

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Faisal Arab

Mr. Justice Qazi Muhammad Amin Ahmed

Jail Petition No.488 of 2015

*(Against judgment dated 21.01.2014 passed by
Lahore High Court Lahore in Cr. Appeal No. 1286 of
2010)*

Aurangzeb

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s):

Mr. Qamar Zaman Qureshi, ASC
Syed Rafaqat Hussain Shah, AOR

For the State:

Mr. Muhammad Usman,
Deputy Prosecutor General Punjab

Date of hearing:

02.03.2020.

JUDGMENT

Qazi Muhammad Amin Ahmed, J.- Indicted for homicide alongside six co-accused, since acquitted, Aurangzeb, petitioner herein, was returned a guilty verdict by a learned Additional Sessions Judge at Chiniot vide judgment dated 12.5.2010; convicted under clause (b) of Section 302 of the Pakistan Penal Code, 1860, he was sentenced to death with a direction to pay compensation of Rs.200000, altered into imprisonment for life by the Lahore High Court Lahore vide impugned judgment dated 21.1.2014 *vires* whereof are being assailed, through Jail Superintendent. Financial incapacity appears to have impeded petitioner's approach to this Court in time, in view whereof delay of 626 days in filing of the petition is condoned.

2. According to the prosecution, on the fateful day i.e. 6.8.2008 at about 4:00 p.m, the petitioner armed with a .30 caliber pistol, subsequently recovered albeit without forensic comparison, targeted Zulfiqar deceased; solitary shot on the abdomen with its

exit proved fatal. Previous blood feud is cited as motive for the crime.

3. Mr. Qamar Zaman Qureshi, ASC has assailed the impugned judgment on a variety of grounds; according to him, occurrence did not take place in the manner as alleged in the crime report, recorded at a point of time other than reflected therein; it is next argued that presence of the witnesses is highly improbable; he has particularly highlighted improvements made by the complainant through a supplementary statement by nominating unknown assailants, previously acquainted with him; acquittal of six co-accused, each armed lethally, though assigned no harm to the deceased has been pointed out to argue that same set of evidence cannot be pressed into service to sustain the charge qua the petitioner without independent corroboration, hopelessly missing, concluded the learned counsel. Learned Law Officer has faithfully defended the impugned judgment.

4. Heard. Record perused.

5. Prosecution case is primarily hinged upon ocular account furnished by Haqnawaz (PW-1) and Munir Hussain (PW-2); former is father of the deceased whereas the latter is former's collateral; their close relationship notwithstanding, both of them have plausibly explained purpose of their presence at the crime scene; they had assembled to watch a *Kabaddi* match, annually held by tradition at a nearby mausoleum. To the extent of role assigned to the petitioner in the crime report, they remained consistent and straightforward; their failure qua the co-accused and complainant's recourse to a supplementary statement in order to nominate unknown assailants, though an embarrassing failure for the prosecution, however, does not tremor its mainstay. Assembly of the accused in the stated numbers, in a festivity, is a possible scenario; they appear to have been let off by the learned trial Court out of abundant caution, an option found by us most expedient in circumstances; their departure does not cast away the case against the petitioner, singularly blamed for the crime.

The incident was reported with a remarkable promptitude, followed by post mortem examination that cannot be viewed as delayed, factors excluding possibility of deliberations and consultations, in retrospect suggestive of witnesses' presence at

the stated point of time, coinciding with the durations mentioned in the autopsy report. Though inconsequential for want of forensic verification, nonetheless, the weapon recovered on petitioner's disclosure is consistent with the nature of fatal injury. Occurrence being a broad daylight affair before a large gathering, does not admit hypothesis of substitution. Appraisal of evidence carried out by both the Courts below, on our own independent analysis, is found by us in accord with the principles of safe administration of criminal justice and as such does not call for interference. Petition fails. Leave declined.

Judge

Judge

Islamabad, the
2nd March, 2020
Not approved for reporting
Azmat/-