

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MUSHIR ALAM
MR. JUSTICE YAHYA AFRIDI
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

**Jail Petition No.739 of 2018 and Criminal
Petition No.1344 and 1351 of 2018**

*(Against the judgment dated 10.10.2018 of the Islamabad High Court
Islamabad passed in Crl. Appeal No.62 of 2018)*

Haroon-ur-Rasheed

(in J.P.739/2018)

Shahzad

(in Crl. P. 1344/2018)

Meer Qabil

(in Crl. P. 1351/2018)

...Petitioner(s)

Versus

The State

(in J.P.739/2018 & in Crl. P. 1344/2018)

The State & 2 others

(in Crl. P. 1351/2018)

...Respondent(s)

For the Petitioner(s):

Mr. Mudassir Khalid Abbasi, ASC
Ch. Akhtar Ali, AOR
(in J.P.739/2018)
Mr. M. Amjad Iqbal, ASC
(in Crl. P.1344/2018)
Maik Qamar Afzal, ASC
(in Crl. P.1351/2018)

For the State:

Raja Inaam Ameen Minhas,
Ch. Ehtisham-ul-Haq,
Special Prosecutors, ANF

Date of hearing:

13.04.2021

ORDER

Qazi Muhammad Amin Ahmed, J.- On a tip off, the
petitioners were intercepted by Anti-Narcotic Force contingent

within the precincts of Police Station Rawat at 9/10:00 on 10.10.2016; they were transporting a heavy consignment of narcotics concealed in different portions of a car; the search led to discovery of ten packets of contraband, weighing 10-kg, surreptitiously placed in different cavities, forensically confirmed as cannabis; they were indicted by the learned Special Judge (CNS) Islamabad who returned them a guilty verdict under Section 9(c) of the Control of Narcotic Substances Act, 1997; sentenced to ten years rigorous imprisonment, they were directed to pay Rs.100,000/- each as fine or to undergo nine months simple imprisonment in lieu thereof, vide judgment dated 19.04.2018; their appeal failed before a learned Division Bench of the Islamabad High Court vide impugned judgment dated 10.10.2018, *vires* whereof, are being assailed on a variety of grounds ranging from false implication, discrepant statements of the witnesses, non-availability of support from the public and a forensic report with deficient protocols. The learned Law Officer faithfully defended the impugned judgment, according to him, the prosecution succeeded in proving the charge to the hilt beyond a shadow of doubt.

2. Heard. Record perused.

3. We have gone through the evidence to find the witnesses in a substantial unison on all the details of the episode; petitioners' joint arrest with the vehicle they were travelling in and seizure of contraband therefrom are circumstances heavily looming over their culpability. Forensic report substantially details the procedure adopted by the analyst to undertake the analysis, unambiguously confirming the narcotic character of the contraband, a conclusion that went unrebutted/unchallenged during the trial. Petitioners' different backgrounds, converging in their illicit pursuit, the only common ground, by itself confirms a collaboration in a purpose far from being usual or just. Inconsequential cross-examination and reticent denials, in retrospect, lend a mute support to the prosecution in its quest to drive home the charge. In the totality of circumstances, we are not persuaded to take a view other than the one concurrently taken by the Courts below. However, distinctly saddled with different quantities of the contraband by each convict, ranging from

2 to 5 k.g., a case set up by the prosecution itself, spells out a makeshift union instead of a concerted joint detour, therefore, we are inclined to proportionately mould the sentence. Consequently, while maintaining their conviction, sentence awarded to them is reduced to a period of 5-years R.I. with a corresponding reduction in the fine to the tune of Rs.50,000/- each with 6-months S.I. in the event of default, a wage conscionable in the peculiar facts and circumstances of the case. With the aforesaid modification, the petitions are converted into appeal and partly allowed.

Judge

Judge

Judge

Islamabad

13th April, 2021

Not approved for reporting.

*Azmat/**