

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Bench-II:

Mr. Justice Qazi Faez Isa

Mr. Justice Syed Mansoor Ali Shah

Jail Petition No.249 of 2018

*(Against the order of Lahore High Court, Multan Bench dated 31.01.2018
passed in CrI. A. No.235/2012 & CrI.R No.125/2012)*

Ghulam Rasool

..... **Petitioner**

Versus

The State

..... **Respondent**

For the petitioner: Syeda B.H. Shah, ASC.

For the State: Mirza Abid Majeed, Addl.P,G, Punjab.

For the complainant: Sardar Usman Sharif Khosa, ASC.

Date of hearing: 01.09.2022

ORDER

Syed Mansoor Ali Shah, J.- Through the present jail petition for leave to appeal, the petitioner impugns the judgment dated 31.01.2018 of the Lahore High Court, whereby the appeal of the petitioner filed against the judgment of the trial court has been dismissed. The trial court had convicted the petitioner for the offence of committing murder of the complainant's son, Muhammad Ilyas, and sentenced him to imprisonment for life, under Section 302(b) PPC.

2. Learned counsel for the petitioner submits that one Rasool Bakhsh, not Ghulam Rasool, was mentioned in the FIR to have caused the injury to the deceased (Muhammad Ilyas) and there is no explanation on record of the case that the petitioner, Ghulam Rasool, is the same person mentioned in the FIR as Rasool Bakhsh. Therefore, she contends, it creates a reasonable doubt as to the involvement of the petitioner in the commission of the alleged offence, which entitles the petitioner to be acquitted while giving him the benefit of this doubt. We are not impressed by this contention. The complainant and the petitioner are residents of the same vicinity, and throughout the proceedings of the case from the arrest of the petitioner till his conviction, no question as to the identity of the petitioner was ever raised. It is a matter of common knowledge that in rural areas of Punjab, people are usually known by their nicknames (aliases), and

their exact names are often not known to others. The petitioner's alias, Rasoola, was also mentioned in the FIR together with name Rasool Bakhsh. The petitioner, in the present jail petition¹, has himself mentioned his name as Ghulam Rasool alias Rasoola. His name, Ghulam Rasool alias Rasoola, is mentioned in the investigation proceedings including the recovery memos, in the Challan, in the statements of the prosecution witnesses and in his own statement recorded under Section 342 CrPC. The contention as to doubt of the identity of the petitioner is therefore found baseless.

3. The next contention of the learned counsel for the petitioner is that the injury on the neck of the deceased, which led to his death, could not have been caused by a simple knife (*churri*) allegedly recovered from the petitioner. Dr. Abdul Rehman (PW-12), who conducted the post-mortem examination of the deceased, deposed in cross-examination that any sharp-edged weapon might cause the injury found on the neck of the body of the deceased. In view of the statement of PW-12, this contention of the learned counsel for the petitioner does not detract from the prosecution's case that the recovered *churri* was the weapon of offence.

4. Having heard the learned counsel for the parties at some length and examined the record of the case, we find that both the trial court and the High Court have concurrently recorded their findings of fact as to the culpability of the petitioner, after a thorough examination of the prosecution evidence. It is a well-settled principle² in regard to the exercise of discretionary jurisdiction vested in this Court under Article 185(3) of the Constitution of the Islamic Republic of Pakistan 1973, that in the matter of granting leave to appeal, this Court does not function as an ordinary court of appeal, and in order to justify the grant of leave to appeal it must be shown that the case involves some important question of law or the impugned finding of fact is the result of gross misreading or non-reading of the material evidence or is so shocking or improbable that no reasonable person could have arrived at it on the basis of the evidence available on the record of the case. The learned counsel for the petitioner has not been able to point out any

¹ Which is based on the Letter of the accused sent from the Central Jail, Multan.

² Noora v. State PLD 1973 SC 469 (6-MB); Jamshed Ahmad v. Muhammad Akram 1975 SCMR 149; Muhammad Siddique v. State 1990 SCMR 291; Hashim Babar v. State 2010 SCMR 1697; Gul Jan v. Naik Muhammad PLD 2012 SC 421 (5-MB) and Arunachalam v. Sadhanantham AIR 1979 SC 1284.

misreading or non-reading of the material evidence that could justify interference with the concurrent findings of fact, nor does the case involve any important question of law for determination by this Court. The leave to appeal is therefore declined and the petition, dismissed.

Judge

Islamabad,
1st September 2022.
Approved for reporting
Iqbal

Judge