

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE ATHAR MINALLAH
MR. JUSTICE MALIK SHAHZAD AHMAD KHAN
MR. JUSTICE SALAHUDDIN PANHWAR

Jail Petition No.559 of 2017

(On appeal against the judgment dated 29.05.2017 passed by the Lahore High Court, Lahore in Criminal Appeal No.261-J of 2014 and Murder Reference No.162 of 2014)

Rasheed Ahmad alias Sheeda

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Mr. Muhammad Zahid Mahboob Khan,
ASC

For the State: Ms. Memoona Ehsan-ul-Haq, DPG,
Punjab

Assisted by: Mr. Ghulam Muhammad Adnan, Law
Clerk

Date of Hearing: 20.08.2025

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JUDGMENT

MALIK SHAHZAD AHMAD KHAN, J.- Rasheed Ahmad alias Sheeda, petitioner was tried by the learned Sessions Judge, Faisalabad, pursuant to a case FIR No.502, dated 30.07.2012, under section 302 PPC, registered at police station Raza Abad, District Faisalabad. The learned Trial Court vide its judgment dated 25.04.2014, convicted the petitioner under Section 302 PPC and sentenced him to death. He was also directed to pay compensation amounting to Rs.2,00,000/- to the legal heirs of the deceased as envisaged under section 544-A Cr.P.C or in default whereof to further undergo simple imprisonment for six months. In appeal, the learned High Court while maintaining the conviction of the petitioner under Section 302 PPC, altered the sentence of death into imprisonment for

life. The amount of compensation and the sentence in default thereof were maintained. Benefit of Section 382-B Cr.P.C. was also extended in favour of the petitioner.

2. Arguments heard. Record perused.

3. The ocular account of the prosecution has been brought on the record through Noor Ahmad complainant (PW-1) and Jaabar Hussain (PW-2). As per contents of the FIR, on 30.07.2012, the abovementioned witnesses came to the house of daughter of the complainant namely Mst. Naseem Bibi (deceased). At about 6.30 p.m, Mst. Naseem Bibi (deceased), went out of her house towards a shop in order to purchase grocery. In the meanwhile, the petitioner who was brother-in-law (husband's brother) of Mst. Naseem Bibi (deceased), emerged at the spot and started abusing Mst. Naseem Bibi (deceased). On hearing the noise, the complainant came to the spot and witnessed that the petitioner, who was holding a 30-bore pistol in his hand made a fire shot, which landed on the chest of Mst. Naseem Bibi (deceased), which went through and through.

4. We have noted that both the abovementioned eye-witnesses were residents of village Kokian Wala, situated in Chak No.219/R.B of District Faisalabad, whereas the occurrence of this case took place in the area of Salamat Town of Chak No.219/R.B, District Faisalabad. The daughter/sister of the above-mentioned witnesses namely Mst. Naseem Bibi (deceased), was married 16/17 years prior to the occurrence in the abovementioned village. Both the eye-witnesses had not stated any reason for their visit to the house of the deceased on the day of occurrence. As the above-mentioned eye-witnesses were not residents of the area, where the occurrence took place and they had

not given any reason for their presence at the spot at the relevant time, therefore, they are chance witnesses and it is not safe to rely upon their evidence as observed in the judgments reported as "Mst. Sughra Begum and another v. Qaiser Pervez and others" (2015 SCMR 1142) and "Muhammad Irshad v. Allah Ditta and others" (2017 SCMR 142).

5. As per site plan, the place where the occurrence took place was a passage in-front of an open plot. The house of Mst. Naseem Bibi (deceased) and her husband namely Zawar Hussain has not been shown in the site plan though the house of one George Masih and one Shamoon Masih have been shown therein. Both the abovementioned eye-witnesses stated that they were present inside the house of Mst. Naseem Bibi (deceased), when they heard the noise coming from outside the said house and they came out of the said house and witnessed the occurrence but as mentioned above, no such house has been shown in the site plan (Ex.PE). It is further evident from the perusal of the site plan (Ex.PE) that it was a sheer chance that the accused, the deceased and the witnesses all simultaneously reached at the abovementioned passage situated in-front of an open plot, where the occurrence took place and where the prosecution's eye-witnesses had no house or place of business.

