

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Qazi Muhammad Amin Ahmed

Jail Petition No.263 of 2018

(Against the judgment dated 7.3.2018 of the
Lahore High Court, Lahore passed in Cr. Appeal
No.190-J/2015 and M.R. No.227/2015)

Muhammad Ashraf

....Petitioner(s)

Versus

The State

....Respondent(s)

For the Petitioner(s): Mr. Muddasir Khalid Abbasi, ASC

For the State: N.R.

Date of hearing: 03.08.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- A sudden brawl in the family cost Samra Hafeez, 21, deceased, her life whereas her sister Misbah Hafeez (PW-3) and brother Murtaza Hafeez (PW-4) survived gun shots at 2:30 p.m. on 10.12.2010 within the precincts of Police Station Aroop, Gujranwala; incident was reported by their father Muhammad Hafeez (PW-3) at the police station; he blamed his brother Sana Ullah and sister-in-law Farzana Bibi for having ignited the situation, pursuant whereto, the petitioner, a close relative, along with Muhammad Azam (P.O.) targeted Samra Hafeez with a .44 caliber gun while the absconder trapped Murtaza Hafeez, PW; they jointly injured Misbah Hafeez PW; he was indicted alongside Sana Ullah and Farzana Bibi, since acquitted, vide judgment dated 30.04.2015 convicted under clause (b) of section 302 and sentenced to death; on the coordinate charge of murderous assault, he was also held guilty for the crime. The High Court maintained the convictions, however, altered penalty of death into imprisonment for life vide impugned judgment dated 07.03.2018, vires whereof, are being assailed through a jail petition, taken up by Mr. Mudassar Khalid Abbasi, ASC, who argued that the petitioner was an innocent visitor, unsuspectingly trapped in a fight that raged between the two brothers, a circumstance which according to the

learned counsel, is self evident from the crime report as the occurrence cropped up while the family members were taking meal on the rooftop. The learned counsel has also attempted by referring to some selective portion of prosecution evidence to demonstrate that petitioner was not present at the scene when the deceased and the injured received fire shot, insinuating the entire blame onto the absconding co-accused. It is further contended that in a dispute between two real brothers, petitioner had no earthly reason to shoot the family members and it appears that he is being hounded as a scapegoat. To qualify the point, the learned counsel referred to the failure of prosecution motive with the High Court as well as inconsequential recovery of weapon allegedly used.

2. Heard. Record perused.

3. Occurrence is a daylight affair, graphic details whereof, have been furnished by the witnesses who are not merely injured but inmates of the premises as well. An unfortunate situation cropped up all of a sudden and in that backdrop, the complainant or the witnesses had no axe to grind so as to swap the petitioner with the real offender. There is no space to entertain any hypothesis of innocence. The witnesses have been thoroughly cross-examined during the trial and we have not been able to find out any serious flaw, contradiction or infirmity reflecting upon their depositions. Reference by the learned counsel to the statement of Muhammad Hafeez (PW-5) to demonstrate that the petitioner as well as the absconding accused were not present during the fateful moments is preposterous and out of context to say the least; he has referred to the following portion of the statement of the witness:-

“When we were taking meal accused Azam and Ashraf were not present.”

He has skipped the very next line wherein the witness in the same breath said:

“However, they came afterwards from inside the house.”

The statement is continuity of a narration illustrating the events preceding commencement of assault and by no stretch of imagination or through any mode of interpretation one can construe it as implying absence of the accused.

Ocular account furnished by the witnesses is duly corroborated by medical evidence. Weapon recovered upon petitioner’s disclosure though excluded from consideration by the High Court, nonetheless, is consistent

with the injuries received both by the deceased as well as the witnesses. Investigative conclusions in the wake of various steps taken with a remarkable promptitude are inescapably pointed upon petitioner's culpability who remained away from law for a considerable span of time before he was finally arrested on 10.9.2012. The Courts below have rightly appraised the evidence and found no space to entertain any hypothesis other than petitioner's guilt. We, on our own analysis, have found petitioner's conviction in accord with the principles of safe administration of criminal justice with a wage settled conscionably. Petition fails. Leave declined.

Judge

Judge

Islamabad, the
3rd August, 2020
Not approved for reporting
Azmat/-