

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Manzoor Ahmed Malik
Mr. Justice Sajjad Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

Jail Petition No.415 of 2018

(Against judgment dated 20.11.2017 passed by
Islamabad High Court Islamabad in Cr. Appeal
No.23 of 2013)

Muhammad Ali

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Ms. Afshan Ghazanfar, ASC

For the State: Mr. Tariq Mehmood Jahangiri,
Advocate General Islamabad

Date of hearing: 17.10.2019.

JUDGMENT

Qazi Muhammad Amin Ahmed, J. Mst. Shakila

Rafique (PW-3) was still asleep in her room alongside her daughter; it was a winter morning and at about 5/5:15 a.m, she was awakened by an entry in the room, assuming that of her husband; all of a sudden, she screamed after feeling some liquid spilling over her face, she sprang up to identify the appellant in the room; the family was attracted including her husband Muhammad Rafique (PW-1); her face was washed and thereafter rushed to Pakistan Institute of Medical Sciences. Dr. Farrukh Kamal (PW-5) attended the prosecutrix with burn injuries. According to the complainant, the petitioner resided in the neighbourhood with a questionable conduct to the annoyance of the residents, on whose behalf, he had moved an application to the Inspector General of Police. It is alleged that in the above backdrop, he selected complainant's wife as a target to avenge the insult. Upon indictment, the petitioner claimed trial, culminating into his conviction on the counts of murderous

assault as well as *Itlaf-i-Salahiyyat-i-Udw*, he was sentenced to 10-years rigorous imprisonment along with payment of fine as well as *Arsh*; he was additionally convicted for house trespass and sentenced to 7-years RI with fine; benefit under section 382-B of the Code of Criminal Procedure 1898 alongside concurrent commutation; his appeal failed in the High Court vide impugned judgment dated 20-11-2017, *vires* whereof are being assailed on the ground that the very genesis of the incident is shrouded into mystery and that it is far from being clear as to how the petitioner made his way into the bedchamber without being noticed by the inmates so as to conveniently carry out the assault; it is next argued that in a chilled winter morning much before the sun rise, it was simply not possible for the prosecutrix to keep her face out of the quilt or blanket in temperature, presumably subzero; according to the learned counsel, no blanket or quilt was taken into possession; question of identity of the assailant has also been argued at inordinate lengths with a reference to complainant's large clan, comprising three wives with siblings, to insinuate behind the scene family fissures. Contrarily, the learned Law Officer has faithfully defended the impugned judgment.

2. Heard. Record perused.

3. Most of the questions, though raised ingeniously, find their answers in the cross-examination itself. It is a common ground that petitioner lived in the neighbourhood with a joint terrace; to a question asked by no other than the cross-examiner himself, prosecutrix explained, malady of hyper tension as a reason for not covering her face with the quilt. Petitioner, being a next-door resident, taking to the heels after surprising the family, that attempted to apprehend him, the question of his identity cannot be viewed with suspicion. Prosecutrix being in her prime youth, horrendously mutilated, is certainly not expected to swap the petitioner with the real offender; she has been straightforward and confidence inspiring in her deposition, joined by other family members to firmly stand in her support to rule out conspiracy theories. In the face of formidable evidence, exclusively revolving around his culpability, plea taken by the petitioner is beside the point; statements of the defence witnesses are equally inconsequential. Courts below have rightly appraised prosecution evidence while being inconsonance with the principles of safe administration of criminal justice and upon our own independent

analysis, we have not been able to take a view different than concurrent conclusions, squarely structured within the remit of law. Jail Petition fails. Dismissed.

Judge

Judge

Judge

Islamabad
17th October, 2019
Azmat/-

