

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Maqbool Baqar
Mr. Justice Qazi Muhammad Amin Ahmed
Mr. Justice Amin-ud-Din Khan

Criminal Petition No.1316 of 2016

(Against the judgment dated 06.10.2016 passed by the Peshawar High Court Peshawar in Crl. A. No.602-P/2013)

Rooh Ullah, etc.

...Petitioner(s)

Versus

The State, etc.

...Respondent(s)

For the Petitioner(s): Mr. Muhammad Ilyas Siddiqi, ASC

For the State: Mr. Zahid Yousaf Qureshi,
Addl. Advocate General, KP

For the Respondent(s): Mr. Talat Mahmood Zaidi, ASC

Date of Hearing: 03.01.2022.

ORDER

Qazi Muhammad Amin Ahmed, J.- Tarifullah, 55/60, and Muhammad Rawail, 20, were shot dead on 11.06.2007 at 5:00 p.m. within the precincts of Police Station Razakhel, District Nowshera, in the backdrop of an ongoing feud over a piece of property; Tariq Azam PW survived the assault to report the incident to the police at 7:25 p.m; the petitioners claimed trial before a learned Addl. Sessions Judge at Nowshera that culminated into their conviction both on the charges of homicide as well as murderous assault vide judgment dated 31.10.2013; they were sentenced to imprisonment for life as well as 5-years rigorous imprisonment, respectively; co-accused Shahid, arrayed through supplementary statement, was, however, acquitted from the charge, maintained by the High Court, vide impugned judgment dated 06.10.2016, *vires* whereof, are being assailed by the petitioners on the grounds that prosecution case, fraught with contradictions and doubts, merited outright rejection, in the face of an unproved motive. Prosecution's failure to effect recovery of weapon from Rooh Ullah petitioner yet another predicament faced by the prosecution

and, thus, evidence furnished by the injured PW was far from being the whole truth and, thus, was not worthy of implicit reliance, concluded the learned counsel. Contrarily, learned Law Officer assisted by learned counsel for complainant defended the impugned judgment.

2. Heard. Record perused.

3. We have gone through the statements of eye witnesses that include an injured to find them in a comfortable unison both on the salient features of the case as well as matters collateral thereto. No doubt, injuries on the person of a witness are not a passport into the realm of truth, however, the learned counsel has not been able to point out even a single circumstance to suspect testimony of Azam Tariq PW. Incident, a daylight affair, was reported with a remarkable promptitude followed by examination of the injured as well as autopsy, circumstances that cumulatively exclude possibility of consultations or deliberations. Investigating Officer's failure to recover a weapon from Rooh Ullah does not overshadow the preponderance of prosecution evidence that includes recovery from the principal accused. Bald denials alone do not override the prosecution evidence, rightly relied by the courts below. Petition fails. Leave refused.

Judge

Judge

Judge

Islamabad, the
3rd January, 2022
Azmat/-