

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

**PRESENT:**

Mr. Justice Mazhar Alam Khan Miankhel  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Petition No.93-P of 2015**

*(Against the judgment dated 04.06.2015 passed by the Peshawar  
High Court Peshawar in Cr. A. No.657-P/2013)*

***Mst. Rukhsana***

*...Petitioner(s)*

**Versus**

***Rehmanullah and another***

*...Respondent(s)*

For the Petitioner(s): Mr. Abdul Fayaz Khan, ASC  
Mr. Muhammad Ajmal Khan, AOR

For the Respondent(s): Mr. Muhammad Inaam Yousafzai,  
Addl. Advocate General, KPK

Date of hearing: 26.07.2021

**ORDER**

**Qazi Muhammad Amin Ahmed, J.-** Muhammad Islam, 30/32 and Muhammad Said Ghani Shah, 25/26, were shot dead at 4:30 p.m. on 2.2.2011 in the backdrop of a previous brawl within the precincts of Police Station Rustam, District Mardan; incident was reported by Muhammad Inaam PW 5:30 p.m. straight at the police station; respondent along with his brother Abid were arrayed as accused in the backdrop of a previous dispute over the fodder; latter is still away from law; a learned Additional Sessions Judge at Mardan convicted the respondent under clause (b) of section 302 of the Pakistan Penal Code, 1860 and sentenced him to death on two counts with a direction to pay compensation vide judgment dated 13.12.2013, overturned by the High Court vide impugned judgment dated 4.6.2015, *vires* whereof, are being assailed on a variety of grounds. It is argued that the deceased, both in their prime youth, were brutally done to death in broad daylight under unmistakable premeditation within the view of witnesses who not only established their presence at the scene but also had no axe to grind against the culprits, one of whom is still avoiding justice; that each piece of evidence produced by the

prosecution is synchronized with the events within the proximity of time and space, hardly leaving a room to deliberate a false case or entertain any hypothesis of substitution. The bottom line is that ocular account and investigative conclusions squarely constituted "*proof beyond doubt*" and, thus, High Court's disproportionate reliance on the peripheral issues purporting inconsequential omissions by the Investigating Officer, witnesses' inability to point out caliber of weapons with exactitude and reference to entries in the site plan without their having been confronted to the witnesses presents adjudication, diametrically incompatible with the settled norms of appreciation of evidence in administration of criminal justice and, thus, being artificial tends to result in miscarriage of justice, clamouring for intervention by this Court. Contentions merit consideration; leave is granted to reappraise the entire evidence. Send for the respondent through bailable warrant in the sum of Rs.200,000/-, returnable to the Assistant Registrar of this Court at Peshawar. Station House Officer shall execute the warrant within a fortnight.

**Judge**

**Judge**

Peshawar, the  
26<sup>th</sup> July, 2021  
Not approved for reporting  
Azmat/-