

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mushir Alam
Mr. Justice Yahya Afridi
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No. 50-Q of 2017

*(Against the judgment dated
19.06.2017 passed by the Balochistan
High Court, Quetta in Crl. Appeal
No.337/2016)*

Muhammad Ashraf

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Mr. Zahoor Ahmed Chishti, ASC

For the State: Mr. Wallayat Hussain,
Addl. Prosecutor General Balochistan

Date of hearing: 13.10.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- Mehboob Ali, 35, was shot dead during the wee hours of 21.6.2015, while asleep as a guest in the house of his brother Abdul Karim (PW-5), located within the precincts of Police Station Levies Dashat, Mastung. Incident was reported by his sister Zarnaz (PW-1), a resident in the neighbourhood; she accused the petitioner alongside Dur Khan, Qadir Bukhsh, Badal Khan, Haji Khan and Muhammad Yousaf, away from the law till date, for the murder in the backdrop of a previous dispute. Spot inspection includes seizure of blood as well as 18 casings of Kalashnikov. Autopsy report confirmed multiple entrance wounds on the forehead with corresponding exits, cumulatively leading to the death. The petitioner was alone to contest indictment before the learned Sessions Judge Mastung; vide

judgment dated 08.10.2016 he was convicted under sections 302, 449 of the Pakistan Penal Code, 1860 and sentenced to imprisonment for life and seven years RI, respectively, with a direction to pay compensation as well as fine, upheld by the High Court of Balochistan vide impugned judgment dated 19.06.2017, albeit with a direction for concurrent commutation of sentences, pre-trial period inclusive.

2. Learned counsel for the petitioner contends that the deceased was done to death under mysterious circumstances in an unseen occurrence, noticed subsequently and reported through the witnesses, stage-managed after consultations; that despite his having endured the period of physical remand, no recovery was effected from the petitioner, a circumstance in itself, vindicating his position. Occurrence being a night affair, reported after inordinate delay, the question of assailants' identity is looming large on the scene, concluded the learned counsel. The learned Law Officer has faithfully defended the impugned judgment.

3. Heard. Record perused.

4. The prosecution has primarily relied upon ocular account furnished by Mst. Naz Malik (PW-3), Abdul Fatah (PW-4) and Abdul Karim (PW-5); the last is real brother of the deceased whom he visited during the fateful night in the month of Ramzan; Mst. Naz Malik is a niece, wife of Abdul Fatah (PW-4), residents of the locality; all of them unanimously pointed their fingers upon the petitioner, accompanied by the absconding co-accused who took on the deceased shortly after close of *Sehar*. In this backdrop, the hypothesis of a mistaken identity in the month of June with early dawn is beside the mark. Given the location of police station at a distance of 30/32 kilometers from the place of occurrence in the province of Balochistan with primitive means of communication, report straight at the police station cannot be viewed with suspicion. With assistance of learned counsel, we have gone through the statements of witnesses to find them in a confidence inspiring unison; inconsequential cross-examination mostly comprising of bald suggestions, each vehemently denied, fails to reflect upon the credibility of witnesses; on the contrary, confirms an ongoing dispute between the deceased and Dur Khan, one of the accused still

absconding. The witnesses being inmate of the premises, themselves have no axe to grind against the accused nor are expected to swap the actual offender with the innocent, as there is nothing on the record to even obliquely entertain any theory of substitution; they have rightly been held as worthy of credence; reliance upon their testimonies by the Courts below being in accord with the principles of safe administration of criminal justice calls for no interference. Petition fails. Leave declined.

Judge

Judge

Judge

Islamabad, the
13th October, 2020
Not approved for reporting
Azmat/-