

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT: Justice Muhammad Hashim Khan Kakar
Justice Muhammad Shafi Saddiqui
Justice Ishtiaq Ibrahim

Criminal Appeal No. 198/2023

(Against the order/judgment dated 30.09.2020
passed by the Islamabad High Court, Islamabad,
in CrI. A. No. 613/2012)

Ameeruddin	Appellant(s)
Versus	
The State	Respondent(s)
For the Appellant(s):	Mr. Fakhar Hayat, ASC Syed Rifaqat Hussain Shah, AOR
For the State:	Nemo
For the Complainant:	Mr. Shaukat Hayat, ASC
Date of Hearing:	04.03.2025

JUDGMENT

Muhammad Hashim Khan Kakar, J. Through this appeal, the appellant, Ameeruddin, has impugned the judgement dated 14.11.2018 of the High Court of Sindh, Bench at Sukkur, whereby his appeal against the judgment of the Trial Court was dismissed. The Trial Court had convicted the appellant for the offence of committing murder of the complainant's father, Nizamuddin, relatives, Ubaidullah Kalhoro, Nasrullah and Muharram Ali, and sentenced him to life imprisonment on four counts under section 302(b) PPC.

2. The appellant and many others had allegedly fired at and killed as many as four persons (named above) in an incident taking place at about 10:45 a.m. on 15.02.2012 near Tariq pump in the area of police station Moro, District Noshero Feroze in the backdrop of previous enmity. With this allegation the appellant was booked in case FIR No. 48/2012 registered at the abovementioned police station and after a regular trial the appellant was convicted by the Trial Court on four counts of an offence under section 302(b) PPC and was sentenced to imprisonment for life on

each count besides having been convicted under section 7(a) of Anti-Terrorism Act, 1997. The appellant challenged his convictions and sentences before the High Court through an appeal which was dismissed and all his convictions and sentences recorded by the Trial Court were upheld and confirmed. Hence, the present appeal with the leave of the Court.

3. The case in hand involves murder of four persons during daylight hours. The appellant was nominated in the FIR as one of the culprits and a specific as well as general role of firing at the deceased had been attributed to him therein. The ocular account had been furnished by Ameen Kalhoro, complainant (PW-4), Manthar Ali (PW-7) and Muhammad Aachar (PW-8) who claimed to be present at the place of occurrence and witnessed the incident from a distance of about half a kilometer. The claim of the prosecution witnesses to have seen the occurrence from such a long distance appears to be a claim which can be accepted only with a grain of salt. These witnesses have asserted/claimed to have observed the alleged occurrence from a distance of approximately half a kilometer, however, the defense has challenged the plausibility of such claims, citing scientific and medical principles that cast doubt on the ability of a person to witness detailed occurrence from such a long distance even with normal eyesight.

4. The human eye has limitations in resolving fine details at a great distance. Even with 6 x 6 vision, the ability to identify specific actions or individuals diminishes significantly as the distance increases. In evaluating the reliability of eye witnesses' testimony, it is crucial to consider how the distance between the witness and the perpetrator can affect identification accuracy. A recent study by *Nyman, Lampinen, Antfolk, Korkman, and Santtila* (2019), published in the credible *Journal of Law and Human Behavior*, states that even a person by 20 x 20 vision or average eyesight can only accurately recognize facial features up to a maximum of 40 meters. The relevant extract from the study is reproduced below:

"Increased distance between an eyewitness and a culprit decreases the accuracy of eyewitness identifications, but the maximum distance at which reliable observations can still be made is unknown. Our aim was to identify this threshold. We hypothesized that increased distance would decrease identification, rejection accuracy, confidence and would increase response time. We found that even at 40 m the accuracy of identifying a witness was 50% lower than at 5 m with increased distance. We found that high

confidence and shorter response times were associated with the identification accuracy up to 40 m. We conclude that age and line-up type moderate the effect distance has on eyewitness accuracy and that there are perceptual distance thresholds at which an eyewitness can no longer reliably encode and later identify a culprit.”

5. The law is clear on cases involving witness testimony, the prosecution must establish the credibility and reliability of its witnesses. The distance from which the witnesses claim to have observed the incident with graphic details is critical in assessing the truthfulness and the ability of their accounts. The general rule is that at a distance of 500 meters (half a kilometer), even individuals with excellent visual acuity would struggle to discern specific details of an event, particularly when the incident involves rapid moment, or if it occurs in an area that is not well lit or has obstructions that could hinder vision. Furthermore, a man’s eyesight, even under optimal conditions, is not designed for sustained observations of minute details at such a distance. Thus, the claim of the witnesses is not only a tall claim, but also one that is too far-fetched to be accepted by a prudent mind.

6. It is not disputed that three co-accused of the appellant were attributed effective firing and specific injuries to Nizamuddin, Nasurullah, Muharram Ali and Ubaidullah deceased had been acquitted by the Trial Court in subsequent proceedings. The law is settled that if the eyewitnesses have been disbelieved against some accused persons who were attributed effective roles, then the same eyewitnesses cannot be believed against another accused person attributed a similar role unless such eyewitnesses received independent corroboration qua the other accused person and a reference in this respect may be made to the case of *Iftikhar Hussain v State* (2004 SCMR 1185). In the case at hand no independent corroboration to the ocular account furnished by the three eyewitnesses produced by the prosecution was forthcoming.

7. The burden of proof lies with the prosecution and it is required to prove its case beyond a reasonable doubt. In this case, there is reasonable doubt regarding the credibility of the witnesses, primarily due to physical impossibility of observing the incident from the stated distance, given the acknowledged limitations of human vision.

8. In the light of the aforesaid discussion, there is insufficient evidence to support the claims of the prosecution regarding the witnesses' ability to observe the incident from a distance of half a kilometer. While extending benefit of doubt to the petitioner, he is acquitted from all charges while allowing the instant appeal after setting aside the impugned judgements. He be released forthwith if not required in any other case.

Judge

Judge

Judge

ISLAMABAD
04.03.2025
(Farrukh)

Approved for Reporting