

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial

Mr. Justice Faisal Arab

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.464 of 2020

*(Against impugned judgment dated
23.4.2020 passed by Peshawar High Court
Peshawar in Cr.M.(BA) No.843-P/2020)*

Muhammad Hayat

...Petitioner(s)

Versus

The State & another

...Respondent(s)

For the Petitioner(s):

Mr. Mazullah Barkandi, ASC
Syed Rifaqat Hussain Shah, AOR

For the State:

Ms. Aysha Tasneem, ASC
along with Raza Raban SI, Peshawar

For the Complainant:

Mr. Hasnain Ali, ASC

Date of hearing:

05.06.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- Aurangezb along with his nephew Intikhab Alam was asleep on 5.2.2020 in his *Hujjra* situated within the precincts of Police Station Mithra, Peshawar, when at 10:00 p.m. they were surprised by armed intruders; they ostensibly demanded to search the premises so as to apprehend the hiding *Talbins* and seize their arms; they subdued the inmates including the children after tying them in different rooms and left the scene with the valuables comprising cash, gold ornaments and a vehicle. The complainant extricated himself and lodged report with the police at 10:00 a.m. As the investigation progressed, the petitioner was arrested alongside co-accused; he was identified by the witnesses in a test identification parade; pursuant to disclosure, he led to the recovery of some of the robbed articles.

2. Heard. Record perused.

3. Alleged discrepancy in the actual number of assailants, stressed at inordinate length is an issue that cannot be settled within the restricted scope of tentative assessment of the material collected by the investigating agency. Similarly, flaws attributed to the test identification parade cannot be attended without undertaking a journey into prohibited territory. These are the issues, essentially to be determined by the trial Court, on the strength of evidence, yet to be recorded. In the absence of any apparent motive, suggestive of malice, identification of the accused coupled with recovery of the looted articles from within the safety of a dwelling at an odd hour of night to the horrors of the inmates that included children and women, we do not feel persuaded in our discretion to allow the request. Petition fails. Leave declined.

Judge

Judge

Judge

Islamabad, the
5th June, 2020
Not approved for reporting
Azmat/-