IN THE SUPREME COURT OF PAKISTAN

(Review Jurisdiction)

PRESENT:

Mr. Justice Maqbool Baqar Mr. Justice Yahya Afridi

Mr. Justice Qazi Muhammad Amin Ahmed

<u>Criminal Review Petition Nos.1 to 6/2016 in</u> <u>Jail Petition Nos.588 to 593/2013</u>

(On review from the judgment dated 22.10.2015 passed by this Court in Jail Petition Nos.588 to 593/2013)

Zaid Shah alias Jogi

(in all cases)

...Petitioner(s)

<u>Versus</u>

The State

(in all cases)

...Respondent(s)

For the Petitioner(s): Mr. Anis M. Shahzad, ASC

(in all cases)

For the State: Mirza M. Usman, DPG

(in all cases)

Date of hearing: 29.1.2020.

JUDGMENT

Qazi Muhammad Amin Ahmed, J.- Ziad Shah alias Jogi, petitioner herein, was tried alongside co-accused in six different cases of abduction for ransom; the cases were registered at different police stations during the year 2007 and each resulted into conviction; he was initially sentenced to death in each case, however, on appeal the death penalty was converted into imprisonment for life with collateral benefits including concurrent commutation of coordinate charges in each case, upheld throughout. After failure of his jail petitions before this Court, the petitioner addressed his first review petition through jail i.e. Suo Moto Criminal Review Petition No.90 of 2016 in J.P. Nos.588 to 593 of 2013; barred by time, it was dismissed even on merits on 12.5.2016; he once again attempted through a counsel for the review of earlier judgments through Review Petition Nos.1 to 6 of 2016 and it was for the first time, as late as on 16.1.2019 that concurrent commutation of sentences in all the cases was prayed

through a second review at the bar in the absence of any such plea, specifically taken in the memorandums of the review petitions. Bound by a common thread, the titled review petitions are being decided through this single judgment.

- 2. Heard.
- 3. It is by now well settled that a petitioner cannot maintain a second review petition as authoritatively held by this Court in the cases of Khalid Igbal & 2 others Vs. Mirza Khan & others (PLD 2015 S.C. 50) as well as Moin ud Din & others Vs. The State & others (PLD 2019 S.C. 749). Even otherwise, learned counsel for the petitioner appointed at State expense, despite his strenuous effort, has not been able to point out any error apparent in the judgment rendered by this Court in different jail petitions preferred by the convict. We have thoughtfully attended the prayer/argument, raised for the first time, seeking concurrent commutation of petitioner's sentences, canvassed primarily on the ground that he would never be able to serve out the consecutive sentences in his expected life span, however, found the plea far from being persuasive for more than one reason. First that it was never pleaded before the Court either in jail petitions or in the memo of first review petition and, thus, in the face of formidable bar, the petitioner cannot be allowed to agitate the randomly taken up plea at the end of the day. Having regard to the facts and circumstances of the cases wherein the petitioner was returned guilty verdicts, we have otherwise found it far from expedient to entertain the plea on the touchstone of expectancy of life. Discretion available with the Court under Sections 35 and 397 of the Code of Criminal Procedure, 1898 has to be exercised with judicial circumspection and caution to strike a balance in order to avoid miscarriage of justice; every request for concurrent commutation is not to be granted in isolation to the facts and circumstances whereunder the crime is committed. In the present case, in a short span of time, the petitioner committed abduction for ransom in no less than six cases; when arrested, he was found guilty in each. Appellate scrutiny both by the High Court as well as this Court confirmed his guilt; heinously shocking, the enormity of his conduct cannot be lost sight of merely on the ground that he would not be able to foot the bill during his life time. Sufferings endured by the victims and their families cannot be consolidated

into a concessionary package for the petitioner without being callously indifferent to the victims; it would also seriously undermine the criminal justice system, already functioning under raised eyebrows. Review petitions fail. Dismissed.

Judge

Judge

Judge

<u>Islamabad, the</u> 29th January, 2020 Not approved for reporting Ghulam Raza/-