

**IN THE FEDERAL SHARIAT COURT  
(Appellate Jurisdiction)**

**PRESENT**

MR. JUSTICE SHEIKH NAJAM-UL-HASAN  
MR. JUSTICE ZAHOOR AHMED SHAHWANI  
MRS. JUSTICE ASHRAF JAHAN

**CRIMINAL APPEAL NO.25/I OF 2014**

- |   |     |            |
|---|-----|------------|
| 1. Shabbir Hussain alias Shabbir<br>s/o Abdul Aziz, r/o Kalu Khan<br>Lar Yar Hussain, Swabi                             | ... | Appellants |
|   |     |            |
| 2. Zahid Hussain alias Zahid<br>s/o Said Maghfoor Shah alias<br>Raja Baba, r/o Mohallah<br>Tairwato, Yar Hussain, Swabi |     |            |

**Versus**

- |   |     |             |
|---|-----|-------------|
| 1. Jehanzeb s/o Said Ghaffar Shah<br>Caste Afghan, r/o Barres<br>Kalo Khan, Swabi | ... | Respondents |
|   |     |             |
| 2. The State  |     |             |

**LINKED WITH**

**CRIMINAL APPEAL NO.05/P OF 2014**

- |  |     |            |
|--|-----|------------|
| 1. Nazir Ahmed s/o Aziz Ahmed<br>r/o Kas Korona, Mardan  | ... | Appellants |
|  |     |            |
| 2. Abdul Salam alias Salam<br>s/o Abdul Luqman, r/o<br>Khitab Abad Bala Ghari<br>Presently Sheikh Abad<br>Butseri Mardan |     |            |
|  |     |            |
| 3. Zafar Iqbal alias Zahid<br>s/o Dehran Shah, r/o<br>Kandari, Mardan  |     |            |

**Versus**

- |                                   |      |             |
|-----------------------------------|------|-------------|
| 1. Jehanzeb s/o Said Ghaffar Shah | .... | Respondents |
|                                   |      |             |
| 2. The State                      |      |             |

**LINKED WITH**

**CRIMINAL REVISION NO.02/P OF 2014**

Jehanzeb s/o Said Ghaffar Shah ... petitioner/complainant  
Caste Afghan, r/o Barres  
Kalo Khan, Swabi

**Versus**

1. Shabbir Hussain alias Shabbir ... Respondents  
2. Zahid Hussain alias Zahid  
3. Nazir Ahmed  
4. Abdul Salam alias Salam  
5. Zafar Iqbal alias Zahid  
6. The State

Counsel for the appellants ... Mr. Muhammad Ilyas Siddiqi,  
In Cr. Appeal No.25/I/2014 Advocate

Counsel for the appellants ... Mr. Zar Badshah Khan,  
In Cr. Appeal No.5/P/2014 Advocate

Counsel for the complainant/ ... Syed Mubashir Shah,  
Petitioner in Cr.R.No.2/P/2014 Advocate

Counsel for the State ... Mr. Arshad Ahmed Khan,  
Assistant Advocate General,  
Khyber Pakhtunkhwa.

FIR No. date and ... No.71, dated 07.02.2012  
Police Station P.S. Yar Hussain, Swabi

Date of Judgment of the ... 07.05.2014  
trial Court

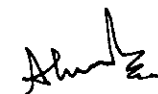
Date of Institution of ... 26.05.2014  
Cr. Appeal No.25/I/2014

Date of Institution of ... 27.05.2014  
Cr. Appeal No.05/P/2014

Date of Institution of ... 17.05.2014  
Cr. Revision No.02/P/2014


Date of hearing ... 17.03.2016

Date of Announcement ... 14-04-2016

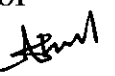


**JUDGMENT**

**ZAHOOR AHMED SHAHWANI, J;** Through this Judgment we are deciding Criminal Appeal No.25/I of 2014 filed by **Shabbir Hussain** alias Shabbir son of Abdul Aziz, (ii) **Zahid Hussain** alias Zahid son of Said Maghfoor Shah alias Raja Baba and Criminal Appeal No.05/P of 2014 filed by appellants namely **Nazir Ahmed** son of Aziz Ahmed (2) **Abdul Salam** alias Salam son of Abdul Luqman and **Zafar Iqbal** alias Zahid son of Dehran Shah and also Criminal Revision No.02/P of 2014 filed by the complainant **Jehanzeb** son of Said Ghaffar Shah for enhancement of sentence of accused/appellants from life to death. Appellants were convicted under section 396-PPC as Tazir and sentenced for life imprisonment each, with fine of Rs:30,0000/- (Rupees three lac) collectively by five accused. In case of default in payment of fine the accused persons were further undergo six (06) months simple imprisonment each. The benefit of section 382-B Cr.P.C was extended in their favour by learned Additional Sessions Judge, Lahor District Swabi, vide judgment dated 07.05.2014.

