

Judgment Sheet
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Crl. Appeal No.1617/2015
(Muhammad Asif vs. The State & another)

Murder Reference No.33/2016
(The State vs. Muhammad Asif)

Crl. Appeal No.1830/2015
(Muhammad Khan vs. Maqbool, etc.)

Crl. Revision No.992/2016
(Muhammad Khan vs. Muhammad Asif, etc.)

JUDGMENT

Date of hearing: 15.01.2019

Appellant by: Dr. Khalid Ranjha, Advocate.

State by: Mr. Muhammad Arshad Farooqi,
Deputy Prosecutor General.

Complainant by: Mr. Azam Nazeer Tarar, Advocate
(for appellant in Crl. Appeal
No.1830/2015 and for petitioner in
Crl. Revision No.992/2015).

SAYYED MAZAHAR ALI AKBAR NAQVI, J:-

Muhammad Asif son of Nazar Muhammad, caste Baloch, resident of Chhawani Khawaja Salah, Tehsil Bhera, District Sargodha, appellant along with Maqbool, Mustafa, Muhammad Arshad, Muhammad Imran son of Shamsher, Muhammad Imran son of Sardara, Muhammad Amir, Sardara, Farrukh Javed, Wazir Khan and Mst. Riffat Batool (all since acquitted) was involved in case FIR No.343/2010, dated 26.09.2010, offence under Sections 302, 148, 149, 109, PPC,

registered with Police Station Bhera. He was tried by learned Additional Sessions Judge Bhalwal, District Sargodha under the afore-mentioned offences. Learned trial court seized with the matter in terms of judgment dated 08.09.2015 convicted and sentenced the appellant in the following terms:-

- *Under Section 302(b), PPC, sentenced to death as Ta'zir with direction to pay Rs.2,00,000/- as compensation to legal heirs of deceased in terms of Section 544-A, Cr.P.C. to be recovered as arrears of land revenue and in case of default in payment thereof, to undergo S.I. for six months.*

2. *Feeling aggrieved by the judgment of the learned trial court, the appellant has assailed his conviction and sentence through filing Crl. Appeal No.1617/2015 whereas learned trial court forwarded Murder Reference No.33/2016 for confirmation or otherwise of sentence of death inflicted upon the convict in terms of Section 374, Cr.P.C. The complainant filed Crl. Appeal No.1830/2015 against acquittal of Maqbool, Mustafa, Muhammad Arshad, Muhammad Imran son of Shamsher, Muhammad Imran son of Sardara, Muhammad Amir, Sardara, Farrukh Javed, Wazir Khan and Mst. Riffat Batool/respondents whereas he also filed Crl. Revision No.992/2015 seeking enhancement in compensation amount against Muhammad Asif/convict. As all the appeals are arising out of one and the same judgment of the learned trial court, therefore, these are being disposed off through consolidated judgment.*

3. *Prosecution story as embodied in the FIR (Exh.PJ) lodged on the statement (Exh.PJ/1) of Muhammad Khan son of Baqar Khan, caste Maryana Gondal, resident of Jahanpur (PW-6) is that the complainant is involved in Zamindara. On 05.05.2010 Asif son of Nazar Muhammad, caste Baloch, resident of Chhawani Khawaja Salah, etc. had kidnapped Mst. Riffat Bibi, daughter of the complainant regarding which case FIR No.155/2010, dated*

