

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

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

Criminal Petition No.30-P of 2014

*(Against the judgment dated 20.02.2014 passed by the
Peshawar High Court Peshawar in Cr. A. No.78-P/2013)*

State through A.G. KP, Peshawar

...Petitioner

Versus

Amanat Khan, etc.

..Respondent

For the Petitioner(s): Mr. Muhammad Nisar, Addl. A.G. KP

For the Respondent(s): N.R.

Date of hearing: 06.7.2021

ORDER

Qazi Muhammad Amin Ahmed, J-. In broad daylight, Javed Ali Shah, 40, was shot dead within the precincts of Police Station Lahore District Swabi; First Information Report was lodged by his uncle Syed Sardar Shah (PW-3) wherein he blamed the respondent, a previous convict, as the sole culprit, in the backdrop of a previous altercation. Autopsy conducted at 1:05 p.m. confirmed four entry wounds with corresponding exits. Respondent stayed away from the law and was finally spotted in a prison at Takhat Bhai wherefrom he was transposed as an accused in the present case; pursuant to a disclosure, he led to the recovery of a .30 caliber pistol, however, incompatible with the casings secured from the spot. A learned Additional Sessions Judge vide judgment dated 31.01.2013 convicted him under clause (b) of Section 302 of the Pakistan Penal Code, 1860 with the sentence of death alongside a direction to pay compensation, overturned by a Division Bench of Peshawar High Court Peshawar vide impugned judgment dated 20.02.2014, vires whereof, are being assailed on the grounds that in the face of overwhelming evidence furnished by natural witnesses having no axe to grind, there was no occasion for the High Court to acquit the respondent from the charge, squarely structured on '*proof beyond doubt*'. It is next argued that the impugned view of the High Court, seemingly based upon various circumstances, considered by it as suspect, mostly relate to peripheral or investigative flaws, with no bearing upon the

preponderance of ocular account furnished by the witnesses who had satisfactorily explained their presence at the spot; they do not seem to have an axe to grind by substituting an innocent with the guilty. It is lastly argued that in the wake of respondent's absconsion, a negative forensic report did not adversely effect the prosecution's case nor non-mentioning of specific caliber of the weapon could destroy the intrinsic value of the testimony that successfully withstood the test of cross-examination, particularly having regard to the formidable past, hounding the respondent. Leave is granted to reappraise the entire evidence with a view to secure the ends of justice. Send for the respondent throughailable warrant of arrest 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 Station House Officer, within a fortnight.

Judge

Judge

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

