

**BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD**

Cr. A. No 87-A/15

Mehtab S/o Ayub Caste Quresh Resident of Tal
Kandi, Tehsil & District Abbottabad

.....Appellant

VERSUS

1. The State
2. Muhammad Mumtaz S/o Noor Alam Caste
Abbasil, resident of Tal Kandi, TEhsil &
District Abbotabad

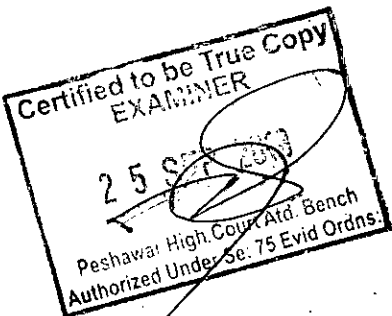
.....Respondents

**CASE FIR NO. 1057 DATED 17.09.2013 UNDER
SECTION 13 AO P.S CANTT ABBOTTABAD**

**APPEAL AGAINST THE JUDGMENT OF
ADDITIONAL SESSION II ABBOTTABAD
VIDE WHICH THE APPELLANT HAS BEEN
CONVICTED UNDER SECTION 13 ARMS
ORDINANCE AND SENTENCE HIM TO ONE
YEAR SI. THE APPELLANT IS FURTHER
DIRECTED TO PAY RS. 2000 FINE AND IN
DEFAULT TO SUFFER 15 DAYS SI AND
BENEFIT OF 382 B PPC ALSO BEEN GIVEN.**

PRAYER:

On acceptance of appeal the impugned
judgment may kindly be set aside and
appellant may kindly be acquitted.



*W.D. 2694
18.6.15*



Judgment Sheet

IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

JUDICIAL DEPARTMENT

Cr.Appeal.No. 87-A/2015.

JUDGMENT

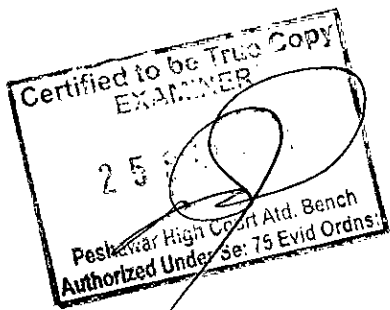
Date of Hearing 27.02.2018

Appellant (Mehtab) by Mr. Shad Muhammad Khan,
Advocate.

Respondent (State) by Sardar Muhammad Asif
Asstt: AG.

SYED ARSHAD ALI, J:- Appellant-convict Mehtab

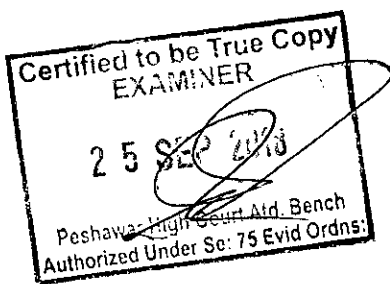
S/o Ayub has filed instant appeal against the conviction and sentence passed against him by the learned Additional Sessions Judge-II, Abbottabad, vide judgment dated 05.06.2015 in case FIR No. 1057 dated 17.09.2013 under Section 13 AO of Police Station Cantt: Abbottabad, whereby the appellant-convict was convicted under Section 13 of the Arms Ordinance and sentenced to suffer one year SI. He was further ordered to pay Rs. 2000/- as fine or in default of payment of fine, he shall further suffer fifteen days



simple imprisonment. Benefit of Section 382-B Cr.P.C. was extended to him.

2. The case vide FIR No. 1057 dated 17.09.2013 was registered under Section 302 PPC on the basis of Murasila, whereby the incident of murder of deceased Muhammad Azhar was reported by present appellant. Later, during course of investigation, the present petitioner was found to be the culprit and was thus arrayed as accused in the main case. During investigation in the main case, on 17.09.2013, the investigating officer recovered one 30 bore pistol bearing NO. 101630 lying in front of the window of room, where the murder of deceased was committed. Later, the father of the appellant produced license of the recovered pistol and the appellant also confessed his guilt before the learned Judicial Magistrate, by stating that he had fired at the deceased with the said pistol. Hence, he was also charged under Section 13 AO and separate challan was submitted against him.

3. The prosecution produced six PWs in order to prove its charge under Section 13 AO against the accused. Thereafter, statement of the appellant-



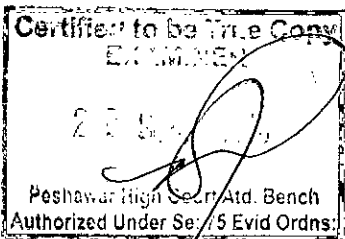
5.11.16

convict was recorded under Section 342 Cr.P.C. In his statement under Section 342 Cr.P.C. the appellant-convict professed innocence and claimed that he was falsely charged.

5. After hearing arguments of learned counsel for the parties, the learned trial Court convicted the accused under Section 13 of the Arms Ordinance and sentenced him to undergo SI for one year and to pay fine of Rs. 2000/-, in default whereof to further undergo simple imprisonment for fifteen days. Benefit of Section 382-B Cr.P.C. was extended to him.

6. Arguments head and record perused.

7. The pistol in question has not been shown to have been recovered from the personal possession of the appellant-convict, nor upon his pointation, however, the fact that the said pistol was recovered from front of window of room of the hostel where appellant-convict and deceased were present on the relevant night, has sufficiently been proved. The prosecution also successfully proved that the said pistol was used by the appellant-convict in the commission of murder of the deceased through



5/11/19

recovery of license of the pistol from the father of appellant-convict and positive report of Firearms Expert.

8. The PWs were subjected to lengthy cross examination, however, no material contradiction could be brought on record to shatter their credibility. Indeed the prosecution successfully proved its case against the appellant-convict, beyond any shadow of doubt. The learned trial Court correctly appreciated the prosecution evidence and has rightly convicted the appellant-convict. No illegality or irregularity could be pointed out in the impugned judgment and sentence passed by the learned trial Court warranting interference by this Court.

9. Resultantly, we are not inclined to interfere with the impugned conviction and sentence passed by the learned trial Court. The appeal in hand, being bereft of any merits, stands dismissed.

Announced.
Dt. 27.02.2018

[Signature]
JUDGE

[Signature]
JUDGE

