

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MAQBOOL BAQAR
MR. JUSTICE YAHYA AFRIDI
MR. JUSTICE QAZI MUHAMMAD AMIN AHMAD

Jail Petition No.417 of 2019

*(Against the judgment dated 14.05.2019 passed by the
Lahore High Court Lahore in Cr.A No.1532/2016 & Cr.
Rev. Noi.1646/2016)*

Jabar Ali

...Petitioner(s)

VERSUS

The State

...Respondent(s)

For the Petitioner(s): Nemo

For the State Ch. Muhammad Sarwar Sidhu, Addl.
A.G. Punjab

Date of Hearing: 29.09.2021

ORDER

Qazi Muhammad Amin Ahmed, J.- Indicted for committing *Qatl-i-Amd* of Muhammad Hussain deceased, 33/34, Jabar Ali, petitioner, was returned a guilty verdict by a learned Addl. Sessions Judge at Jhang vide judgment dated 22.06.2016; convicted under clause (b) of section 302 of the Pakistan Penal Code, 1860, he was sentenced to imprisonment for life along with compensation, vide judgment dated 22.6.2016, upheld by a learned Judge-in-Chamber of the Lahore High Court vide impugned judgment dated 14.05.2019, *vires* whereof, are being assailed through the captioned petition.

Reported to the police by Arshad Mehmood (PW-8), the incident occurred at 8:30 p.m. on 9.10.2014 within the precincts of Police Station Ahmad Pur Sial, District Jhang, in a marriage ceremony, when petitioner's presence amongst the women folk was objected by the deceased; the former retaliated, outside the house, with a fire shot on the left side of latter's chest; the second shot went astray; autopsy confirmed receipt of fatal shot, within the preceding 24 hours, being the immediate cause of death. Spot inspection includes seizure of casings (Ex.P-4/5), forensically found wedged with a .30 caliber pistol (P-6), recovered pursuant to petitioner's disclosure on 26.10.2014. As the petitioner claimed trial, the prosecution primarily relied upon ocular account, its mainstay, comprising statements of Arshad

Mehmood (PW-8) and Liaqat Ali (PW-9), concurrently received with approval by the Courts below.

2. We have independently gone through the statements of the witnesses with the assistance of learned Law Officer to find that on the fateful night, the petitioner, the deceased and the witnesses, related to one another, were present inside the house of Ghulam Shabbir in *Rasm-e-Hina* of his son Javed Akhtar; the invitees included a number of females, traditionally participating in the event and it is in this backdrop that petitioner's stroll amongst the ladies was viewed as an act unbecoming by the deceased, suggesting recusal. It is shortly thereafter that the petitioner targeted the deceased in front of Ghulam Shabbir's house, a point vividly depicted in the unrebutted site plan (Ex.PB/I); graphic details of the incident furnished by both the witnesses have been found by us straightforward and confidence inspiring; considerable distance between the venue and the respective abodes of the witnesses, highlighted in the cross-examination, given the occasion, satisfactorily explain their presence at the scene; both of them comfortably withstood an otherwise inconsequential cross-examination without embarrassment. Durations recorded by the medical officer are consistent with the prosecution case and so are confirmatory the forensic report as well as recovery of weapon (P-6). Defence plea that the deceased was done to death by unknown assailants in a dacoity is a position, belatedly introduced for the first time during the trial; substitution is a rare phenomena, antithetical to retributive human instinct; formidable prosecution evidence singularly pointed towards petitioner's culpability, in the absence of any foundational basis, does not admit any space to entertain such an hypothesis. An unreported dacoity involving homicide, allegedly converted into petitioner's nomination for the crime, in a small interregnum of time, that too, without any earthly reason, is a story too illusory to find a buyer. Finding of guilt recorded by the trial Court, rightly affirmed by the High Court, found by us on our own analysis, being in accord with the principle of safe administration of criminal justice, calls for no interference. Petition fails. Leave declined.

JUDGE

JUDGE

JUDGE