07.05.2010, offence under Section 365, PPC, was lodged at Police Station Bhera. Subsequently Mst. Rifat Bibi contracted marriage with Asif and she also made statement in his favour, however, efforts were made for patching up the matter between the parties. On 26.09.2010 Mst. Rifat Bibi called the complainant for compromise on the premise that he had persuaded Asif etc. and it was decided that both sides will get together at the dera of Muhammad Ameer son of Muhammad Khan, caste Jahanpur. On this the complainant along with Gulzar Ahmed son of Soni, (2) Muhammad Riaz son of Bhai Khan, both Marryana Gondal by caste and residents of the same village riding on a motorcycle whereas Mst. Amina Bibi wife of the complainant along with her son Muhammad Nazeer riding on another motorcycle were heading towards Dera. Nazeer Ahmed along with his mother were ahead at some distance and soon they reached near the agricultural land of Qari son of Siddique within the territorial jurisdiction of Chhawani Khawaja Salah, from the opposite side (1) Muhammad Asif son of Nazar Muhammad, armed with rifle .44-bore, (2) Javed alias Mian son of Nazar Muhammad armed with gun .12-bore, (3) Nazeer son of Muhammad Ameer armed with pistol .30-bore, (4) Arshad son of Muhammad Ameer armed with rifle .44-bore, (5) Maqbool son of Muhammad Afzal armed with gun .12-bore, (6) Mustafa son of Muhammad Afzal armed with rifle .44-bore, (7) Mst. Rifat Bibi wife of Muhammad Asif empty handed, all Baloch by caste and residents of Chhawani Khawaja Salah, (8) Imran son of Sardar, caste Marryana Gondal, resident of Jahanpur armed with rifle .44-bore and two unknown accused persons armed with fire arms intercepted them, who were identified in the headlights of motorcycles. Mst. Riffat Bibi raised lalkara that the complainant wanted to bring her back and they should not be spared. Muhammad Nazeer son of the complainant had alighted from the motorcycle when Muhammad Asif made a straight fire shot with his rifle, which landed at his left cheek leaving its exit

from back side of neck. On sustaining injury son of the complainant fell down on the ground while the other accused persons also made indiscriminate aerial firing. It was alleged that the complainant and other PWs witnessed the occurrence while Muhammad Nazeer succumbed to the injuries at the spot.

Motive behind the occurrence as disclosed in the crime report was that earlier Muhammad Asif etc. had kidnapped Riffat Bibi and they had suspicion that the complainant party will take her back and also cause harm to them. Due to this grudge and suspicion all the accused persons in connivance with each other on the abetment of Sardar son of Marja, caste Gondal, resident of Jahanpur, Ameer son of Allah Bakhsh, caste Baloch, resident of Chhawani Khawaja Salah which was overheard by Bashir son of Baqar and Nasar Hayhat son of Ghulam Muhammad, both Marryana Gondal by caste and residents of the same village, committed the occurrence. While leaving Muhammad Ameer son of Muhammad Khan and Gulzar Ahmed son of Mola Bakhsh to safeguard the dead body the complainant reached Police Station and made his statement on the basis of which FIR was chalked out.

4. *After registration of the case, investigation was entrusted to Ghulam Rasool, S.I. (PW-17), who along with other police officials reached the place of occurrence. After inspecting dead body, Investigating Officer prepared injury statement (Exh.PC), drafted inquest report (Exh.PD) and dispatched the dead body to mortuary under the escort of Muhammad Tariq 821/C (PW-12). From the spot Investigating Officer secured blood stained earth vide recovery memo Exh.PG and also collected four empty cartridges of gun .12-ore (P-2/1-4), two missed bullets of rifle .44-bore (P-3/1-2) and four crime empties of rifle .44-bore (P-4/1-4), which he took into possession vide recovery memo Exh.PH. He also prepared rough site plan of the place*

of occurrence (Exh.PU). After postmortem examination last worn clothes of the deceased shirt (P-5) and shalwar (P-6) were produced before the Investigating Officer, which were secured vide recovery memo Exh.PQ. Upon the direction of Investigating Officer and pointing out of the PWs, on 01.10.2010, Muhammad Hafeez, Draftsman (PW-18) took rough notes of the place of occurrence and thereafter prepared scaled site plan (Exh.PB and Exh.PB/1), which was made part of the file. Subsequently investigation was entrusted to Zafar Abbas, S.I. (PW-16), who on 16.11.2013 arrested the appellant and obtained his physical remand. During the course of interrogation in pursuance of disclosure on 19.11.2013, appellant led to the recovery of rifle .44-bore (P-7) along with ten live bullets (P-8/1-10) which Investigating Officer took into possession vide recovery memo Exh.PP.

