

**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.148-L of 2017**

*(On appeal from the judgment dated 12.03.2015 passed by the Lahore High Court, Lahore in Criminal Appeal No.86-J of 2011 and C.S.R. No.22-T of 2010).*

***Asad Rehmat***

...Appellant(s)

**VERSUS**

***The State, etc***

...Respondent(s)

For the Appellant(s) : Syed Zahid Hussain Bukhari, ASC  
Ms. Khalida Parveen, ASC

For the State : Mr. Mazhar Sher Awan,  
Additional Prosecutor General,  
Punjab

Date of Hearing : 20.05.2019

**JUDGMENT**

**Qazi Muhammad Amin Ahmed, J.-** Indicted on multiple counts by an Anti Terrorism Court, Asad Rehmat, appellant herein, was returned a guilty verdict; he stood convicted and sentenced on each *vide* judgment dated 13.5.2011. A learned division bench of Lahore High Court upheld convictions as well as sentences *vide* impugned judgment dated 12.3.2015, *vires* whereof are being assailed through leave of the Court.

The appellant, was required by law in a criminal case as accused; on fateful day i.e. 29.3.2011, pursuant to a tip off, a contingent of Police Station Sillanwali, surprised the appellant in Chak No.136 SB to effect his arrest; he confronted the police party from the roof top with a .12 caliber repeater; from amongst the contingent, Muhammad Hayat, Sher Ahmed and Ahmed Bakhsh were fatally shot. Upon return of fire, the appellant moved to different places and in the process targeted Zafar Iqbal, Abdul Haq and Muhammad Sarwar, co-villagers; they too succumbed to their

injuries. Witnesses survived the attack when by snatching a motorbike, the appellant fled from the scene; he was arrested on 3.4.2011 with motorbike P-8; upon a disclosure, he led to the recovery of .12 caliber repeater P-1 on 10.4.2011. It was found wedged with 13 casings secured from the venue during spot inspection. The appellant claimed trial; confronted with the evidence, took the following position:-

*"Mst. Aasma daughter of Abdul Haq deceased married me without consent of her father. After the registration of Nikka she was residing with me as my wife happily. Abdul Haq had extended threats to me and I had taken my wife to Fort-Abbas. A false case of abduction was got registered against me in connivance with the police. On relevant day i.e. 29.3.2011 I was not present in my house at Chak No.136 SB and Abdul Haq complainant of case FIR No.709/10 along with three police officials intruded into my house in my absence without any warrants. Womenfolk present in the house raised alarm which attracted many persons of my family and that of family of Abdul Haq. There had been intensive and indiscriminate firing between the parties resulting in death of police officials as well as three persons from the public. The police officials also fired in confusion and their bullets also hit the deceased persons. The local police in order to cover up its inefficiency falsely lodged a case against me. No person from the public man has supported the prosecution version and two police officials have appeared as eye witnesses. The case is totally false. As all the police officials who have appeared before this Court are subordinate of complainant and Investigation Officer so they have deposed against me falsely. I am innocent."*

2. Huge loss of life and apparent preponderance of evidence notwithstanding, certain aspects of the prosecution case warrant a careful scrutiny. Occurrence, statedly, took place at 2.00 p.m., autopsies started 4.30 p.m., concluded at 9.00 p.m. Muhammad Hayat was examined first; the medical officer noted *rigor mortis*. Same is the case with other corpses. In the month of March, development of *rigor mortis* within such short span of time is mind boggling; occurrence does not appear to have taken place at the point of time mentioned in the crime report. A contingent, armed with sophisticated automatic weapons, reacting promptly

on a sudden information, moving an unusual quick response to arrest an accused in a run off criminal case. Single individual holding the police party at bay, escaping retaliatory fires, jumping from one roof top to another, snatching a motorbike, fleeing within the view and reach of a police party with a vehicle is a story that may not find a buyer. Motorbike allegedly snatched by appellant belonged to a co-villager, Imran Hussain; he was the best witness to prove the charge, conspicuously missing in the array; same goes for Hayat Bakhsh's daughter, the alleged abductee in the criminal case wherein appellant's arrest was required. Though the casings tallied with the gun, however, these were dispatched on a date subsequent to appellant's arrest and thus this piece of evidence also lost its significance. The most intriguing aspect of the prosecution case is dimension of injuries received by the deceased. Zafar Iqbal, deceased had three wounds of entry on his person measuring 5 x 3.5 c.m., 2.5 x 2.5 c.m. and 3 x 3 c.m. Abdul Haq was noted with two entry wounds measuring 2.5 x 0.1 c.m. and .5 x .5 c.m. Muhammad Sarwar had two entry wounds measuring 2.5 x 2.5 c.m. and another with multiple entries within the radius of 8 x 8 c.m. Muhammad Hayat, deceased was noted with five entry wounds; injuries on left side of face and head were 14 inch x 10 c.m. it was a crush fire arm wound, destroying left eyeball completely. Next is an entry wound on left hand measuring 6 x 5 c.m. There are two wounds of entry each 1 x 1 c.m. while other 1½ x 1½. These apertures, vastly different, unambiguously rule out use of single weapon and ammunition. We are surprised by the police failure to secure casings ejected from their own weapons, statedly used against the appellant. Except the dead, all others miraculously survived the assault unscathed. These aspects of the case, in retrospect lend credence to the position taken by the appellant. The prosecution has not come up with the whole truth and thus its case cannot be viewed as beyond reasonable doubt, benefit whereof cannot be withheld merely on account of magnitude of violence and loss of lives consequent thereupon. Criminal Appeal 148-L/2017 is allowed, impugned judgment is set aside. The appellant shall be released forthwith, if not required in any other case. Above are the

reasons of our short order of even date which is reproduced as under:-

*"For detailed reasons to be recorded later, the instant criminal appeal is allowed. The convictions and sentences of the appellant Asad Rehmat are set aside. He is acquitted of the charges framed against him. He shall be released forthwith, if not required to be detained in any other criminal case."*

JUDGE

JUDGE

JUDGE

Lahore, the  
20<sup>th</sup> of May, 2019  
Ghulam Raza/\*