

19/25

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

AFR  
AD

**PRESENT:**

MR. JUSTICE MUHAMMAD HASHIM KHAN KAKAR  
MR. JUSTICE MUHAMMAD SHAFI SIDDIQUI  
MR. JUSTICE ISHTIAQ IBRAHIM

**CRIMINAL PETITION NO.1366 of 2018**

(Against the judgment dated 14.11.2018 in Crl.Appeal  
No.358 of 2016, of the Lahore High Court Rawalpindi  
Bench Rawalpindi)

***Akbar Saeed***

...Petitioner(s)

***Versus***

***The State and another***

...Respondent(s)

For the Petitioner:

Mr. Basharat Ullah Khan, ASC  
Mr. Syed Rifaqat Hussain Shah, AOR.

For the Complainant:

Mr. Muhammad Aurangzeb Khan, ASC.

For the State:

Ms. Memoona Ihsan-ul-Haq, DPG.

Date of hearing:

05.03.2025

**ORDER**

**ISHTIAQ IBRAHIM, J.-** Appellant Akbar Saeed along with co-accused Khan Saeed was tried by the learned Additional Sessions Judge, Jehlum for committing *Qatl-e-Amd* of Asghar Khan deceased in a private complaint filed under sections 302 and 34 of the Pakistan Penal Code (PPC). The learned Trial Court while acquitting co-accused Khan Saeed convicted the appellant under section 302(b) PPC and sentenced him to imprisonment for life and to pay rupees one lac as compensation to legal heirs of the deceased in terms of section 544-A Cr.P.C. and in default of payment thereof to further undergo six months simple imprisonment vide judgment dated 25.05.2016.



Benefit of section 382-B Cr.P.C. was extended in favour of the appellant.

2. Aggrieved from his conviction and sentence, the appellant filed Cr.A. No.358 of 2016 before the learned Lahore High Court Rawalpindi Bench, Rawalpindi but the same was dismissed vide judgment dated 14.11.2018, hence, this criminal petition for leave to appeal.

3. We have heard the arguments of learned counsel for the parties and learned DPG for the State. Record perused.

4. Yasir Khan complainant (PW.11) and Ali Khan (PW.12), have furnished ocular account of the murder incident of this case and have plausibly explained purpose of their presence at the spot at the time of occurrence. As per their statements they along with their deceased brother Asghar Khan were residing in Jehlum for the last 22/23 years and were running *Tandoor* business in a shop situated at Al-Markaz road behind Girls High School Jehlum City; that on 10.07.2013, they were present at their *Tandoor* shop while their deceased brother went to bring tea packet. On his return when the deceased reached near Tandoor shop the appellant who arrived there on a motorbike opened fire at the deceased, as a result, he got hit and died on the spot. Both the eyewitnesses are consistent with each other on all material aspects of the incident such as the day, date, time and place of occurrence, kind of weapon used by the appellant, the locale of injuries on the person of the deceased and the motive behind the occurrence. They have been subjected to lengthy and taxing cross-examination by the defence but nothing favourable to defence or adverse to the prosecution could be extracted from them except minor discrepancies of trivial and ignorable nature. Both have remained consistent with each and every material point inasmuch as they have made deposition exactly according to the circumstances happened in this case, therefore, it can safely be concluded that the ocular account furnished



them is reliable, straightforward and confidence inspiring. The appellant is directly charged by the eyewitnesses with specific role of firing at the deceased. The appellant being close relative of the eyewitnesses question of his mistaken identity does not arise. No reason and circumstance has been brought on record by the defence so as to remotely suggest substitution and false implication of the appellant. Admittedly, substitution of real culprit charged directly in a murder charge is a rare phenomenon in the system of criminal justice especially in cases where the eyewitnesses lost their kith and kin before their own eyes. Reliance may be placed on "Asfandiyar vs. The State and other" (2021 SCMR 2009) and "Muhammad Abbas & another vs. The State" (2023 SCMR 487). True that both the eyewitnesses are the real brothers of the deceased but in absence of any ulterior motive/animus for false implication of the appellant, their confidence inspiring testimony, cannot be discarded merely due to their close relationship with the deceased. Reliance is placed on 'AmanUllah v. the State' (2023 SCMR 723) and 'Imran Mehmood v. the State' (2023 SCMR 795). Learned counsel for the petitioner could not point out any major contradiction or discrepancy in the statements of the prosecution's witnesses, which could shatter the basic fabric of the case in its entirety.

5. The argument of learned counsel for the appellant that direction of firearm entrance wounds and exit wounds on the person of the deceased as furnished by the Medical Officer contradicts the testimony of the eyewitnesses is not tenable, particularly, in the circumstances when the two courts below have concurred on the point of presence of the eyewitnesses at the spot at the time of occurrence and we also see no convincing evidence so as to differ with the findings of the courts below coupled with the fact that the deceased being not a static object must have moved around while receiving fire shots in such situation the possibility of receiving some fire shots



from back could not be ruled out. Even otherwise, a person witnessing an incident of firing cannot be expected to give account for the location of each fire shot on the person of the deceased and direction of each fire shot with exactitude. We are firm in our view to hold that prosecution has established presence of the eyewitnesses at the spot at the time of occurrence and that they have furnished straightforward and truthful account of the occurrence. In such view of the matter, the single ground of conflict between ocular account and medical evidence urged by the learned counsel for the petitioner would not be sufficient to pursue us to make it a basis for acquittal of the appellant. Reliance is placed on case of Saeedullah Khan (1996 SCMR 1026). It is by now well settled proposition of law that as long as the material aspects of the evidence have a ring of truth, court should ignore minor discrepancies in the prosecution's evidence. The test is whether the evidence of a witness inspires confidence. If an omission or discrepancy goes to the root of the prosecution's case, the defence can take advantage of it otherwise not. While appreciating the evidence of a witness the approach of the Court must be whether the evidence read as a whole appears to have a ring of truth. Minor discrepancies of trivial nature not affecting the material contradictions in the prosecution's case ought not to prompt the court to reject evidence in its entirety. Such minor discrepancies which do not shake the salient features of the prosecution's case should be ignored. In case titled, "Abid Ali Vs the State (2011 SCMR 208), this court has held that to believe or disbelieve a witness, all depends upon intrinsic value of the statement made by him. There cannot be universal principle that in every case, interested witnesses should be disbelieved or disinterested witnesses be believed. It all depends upon the rule of prudence and reasonableness to hold that a particular witness was present on scene of crime and that he is making true statement. A person who is otherwise reported to be very honest, aboveboard and very respectable



in the society, if gives statement which is illogical and unbelievable, no prudent person despite keeping in view nobility of such person would accept such statement. As a rule of criminal jurisprudence, prosecution evidence is not tested on the basis of quantity but quality. It is not that who is giving evidence and making statement. What is relevant is what statement has been given and it is not the person but the statement of that person which is to be seen and adjudged.

6. Even otherwise, this court in case titled "Ali Taj and another Vs the State" (2023 SCMR 900), has held that where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused. Reliance is placed on Muhammad Iqbal vs Muhammad Akram (1996 SCMR 908), Faisal Mehmood Vs the State (2010 SCMR 1025) and Muhammad Ilyas vs the State (2011 SCMR 460)".

7. We see no misreading or non-reading of evidence in the impugned judgments so as to warrant interference by this court. Accordingly, this petition is dismissed and leave is refused.

Sd/-----J

Sd/-----J

Announced in open Court at Islamabad on 10 Nov 2025

*[Handwritten signature]*

Approved for reporting.  
M. Siraj Afridi PS