5. *As a result of investigation, the appellant was found guilty, hence Investigating Officer prepared report under Section 173, Cr.P.C. and sent the same to the court of Sessions en-routed through the Illaqa Magistrate as provided under Section 190(2), Cr.P.C. The learned trial court formally charge sheeted the accused vide order dated 02.01.2014 to which they pleaded not guilty and claimed trial. Prosecution in order to substantiate its case produced as many as nineteen (19) prosecution witnesses.*

6. *Occular account in this case consists of the statements of Muhammad Khan (PW-6), Mst. Amina Bibi (PW-7) and Gulzar Ahmed (PW-10). Tariq Mehmmod 821/C (PW-12) had escorted dead body to mortuary while Muhammad Hafeez, Draftsman (PW-18) had prepared scaled site plan of the place of occurrence. Investigation in this case was conducted by Ghulam Rasool, S.I. (PW-17), Zafar Abbas, S.I. (PW-16) and Ghulam Jillani, DSP (PW-19).*

Dr. Noor-ul-Amin, Medical Officer (PW-2) on 26.09.2010 had conducted postmortem examination on the dead body of Muhammad Nazeer deceased and observed following injuries on his person:-

- “1. A firearm wound of entrance 1 ½ cm x ¼ cm with collar of abrasion present on left cheek.*
- 2. A fire arm wound of exit 3 cm x 1 cm on back and outer and right side of neck.”*

After postmortem examination, doctor rendered the following opinion:-

“In my opinion, death had occurred due to shock and haemorrhage under injuries No.1 & 2 which were sufficient to cause death in ordinary course of nature. Both injuries were ante mortem caused by fire arm. Probable time that elapsed between injury and death was immediate and between death and post mortem examination was within one day.”

Statements of rest of the prosecution witnesses are formal in nature.

7. The appellant was examined under Section 342, Cr.P.C, wherein he refuted the allegation levelled against him in the prosecution evidence. He opted neither to appear as his own witness in terms of Section 340(2), Cr.P.C, nor did he opt to adduce evidence in defence. While replying to the question why this case against him and why the PWs deposed against him, the appellant made the following deposition:-

“The PWs deposed falsely being close relative of complainant and deceased. Instant false case has been registered against me by twisting the real facts.”

8. Learned trial court after evaluating the evidence available on record, found version of the prosecution proved beyond shadow of reasonable doubt against the appellant, which resulted into his conviction in the afore-stated terms.

9. At the very outset learned counsel for the appellant contended that the impugned judgment has been recorded by the learned trial court in a slipshod manner without adverting to real facts of the case and material available on record. Learned counsel vigorously argued that the story advanced by the prosecution in the crime report, on the face of it does not appeal to reason. Further contended that while making their statements during the course of trial, the prosecution witnesses of ocular account took somersault and changed the story with regard to mode and manner of occurrence, hence the same cannot be given any legal credence. It was argued that the ocular account is belied by medical evidence on minute details. Learned counsel vigorously contended that during the course of investigation bulk of prosecution version was found false as accused Imran son of Sardar, Maqbool, Muhammad Arshad, Ghulam Mustafa, Muhammad Ameer and Sardar were found innocent. Moreover, except the appellant rest of the accused were acquitted of the charge on the same set of evidence. Learned counsel contended that the motorcycle (source of light) was not taken into possession by the Investigating Officer. Learned counsel vigorously argued that motive set forth in the crime report could not be substantiated. As far as recovery of rifle .44-bore (P-7) affected from the appellant and report of the concerned quarter in this regard is concerned, it was argued that as both the articles were dispatched to the office of Punjab Forensic Science Agency together, therefore, the report is of no legal consequence. Learned counsel finally argued that keeping in view all the facts and circumstances brought forth on record, prosecution has miserably failed to establish its case against the appellant beyond reasonable doubt, hence, conviction and sentence recorded by the learned trial court is not sustainable in the eyes of law, which is liable to be set aside.

10. On the other hand learned Deputy Prosecutor General assisted by learned counsel for the complainant vehemently opposed

the contentions raised by learned counsel for the appellant. It was argued that although the occurrence had taken place at evening time, however, both the parties being previously known to each other, no question of mistaken identity arises. Learned counsel for the complainant contended that the prosecution witnesses of ocular account while making their statements fully corroborated the prosecution version on minute details. Although they were subjected to lengthy cross-examination, however, nothing adverse to the prosecution version could be brought on record. It was argued that medical evidence is in line with the ocular account. Further argued that after the occurrence, the appellant became fugitive from law and after his arrest, rifle .44-bore was recovered on his pointing out. Learned counsel contended that the appellant had committed the occurrence with strong motive, who was also found guilty during the course of investigation as such his name was placed in column No.3 of the report prepared under Section 173, Cr.P.C. Lastly it was argued that the appellant had taken the life of father of the complainant without any just case while prosecution adduced its case through straight-forward, reliable and confidence inspiring evidence, therefore, the learned trial court rightly convicted the appellant under the relevant provisions of law.

