

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

**MR. JUSTICE UMAR ATA BANDIAL, ACJ
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED
MR. JUSTICE MUHAMMAD ALI MAZHAR**

Criminal Petition No.138-Q of 2020

*(Against the judgment dated 21.10.2020 passed
by the High Court of Balochistan in Cr. A.
nO.168/2019)*

Javed Ahmed and others

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s) : Mr. Kamran Murtaza, Sr. ASC
(video link Quetta)

For the Respondent(s) : Mr. Abdul Baqir Shah, ASC

Date of Hearing : 23.08.2021

O R D E R

QAZI MUHAMMAD AMIN AHMED, J.-In the backdrop of a dispute over property, Noor-ud-Din (PW-2) was thrashed, inside his shop, located within the precincts of Police Station City Quetta, at 4:25 p.m. on 23.5.2019 by Javed Ahmed, since dead, Muhammad Aslam, Muhammad Saleem and Khalil, no other than his cousins in first degree. A police surgeon noted multiple injuries that included a fracture of left forearm. Spot inspection by Muhammad Touseef SI (PW-7) confirmed damage caused by the intruders inside the outlet. Upon conclusion of trial, a learned Magistrate vide judgment dated 05.12.2019 returned a guilty verdict; the assailants were burdened with monetary compensation for causing injuries to the complainant, additionally sentenced for criminal trespass and concomitant damage to the property; the learned Additional Sessions Judge acquitted the petitioners from the latter charge, however, maintained the remainder of convictions, upheld by the High Court of Balochistan vide

impugned judgment dated 21.10.2020, *vires* whereof, are being assailed, after deposit of *Daman* under protest on the grounds that prosecution had cast a wider net to implicate every able bodied opponent, engaged with the complainant in a civil dispute; that two injuries with a complaint of pain hardly justified en bloc conviction of all the petitioners, particularly after prosecution's failure on the charge of damage to the property in the court of session; learned counsel has also referred to a discrepancy in the deposition of police surgeon regarding date of examination to argue that flawed evidence clamoured for clean acquittal as the pensionary benefits of Javed Ahmed deceased are at stake.

2. We have heard the learned counsel on video link and perused available record with his assistance to note that on the common ground of bad blood in the close family, the complainant was taken on by the petitioners inside his shop, a position that went un-rebutted in the evidence furnished by the Investigating Officer. Though acquitted under sections 447, 427, nonetheless, the site plan showed broken pieces of glass, unmistakably suggesting a brawl inside the outlet. An erroneous date given by the police surgeon is not in line with the entry in the medico legal certificate that unambiguously confirms the date of incident as 23.05.2019.

The witnesses are in a comfortable unison and have rightly been believed by the Courts below. Possible loss of pensionary benefits to the family of the deceased petitioner indivisibly linked with the co-convicts, being a conscionable consequence of the crime, hardly furnishes a ground to separately overturn his conviction, based upon a judicial consensus. Petition fails. Leave declined.

ACJ

Judge

Islamabad
23.08.2021
Azmat/*

Judge