

Ph: 9082235
Fax: 9220406

REGISTERED
No. CrI.P.1281/2017- SCJ
SUPREME COURT OF PAKISTAN
Islamabad, 26 Mar 2018

06-04-18

From The Registrar,
Supreme Court of Pakistan.
Islamabad.

To The Registrar,
Peshawar High Court.
Peshawar.

Subject: CRIMINAL PETITION NO. 1281 OF 2017

Mst. Raida Bibi
Versus
Askar Abbas & another

On appeal from the Judgment/Order of the Peshawar High Court,
Peshawar dated 26/10/2017 in CrI.A.306-P/2015 & CrI.R.60-P/2015. in case
FIR No.726/2011 dated 20/11/2011 registered at Police Station Kotwali,
Peshawar

Dear Sir,

I am directed to enclose herewith a certified copy of the Order/Judgment of
this Court dated 02/03/2018 dismissing the above cited case in the terms stated therein
for information and further necessary action.

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

Encl: Order/Judgment:

Yours faithfully,



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

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Sardar Tariq Masood

Criminal Petition No. 1281 of 2017

(Against the judgment dated 26.10.2017 passed by the Peshawar High Court, Peshawar in Criminal Appeal No. 306-P of 2015)

Mst. Raida Bibi

...Petitioner

versus

Askar Abbas, etc.

...Respondents.

For the petitioner: Mr. Asadullah Khan Chamkani, ASC


For the respondents: N.R.

Date of hearing: 02.03.2018

ORDER

Asif Saeed Khan Khosa, J.: After hearing the learned counsel for the petitioner and going through the relevant record of the case appended with this petition we have noticed that the FIR in this case was based upon a dying declaration attributed to Hassan Raza deceased but the record shows that no certificate had been issued by any doctor confirming that Hassan Raza deceased was fit to make a statement before he breathed his last. The parts of the body on which the said deceased had received his firearm injuries as well as the medical evidence quite clearly showed that Hassan Raza deceased could not be in a position to speak between the receipt of those injuries and his death. The eyewitnesses produced by the prosecution were equally relevant to the motive asserted by the prosecution and, thus, they would not have gone unharmed if three persons armed with lethal firearms had fired at

ATTESTED


Court Associate
Supreme Court of Pakistan
Islamabad

the complainant party together. Zakria Hussain (PW12) was an interested and chance witness whereas the other eyewitness namely Abdul Rehman Farooqi (PW13) had checkered antecedents as he was booked in a criminal case of cheating and forgery. The above mentioned eyewitnesses had claimed that their hands and clothes were stained with the blood of the deceased when they had handled them but the record of the case did not support that claim. An injured eyewitness namely Salma, a child aged about 10/11 years, had not been produced by the prosecution despite the fact that a child of her age could ordinarily be expected to have known and understood the circumstances of the case. No independent evidence of the original as well as the subsequently set up motive had been produced during the trial. Nothing had been recovered from the custody of respondent No. 1 during the investigation. In these circumstances the High Court had concluded that the prosecution had failed to prove its case against respondent No. 1 beyond reasonable doubt and we have not been able to take any legitimate exception to the said conclusion reached by the High Court. This petition is, therefore, dismissed and leave to appeal is refused.

Asif Saeed Khan Khosa Sd/-, J
Sardar Tariq Masood Sd/-, J

Certified to be True Copy



**Court Associate
 Supreme Court of Pakistan
 Islamabad**

Islamabad

02.03.2018

Not approved for reporting.

Arif



