

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Faisal Arab

Mr. Justice Qazi Muhammad Amin Ahmed

**Jail Petition No.430 of 2015**

*(Against judgment dated 10.03.2015 passed by the  
Peshawar High Court Bannu Bench in CrI. Appeal  
No.29-B of 2013)*

***Islam Sharif***

*...Petitioner(s)*

**Versus**

***The State***

*...Respondent(s)*

For the Petitioner(s): Mr. Rizwan Ejaz, ASC

For the State: Malik Akhtar, A.A.G. KPK

Date of hearing: 03.03.2020.

**JUDGMENT**

**Qazi Muhammad Amin Ahmed, J.-** Islam Sharif, petitioner, indicted for committing *Qatl-i-Amd* of Dr. Sahib Jan on 3.9.1991 within the precincts of Police Station Ghoriwala, District Bannu was returned a guilty verdict by a learned Addl. Sessions Judge vide judgment 11.2.2013; convicted under clause (b) of Section 302 of the Pakistan Penal Code, 1860, he was sentenced to imprisonment for life, upheld by a learned Judge in Chamber of Peshawar High Court vide impugned judgment dated 10.3.2015, *vires* whereof are being assailed on a variety of grounds that include improbability of presence of witnesses, issue of identification owing to darkness, absence of casing as well as prosecution's failure to recover the weapon.

2. Prosecution case is structured upon ocular account furnished by deceased sons, namely, Saifullah (PW-4) and Inayatullah (PW-5); according to them, on the fateful morning, shortly before *Fajjar* prayer, they followed the deceased, en route to a nearby mosque; when the petitioner confronted the deceased with a fire shot. Dispute over a house is cited motive for the crime.

Autopsy conducted at 8:00 a.m. confirmed solitary fire shot as being the cause of death. The petitioner stayed away from law and was finally apprehended as late as on 24.3.2011 to face trial.

3. Heard. Record perused.

4. It is in evidence that the petitioner as well as the deceased lived in the same rural neighbourhood; dispute over the house has been raging since the year 1982 and, thus, it can be safely assumed that the both sides were well acquainted with each other. *Fajjar* prayer is held shortly before dawn with the recession of darkness; in such a situation, identification of the culprit by the witnesses, proceeding in close proximity with the deceased, in the month of September, particularly in view of long standing acquaintance, cannot be viewed with suspicion; their joint departure with the deceased to offer prayer in the nearby mosque is a usual pursuit, particularly in a rural neighbourhood of Khyber Pakhtun Khaw. There appears no earthly reason for the witnesses to swap the assassin of their elderly father with an innocent. Totality of circumstances that, *inter-alia*, includes an ongoing dispute as well as petitioner's longstanding absconsion spreading over almost two decades unmistakably suggest petitioner's culpability; there was no occasion for recovery of the weapon in the wake of petitioner's long disappearance from the scene. Both the witnesses, inmates of the same premises, despite lapse of considerable time furnished graphic details of the occurrence, in a manner found by us consistent, straightforward and confidence inspiring; cross-examination remained inconsequential. Finding of guilt, concurred by both the courts below is not open to any legitimate exception. Petition fails. Leave declined.

**Judge**

**Judge**

Islamabad, the  
3<sup>rd</sup> March, 2020  
Not approved for reporting  
Azmat/-