

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.83-P of 2015

*(Against the judgment dated 06.03.2015 passed by the Peshawar
High Court Peshawar in Cr. A. No.188-M/2012)*

State through AG General KP, Peshawar

...Petitioner(s)

Versus

Sabz Ali Khan

...Respondent(s)

For the Petitioner(s): Ms. Abida Safdar,
Assistant Advocate General, KPK

For the Respondent(s): N.R.

Date of hearing: 26.07.2021

ORDER

Qazi Muhammad Amin Ahmed, J.- Indicted for homicide for committing *Qatl-i-Amd* of Sher Muhammad, within the precincts of Police Station Changlay, District Bonair, the respondent was convicted under clause (b) of section 302 of the Pakistan Penal Code, 1860 by a learned Additional Sessions Judge vide judgment dated 10.10.2012; he was sentenced to death with a direction to pay compensation to the legal heirs of the deceased; on the coordinate charge of murderous assault on Mushtaq PW, he was sentenced to 7-years RI with concomitant monetary compensation; the High Court acquitted him from the charges vide impugned judgment dated 06.03.2015, *vires* whereof, are being assailed on the grounds that there was no occasion for the High Court to take the impugned view inasmuch as the prosecution had successfully driven home charge beyond a shadow of doubt on the strength of ocular account furnished by the witnesses that included an injured with a massive injury. It is next argued that investigative conclusions drawn up pursuant to a prompt recourse to law, inexorably pointed towards respondent's culpability, singularly arrayed in the crime report. According to the learned counsel, reference by the High Court to peripheral issues and stated durations of time are

too trivial to override the preponderance of evidence that unambiguously excluded every hypothesis other than respondent's guilt; similarly, according to her, stated lapses on part of the Investigating Officer, being inconsequential, certainly does not cast away prosecution's case, otherwise firmly structured on evidence furnished by the independent witnesses and, thus, the impugned view being artificial warrants interference by the Court in order to avoid miscarriage of justice. Contentions merit consideration; leave is granted to reappraise entire evidence with a view to secure the ends of justice. Send for the respondent through bailable warrants in the sum of Rs.200,000/-, returnable to the Assistant Registrar of this Court at Peshawar. Station House Officer shall execute the warrants within a fortnight.

Judge

Judge

Peshawar, the
26th July, 2021
Not approved for reporting
Azmat/-