

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE MALIK SHAHZAD AHMAD KHAN

MR. JUSTICE SALAHUDDIN PANHWAR

**Jail Petition No.614 of 2021**

*(On appeal against the judgment dated 12.10.2020 passed by the Lahore High Court, Lahore in Criminal Appeal No.368-J of 2013 and Murder Reference No.911 of 2013)*

Shahid Iqbal

...Petitioner(s)

**Versus**

The State

...Respondent(s)

For the Petitioner(s): Mr. Sagheer Ahmad Qadri, ASC

For the State: Mirza Abid Majeed, APG, Punjab

For the Complainant: Nemo

Date of Hearing: 25.08.2025

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**JUDGMENT**

**MALIK SHAHZAD AHMAD KHAN, J.-** Shahid Iqbal, petitioner along with Ghulam Rasool, Bushra Bibi and Mehnaz Bibi (co-accused since acquitted), was tried by the learned Additional Sessions Judge, Daska, pursuant to a private complaint under sections 302/34 PPC, filed by Muhammad Shahzad complainant (PW-1), in connection with case FIR No.09, dated 07.01.2011, under sections 302/34 PPC, registered at police station Satrah, Tehsil Daska, District Sialkot. The learned Trial Court vide its judgment dated 08.11.2013, convicted the petitioner under Section 302(b) PPC and sentenced him to imprisonment for life. 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. Benefit of Section 382-B Cr.P.C. was also extended in favour of the petitioner. However, the

abovementioned remaining accused were acquitted vide the same judgment while extending them the benefit of doubt. In appeal, the learned High Court while maintaining the conviction and sentence of the petitioner under Section 302(b) PPC, dismissed the appeal filed by the petitioner vide impugned judgment dated 12.10.2020.

2. Arguments heard. Record perused.

3. Although earlier an application to compound the offence was moved in this case and all the legal heirs except the mother of Muhammad Abbas (deceased), compounded the offence with the petitioner but as the compromise was not complete and it was partial, therefore, no benefit could be extended to the petitioner on the basis of compromise.

4. Learned counsel for the petitioner at the very outset has argued that ingredients of offence under section 302(b) PPC, are not attracted in this case rather it was a case punishable under section 302(c) PPC because the deceased was the aggressor, the occurrence took place in-front of the house of the petitioner/accused and it has been established on the record that the petitioner was also injured during the occurrence at the hands of the deceased and he (petitioner) has exercised the right of his private defence.

5. Learned Additional Prosecutor General has supported the impugned judgment, however, he has conceded that the occurrence took place in-front of the house of the petitioner, whereas, the deceased was resident of a different city.

6. As per contents of the private complaint filed by Muhammad Shahzad complainant, Muhammad Abbas (deceased), who was elder brother of the complainant, was married with the sister of the

petitioner namely Mst. Mehnaz Bibi. About two (02) months prior to the occurrence, the abovementioned Mst. Mehnaz Bibi quarreled with her husband namely Muhammad Abbas (deceased) and went to her parent's house situated in village Changi, Tehsil Daska, District Sialkot. On 07.01.2011, Muhammad Shahzad complainant and Muhammad Abbas (deceased) along with other PWs came from their houses situated in Gujranwala City to the house of the petitioner situated in village Changi, Tehsil Daska, District Sialkot, for reconciliation. At about 6.00 p.m, hot words exchanged between Muhammad Abbas (deceased) and his wife namely Mst. Mehnaz Bibi and his mother-in-law namely Mst. Bushra Bibi due to which the petitioner and his brother Ghulam Rasool (co-accused since acquitted) became infuriated. Ghulam Rasool (co-accused) brought a 12-bore gun from his house, handed over the same to the petitioner, who made fire shots with the said gun on the different parts of the body of Muhammad Abbas (deceased), who succumbed to the injuries at the spot.

7. It is true that the ocular account of the prosecution brought on the record through Muhammad Shahzad complainant (PW-1) and Muhammad Shahbaz (PW-2), to the extent of role attributed to the petitioner of causing firearm injuries to Muhammad Abbas (deceased) is confidence inspiring and trustworthy and the same has also been supported by the medical evidence produced by the prosecution through Dr. Muhammad Asif (PW-7), however, while perusing the evidence of this case, this Court has to determine that as to whether it was a case punishable under section 302(b) PPC or ingredients of

offence punishable under section 302(c) PPC, are attracted in this case.

Admittedly the occurrence took place in-front of the house of the petitioner situated in village Changi, District Sialkot. The deceased and the PWs were residents of Arafat Colony, Bazar No.1, Street No.7, District Gujranwala. It is, therefore, clear that the deceased came from a different village/district to the village/district of the petitioner. It was claim of the petitioner right from the start of this case that Muhammad Abbas (deceased), who was brother-in-law of the petitioner, was the aggressor and he even earlier caused injuries with Churri to the brother of the petitioner namely Tahir but no FIR of the said incident was lodged due to close relationship with the deceased. The petitioner further claimed that on the day of occurrence, Muhammad Abbas (deceased), while armed with a sword came to his house and attempted to take his life, the deceased caused an injury on his left upper arm, where-after he (petitioner) and his family members closed the main gate of their house but Muhammad Abbas (deceased) tried to scale over the wall and enter the house of the petitioner and under the circumstances, he (petitioner) while apprehending danger to his life made fire shots at the deceased, in his defence.

