

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Manzoor Ahmad Malik
Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Appeal No.85 of 2020

*(Against judgment dated 29.09.2015 passed by the
Lahore High Court Lahore in CrI. Appeal Nos.122-J
with M.R. No.131/2011)*

Muhammad Imran

...Appellant(s)

Versus

The State

...Respondent(s)

For the Appellant(s): Mr. M. Siddique Khan Baloch, ASC

For the State: Mirza Abid Majeed,
Deputy Prosecutor General Punjab

Date of hearing: 29.10.2020.

JUDGMENT

Qazi Muhammad Amin Ahmed, J.- Indicted for committing *Qatl-i-Amd* of his wife Nasreen Bibi, 30, as well as daughters Aneela Bibi, 17, and Sawaira, 9, at 8/9:00 a.m. on 8.7.2010, within the precincts of Police Station Chatiana District Toba Tek Singh, Muhammad Imran appellant, convicted under clause (b) of section 302 of the Pakistan Penal Code, 1860, had been condemned to death on three counts by the learned Sessions Judge Toba Tek Singh vide judgment dated 8.3.2011, upheld/confirmed by the High Court vide impugned judgment dated 29.9.2015, vires whereof, are being assailed by leave of the Court.

2. Nasreen Bibi, deceased, was appellant's second wife; she mothered three children, namely, Samiullah, Abu Bakar and Swaira; Aneela Bibi was born from appellant's earlier wedlock; the marriage went on the rocks; upon complaints of violent treatment, appellant's in-laws repeatedly intervened to restore congeniality between the spouses albeit with no success. According to the complainant, on the

fateful day, the appellant once again violently lost temper and for that he was sent for by his daughter, in pursuant whereto, he alongwith Abdul Ghaffar (PW-7) and Muhammad Naveed (given up PW) visited the family at about 8/9:00 a.m. and once again tried to persuade the couple to amicably settle their differences; it was shortly thereafter that the appellant locked the deceased inside a room; attracted by the commotion, the witnesses saw the appellant through a window while dealing repeated *Toka* blows to the deceased; despite attempts, they failed to barge entry in the room to rescue them; after dealing with the deceased, the appellant, brandishing the weapon, took to the heels. The victims succumbed to the injuries at the spot. It is alleged that the appellant was annoyed by complainant's visit on his daughter's call that he avenged upon the deceased. Autopsies commenced at 4:30 p.m; Nasreen Bibi was noted with 11 incised wounds on various parts of her body whereas the girls suffered respectively 4 and 5 wounds of identical nature, generating hemorrhagic shock in each case, opined as cause of death. After his arrest, pursuant to a disclosure, the appellant led to recovery of bloodstained *Toka* (P-12) on 18.7.2010; blood scrapings were forensically confirmed that of human origin. The appellant confronted prosecution evidence with the following plea:

"I am involved in this case on the basis of suspicion. I was on job on that night. I am innocent. I came at the place of occurrence when police had reached there. Witnesses have deposed against me being closely related to the complainant."

However, led no evidence to establish the alibi.

3. Learned counsel for the appellant contends that occurrence was an un-witnessed affair inasmuch as arrival of the witnesses at the crime scene is far from being probable and, thus, it would be unsafe to rely upon their testimony; the bottom line is that they being chance witnesses are not worthy of credit. It is next argued that the motive asserted by the prosecution is not only false but inconceivable as well, inasmuch as in the face of a run of the mill matrimonial dispute, the appellant had no earthly reason to violently slaughter his family that included his two daughters, having no nexus with the controversy. Alternately, it is argued that since the episode is shrouded into mystery, sentence of imprisonment for life, being a safer course, would meet the ends of justice. The learned Law Officer faithfully defended the impugned judgment; highlighting shockingly gruesome brutality,

he has opposed alteration of death penalty into imprisonment for life; according to him, in the absence of any judicially recognized mitigating circumstance, the wage was rightly settled.

4. Heard. Record perused.

5. Prosecution case is structured upon ocular account furnished by Abdul Sattar (PW-6) and Abdul Ghaffar (PW-7); former is appellant's father-in-law whereas the latter is distantly related with him and as such they are not expected to swap the culprit of gruesome murders with the appellant, himself figuring as son-in-law within the family bond. Nasreen Bibi was survived by two sons Samiullah and Abu Bakar who escaped assassin's wrath; it is inconceivable that the complainant would falsely substitute father of his grand children, already devastated by the loss of their mother as well as sister. Circumstances of the case and evidence brought on the record do not admit any space to even obliquely entertain any hypothesis of substitution, otherwise a rare phenomena, antithetical to retributive human instinct. Similarly, uncongenial matrimonial relationship has not seriously been disputed and, thus, the cited motive cannot be discounted nor considered as inconceivable so as to extend any premium to the appellant. On the contrary, appellant's awfully disproportionate violent response on his wife's approach to her father for rescue and awful brutality inflicted by him on her and two unconcerned innocent daughters, one from his previous marriage, do not provide him any space to hide behind the shield of disproportionality of his appalling behaviour. Likewise, visit by the witnesses on the fateful day, cannot be viewed as improbable or unnatural. A father visiting his distressed daughter to mediate an ongoing dispute cannot be characterized as a witness arriving at the scene per chance. Both the witnesses furnished graphic details of the occurrence as well as the events collateral therewith; in a comfortable and confidence inspiring unison, they faced no serious challenge during the cross-examination, otherwise inconsequential and directionless, mainly comprising bald suggestions, vehemently denied. Recovery of *Toka* (P-12) provides additional corroboration, stained with blood of human origin, the weapon recovered upon appellant's disclosure is singularly consistent with the injuries suffered by all the deceased. Ghulam Qadir, SI (PW-10) carried out the investigation; he unambiguously controverted position taken by the defence. Prosecution has successfully driven home the charge beyond

reasonable doubt. On a most careful examination of the record, we have not been able to find out even a smallest space to entertain any hypothesis other than appellant's guilt; his callously reckless disregard for human life in a trivial domestic situation without provocation and infliction of gruesome brutality on the poor souls of his own clan is chillingly shocking to the judicial conscience and, thus, wage settled by the trial Court, upheld by the High Court is conscionable on scales; he deserved nothing less. Appeal disallowed.

Judge

Judge

Judge

Islamabad, the
29th October, 2020
Not approved for reporting
Azmat/-