

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

**PRESENT:**

Mr. Justice Manzoor Ahmad Malik  
Mr. Justice Syed Mansoor Ali Shah  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Appeal No.52-P/2009**

*(Against the judgment dated 28.1.2004  
of the Peshawar High Court, Peshawar  
passed in Cr. A. No.222/2003)*

***State thr. Advocate General, KP, Peshawar*** ...Appellant(s)

**VERSUS**

***Hassan Jalil & others*** ...Respondent(s)

For the Appellant(s) : Mr. Qasim Wadud, Additional  
Advocate General, Khyber  
Pakhtunkhwa

For the Respondent(s) : N.R.

Date of Hearing : 29.04.2019

**Judgment**

**Qazi Muhammad Amin Ahmed, J.** Through leave of the Court, impugned herein is the judgment dated 28.1.2004 by a learned Judge-in-Chambers of the Peshawar High Court, whereby finding of guilt, in a case of homicide by the learned Sessions Judge, Hangu has been set aside. This is in the backdrop of incident dated 30.3.1999, within the remit of Police Station Hangu, District Kohat, reported by Hassan Jalil's mother-in-law, Noor Seema PW, who surprised the former while fleeing from the home, leaving behind his wife Mst. Perveen Bibi in a pool of blood along side the minors with multiple injuries; she pointed her finger upon the respondent. Upon indictment the respondent claimed trial that culminated in conviction with sentences consequent thereupon vide judgment dated 22.3.2003, subsequently reversed in appeal.

2. Learned Additional Advocate General, Khyber Pakhtoonkhwa has impugned the vires of impugned judgment of the learned High Court on the ground that in the face of overwhelming evidence there was no occasion for respondent's

acquittal that too in the wake of his long standing absconsion as well as abysmal failure to explain as to what befell upon the household; occurrence being a day light affair there was no space to entertain any hypothesis of mistaken identity or given the relationship, substitution, it is next argued by the learned law officer. He has pointed out death of the children in consequence of injuries suffered by them.

3. Respondent's relationship with the deceased as well as the minors is not in dispute and so is homicidal death of his better half and receipt of injuries by the children, under the same roof; nonetheless in the absence of positive proof he cannot be held guilty for the crime either on the basis of suspicion, moral satisfaction or his failure to explain circumstances, leading to the calamity. Prosecution's silence to explain as to what possibly prompted the respondent to wipe out his own family is also intriguing, though the complainant in the witness box, obliquely referred to a quarrel between the spouses, however, suggesting cordial relations in the same breath. Arrival of Noor Sima, PW at venue exactly at a point of time when the respondent allegedly did away with the deceased, in itself is a circumstance that reflects on the very genesis of the prosecution case. On an overall analysis of the prosecution evidence, the learned High Court found the prosecution case fraught from doubts, an analysis that cannot be viewed as unconscionable or imprudent, being well within the realm of possibility, calling for interference. Appeal is dismissed.

JUDGE

JUDGE

JUDGE