

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

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

Criminal Petition No.90-P of 2016

(Against the order dated 21.09.2016 passed by the Peshawar High Court Peshawar passed in Cr.A. No.404-P/2015)

Asif Khan

...Petitioner(s)

Versus

Sher Shah and others

...Respondent(s)

For the Petitioner(s): Mr. Muhammad Ajmal Khan, AOR

For the State: Mr. Muhammad Nisar,
Additional Advocate General, KP

Date of hearing: 30.07.2021

ORDER

Qazi Muhammad Amin Ahmed, J.- In the backdrop of an ongoing feud, Said Muhammad alias Gulalai was shot dead at 10:55 a.m. on 5.9.2005 within the precincts of Police Station Umar Zai District Charasadda; Ibrahim PW endure the assault with multiple gunshot. Sher Shah, Tayyab along with their absconding brother Riaz were arrayed as culprits for the crime; the first two were tried by a learned Addl. Sessions Judge; they were convicted for homicide as well as coordinate charges; they were differently sentenced that included penalty of death as well, vide judgment dated 26.04.2015, overturned by the High Court vide impugned judgment dated 21.09.2016, *vires* whereof, are being assailed on the grounds that there was no occasion for the High Court to let off the respondents in the face of formidable evidence establishing their participation in the crime in a daylight affair, with one of the accused still away from law. It is next argued that though the complainant subsequently died natural death, nonetheless, injuries sustained by him during the occurrence stood fully established to corroborate ocular account by available witnesses. While taking through the impugned judgment, learned counsel has highlighted some narrative variations viewed by the High Court as "*different versions*" to argue that descriptive differences hardly affected the preponderance of evidence unmistakably pointed towards the culpability of the assailants

and, thus, the reasons being artificial, do not present any doubt regarding the guilt of the respondents, that may be deduced from the record; the bottom line is that impugned view being subjective and incompatible with the evidence brought on the record runs counter to settled principles of administration of criminal justice and, thus, clamours for intervention by this Court to avoid miscarriage of justice. Send for the respondents throughailable warrants in the sum of Rs.200,000/- each, returnable to the Assistant Registrar of this Court at Peshawar. Station House Officer shall execute the warrants within a fortnight.

Judge

Judge

Peshawar, the
30th July, 2021
Not approved for reporting
Azmat/-