

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

**PRESENT:**

Mr. Justice Manzoor Ahmad Malik  
Mr. Justice Syed Mansoor Ali Shah  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Appeals No.301-L & 302-L/2017**

*(Against the judgment dated 13.11.2014 passed by the Lahore High Court, Lahore in Criminal Appeals No.1401/2010 and 1366/2010)*

***Muhammad Ikram Shah***

*(in Criminal Appeal No.301-L/2017)*

***Muhammad Asif and 3 others***

*(in Criminal Appeal No.302-L/2017)*

...Appellant(s)

**VERSUS**

***The State***

*(in Criminal Appeal No.301-L/2017)*

***The State***

*(in Criminal Appeal No.302-L/2017)*

...Respondent(s)

For the Appellant(s):

Mian Muzaffar Ahmed, ASC  
*(in Criminal Appeal No.301-L/2017)*

For the Appellants:  
(Ghafoor Ahmed Shah,  
Mehfooz Ahmed Shah and  
Tayyab Shah):

Miss Najma Perveen, ASC  
Ms. Tasnim Amin, AOR  
*(in Criminal Appeal No.302-L/2017)*

For the Appellant:  
(Muhammad Asif):

Mr. M. Taki Khan, ASC  
Rana Arif Kamal Noon, ASC  
*(in Criminal Appeal No.302-L/2017)*

For the complainant:

Ch. Akbar Ali Shad, ASC  
*(without caveat)*

For the State :

Ch. Muhammad Mustafa, DPG

Date of Hearing:

26.6.2019.

**JUDGMENT**

**Qazi Muhammad Amin Ahmed, J.-** A household in an affluent neighborhood within the remit of Police Station Defence-A, Lahore was surprised at 2.30 p.m. on 6.7.2009 when three unknown intruders trespassed on gun points; they were alongside the servants, namely, Ikram and Farooq, leading them apparently under coercion; they kept the inmates as hostage and looted a number of articles comprising gold ornaments, valuable securities and cell phone handsets; the

family was confined in a store and they left along with Ali Hussain Mehmood, aged 3<sup>1/4</sup> years. The culprits demanded ransom of Rs.3,00,00,000/-, subsequently settled as Rs.50,00,000/-, paid on 26.8.2009 to secure release of the child. It is in this backdrop that a joint investigation team commenced the probe. The accused were arrayed through supplementary statements; one of the servants, namely, Ikram was identified as accomplice, a privy to the crime. As the investigation progressed, as many as eight persons were identified to have architected the episode with different roles, however, in collaboration with one another; of them, Rab Nawaz and Munir were killed in a police encounter; the appellants along with Mst. Nagina Bibi were arrested on 18.12.2009. Muhammad Asif and Tayyab Shah were identified by the witnesses through a test identification parade. Pursuant to disclosures, the accused led to various incriminating recoveries, including portion of cash received as ransom as well as jewelry. The child was recovered from the custody of Mst. Nagina Bibi, co-accused on 18.12.2009. Indicted on 17.2.2010, the accused claimed trial, pursuant whereunto, prosecution produced as many as twenty witnesses to drive home the charge; they furnished ocular account of robbery as well as payment of ransom to Tayyab Shah and Muhammad Asif, appellants. Learned trial Judge convicted all the appellants; they were sentenced to death barring Mst. Nagina Bibi, awarded imprisonment for life; their appeals in the High Court failed albeit with alternation of death penalties into imprisonment for life *vide* impugned judgment dated 13.11.2014 *vires* whereof are being challenged through leave of the Court; bound by a common thread, these are being decided through this single judgment.

2. Genesis of the occurrence cannot be doubted and the family certainly does not have an axe to grind against the accused; two from amongst them have been done to death, statedly while resisting the police; Mst. Nagina Bibi has not opted to dispute her conviction and sentence, upheld by the High Court. Testimonies furnished by the witnesses that include female members of the family have been found by us

straightforward and confidence inspiring, duly corroborated by the recoveries that cannot be possibly foisted. Test identification parade and evidence of payment of ransom to Muhammad Asif and Tayyab Shah, appellants, squarely frame them with the crime by excluding every hypothesis of their innocence; they have rightly been convicted and sentenced; the High Court has already shown leniency by converting penalties of death into imprisonment for life; their appeal fail. *Dismissed.*

Case of Muhammad Ikram Shah, Mehfooz Ahmed Shah and Ghafoor Ahmed Shah is on different footing. Muhammad Ikram Shah is identically placed with Farooq, the other servant in the family; he was let off with a clean chit; it is prosecution's case that he alongside Ghafoor Ahmed Shah and Mehfooz Ahmed Shah shared information that took the investigating officer to the child, statedly, held by Mst. Nagina Bibi, co-accused; assertion being non-specific, vague and joint, does not constitute disclosure within the contemplation of Article 40 of the Qanun-e-Shahadat Order, 1984 in absence whereof their culpability rests more upon a subjective belief rather than a positive proof; they are on crossroad; their convictions cannot be maintained without potential risk of error, therefore, it would be conscionable to extend them benefit of doubt; Criminal Appeals to their extent are *allowed.*

JUDGE

JUDGE

JUDGE

Lahore, the  
26<sup>th</sup> of June, 2019  
Not approved for reporting  
Ghulam Raza/\*