

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition Nos.100-K & 101-K of 2020

(Against the order dated 31.01.2020 passed by the High Court of Sindh in Crl. A. Nos. S-11 & 12/2019)

Ghaffar Mahesar

(in both cases)

.....Petitioner(s)

Versus

The State through P.G. Sindh and others

(in both cases)

...Respondent(s)

For the Petitioner(s): Abdul Baqi Jan Kakar, ASC

For the State: Mr. Saleem Mangrio,
Addl. P.G. Sindh

For the Complainant: In person

Date of Hearing 26.01.2022.

ORDER

Qazi Muhammad Amin Ahmed, J.- Saddar-ud-Din, 28/29, was shot dead at 11:30 a.m. on 18.5.2018 within the precincts of Police Station Tharo Shah District Noshahro Feroz; incident was reported by his father Ali Nawaz (PW-1) at 2:00 p.m; the petitioner, Lakhmir @ Lakhoo and an unknown person were arrayed as suspects in the crime report. Petitioner's displeasure over deceased's marriage with daughter of one Arbab Mehsar is cited as motive for the crime. Even dated autopsy confirmed receipt of four shots, jointly fired by the petitioner and Lakhmir co-accused, proved collectively fatal; petitioner was arrested on 20.5.2018 and pursuant to a disclosure, led to the recovery of a .30 caliber pistol found wedded with the casings secured from the spot; Lakhmir co-accused is still away from law whereas prosecution is clueless about the third assailant till date. The learned Sessions Judge, Naushahro Feroze returned a guilty verdict vide judgment dated 22.1.2019 whereunder the petitioner stood convicted under clause (b) of section 302 of the Pakistan Penal Code, 1860; he was sentenced to imprisonment for

life; for recovered weapon being illicit, he was additionally convicted and sentenced, both upheld by a learned Judge-in-Chamber of the High Court of Sindh at Sukkur, vide impugned judgment dated 31.1.2020, leave to appeal wherefrom is being prayed for on the grounds that there was no occasion for the learned trial Judge to convict the petitioner on capital charge in the absence of "*proof beyond doubt*" , an error repeated by the High Court; it is next argued that statements of the witnesses being discrepant were not worthy of reliance and that the ballistic report relied by the prosecution being inherently flawed was liable to be excluded from consideration. With a vague and non-specific motive, fraught with doubts, petitioner's conviction could not be maintained without potential risk of error, concluded the learned counsel. The learned Law Officer contrarily defended the impugned judgment.

2. Heard. Record perused.

3. Occurrence is a daylight affair; Ali Nawaz (PW-1), Sher Muhammad (PW-2) and Abdul Raheem (PW-3) unanimously pointed their finger upon the petitioner as being one of the assassins; Ali Nawaz (PW-1) being father of the deceased is certainly not expected to substitute the real assassin of his son with a proxy. We have gone through their statements to find them in a comfortable unison on all the salient aspects of the case as well as details collateral thereto. Being from the same neighbourhood, their presence at the crime scene cannot be viewed with suspicion. Medical evidence is consistent with the timeline of the occurrence as well as injuries suffered by the deceased. Preponderance of evidence undoubtedly constitute "*proof beyond doubt*" and, thus, can be relied upon without a demur to hold the petitioner guilty of the crime, particularly, in the face of a bald denial with reticent support of his real brother, clamouring innocence. Petitions fail. Leave declined.

Judge

Judge

Judge

Islamabad, the
26th January, 2022
Azmat/-