

***JUDGEMENT SHEET***  
**IN THE PESHAWAR HIGH COURT,**  
**BANNU BENCH**

*(Judicial Department)*

**J.Cr.A No. 422-B of 2016 .**

**Sadiq Ali**  
**Vs**  
**The State etc:**

**JUDGEMENT**

Date of hearing \_\_\_\_\_ 10.01.2017

Appellant-Petitioner:     **By Muhammad Salim**  
  **Awan, Advocate.**

Respondent:               **By Anwar-ul-Haq, Faqir**  
  
  **Mehboob-ul-Hamid, Hujjat**  
  
  **Ullah Khan & Kazim Raza**  
  
  **Marwat, Advocates.**

**ABDUL SHAKOOR, J.---** Sadiq Ali appellant,  
  
was booked in case FIR No.303 of 2014  
  
registered, Police Station Lakki District Lakki  
  
Marwat under Section. 302 PPC, for the murder of  
  
his wife, after full dressed trial he was convicted  
  
for the alleged murder of his wife by the learned  
  
Additional Sessions Judge-IV, camp court Lakki  
  
Marwat vide judgment dated 03.11.2016 and was

(D.B) Justice Ikramullah Khan and Justice Abdul Shakoor

sentenced to imprisonment for life. He was further held liable to pay Rs.16,00,000/- (Sixteen lacs) as compensation under Section. 544-A Cr.P.C to the legal heirs of deceased (excluding appellant) as arrears of land revenue and shall undergo six months imprisonment in default. The benefit of Section. 382-B Cr.P.C was extended to him. Hence, this appeal.

2- We may mention here that complainant and State have preferred Criminal Revisions No. 07-B of 2017 and No. 11-B of 2017 for enhancement of life imprisonment of appellant to death penalty.

3- We have considered the submissions of learned counsel for the parties and carefully gone through record with their valuable assistance.

4- It is noticed that facts of this case and evidence produced before the trial Court find a detail discussion in the judgment passed by the

learned Additional Sessions Judge-IV District Lakki Marwat, therefore, the same need not to be discussed and reproduced here in simply to avoid duplication and unnecessary repetition.

5- The crux of the prosecution case is that at the relevant time, date and place, the appellant and his wife suddenly developed a quarrel and on the basis thereof appellant was enraged and caused fire-arm injury to his wife with .30 bore pistol, which injury led to her death. The FIR in this respect had been lodged by none other than the son of the appellant. The appellant, in his statement recorded under Section. 342 Cr.P.C had maintained that he had not caused an injury to his wife namely-Robina Shaheen deceased, rather on the eventful day his minor daughter Fatima came inside the house weeping and told him that her mother (deceased) was abused by one Barkat in the street, on this he took his pistol and rushed towards main gate of his

house, there his wife entered through main gate and hurriedly pushed him back and over-powered pistol, which was already loaded went off in her hands and hit her. In this regard appellant had failed to lead any independent evidence to substantiate and establish his said plea taken by him.

6- A bare perusal of the FIR, the statement of sole eye-witness, i.e, son of the appellant and findings recorded by the trial court, there was no previous motive for the commission of offence and the incident in issue had erupted all of sudden without any pre-mediation, whatsoever. The medical evidence shows that the deceased had received one shot of pistol on her body, i.e, a fire-arm entry wound on inner angle of left eye size ½ cm and 2 cm, charring marks were present, which shows injury had been caused to deceased very closely and may be a result of over powering of pistol. Eye witness had stated in his

examination-in-chief that his mother, i.e, deceased was not allowing the appellant his father from going outside the house, while he was holding .30 bore pistol in hand. These facts of the case squarely attract Exception-4 contained in the erstwhile provision of Section.300 PPC, as it has already been held by the Apex Court in the cases, ***Piran Ditta V. The State (1993 SCMR 1934)*** and ***Ali Muhammad V. Ali Muhammad and another (PLD 1996 SC 274)*** and the principle rendered in the said cases is followed by the Apex Court in ***Cases Azmatullah V. The State (2014 SCMR 1178)*** and ***Zeeshan Shahni V. The State (PLD 2017 SC 165)***.

7- Keeping in view the facts and circumstances of the case, this appeal is partially allowed, the conviction of appellant for the offence under Section. 302 (b) PPC is converted into that for an offence under Section. 302 (c) PPC and consequently his sentence is reduced

from life imprisonment (twenty five years) to imprisonment for ten (10) years by leaving the compensation of Rs.16,00,000/- (Sixteen lacs) awarded to legal heirs of deceased (excluding appellant) under Section. 544-A Cr.P.C and benefit of Section. 382-B Cr.P.C extended to appellant intact.

8. As we have partly allowed the appeal of the appellant, whereby his life imprisonment is reduced to imprisonment for ten (10) years, consequently Criminal Revisions No.07-B of 2017 and 11-B of 2017 stand dismissed.

**Announced**  
10.01.2017

*JUDGE.*

\*Imranullah\*

*JUDGE.*