

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

Criminal Petition No.48-P/2015

(Against the judgment dated 19.02.2015 passed by the Peshawar High Court Mingora Bench (Dar-ul-Qaza) Swat in Crl. Appeal No.182/2014)

Muhammad Daud and others

...Petitioners

Versus

Syed Abid Ali and another

..Respondents

For the Petitioner(s): Mr. Naveed Akhtar, ASC

For the Respondent(s): Mr. Muhammad Inaam Yousfzai,
Addl. A.G. K.P.

Date of hearing: 12.7.2021

ORDER

Qazi Muhammad Amin Ahmed, J- A shoot out within the precincts of Jehanzaib College Saidu Sharif Swat resulted into multiple casualties, each youthful; Muhammad Fawad (PW-6), Zafar Ali (PW-9) survived the life of fire, however, Muhammad Musa and Hashim Khan succumbed to their wounds. The petitioner along with Nasir, since proclaimed offender, was arrayed as the culprits in the crime report lodged by Muhammad Daud Khan (PW-18); during the trial, he was joined by other witnesses. Prosecution failed at the first tier as a learned Additional Sessions Judge acquitted the respondent from the charge vide judgment dated 14.6.2014; appeal against acquittal met with no better fate vide impugned judgment dated 19.2.2015, *vires* whereof, are being assailed on the ground that both the courts, in concurrence, ran into grievous error by relying upon reticent deposition by the injured witnesses, notwithstanding, that other eye witnesses present at the spot categorically named the respondent as well as the proclaimed offender, both spearheading the assault in a unison inside an educational premises. Forensic report confirming use of two different weapons with three empties wedding one weapon left at the spot, was a circumstance that heavily reflected upon respondent's culpability, next argued the learned counsel.

2. We have examined the record to find that though both the injured witnesses categorically confirmed receipt of fire shot injuries at the stated venue and point of time in the backdrop, suggested in the crime report, however, given their positions in the opposite direction in the crowded canteen, they had not visually seen the respondents, taking on the deceased, a shortcoming seemingly made up by other witnesses present at the spot. In the totality of circumstances and having regard to the absconsion of one of the assailants, we consider it expedient to grant leave so as to reappraise entire evidence with a view to secure the ends of justice. Send for Abid Ali through bailable warrants in the sum of Rs.200,000/- with one surety in the like, returnable to the Assistant Registrar of this Court, executable through Station House Officer concerned, within a fortnight.

Judge

Judge

Peshawar,
12th July, 2021
Azmat/-
'Not approved for reporting'