Since all the three matters arise out of one and the same judgment, we are disposing them  by this single judgment.

2. It is prosecution case that on 07.02.2012, the complainant Jehanzeb brought his brother namely Alamzeb in injured condition to Rural Health Center, Yar Hussain and reported the matter to the local police that on the eventful night at the relevant time, he alongwith other inmates of his house was asleep in their house, in separate rooms. At about 0300 hours, the door of his room was forcibly opened and three persons entered his room, the appearance of



the persons was that two of them were having small black beards, while the third one was with a shaven face, one was armed with Kalashnikov, the other had a "Toka" while the third one was empty handed. Accused armed with klashinkove inflicted some blows to the complainant, and started search of his room and took out one klashinkove and one mobile set Nokia, alongwith sim No.03005218127. In the meanwhile, complainant heard report of fire shots from the courtyard of his house, upon which the accused decamped from his room, when complainant came out of his room, he saw his brother Alamzeb lying injured and unconscious at the door of room. Complainant took his brother to Hospital for treatment, on enquiring, complainant came to know that two other accused had entered the room of his brother Alamzeb, whereas, two more accused had also entered the room of his mother and had snatched some goods, and on during resistance his brother Alamzeb was injured, who later on succumbed to his injuries, whereas, complainant also sustained injuries. He charged unknown accused for commission of the offence and case in hand was, consequently, established. On the basis of the report of complainant FIR No.71 (Ex.PA) dated 07.02.2012 under sections 396/201,202 and 212 Pakistan Penal Code registered against unknown accused persons.

3. The case was duly investigated. The accused were arrested and statements of PWs were recorded under Section 161 Cr.P.C. against the appellants to face trial. The learned trial Court framed charge against the accused on 22.10.2012 under Section 396/149 PPC and on 15.06.2013 altered the charge already framed to 17(4) of the Offences Against Property Ordinance, 1979. All the accused did not plead guilty and claimed trial.

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4. During trial, the prosecution examined as many as 24 witnesses namely Malook Shah Khan (P.W-1), submitted complete challan against the accused, Javed Khan ASI (P.W-2) produced recovery memos as Ex.PW2/1 to PW2/7, Dr. Akhtar Ali Shah, Medical Officer (P.W-3) had examined injured Alamzeb who was brought in serious/unconscious condition, in this respect he produced medico-legal report as Ex.PW3/1 and injury sheet as Ex.PW3/2, he further deposed that the injured had succumbed to his injuries, Khaista Muhammad ASI (P.W-4) produced recovery memos Ex.PW4/1 to Ex.PW4/3, Ijaz FC (P.W-5) produced recovery memo Ex.PW5/1, Muntazir Khan ASI (P.W-6), produced pointation memo as Ex.PW6/1; *Toka* as Ex.P-4 and Pipe Wrench as Ex.P-5, Muhammad Said (P.W-7) is the marginal witness vide recovery memo Ex.PW7/1 and Ex.PW7/2, Khair-ul Aman (P.W-8) deposed that he had identified the dead body before the police and doctor, Uzair Ahmad (P.W-9) is the witness of recovery memo Ex.PW9/1, Taimoor (P.W-10) is the witness of articles P-9 to P-11 and recovery memos Ex.PW10/1 to Ex.PW10/2, Ismail FC (P.W-11) who escorted injured Jehanzeb and Alamzeb deceased to the doctor for treatment, Haq Nawaz DFC (P.W-12) executed the warrants as Ex.PW-12/1 to Ex.PW12/5 and proclamation notices as Ex.PW-12/6 to Ex.PW12/10, Jehanzeb (P.W-13) is the complainant of the case, Muhammad Fawad (P.W-14) had identified the accused Abdul Salam in identification parade held in Swabi Jail, Mst. Arsh Bibi (P.W-15) is the wife of complainant and witness of the occurrence, Mst. Mukhtar Zari (P.W-16) is the witness of occurrence as she was the guest of complainant, Hussin Ahmad (P.W-17) is the relative of complainant and owner of the Kalashnikov snatched during the

