

**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.91-L of 2017**

*(On appeal from the judgment dated 23.04.2014 passed by the Lahore High Court, Bahawalpur Bench in Criminal Appeal No.140 of 2010 and Murder Reference No.12 of 2010).*

**Noor Ahmad**

...Appellant(s)

**VERSUS**

**The State, etc**

...Respondent(s)

For the Appellant(s)	:	Mian Muhammad Tayyab, ASC
For the Complainant(s)	:	Mr. Naveed Ahmad Khawaja, ASC
For the State	:	Mr. Mazhar Sher Awan, Additional Prosecutor General, Punjab
Date of Hearing	:	17.05.2019

**JUDGMENT**

**Qazi Muhammad Amin Ahmed, J.-** Shehnaz Begum, statedly, betrothed with Noor Ahmad, appellant was done to death inside the safety of her home by the later, in the wake of family's refusal to tie the knot. It is alleged that on the fateful day at about 10.00 a.m. the appellant armed with a pistol surprised the family; shot the deceased within the precincts in witnesses' view; incident was reported by her brother Mumshad Farid, PW. A solitary fire shot surrounded by blackened edges, on the left side of forehead with corresponding exit, blamed as cause of death was noted by the medical officer. Genital examination revealed that hymen was ruptured with red margins; introitus admitted two fingers; secretion of whitish discharge with blood traces was noticed; rigor mortis was fully developed; swabs were subsequently found stained with seminal traces. Arrested on 14.5.2009, the appellant led to the recovery of pistol P-5, forensically found wedded with the

casing secured from the spot, dispatch preceding arrest; when indicted he claimed trial. Complainant joined by his brother, Shehzad Farid furnished ocular account to drive home the charge. They unanimously accused the appellant for having murdered their sister on family's refusal to give him deceased's hand due to his questionable antecedents. The appellant confronted prosecution evidence with his own story; he blamed the family being itself responsible for the murder; he cited reasons that included, deceased's virtues as well as her legated property; he also denied engagement with the deceased. The learned trial Judge unimpressed by the plea proceeded to convict the appellant under clause (b) of Section 302 read with Section 449 of Pakistan Penal Code, 1860; he was sentenced to death and imprisonment for life respectively alongside compensation as well as fine. The learned High Court without adverting to appellant's conviction under Section 449 of the Code *ibid* and sentence consequent thereupon, while upholding the judgment, altered penalty of death into imprisonment for life with benefit of Section 382-B of the Code of Criminal Procedure, 1898.

2. Occurrence took place inside a residential premises in a rural neighborhood, at a point of time when presence of the witnesses can hardly be doubted; whether they came up with the whole truth, nonetheless, is another question. As claimed by the prosecution, the deceased was a nubile virgin, however, autopsy findings suggest a carnal encounter not long before she met homicidal death. This in retrospect makes it difficult to dismiss position taken by the appellant out of hand. Similarly, going by the motive alleged in the crime report, the family members who rescinded the proposal were more apt targets than the poor soul; her legacy is also not disputed. Vendetta notwithstanding, seemingly, there are beneficiaries of death other than the appellant, with many other options in life. Occurrence statedly took place at 10.00 a.m. whereas the autopsy was conducted at 5.00 p.m. development of complete rigor mortis on the body of a young lady in hot weather, belies point of time of assault given in the crime report. Dispatch of casing on 13.5.2019, a day before appellant's arrest is a suspect circumstance. Position taken by the

appellant when juxtaposed with the totality of prosecution's evidence, does not appear to be entirely beside the mark. Findings recorded by the medical officer are realistically intriguing, casting doubts, neither illusionary nor imaginary. It would be unsafe to maintain the conviction. Therefore, by extending the benefit of the doubt to the appellant, Criminal Appeal 91-L/2017 is allowed, impugned judgment is set aside; he shall be released forthwith, if not required in any other case.

JUDGE

JUDGE

JUDGE

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