pistol was recovered from personal possession of the appellant/convict for which he could not produce any valid license or permit for its lawful retention coupled with the fact the same was used by the appellant/convict in a murder case, registered vide FIR No.498 dated 20.06.2015

under section 302 PPC, police station Mirpur (Abbottabad). Furthermore, the weapon of offence was sent to Forensic Science Laboratory for its chemical analysis, report of which was found positive which further supported prosecution case. The prosecution produced 5 witnesses to prove its case against the accused and all of them were subjected to lengthy cross-examination but nothing could be extracted from their mouth to favour the accused or to create any doubt in their credibility in respect of recovery of weapon of offence rather all the prosecution witnesses remained consistent and coherent on material aspects of the case.

6. Although both the marginal witnesses to the recovery memo vide which the weapon of offence was taken into possession by the complainant, are police officials, however, the august Supreme Court of Pakistan in its numerous verdicts held that testimonies of police officials are as good as any other private witness unless it is proved that they have any animosity

against the accused. Further, that reluctance of general public to become witness in such like cases has become judicially recognized fact and there is no way out to consider statement of official witnesses, as no legal embargo is imposed in this respect. Police officials are as good witnesses and could be relied upon, if their testimony remains unshattered during cross-examination. While, in the instant case, defence has failed to substantiate that the prosecution witnesses had any ill-will or animosity towards the appellant to falsely implicate him. In this respect, reliance can be placed on a judgment of august Supreme Court of Pakistan in a case titled **“Liaqat Ali and another v. The State”** reported as **2022 SCMR 1097**, wherein it was held that:

“This Court in a number of judgments has held that testimony of police officials is as good as any other private witness unless it is proved that they have animus against the accused. However, no such thing could be brought on record by the petitioners in this case. This Court has time and again held that reluctance of general public to become witness in such like cases has become judicially recognized fact and there is no way

out to consider statement of official witnesses, as no legal bar or restriction has been imposed in such regard. Police officials are as good witnesses and could be relied upon, if their testimony remains un-shattered during cross-examination.”

7. In view of detailed discussion of this court rendered hereinabove, it is held that prosecution has well established its charge against the appellant/convict and the learned trial court has properly appreciated the prosecution evidence in its true perspective. No illegality in the impugned conviction recorded by the learned trial court was found. As such, conviction of the appellant recorded by the learned trial court vide judgment/order dated 02.04.2019 is hereby maintained, resultantly appeal preferred by the appellant, being devoid of any merit, is dismissed.

**Announced.**

07.09.2022

(Muhammad Jamil)

***J U D G E***

***J U D G E***

*Hon'ble Mr. Justice Wiqar Ahmad,  
Hon'ble Mr. Justice Kamran Hayat Miankhel.*