8. We have noted that as per column Nos.23 & 24 of the inquest report (Ex.CW-1/A), a sword was lying near the dead-body of Muhammad Abbas (deceased). Even in the site plan (Ex.CW-1/D), a sword has been shown lying near the dead-body of the deceased, at point 'F'. Moreover, Dr. Muhammad Hafeez (CW-2), has produced the medico legal report of the petitioner, wherein an incised wound was noted on the left arm of the petitioner. He also stated that on

08.01.2011 (the next day of occurrence), at 04.00 a.m, he medically examined Shahid Iqbal (petitioner) and noted the abovementioned injury on his body in the medico legal report (Ex.CW-2/A), whereas the probable time that elapsed between the injury and medical examination of the petitioner was mentioned in the report as eleven (11) hours. The said time coincides with the time of occurrence of this case, which took place on 07.01.2011, at 6.00 p.m. Even the Investigating Officer of this case namely Muhammad Yaqoob SI (CW-1), has conceded during his cross-examination that in his investigation, it came on the record that about three (03) months prior to the occurrence, Muhammad Abbas (deceased), caused several injuries with *Churri* to the brother of the petitioner namely Tahir but no FIR was lodged due to close relationship of the parties. He further supported the abovementioned defence version of the petitioner while admitting that during his investigation, it was found that on the day of occurrence, Muhammad Abbas (deceased), came to village Changi (of the petitioner) having a sword in his possession. He further stated that when Shahid Iqbal (petitioner), got the information regarding arrival of the deceased in his village, he (petitioner) and his family members tried to close the gate of their house but a sword blow was given by the deceased, which landed on the left upper arm of the petitioner and thereafter all the family members of the petitioner/accused closed the door of their house. He next conceded that it was further found in his investigation that the deceased attempted to scale over the wall of the petitioner's house in order to attack him, whereupon the petitioner first made two aerial fire shots with his 12-bore gun to scare away the deceased but the same proved to be in vain and thereafter the

petitioner made fire shots while exercising the right of his private defence. The relevant part of the statement of Muhammad Yaqoob SI (CW-1), made during cross-examination reads as under:-

*".....It is correct that during Investigation it came on record that about three months prior to the occurrence the deceased came in village Changi and he gave several Churi blows to his brother-in-law Tahir but in this regard no FIR was lodged by the accused party due to their close relationship with him. It is correct that during my investigation it was found that on the day of occurrence the deceased came in Mauza Changi having a sword wrapped in a bag. It is also correct that the accused got the information of his arrival in the village whereupon the accused Shahid Iqbal tried to close the gate but he gave a Sword blow which landed on his left upper arm and all the family members closed the door of the house whereupon the deceased started an effort to scale the wall of their house in order to attack them. It is also correct that the accused Shahid Iqbal went on the roof of the house with a 12-bore gun and he fired two shots in the air in order to scare away the deceased but in vain whereupon he fired upon him in exercise of right of private defence and he died on the spot. It is correct that rest of the accused were found innocent during my investigation"*

We have also noted that the injury on the body of the petitioner was not disclosed in the contents of the FIR, which shows that the complainant party has concealed material facts at the time of lodging the FIR.

9. Keeping in view all the aforementioned facts, the inquest report, the medical evidence produced in this case through Dr. Muhammad Hafeez (CW-2), as well as, the site plan (CW-1/D), coupled with the evidence of Muhammad Yaqoob SI (CW-1), who was Investigating Officer of this case, it is evident that the petitioner was attacked upon

by Muhammad Abbas (deceased) on the day and time of occurrence during which he (petitioner) was injured and the petitioner in order to save his life while exercising the right of private defence made fire shots on the deceased but as the petitioner exceeded the right of self-defence by causing three (03) firearm injuries on the body of the deceased, therefore, his case falls within the ambit of section 302(c) PPC. Reference in this context may be made to the judgment reported as "Allah Nawaz v. The State" (2009 SCMR 736), wherein at page Nos.739 & 740, in paragraph Nos.10 & 11, of the judgment, it was observed as under:-

*"10..... According to his confession, the appellant claimed that Muhammad Amir deceased, assaulted him with a Lathi on which he fired at Muhammad Amir while Shahzad also struck him from the back on which he fired two shots at Shahzad. Now it is settled law that confession is to be rejected or accepted as a whole. We noticed that while Shahzad was unarmed, Muhammad Amir, deceased, was statedly carrying Lathi, as against that, the appellant/accused was equipped with fire-arm and inflicted injuries to both the deceased at the vital part of the body i.e. the chest. In the circumstances we are of the view that the appellant exceeded his right of self-defence.*

*11. In view of the above, we convert his conviction from 302(b) to 302(c) of the P.P.C. and alter the sentence of death to 14 years' R.I. on two counts. The appellant will also pay compensation of Rs.1,00,000/- to the legal heirs of the deceased, in default he would undergo simple imprisonment for one year....."*

Similar view was taken in the judgments reported as "Aziz Ullah v. The State" (2008 SCMR 922) and "Haji Inayat Ali v. Shahzada and others" (2008 SCMR 1565), wherein the Court convicted and sentenced the accused of the said cases under section 302(c) PPC instead of section 302(b) PPC, when it came to the conclusion that the accused acted

while exercising their right of self defence, however, they exceeded in exercising the said right.

10. In the light of above, this petition is converted into an appeal and partly allowed. Resultantly the conviction and sentence of the petitioner under section 302(b) PPC is hereby set-aside, however, the petitioner is convicted under section 302(c) PPC and sentenced to fourteen (14) years rigorous imprisonment. The amount of compensation and the sentence in default thereof awarded against the petitioner under section 302(b) PPC, shall be considered as to be awarded under section 302(c) PPC and the same are upheld and maintained. Benefit of section 382-B Cr.P.C, is also extended in favour of the petitioner.

JUDGE

JUDGE

Islamabad, the  
25<sup>th</sup> of August, 2025  
Approved For Reporting  
Aitaz