

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH
(Judicial Department)

Cr.A. No. 46-D of 2015

JUDGMENT

Date of hearing 30.11.2015

Appellant-petitioner Muhammad Haneef by Mr. Muhammad
Imran Khan Gandapur, Advocate

Respondent Muhammad Shahzad etc by Mr. Adnan Ali

Assistant AG for State and Mr. Saleem Ullah Khan Ranazai,
Advocate for accused / respondent.

MUHAMMAD GHAZANFAR KHAN, J.- Through the instant appeal, the appellant has called in question the judgment dated 28.4.2015 rendered by learned Resident Judicial Magistrate, Daraban (D.I.Khan), whereby accused/respondents Mohammad Shahzad and Mohammad Fayaz were acquitted in case FIR No.134 dated 13.6.2013 registered under sections 506/337-F(i)/34 PPC read with section 13 Arms Ordinance at police station Daraban, D.I.Khan.

2. The prosecution case, in brief, is that on 13.6.2013 at 1015 hours, complainant Mohammad Hanif reported the matter to the local police to the effect that he alongwith his cousin Abdur Rashid, nephew Mohammad Khalil Ahmad and Mohammad Ramzan were present in his property, when both the accused came there on motorcycle duly armed with pistol and

Kalashnikov and started firing at them; that during scuffle, accused/respondent Mohammad Shahzad gave pistol blows on the head of complainant, with which he received injuries, whereas accused/respondent Mohammad Fayaz gave blows on the head of Abdur Rashid with 'butt' of Kalashnikov; that nephew of complainant tried to snatch pistol from accused/respondent Mohammad Shahzad but he started firing, due to which Khalil Ahmad sustained injury on his left. In the meanwhile, Gulistan, cousin of complainant came to the spot and they disarmed with the accused and recovered a Kalashnikov and 30 bore pistol from them, where after the accused/respondents fled away.

3. After completion of usual investigation, complete challan against the accused/respondents was submitted before the learned trial Court, where they were formally charged, to which they did not plead guilty and claimed trial. In order to establish the guilt of accused/respondents, the prosecution examined thirteen witnesses. The statements of accused/respondents were recorded under section 342 Cr.P.C, wherein they professed innocence and false implication. However, they neither appeared as their own witnesses on oath nor produced any evidence in their defence. After hearing the arguments of learned counsel for the parties, the

learned trial Court acquitted the accused/respondents vide impugned judgment dated 28.4.2015.

4. The learned counsel for the appellant mainly argued that no proper charge was framed by the learned trial Court, as no description of Police Station was referred and that offences were also not mentioned under separate heads. He further argued that no separate challan under section 13 Arms Ordinance was requisitioned and the charge was recorded on a printed form, thus the learned trial Court has erred in acquitting the accused/respondents.

5. As against that, learned counsel for the accused/respondents supported the judgment of learned trial Court.

6. I have heard the arguments of learned counsel for the parties and have gone through the record and law on the subject.

7. The contention of learned counsel for the appellant appears to be misconceived for the simple reason that though charge has not been framed under separate heads, but the allegations against the accused/respondents have properly been mentioned in the charge sheet and the non-mentioning of police station has not prejudiced the case of appellant. Section

235 Cr.P.C deals with trial of more than one offence.

For ready reference, section 235 Cr.P.C is reproduced below:-

“Trial for more than one offence...(1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(2) Offence falling within two definitions. If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

(3) ”

From the bar reading of above reproduced section of law, it is clear in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence and If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences. Such being the case, no illegality appears to have been committed by the learned trial Court in framing charge against the accused/respondents. No other ground was agitated by

learned counsel for the appellant at the time of arguments.

8. For the reasons mentioned above, the instant appeal has no legs to stand upon and is, therefore, dismissed.

Announced.

Dt:30.11.2015.

Habib/*

JUDGE