

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

**PRESENT:**

Mr. Justice Jamal Khan Mandokhail  
Mrs. Justice Ayesha A. Malik  
Mr. Justice Syed Hasan Azhar Rizvi

**Criminal Petition No.54-P of 2012**

[Against the judgment dated 21.03.2012 of the Peshawar High Court,  
Mingora Bench (Dar-ul-Qaza), Swat

***The State through Advocate General,  
KPK, Peshawar***

...Petitioner(s)

**Versus**

***Saadat Khan and another***

...Respondent(s)

For the Petitioner(s) : Mr. Altaf Khan,  
Additional Advocate General, KPK

For the Respondents (s) : N.R.

Date of Hearing : 26.09.2023.

**JUDGMENT**

**Syed Hasan Azhar Rizvi, J.-** Through this petition filed under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner/State has challenged the judgment dated 21.03.2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat (*High Court*) whereby Criminal Appeal filed by the respondent, Saadat Khan, was allowed; judgment dated 22.12.2009 passed by the Additional Sessions Judge/Izzafi Zila Qazi, Dir at Timargara (*trial Court*) was set aside and the respondent was acquitted of the charge.

2. Succinctly, facts of the case leading to filing of instant *lis* are: the complainant, namely, Zahir Ali, lodged a report on 03.09.2007 at 20:00 hours that he, after offering *zohar* prayer, while present outside the mosque heard noise from the house of the respondent and saw him beating his family members. The complainant, however, affected separation. In the meantime, the respondent went inside his house and came out while holding Holy Quran in his hand and thrown the same by force on the floor. The complainant took the Holy Quran in torn condition to the mosque which (incident) was witnessed by Najam-ud-Din, Amin Ullah and Gulzeb. The incident was reported by the complainant, thus FIR No.249 was registered at Police Station Khall, District Dir under Section 295-B, PPC and the respondent was, accordingly arrested.

3. After completion of the investigation, challan was submitted before the Court. The respondent was charged with the allegation to which he pleaded not guilty. After recording of evidence and hearing the learned counsel for the parties, the respondent was convicted under Section 295-B, PPC and sentenced to imprisonment for life by the trial Court *vide* judgment dated 22.12.2009.

4. Being aggrieved with the above decision, the respondent approached the High Court by filing a criminal appeal which was allowed through the impugned judgment, as mentioned above, hence this petition.

5. Learned Additional Advocate General, KPK, appearing on behalf of the State, contends that the impugned judgment is not strictly in accordance with the dispensation of criminal justice; the High Court while allowing criminal appeal has reached to a wrong conclusion; that the respondent was not a man of sound mind; that

the findings of the High Court are based on conjectures and surmises, which are the result of mis-appreciation of evidence, thus the impugned judgment is liable to be set aside and the decision of the trial Court should be maintained.

6. Heard the learned Law Officer at some length and scanned the material available on record with his able assistance.

7. It transpires from the record that there are material contradictions in the statements of the complainant as well as the prosecution witnesses. Apparently, the respondent is uncle of the complainant (PW-1) and Gulzeb (PW-2) is a friend of the complainant and there was a land dispute in between the parties. Two independent witnesses, namely Najam-ud-Din and Amin Ullah, have been abandoned, thus an adverse inference has to be drawn against the prosecution. The torn pieces and damaged book (*Holy Quran*) which were taken by the complainant from the scene of occurrence to the mosque, as narrated in the FIR, were neither produced during the investigation nor *moulvi* who took the torn pieces of Holy Quran, appeared as a witness.

We find that the respondent was found to be an abnormal person by the Investigating Officer at the time of his arrest and was referred for the medical examination but the same had not been taken into its logical conclusion. However, the respondent produced a certificate regarding the fact that he was an abnormal person at the time of incident which fact was not objected to by the prosecution. The allegations levelled by the complainant against the respondent are of highly sensitive nature and the prosecution has failed to prove its case against the respondent through sound, cogent and confidence inspiring evidence. Neither any infirmity or illegality nor



any misreading and non-reading has been noticed from the available record. Learned counsel for the petitioner has not been able to make out a case for the interference.

8. For what has been discussed above, this petition lacking merit is dismissed. Leave is declined.

**Judge**

**Judge**

**Judge**

**Islamabad, the**

26<sup>th</sup> September, 2023

~~Not~~ approved for reporting

Ghulam Raza/ \*