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occurrence, Mumtaz Khan Inspector (**P.W-18**) is the investigating officer of the case, he prepared the site plan as Ex.P.B; recovered the blood of deceased through cotton; produced accused Shabbir, Zahid, Nazeer and Abdul Salam in the court for taking their police custody vide his application Ex.PW-18/8; prepared the sketch of the place of recovery which is Ex.PW-18/12, Alamzeb Khan Inspector/SHO (**P.W-19**) arrested the accused namely Shabir Hussain, Zahid Hussain, Nazeer Ahmed and Abdul Salam on 12.03.2012; who also produced recovery memo as Ex.PW-19/1 to Ex.PW-19/3, Muhammad Asim (**P.W-20**) is the Judicial Magistrate who verified his order Ex.PW-20/1 and report Ex.PW-20/2, Naeem Ullah Khan Jadoon (**P.W-21**) Judicial Magistrate, verified identification parade report as Ex.PW21/1 and Ex.PW21/2, Niaz Hussain SI (**P.W-22**) deposed that on receipt of murasila, registered the present case, Ijaz Khan PASI Incharge (**P.W-23**) recorded the report of complainant in the shape of murasila Ex.PA/1; Akbar Ali Khan (**P.W-24**) who produced applications Ex.PW-24/1 to Ex.PW-24/8; arrested accused Zafar Iqbal on 16.08.2012.

5. After close of prosecution evidence the statement of convict/appellants were recorded under section 342 Cr.P.C. wherein they denied the allegation leveled against them by prosecution. All the convict/appellants neither got recorded statements on oath as envisaged under section 340(2) Cr.P.C. not produced any witness in their defence. At the close of trial learned trial court vide impugned judgment convicted and sentenced the convict/appellants in the manner as mentioned above. Being aggrieved and

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dissatisfied from the judgment passed by the learned trial court dated 07.05.2014, the appellants filed the instant appeals separately.

6. It has been argued by learned counsel for the appellants that the appellants have not been directly nominated in FIR, but the complainant party charged the convict/appellants in their statements recorded under section 164 Cr.P.C. after delay of 31 days; that no confession statement of any of the appellants was recorded during the investigation to connect the appellants with the commission of offence that the complainant P.W-13 and 14 to 16 are close relatives and being interested witnesses are not worthy of reliance, identification parade was also conducted after long delay; that the medico legal report of the complainant does not support the prosecution version; that the statement of injured complainant and PWs suffer from discrepancies, inconsistencies and improvement; that there exists material contradiction in the contents of case FIR and statements of the PWs recorded under section 164 Cr.P.C. and in the court during trial; that the alleged pointation of appellant have not been proved by the prosecution and the evidence brought on record in this respect is not admissible; that prosecution miserably failed to prove its case against the appellants; that the case of prosecution is full of doubt, therefore, the benefit of doubt may be extended to the appellants as matter of right; he lastly submits the learned trial court without proper appreciation of evidence convicted and sentenced the appellants which is not sustainable in the eye of law; the appellants are entitled to clean acquittal. Reliance was placed on **(Nazir Ahmed Vs. Muhammad Iqbal & The State) SCMR 2011 Page 527.**

7. Conversely, learned counsel for the complainant with the assistance

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of learned Assistant Advocate General argued that though the occurrence had taken place at night but at the time of occurrence bulbs were lit in the home of complainant and after full satisfaction the complainant party have charged the appellants in their statements recorded under section 164 Cr.P.C. for the commission of offence; that no malafide or ulterior motive, whatsoever, do exist for false implication of the appellants; that no malafide has been attributed to the local police; that ocular account, recovery of crime empties from the spot and medical evidence fully supports the prosecution case, during interrogation the stolen articles alongwith klashinkove were also recovered by the investigating officer on the pointation of the appellants; that the identification parade were conducted by the learned judicial Magistrate Lahor during which all the accused were correctly identified by the complainant and PW ; that the prosecution has proved its case against the appellants beyond any shadow of doubt; that there is no chance of false charge, as the complainant would have charged the accused at first instance in the FIR, had there been any malice. The involvement of accused/appellants in this case is fully established, so they are not entitled to exception and deserve sentence of death.

