

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE SAJJAD ALI SHAH  
MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL PETITIONS NO.1298 & 1612 OF 2017**

(Against the judgment of the Lahore High Court, Lahore dated 08.11.2017 passed in Murder Reference No.199 of 2015/Criminal Appeal No.328-J of 2015)

Muhammad Asif : (In CrI.P.1298/2017)  
Mehboob Alam : (In CrI.P.1612/2017)

... **Petitioner**

**Versus**

Mehboob Alam and another : (In CrI.P.1298/2017)  
The State through P.G. Punjab & another : (In CrI.P.1612/2017)

... **Respondents**

For the Petitioner : Raja Ghazanfar Ali Khan, ASC  
Javed Iqbal, ASC  
(In CrI.P.1298/2017)

Ch. Walayat Ali, ASC  
(In CrI.P.1612/2017)

For the (State) : Muhammad Jaffar, Addl.PG Punjab

Date of Hearing : 22.04.2020

**JUDGMENT**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J:-** The petitioner has sought leave to appeal under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 against the judgment of Lahore High Court, Lahore dated 08.11.2017 in Murder Reference No. 199/2015/Criminal Appeal No.328-J/2015.

2. The petitioner was arrayed one of the accused in case FIR No.693/2011 dated 15.11.2011 offence under section 302/324/337-F(i), 337-F(vi)/34 PPC registered with Police Station Sharakpur District Sheikhpura lodged at the instance of one

Mehboob Alam. The complainant of this case being aggrieved by the conduct of local police investigation agency preferred to file "*complaint*" in the court of Learned Sessions Judge, Sheikhpura titled as "*Mehboob Alam vs, Muhammad Asif and others*" under section 302/324/34/337-F(i) PPC on 11.01.2012. The learned trial court proceeded with the "*complaint*" in the spirit of the law laid down by the superior court and as such the charge was framed vide order dated 22.05.2012. The learned trial court after completion of the trial came to the conclusion that the prosecution has succeeded to prove the case against Muhammad Asif for the commission of Qatl-i-Amd of Tanvir Ayyub hence, he was ordered to be convicted under section 302(b) PPC and was sentenced to death. He was further directed to pay compensation of Rs.2,00,000/- to the legal heirs of the deceased under section 544-A Cr.PC. He was further to undergo S.I for six months in case of default. The judgment of the learned trial court was assailed before Lahore High Court, Lahore through Criminal Appeal No.328-J/2015 (*Muhammad Asif vs, the State*), Murder Reference No.199/2015 was also sent to the court under section 374 Cr.PC for its confirmation. Both the matters were adjudicated and decided by the Learned Division Bench of Lahore High Court, Lahore vide judgment dated 08.11.2017. The learned Division Bench after taking into consideration all the facts and circumstances decided the matter while converting sentence to death into imprisonment for life with reasons assigned quantum of sentence hence, the instant petition before us.

3. At the very outset, it has been argued by the learned counsel for the petitioner that in fact, it is a case of no evidence. The learned courts below had not taken into consideration the evidence available on record and the same has not been appreciated according to the principle of "*appreciation of evidence*" enunciated by the superior courts from time to time. Contends that though in the FIR against the column date and time of occurrence, it has been mentioned as 15.11.2011 **شام ویلا** but the same is not part of the statement made by the complainant at the time of chalking of the FIR, that even the "*complaint*" lodged by the complainant just after lapse of three months of registration of crime report, also not mentioned the date and time of occurrence. Further contends that the postmortem in this case was delayed by twelve to twenty four hours which further lend support to the fact that it was unseen occurrence and whole proceedings were carried out at a belated stage after due deliberation. Contends that the statement of the prosecution witnesses of the ocular account is at variance and if the same is taken into consideration, it do not inspire confidence to sustain conviction in case of capital charge. Contends that the ocular account is also in contradiction to the medical evidence which further lend support to the stance taken by the defence that none of the witness was present at the spot and it was an unseen occurrence and the petitioner was involved because of previous animosity. Lastly it was argued by the learned counsel for the petitioner that the salutary principle of "*benefit of doubt*" was not extended in favour of the petitioner and as such it is a fit case for interference by this Court in the interest of justice.

4. On the other hand, learned counsel appearing on behalf of the complainant argued that the Learned High Court has erred while altering the sentence to death into imprisonment for life. Contends that it was preplanned murder, normal sentence provided under statute is death but the learned High Court has extended artificial reasoning while converting the sentence of death into imprisonment for life. Contends that the judgment of the learned trial court is not sustainable in the eyes of law. The learned law officer has also adopted the contention raised by the learned counsel for the complainant.

5. We have heard learned counsel for the parties and gone through the record with their able assistance.

6. There is no second cavil to this proposition that initially the matter was lodged with the local police for initiation of proceedings against the accused persons nominated in the crime report but within a period of three months the complainant lost confidence in the fairness of the investigation and as such preferred to file "*complaint*" before the learned trial court. Though, the complainant has mentioned in his "*complaint*" that the accused persons nominated in the crime report are men of means having political interference and there is no scope of fair investigation but this aspect was not elaborated with any particular instance. As far as the contention of the learned counsel for the petitioner that particularly the time of occurrence has not been mentioned while lodging the "*complaint*" and it was not even part of the record at the time of making statement before the court.

7. Bare perusal of the crime report which was lodged with promptitude reflect the date and time of occurrence against the specific column which is part of the form has been duly mentioned. Hence, the contention of the learned counsel for the petitioner that it is unseen occurrence has lost its probative value hence, the same is repelled. Another aspect of the case that the postmortem in this case was delayed by twelve to twenty four hours was taken into consideration by us. In the instant case, one person lost his life, while there were two injured persons, those were evacuated to Mayo Hospital from the place of occurrence which is at a distance of 30/40 KM. Possibility of consuming the time in transportation might lead to delay in postmortem examination which was still fairly good as the doctor has opined proximately that it ranges from twelve to twenty four hours. In a country where the medical facility cum availability of paramedics for the job assigned is not an easy task, the consumption of such a time seems to be quite reasonable hence, the prosecution evidence cannot be brushed aside on this score alone to extend the benefit of doubt as claimed. We have also noticed that there is previous hostility between the parties, hence it too does not inspire confidence and the same is repelled. We have noticed that the learned High Court while converting sentence to death into imprisonment for life has assigned justifiable reasoning supported by facts and law hence, the same seems to be well reasoned and meet all the standards of safe administration of criminal justice.

8. In view of the facts and circumstances narrated above and the reasons assigned, we do not find any scope for interference

into judgment of the learned High Court hence, the instant petition before us is **dismissed**. The conviction and sentence inflicted upon by the learned High Court is upheld. As a consequence, leave to appeal is refused.

Judge

Judge

Islamabad,  
22.04.2020  
Approved for reporting.  
Syed Rashid Maqsood