

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

**Present:**

MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL  
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

**Criminal Petition No.27-P of 2014**

*(Against the judgment dated 05.03.2014 passed by the  
Peshawar High Court Peshawar in Cr. A. No.100/2011)*

Gul Zarin and other

...Petitioner

**Versus**

Fazal Khaliq and another

..Respondent

For the Petitioner(s): Haji Muhammad Zahir Shah, ASC

For the Respondent(s): N.R.

For the State: Mr. Muhammad Nisar,  
Addl. Advocate General KPK

Date of hearing: 06.7.2021

**ORDER**

**Qazi Muhammad Amin Ahmed, J-**. Respondent was tried for murderous assault as well as on two counts of homicide by a learned Additional Sessions Judge at Wari, District Dir Upper; convicted on all counts, he was sentenced to imprisonment for life and ten years rigorous imprisonment respectively vide judgment dated 10.10.2011, overturned by a Division Bench of Peshawar High Court, Mingora Bench vide impugned judgment dated 03.05.2014, *vires* whereof, are being assailed on the grounds that in the face of overwhelming evidence comprising of witnesses that included an injured to support a dying declaration, there was no occasion for the High Court to acquit the respondent, blamed alongside the absconding co-accused for the crime in the backdrop of a motive over immovable property, resulting into the loss of two lives; he has referred to respondent's return after absconsion, spreading over a quarter of a century with his accomplices still away from law, to finally earn acquittal. The learned counsel has further argued that non-performance of autopsy on the dead, being a practice in line with

local custom did not adversely reflect upon the prosecution case inasmuch as the homicidal deaths of both the deceased remained a common ground throughout; according to him, the impugned view being based upon reasons, artificial and illusory, is untenable at law and, thus, tends to result into miscarriage of justice, clamouring interference by this Court.

Though much water has flown under the bridge, nonetheless, the peculiar facts and circumstances of the case, despite flux of time, call for reappraisal of prosecution's evidence to secure the ends of justice. Leave is granted, *inter alia*, to consider the above contentions. Send for the respondent through bailable warrant in the sum of Rs.200,000/- with one surety in the like amount, returnable to the Assistant Registrar of this Court at Peshawar, to be executed through the Station House Officer, within a fortnight.

Judge

Judge

Peshawar,  
6<sup>th</sup> July, 2021  
Azmat/-  
'Not approved for reporting'