11. While arguing Crl. Appeal No.1830/2015, learned counsel contended that Maqbool, Mustafa, Muhammad Arshad, Muhammad Imran son of Shamsher, Muhammad Imran son of Sardara, Muhammad Amir, Sardara, Farrukh Javed, Wazir Khan and Mst. Riffat Batool were named in the crime report out of whom Nazeer, Arshad, Maqbool, Mustafa and Imran had also made firing at the time of occurrence. Further contended that prosecution through adducing cogent and confidence inspiring evidence established its

case against the respondents, hence learned trial court fell in error while acquitting them of the charge.

12. *While arguing Crl. Revision No.992/2015, learned counsel for the petitioner contended that due to firing made by Muhammad Asif/respondent, Nazeer Ahmed was done to death, hence keeping in view peculiar facts and circumstances of the case, amount of compensation is also liable to be enhanced.*

13. *We have heard the arguments advanced from both sides and perused the record available on file.*

14. *It is an established principle of law that each criminal case has its own peculiar facts and circumstances and the same hardly coincide with each other. No doubt in this unfortunate occurrence Muhammad Nazeer young son of the complainant aged about 20/25 years was done to death due to firing made by the assailants, however, this Court has to ascertain the truthfulness of the prosecution story while taking into consideration all the facts and circumstances. It is an admitted fact that the occurrence had taken place on 26.09.2010 at 7:00 p.m. within the territorial jurisdiction of Police Station Bhera, District Sargodha while the matter was reported to the police at 8:30 p.m. whereas inter se distance between the place of occurrence and the Police Station is 10-KMs. However, the promptness of the crime report would be determined after taking into consideration the other facts and circumstances floating on the record. In order to substantiate its version the prosecution led evidence qua ocular account, motive, medical evidence, recovery of rifle, as well as, investigation and other corroborative pieces of evidence.*

15. *Admittedly while adjudicating the criminal matters, ocular account is always considered as principal evidence. In the*

instant case the prosecution version qua ocular account consists of the statements of Muhammad Khan, complainant (PW-6), Mst. Amina Bibi (PW-7) and Gulzar Ahmed (PW-10). Perusal of record available on file reflects that while lodging the crime report it was averred by the complainant that in order to affect compromise on the issue of marriage of Riffat Bibi with Muhammad Asif appellant against the wishes of complainant party they were called and soon they reached near the agricultural land of Qari son of Siddique, the appellant along with other co-accused intercepted them and due to firing made by the accused persons, Nazeer Ahmed was done to death. However, while making their statements during the course of trial, the complainant, as well as, other prosecution witnesses of ocular account took a complete somersault by contending that firstly they reached the dera of Ameer where the accused party did not turn up. Subsequently Wazeer, co-accused, called son of the complainant and his mother to accompany to their house to have meeting with Mst. Riffat Bibi. On their way at a distance of 10-acres away from the dera, the appellant along with other accused persons intercepted them where altercation took place and the accused made firing, which resulted into injuries on the person of Nazeer Ahmed. Relevant extract out of the statement of Muhammad Khan, complainant reads as under:-

“I along with Gulzar Ahmad, Muhammad Riaz, on separate motorcycle while my wife Amina Bibi and son Muhammad Nazir deceased on separate Motorcycle, proceeded to a Dera of Muhammad Ameer. We reached at the Dera of Ameer my relative at about 6:00 p.m. The accused party did not turn up on the Dera. After a short while about half acre away from Dera of Ameer referred above accused Wazeer came and called my son Muhammad Nazir deceased and my wife Amina Bibi separately and told them that Riffat Bibi was hesitant to come to the Dera of Muhammad Ameer who was her uncle (Khalu) and he asked my wife and my son Nazir deceased to come along with him who riding on motorcycle along with Wazir accused riding on another

motorcycle went towards East. We on separate motorcycle, I along with Gulzar and Riaz followed them on separate motorcycle. When about 10 acres away from the Dera of Muhammad Ameer relative, we reached about at about 6:45 p.m. near an open space where crop of milt was present where Asif and Imran accused while armed with rifles 44 bore, Wazir armed with 30-bore, Mst. Riffat empty handed, Farrukh Jaffer armed with 12 bore gun, Imran son of Shamas armed with 12 bore gun came forward and stopped my wife and my son Muhammad Nazir whom we identified in the lights of motorcycles. In the meantime, an altercation took place. Resultantly, Asif accused fired straight at Nazir deceased my son with his rifle.....”

