

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed
Mr. Justice Amin-ud-Din Khan

Criminal Petition No.438 of 2021

*(Against the judgment dated 17.05.2021 passed by
the Peshawar High Court Peshawar in Cr. Misc.
B.1037-P/2020)*

Ghazan Khan

...Petitioner(s)

Versus

Mst. Ameer Shuma and another

...Respondent(s)

For the Petitioner(s): Mr. Asad Ullah Khan Chamkani, ASC

For the State: Mr. Zahid Yousuf Qureshi, Addl. A.G. KP
with Mazhar Ali, ASI P.S. Katang,
Mardan

Date of hearing: 17.05.2021.

ORDER

Qazi Muhammad Amin Ahmed, J.- Non suited throughout in his quest to secure bail, lastly by a learned Judge-in-Chamber of Peshawar High Court Peshawar vide impugned order dated 12th of April, 2021, Ghazan Khan, petitioner, arrayed as one of the accused in a case of murderous assault, registered with Police Station Katlang District Mardan, seeks leave to appeal therefrom.

It is alleged that on the eventful day i.e. 10.2.2021, he along with co-accused, targeted Sannan Ahmad PW who endured the assault with five entry wounds, confirmed by a medico legal certificate of even date; a monetary dispute is cited as motive for the crime. Unscathed themselves, nonetheless, the accused agitated a

cross version on the strength of a fire shot sustained by a bubalus, owned by one Shah Muhammad, examined at a veterinary center on the following day to blame the injured as being aggressor in the episode.

2. Heard. Record perused.

3. Reliance upon a statement, purportedly made by the injured and recorded by the Investigating Officer in case diary dated 11.02.2020, surprisingly annexed with the petition, wherein he exclusively blamed Hashmand co-accused for the injuries on his person is entirely beside the mark, besides being violative of subsection 2 of section 172 of the Code of Criminal Procedure, 1898 and, thus, this petition, with disapproval, is liable to be dismissed on this ground alone. Even otherwise, having regard to the totality of circumstances whereunder the petitioner is alleged to have actively participated in the occurrence, that squarely constituted mischief of section 324 of the Pakistan Penal Code, 1860, punishable with imprisonment for a period of ten years, attracting the bar that cannot be circumvented in the face of '*reasonable grounds*' as contemplated by section 497 of the Code, view taken by the courts below being well within the remit of law calls for no interference. Petition fails. Leave declined.

Judge

Judge

Judge

Islamabad, the

17thMay, 2021

Not approved for reporting

Azmat/-