6. We have further noted that there is a delay of about fifteen (15) hours and twenty (20) minutes in conducting postmortem examination on the dead-body of Mst. Naseem Bibi (deceased). The occurrence in this case took place on 30.07.2012, at 6.30 p.m (evening), whereas the postmortem examination on the dead-body of the deceased was conducted on 31.07.2012, at 9.50 a.m and as such there was delay of

fifteen (15) hours and twenty (20) minutes in conducting postmortem examination on the dead-body of the deceased. Dr. Tehmina Hassan (PW-7), stated during her cross-examination that on 30.07.2012, she was on call for the postmortem examination, up till the postmortem examination was conducted. She further stated that the dead-body was received in the mortuary on 30.07.2012, however, the complete police documents were received on 31.07.2012, at 9.45 a.m and thereafter, she conducted autopsy at 9.50 a.m. She further stated that on account of the abovementioned reason (non-availability of complete police documents), the delay in conducting autopsy had taken place. She further stated that she was bound to conduct postmortem examination immediately after receiving the dead-body, however, she volunteered that the postmortem examination can only be conducted after receiving the police papers. It is, therefore, evident that the delay in conducting postmortem examination on the dead-body of Mst. Naseem Bibi (deceased), was result of the delay in handing over the police documents to the abovementioned medical officer. The above-referred delay in conducting postmortem examination on the dead-body of the deceased is also suggestive of the fact that the prosecution eye-witnesses were not present at the spot, at the time of occurrence and the said delay was consumed in procuring the attendance of fake eye-witnesses of the occurrence. Reference in this context may be made to the cases reported as 'Muhammad Ilyas Vs Muhammad Abid alias Billa and others' (2017 SCMR 54), "Khalid alias Khalidi and two others vs. The State" (2012 SCMR 327) & "Sufyan Nawaz and another vs. The State and others" (2020 SCMR 192).

7. It is further noteworthy that neither Zavar Hussain, who was husband of Mst. Naseem Bibi (deceased), nor any child out of the four children of the deceased had appeared in the witness to support the prosecution case. As per contents of the FIR, Mst. Naseem Bibi (deceased), had been married with Zavar Hussain from the last 16/17 years and she had four children from the said wedlock. Zavar Hussain, who was husband of Mst. Naseem Bibi (deceased) and children of the deceased were the natural eye-witnesses of the occurrence being inmates of the area, where the occurrence took place but none from them appeared in the witness box. The said fact has also created another dent in the prosecution story because the prosecution has withheld the best evidence, therefore, an adverse inference under Article 129(g) of Qanun-e-Shahadat Order, 1984, can validly be drawn against the prosecution that had the above-mentioned witnesses been produced in the evidence, they would not have supported the prosecution case. Reference in this context may be made to the judgments reported as "Lal Khan v. The State" (2006 SCMR 1846), "Riaz Ahmed v. The State" (2010 SMCR 846), "Abdul Qadeer v. The State" (2024 SCMR 1146) and "Riasat Ali v. The State" (2024 SCMR 1224).

8. Learned Courts below have rightly disbelieved the prosecution evidence qua the motive and recovery of 30-bore pistol at the pointing out of the petitioner, as well as, positive report of PFSA (Ex.PL) due to valid reasons mentioned in the impugned judgments.

9. Keeping in view all the aforementioned facts, we have come to this irresistible conclusion that the prosecution has failed to prove its case against the petitioner beyond the shadow of doubt. It is by now

well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused, whereas the instant case is replete with number of circumstances, which have created serious doubts in the prosecution story. Reference in this context may be made to the judgments reported as "Tariq Pervez Vs The State" (1995 SCMR 1345) and "Muhammad Akram Vs The State" (2009 SCMR 230). Consequently, this petition is converted into an appeal and allowed. The judgments of the High Court dated 29.05.2017 and the Trial Court dated 25.04.2014, are set-aside. The petitioner is acquitted of the charge while giving him the benefit of doubt. He shall be released from the jail forthwith unless required to be detained in any other case.

JUDGE

JUDGE

JUDGE

Islamabad, the
20th of August, 2025
Not Approved For Reporting
Aitzaz