

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Manzoor Ahmad Malik
Mr. Justice Sardar Tariq Masood
Mr. Justice Qazi Muhammad Amin Ahmed

Cr. Appeals No.76-L, 77-L and 78-L of 2017

(On appeal from judgment dated 02.12.2013 of the Lahore High Court, Lahore passed in Criminal Appeal Nos.650/2009, 78-J/2010, 2575/2010 and CSR Nos.13-T/2009, 14-T/2010 & 72-T/2010)

Akhmat Sher

(in Criminal Appeal No.76-L/2017)

Rabnawaz

(in Criminal Appeal No.77-L/2017)

Alam Sher

(in Criminal Appeal No.78-L/2017)

...Appellant(s)

VERSUS

The State

(in all the cases)

...Respondent(s)

For the Appellant(s):

Malik Muhammad Suleman
Awan, ASC

(in Criminal Appeal No.76-L/2017)

Mr. Ijaz Ahmed Janjua, ASC

(in Criminal Appeal No.77-L/2017)

Ms. Bushra Qamar, ASC

(in Criminal Appeal No.78-L/2017)

For the State :

Ch. Muhammad Mustafa,
DPG

Date of Hearing:

04.7.2019.

JUDGMENT

Qazi Muhammad Amin Ahmed, J.- In the backdrop of a dispute over plying of public vehicles, Muhammad Ramzan and Hassan Jamal, deceased, were done to death at 7:00 a.m. on 31-7-2007 within the remit of Police Station Mitha Tiwana District Khoshab. Incident was reported by Zafar Iqbal; Akhmat Sher, Manzoor Ali, Muhammad Iqbal, Rabnawaz, Muhammad Ramzan and Alam Sher along with three unknown assailants, differently armed, were nominated as accused; of them, Akhmat Sher is attributed a fire shot to Muhammad Ramzan deceased followed by a burst by Rabnawaz; Alam Sher accused is ascribed a rifle shot to Hassan Jamal deceased. Autopsies confirmed homicidal death by fire shots. Spot inspection includes seizure of

blood and vehicles, the bone of contention, besides a motorbike last driven by Hassan Jamal deceased. The accused were arrested at different points of time; Muhammad Saeed, arrayed as abettor, was first in the dock followed by Muhammad Ahsan, introduced as one of the unknown assailants, as well as Manzoor Ali, co-accused, acquitted, on different dates, before appellants' trial; Akhmat Sher and Muhammad Ramzan were tried by an Anti Terrorism Court at Sargodha; indicted for homicide as well as terrorism, Akhmat Sher was convicted and sentenced to death on both counts whereas Muhammad Ramzan was acquitted from the charge vide judgment dated 24-4-2009; Rabnawaz and Muhammad Iqbal were next to appear before the Court; Rabnawaz was convicted and sentenced whereas Muhammad Iqbal was let off on 16-2-2010; Alam Sher was last tried to receive a guilty verdict on 21-10-2010. The convicts impugned their convictions and sentences through separate appeals, decided by the High Court through different judgments of even date; convictions were upheld, however, with alteration of death penalties into imprisonment for life, vires whereof, are being challenged through leave of the Court. Since the appeals are bound by a common thread, having arisen out of the same incident, these are being decided through this single judgment.

2. Zafar Iqbal and Atta Muhammad furnished ocular accounts during trials against Akhmat Sher, Muhammad Ramzan, Rabnawaz and Muhammad Iqbal while the former was alone to point his finger on Alam Sher; they furnished graphic details of the events preceding the occurrence as well as subsequent thereto; dispute commenced on preceding day i.e. 30-7-2007 when the appellants along with co-accused forcibly took passengers already boarded in Muhammad Ramzan's vehicle and it is in this backdrop that, on the fateful day, they compelled Muhammad Ramzan deceased to withdraw his vehicle and it was on his refusal that Akhmat Sher and Rabnawaz targeted him with their weapons; misfortune brought Hassan Jamal at the scene on a motorbike; he was fired by Alam Sher when he attempted to apprehend Muhammad Iqbal, acquitted co-accused; details related by the witnesses are corroborated by investigative conclusions regarding the motive of the crime as

well as autopsy reports; the witnesses are in a comfortable unison on all the salient aspects of the occurrence as well as details collateral therewith in the background of a dispute which is not unusual in transport business. Recoveries of weapon, though inconsequential on account of Investigating Officer's failure to collect casings from the spot for comparison, nonetheless, are consistent with the injuries inflicted upon the deceased. Absconsion is yet another circumstance favouring the prosecution. The trial Court rightly settled liability of the appellants assigned fatal harm to the deceased and we have not been able to find out any circumstance warranting a different view. Convictions on both counts of homicide and sentences consequent thereupon are not open to any legitimate exception, however, appellants' conviction under Sections 7 (a) & 21-L of the Anti Terrorism Act 1997 requires reconsideration. Every crime is repugnant, murder being most abhorrent and shocking; impacts and aftermaths of violence upon the victims, their families and surroundings are seldom benign with fear invariably concomitant thereof, nonetheless, special jurisdiction under the Anti Terrorism Act, 1997 has been created to deal with situations enumerated in Section 6 thereof; these fall outside the ambit of personal pursuits and vendettas, carried out through violence; both the deceased fell victim to a business rivalry and, thus, the appellants were not actuated by the designs contemplated under the Act *ibid*, therefore, their convictions under sections 7(a) and 21-L of the Act *ibid* and sentences consequent thereupon are set aside; remainders of the convictions as well as sentences thereof are kept intact. With the above modification, criminal appeals are disallowed.

JUDGE

JUDGE

Lahore, the
4th July, 2019
Not approved for reporting
Azmat Ali/*

JUDGE