Similarly Mst. Amina Bibi (PW-7) and Gulzar Ahmed (PW-10) while taking somersault made material improvements contrary to contents of their statements recorded under Section 161, Cr.P.C. in order to bring the case in line with the statement made by the complainant. These aspects when taken into consideration shatter the credence of authenticity of the statements of the prosecution witnesses of occular account. It is cordial principle of law that any statement improved during trial is not worth relying, which is also deprecated by the principle enunciated in two salutary judgments. In the dictum of law laid down by august Supreme Court of Pakistan in the case of Saeed Ahmed Shah vs. The State (1993 SCMR 550), it has been held that the statement of any witness improved at trial is not worth relying rather such improvement creates serious doubt about its veracity and credibility. Similar view was held in another case reported as Muhammad Rafique and others vs. The State and others (2010 SCMR 385).

16. *There is no cavil to this proposition that the occurrence had taken place in the month of June at 7:00 p.m. whereas in the crime report the complainant had given the specific role of each and every accused named in the FIR. According to prosecution version the prosecution witnesses had identified the assailants in the light of*

headlights of the motorcycles, which were also used as means of transportation. However, the Investigating Officer had not taken into possession the means of transportation, as well as, light through which the prosecution witnesses had identified the assailants to supplement the prosecution version. Hence, the prosecution case is squarely hit by the dictates of the superior courts of the country laid down in the cases of BASHIR AHMED alias MANNU vs. THE STATE (1996 SCMR 308) and NAZEER AHMAD vs. GEHNE KHAN and others (2011 SCMR 1473). In the case of BASHIR AHMED alias MANNU vs. THE STATE (1996 SCMR 308) while dealing the issue it was held as under:-

“---Bulb in the light of which eye-witnesses were shown to have seen the occurrence was not taken into custody by the police and the presence of electricity at that place had been concocted----.”

17. As far as medical evidence in this case is concerned, Dr. Noor-ul-Ameen (PW-2) had conducted postmortem examination on the dead body of the deceased and observed two injuries on his person. However, although the postmortem examination was conducted on 26.09.2010 at 11:30 p.m. whereas according to prosecution version the occurrence had taken place on the same day at 7:00 p.m. but doctor did not give specific duration between death and postmortem examination rather the same was mentioned as “within one day”. Even otherwise it is consistent view of the superior courts that medical evidence only discloses the nature of injury and the weapon used but it does not lead to the culprits. Wisdom in this regard is sought from the ratio decidendi of august Supreme Court of Pakistan in the cases of MURSAL KAZMI alias QAMAR SHAH and another vs. THE STATE (2009 SCMR 1410) and MUHAMMAD TASAWEER vs. Hafiz ZULKARNAIN and 2 others (PLD 2009 Supreme Court 53); wherein following principle was laid down:-

“---S. 302/34---Appreciation of evidence---Medical evidence---Significance---Medical evidence may confirm the ocular evidence with regard to the seat of the injury, nature of the injury, kind of weapon used in the occurrence but it would not connect the accused with the commission of the crime.”

18. *As far as motive in this case is concerned, although it is stated that Mst. Riffat Bibi accused (since acquitted) and Muhammad Asif, appellant had apprehension that the complainant party might not take Mst. Riffat Bibi back to their house, however, it has come on record that she had contracted marriage with the appellant on 05.05.2010 while till 24.09.2010 absolutely no effort was made to affect compromise between the parties. Hence, the motive set forth in the crime report neither seems plausible nor any evidence was adduced to substantiate the same.*

19. *As far as recovery of rifle .44-bore allegedly affected from the appellant and report of Punjab Forensic Science Agency (Exh.PZ/1) which undeniably is positive, is concerned, admittedly both the crime empties and rifle were dispatched to the quarter concerned on the same day; therefore, the report is squarely devoid of legal credence.*

20. *As far as absconsion of the appellant as contended by learned counsel for the complainant is concerned, it is established principle of law that mere absconsion in isolation is not a proof of guilt of an accused. Respectful reliance in this regard is placed on the ratio decidendi of august Supreme Court of Pakistan in the case of Rasool Muhammad vs. Asal Muhammad and another (PLJ 1995 S.C. 477); whereby their Lordships had held as under:-*

“Disappearance of a person named as a murder/culprit after occurrence, is but natural, whether named rightly or wrongly ---Abscondance per se is not a proof of guilt of an accused person --- It may, however, create

suspicious against him but suspicious after all are suspicious.”

