

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

Criminal Petition Nos.112-P & 113-P of 2014

*(Against the judgment dated 01.10.2014 passed by the
Peshawar High Court Mingora Bench (Dar-ul-Qaza) Swat in
Crl. Appeal No.164-M & 165-M of 2013)*

Ilyas
(in both cases)

...Petitioner(s)

Versus

Waris Khan, etc.
(in both cases)

..Respondent(s)

For the Petitioner(s): Mr. Abdul Qayum Sarwar, AOR/ASC

For the Respondent(s): N.R.

Date of hearing: 06.7.2021

ORDER

Qazi Muhammad Amin Ahmed, J- Akhtar Begum, 20, was shot dead by Waris Khan, respondent, no other than her better half with the assistance of his brother Karamat Ali to avenge her filing of a suit seeking dissolution of marriage; the incident occurred at 10:30 a.m. on 2.10.2012 inside deceased's parental home, located within the precincts of Police Station Chaprial, District Swat. Autopsy conducted at 4:30 p.m. confirmed receipt of two entry wounds that generated hemorrhagic shock, resulting into immediate. The incident was reported by deceased's father Muhammad Ilyas (PW-1) at 15:30 p.m. wherein he blamed the respondents for the crime on the instigation of one Khanzada. Spot inspection includes seizure of blood and eight casings of 7.62 caliber. The learned trial Judge acquitted Khanzada from the charge, however, proceeded to convict the respondents under clause (b) of section 302 of the Pakistan Penal Code, 1860 and sentenced them to death and imprisonment for life, respectively, vide judgment dated 08.07.2013; Waris Khan was

separately tried under section 13 of the Arms Ordinance, 1965 and sentenced to three years rigorous imprisonment vide judgment of even date, both overturned by a Division Bench of the Peshawar High Court, Mingora Bench vide impugned judgment dated 01.10.2014, *vires* whereof, are being assailed on the ground that there was no occasion for the High Court to let off the respondents in the face of formidable evidence comprising ocular account, furnished by an inmate who saw his daughter being mercilessly done to death inside the safety of his house; it is next argued that disproportionate reliance by the High Court on alleged flaws in the investigative process having little bearing on the mainstay of the prosecution, being artificial, are incompatible with the settled principles of administration of criminal justice. The evidence admitted no hypothesis other than respondents' guilt and, thus, the impugned view being impossible clamours for intervention by this Court, concluded the learned counsel.

2. In the peculiar facts and circumstances of the case, leave is granted to reappraise the entire evidence with a view to secure the ends of justice. Send for the respondents throughailable warrants of arrest in the sum of Rs.200,000/- with one surety in the like amount, returnable to the Assistant Registrar of this Court at Peshawar, to be executed through the Station House Officer, within a fortnight.

Judge

Judge

Peshawar,
6th July, 2021
Azmat/-