

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Faisal Arab
Mr. Justice Qazi Muhammad Amin Ahmed

Jail Petition No.450 of 2015

*(Against judgment dated 21.09.2015 passed by the
Lahore High Court Lahore in Crl. Appeal No.301-J of
2011 & M.R. No.195 of 2011)*

Sadiq Ali

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Ms. Ayesha Tasnim, ASC

For the State: Mirza. Usman,
Deputy Prosecutor General Punjab

Date of hearing: 04.03.2020.

JUDGMENT

Qazi Muhammad Amin Ahmed, J.- Kashif Ali, deceased, 25, along with his father Shoukat Ali (PW-5) managed a kiosk within the remit of Police Station City Arifwala District Pakpattan. On the fateful day i.e. 28.2.2010 at 11:00 a.m. Sadiq Ali, petitioner, complainant's real brother/father-in-law of the deceased asked for a cup of tea, declined by the deceased; infuriated by refusal, he took a *Churri* from a nearby butcher shop and dealt repeated blows to the deceased on his chest; as the complainant attempted to intervene, he targeted him also on the belly and left hand; commotion attracted the witnesses whereupon the petitioner, while brandishing the weapon, took to the heels; casualties were shifted to the hospital; Kashif Ali succumbed to the injuries on way. The deceased was married with petitioner's daughter Sajida Bibi; the marriage went on rocks and she was residing with her parents; it was in exchange of hand subsequently refused and this background of animosity with an event on the day of occurrence is

cited as combined motive for the crime. The injured was examined at 11:45 a.m. followed by deceased's autopsy at 3:00 p.m. who was noted to have two injuries, both on right side of chest; injury No.1 *"a sharp edged stab wound 3 x 3 cm x 1.4 cm into going deep on right side of upper chest. Just 1 cm away from right border of sternum in between 3rd and 4th rib"*, ruptured the right lung and heart; it was blamed as cause of death. Shoukat Ali (PW-5) endured an incised stab wound on the upper part of abdomen in the epigastrium region accompanied by an abrasion on the left hand with corresponding cuts on the clothes. Pursuant to a disclosure, the petitioner led to the recovery of *Churri* (P-4), found stained with blood of human origin. Petitioner confronted prosecution evidence, comprising ocular account, recovery of weapon and forensic reports, with the following plea:-

"All the PWs are related interse and inimical towards me. Actually the complainant forced his son Kashif Ali deceased to divorce his wife Mst. Sajida bibi as there was no son from her to his son but he refused to do so. Shaukat Ali complainant during scuffle with him gave chhuri blow on his chest due to which he died. During scuffle Shaukat Ali complainant also received injuries at the hands of the deceased. In fact Shaukat Ali complainant wanted to grab my share in the house inherited by us from our father and due to this reason he has falsely involved me in this case in order to grab my share in the house where the complainant lives. The PWs are inimical towards me and they have falsely deposed against me."

Unimpressed by the plea, the learned trial Judge vide judgment dated 28.2.2010 returned a guilty verdict for homicide as well as assault; for the former he was sentenced to death whereas for the latter to one year RI with monetary compensation; the High Court maintained the convictions, however, altered penalty of death into imprisonment for life vide impugned judgment dated 21.09.2015, *vires* whereof are being assailed through the captioned jail petition.

2. Learned counsel or the petitioner contends that the petitioner had no occasion to kill his real nephew who happened to

be his son-in-law as well, as he had no reason to destroy his daughter's household; she has vehemently controverted the allegations of an abortive arrangement for exchange marriage to argue that the position taken by the petitioner being more plausible ought to have been preferred by the courts below. Seizure of *Churri* P-4 from an open and accessible place did not advance the prosecution case, concluded the learned counsel. Learned Law Officer has faithfully defended the impugned judgment.

3. Heard. Record perused.

4. Occurrence is a daylight affair; reported to the police with a remarkable promptitude; medico legal examination of Shoukat Ali (PW-5) conducted under a police docket at 11:45 a.m, followed by autopsy at 3:00 p.m. with durations coinciding with the point of time mentioned in the crime report confirmed registration of case in the stated manner with exclusion of possibility for deliberations and consultations. Shoukat Ali (PW-5) furnished graphic details of the occurrence; he himself sustained injuries that confirm his presence at the crime scene. Muhammad Iqbal (PW-6) is an independent witness; he has duly corroborated the complainant in his deposition; their evidence cannot be dislodged merely on the basis of bald suggestions, denied vehemently. Injuries suffered both by the deceased as well as the complainant are consistent with the weapon, recovered on petitioner's disclosure, forensically found to have been stained with blood of human origin. Theory of substitution, inherently preposterous, merits outright rejection in the face of formidable evidence, inexorably pointed upon the petitioner. Both the courts below rightly appraised the evidence to concurrently arrive at conclusions which on our independent analysis have been found by us as unexceptionable. Petition fails. Leave declined.

Judge

Judge

Islamabad, the

4th March, 2020

Not approved for reporting

Azmat/-