21. *Fact also remains that in the crime report besides the appellant, Maqbool, Mustafa, Muhammad Arshad, Muhammad Imran son of Shamsher, Muhammad Imran son of Sardara, Muhammad Amir, Sardara, Farrukh Javed, Wazir Khan and Mst. Riffat Batool, were arrayed as accused, however, during the course of trial they were acquitted of the charge on the same set of evidence. It is settled principle of law that if evidence of the prosecution is disbelieved qua bulk of accused it cannot be believed qua the other in the absence of very strong corroboration, which is squarely missing in the case in hand. Respectful reliance in this regard is placed on the ratio decidendi of august Supreme Court of Pakistan in the cases of Akhtar Ali and others vs. The State (PLJ 2008 SC 269), Shera alias Sher Muhammad’s case (1999 SCMR 697) and Sher Bahadur’s case (1972 SCMR 651).*

22. *From the facts and circumstances narrated above, we are persuaded to hold that the prosecution case is pregnant with major discrepancies creating serious dents in its authenticity and in such like situations it becomes incumbent upon the Court to extend the benefit of doubt in favour of the accused. Furthermore, to extend the benefit of doubt so many circumstances are not required rather one circumstance which creates reasonable doubt in the veracity of the prosecution version is sufficient for the purpose, not as a matter of grace rather as a matter of right. Respectful reliance in this regard is placed on the ratio decidendi of august Supreme Court of Pakistan in the case of TARIQ PERVEZ vs. THE STATE (1995 SCMR 1345); wherein following principle was laid down:-*

“---Art. 4---Benefit of doubt, grant of---For giving benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubts---If a simple circumstance creates reasonable doubt in a

prudent mind about the guilt of accused, then he will be entitled to such benefit not as a matter of grace and concession but as a matter of right.”

Similarly in the case titled ARIF HUSSAIN AND ANOTHER vs. THE STATE (1983 SCMR 428), the august Supreme Court of Pakistan had further held as under:-

“---S. 302---Murder---Evidence---Benefit of doubt--- Prosecution case not free from doubt---Charges not brought home to accused in manner required under law-- -Accused given benefit of doubt and acquitted”.

Similar view was affirmed in the case of Muhammad Akram vs. The State (2009 SCMR 230).

*Moreover, it is golden principle of law that the Court ought to let off 100 guilty but should not convict one innocent person on the basis of suspicion. Resultantly while setting aside the conviction and sentence recorded by the learned trial court in terms of judgment dated 08.09.2015, Crl. Appeal No.1617/2015 filed by the appellant is **accepted in toto** as a consequence whereof he is ordered to be acquitted of the charge in FIR No.343/2010, dated 26.09.2010, offence under Sections 302, 148, 149, 109, PPC, registered with Police Station Bhera. The appellant is directed to be released forthwith, if not required in any other case.*

23. *Murder Reference No.33/2016 forwarded by the learned trial court in terms of Section 374, Cr.P.C. for confirmation of death sentence inflicted upon Muhammad Asif/convict fails, which is answered in the **NEGATIVE**. Death sentence is **NOT CONFIRMED**.*

24. *As far as Crl. Appeal No.1830/2015 filed against acquittal of Maqbool, Mustafa, Muhammad Arshad, Muhammad Imran son of Shamsher, Muhammad Imran son of Sardara, Muhammad Amir, Sardara, Farrukh Javed, Wazir Khan and Mst. Riffat Batool and Crl. Revision No.992/2015 seeking enhancement in*

*compensation amount are concerned, for the afore-stated reasons as we have disbelieved the prosecution story, therefore, we find no legal justification in the same, which are accordingly **dismissed**.*

(Muhammad Waheed Khan)
Judge

(Sayyed Mazahar Ali Akbar Naqvi)
Judge

Approved for Reporting

Riaz