

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE MALIK SHAHZAD AHMAD KHAN

MR. JUSTICE SALAHUDDIN PANHWAR

Jail Petition No.541 of 2021

(On appeal against the judgment dated 14.10.2021 passed by the Lahore High Court, Lahore in Criminal Appeal No.352 of 2016 and Criminal Revision No.692 of 2016)

Muhammad Ali

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Mr. Mushtaq Ahmad Mohal, ASC

For the State: Mirza Abid Majeed, APG, Punjab

Date of Hearing: 27.08.2025

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JUDGMENT

MALIK SHAHZAD AHMAD KHAN, J.- Muhammad Ali, petitioner, was tried by the learned Additional Sessions Judge, Kamalia, pursuant to a case FIR No.208/2015, dated 04.06.2015, under section 302 PPC, registered at police station City Kamalia, District Toba Tek Singh. The learned Trial Court vide its judgment dated 31.03.2016, convicted the petitioner under Section 302 PPC and sentenced him to imprisonment for life. He was also directed to pay compensation amounting to Rs.2,50,000/- to the legal heirs of the deceased as envisaged under section 544-A Cr.P.C, recoverable as arrears of land revenue or in default whereof to further undergo simple imprisonment for six (06)months. The petitioner was also convicted under section 449 PPC and sentenced to ten (10) years rigorous imprisonment with fine of Rs.30,000/- and in default whereof to further undergo simple imprisonment for two (02) months. Benefit of Section 382-B Cr.P.C. was also extended in favour of the petitioner

and both the sentences of imprisonment were ordered to run concurrently. In appeal, the learned High Court while maintaining the convictions and sentences of the petitioner under Section 302/449 PPC, dismissed the appeal filed by the petitioner vide impugned judgment dated 14.10.2021.

2. Arguments heard. Record perused.

3. The occurrence in this case took place on 04.06.2015, at about 5.30 a.m. The matter was reported to the police and formal FIR was also lodged on the same day i.e., 04.06.2015, at about 6.30 a.m, which means that the FIR was lodged within a period of one hour from the time of occurrence. We are, therefore, of the view that the FIR was promptly lodged in this case and there was no conscious or deliberate delay in reporting the matter to the police.

4. The ocular account of the prosecution has been brought on the record through Mst. Farzana Bibi (PW-8) and Muhammad Junaid (PW-9). The occurrence in this case took place inside the house of Mst. Farzana Bibi (PW-8), who was wife of Abdul Ghani (deceased). Likewise, Muhammad Junaid (PW-9), was the real son of the deceased, therefore, the presence of the above-mentioned eye-witnesses at the time of occurrence in their own house cannot be termed as unnatural or improbable. The said witnesses being inmates of the house, where the occurrence took place, were the natural eye-witnesses of the occurrence. They both stated that on 04.06.2015, at about 5.30 a.m, Muhammad Ali (petitioner), while armed with pistol trespassed into their house and made a fire shot, which landed on the right side of the head of Abdul Ghani (deceased). Both the abovementioned eye-witnesses were cross-examined at length but

their evidence could not be shaken. They remained consistent on all material aspects of the case. Their evidence is confidence inspiring and trustworthy.

Although learned counsel for the petitioner has argued that both the abovementioned eye-witnesses were chance witnesses as they were residents of district Lahore, whereas the third eye-witness namely Muhammad Shabbir PW was not produced in the witness box but we have noted that both the abovementioned eye-witnesses have mentioned their address of Kamalia while appearing before the learned trial Court. No suggestion was put to them that they were not residents of Kamalia or they had no house in the said village/town. Moreover, it is by now well settled that it is the quality and not the quantity of evidence which weighs with the Courts to decide any case, therefore, non-production of Muhammad Shabbir PW is of no avail to the prosecution.

5. The medical evidence of the prosecution has been brought on the record through Dr. Ali Raza (PW-5), who stated that he conducted postmortem examination on the dead-body of Abdul Ghani (deceased), on 04.06.2015. As per postmortem report of the deceased, he (PW-5), conducted postmortem examination on the dead-body of the deceased on 04.06.2015, at about 2.40 p.m. Dr. Ali Raza (PW-5), noted a firearm entry wound near the right eye of the deceased.

Learned counsel for the petitioner submits that there was conflict between the ocular account and the medical evidence of the prosecution because as per ocular account as mentioned in the FIR, a fire shot made by the petitioner landed on the right side of the head of the deceased but according to the medical evidence, the entry wound

was near the right eye instead of right side of the head of the deceased. We are of the view that minor variations in ocular account and the medical evidence of the prosecution about the seat of injury, as stated above is inconsequential because it is by now well settled that an eye-witness is not expected to give photo-picture of each and every injury received by the deceased, in the state of panic and sensation which develops at the time of occurrence due to the attack and firing of the accused. Reference in this context may be made to the case of "Abdur Rauf vs. The State and another" (2003 SCMR 522). We are, therefore, of the view that there is no substance in the abovementioned argument of learned counsel for the petitioner.

Learned counsel for the petitioner while relying upon the judgments reported as "Muhammad Ilyas v. Muhammad Abid alias Billa and others" (2017 SCMR 54) and "Zafar v. The State and others" (2018 SCMR 326), has argued that the postmortem examination on the dead-body of the deceased was conducted with the delay of about nine (09) hours and ten (10) minutes from the occurrence, which shows that eye-witnesses were not present at the spot and the abovementioned delay was consumed in procuring the attendance of fake eye-witnesses. We are of the view that time must have consumed in making arrangements for the transportation of the dead-body of the deceased to the hospital. Moreover, no question was put to the Medical Officer (Dr. Ali Raza, PW-5), regarding any intentional delay in conducting postmortem examination on the dead-body of the deceased or any delay in receipt of the police papers. Under the circumstances, the delay in conducting postmortem examination on the dead-body of the deceased as pointed out by learned counsel for the petitioner is

not fatal to the prosecution case. We are of the view that the medical evidence produced through Dr. Ali Raza (PW-5), has fully supported the ocular account of the prosecution brought on the record through Mst. Farzana Bibi (PW-8) and Muhammad Junaid (PW-9).

6. Keeping in view all the aforementioned facts, we have come to this irresistible conclusion that the prosecution has proved its case against the petitioner beyond the shadow of any doubt. Learned Courts below have rightly passed the impugned judgments. Learned counsel for the petitioner is unable to point out any misreading or non-reading of evidence or any illegality or material irregularity in the impugned judgments warranting our interference. Consequently this petition is dismissed and leave is refused.

JUDGE

JUDGE

Islamabad, the
27th of August, 2025
Approved For Reporting
Aitzaz