8. We have heard the learned counsel for the appellants, as well as learned Assistant Advocate General; Khyber Pakhtunkhwa assisted by learned counsel for complainant and have gone through the record.

9. According to prosecution story that on 7.2.2012 at three hours unknown accused persons armed with fire arms, sharp and blunt weapons entered the house of complainant Jahanzeb situated at Mohallah Baris Kalo Khan Lar village Yar Hussain and committed dacoity by snatching klashinkove,

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mobile phone and golden ornaments from the inmates of the house besides causing injuries to complainant and his brother Alamzeb, and later on injured Alamzeb succumbed to his injuries. Case was registered on report of complainant against unknown accused persons. Thereafter complainant got recorded his 164 Cr.P.C. statement before Judicial Magistrate and nominated the convict/appellants as well as absconding accused persons.

10. It is an admitted fact that appellants/convicts were not nominated in the FIR but complainant in his 164 Cr.P.C. statement which was recorded after lapse of thirty one days before Judicial Magistrate, implicated the appellants with the commission of alleged offence. Though the complainant in his supplementary statement has nominated the appellants and absconding accused persons but his supplementary statement as well deposition made before the Court is silent with regard to the source through which he came to know about the name of appellants. As the complainant has not disclosed the source who unearthed the name of appellants, who allegedly were involved with the commission of offence. Therefore, the supplementary statement and deposition of complainant to the extent of nomination of appellants and their identification stands highly doubtful and cannot be relied upon. (**Reliance is placed on Falak Sher Vs. The State 1995 SCMR page 1350**), wherein it has been observed that any statement or further statement of the first information recorded during the investigation by police would neither be equated with first information report nor read as part of it and the involvement of additional accused in such statement was fake improvement which made the basis for other eye witnesses as well for false implication. The Hon'ble Lahore High Court, Lahore in case

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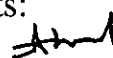
titled **Muhammad Saleem Vs. The State (2010 YLR page 2115** also hold such view.

11. Now we are left to deal with the identification of appellants by eye witnesses. According to the prosecution that PW-13 (complainant) and PW-14 Muhammad Fawad (eye witness), had identified the appellants Nazir Ahmad, Zahid Hussain, Zafar Iqbal and Abdul Salam conducted under the supervision of Judicial Magistrate (PW-20 and PW-21) to be the same culprits who had committed the offence. But the identification parade of the appellants through eye witnesses have not been conducted adhering to rule laid down by superior Courts. As it has come on record that identification parade of appellants, Zahid Hussain, Nazir Ahmed and Abdul Salam was held at one and the same time by making them to stand up in one line with dummies who were twelve in number. The Judicial Magistrate should have conducted the identification parade of each accused separately by arranging 9/10 other dummies and proceeding should have been repeated thrice for each accused. The possibility also cannot be ruled out that complainant might have seen the appellants prior conducting of identification parade. It has come in the evidence of complainant that accused Shabbir Hussain and Zahid Hussain had attended the funeral and also offered *fatiah* for three days and police had brought them to the house of complainant in connection with pointation of place of occurrence. Moreover, according to deposition of complainant that three accused persons had entered his room while two other accused persons had entered the room of his mother while the remaining two accused encountered with his deceased brother. It has come in the evidence of eye witnesses that after firing the accused persons had made

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their escape good from the scene of incidence. It is crystal clear from the depositions of eye witnesses that neither the complainant nor the PW-14 eye witness had seen the remaining accused persons except the ones who allegedly had entered the room of complainant and his son PW-14. But surprisingly the complainant has identified four accused persons/appellants. It is shrouded in mystery as to how the complainant had been able to know/identify 04 instead of 03 appellants. The complainant and his son (PW-14) both have identified same and one accused namely Abdul Salam. If the deposition of complainant be taken true to the extent of appellant Abdul Salam then the deposition of PW-14 lies of no where to this extent or vice versa.

12. We have thoroughly examined the identification proceedings and also the statement of the witnesses and the learned Magistrates who conducted the identification parade of the accused Zahir, Nazir and Zafar Iqbal on 22.3.2012 and Abdul Salam on 5.9.2012. Besides the other legal defect in the identification parade it is also observed that in these proceedings no role of any accused is mentioned even the weapon has not specifically been mentioned. Similarly, while appearing in court both the witnesses the complainant and his son has not identified any of the accused individually and even at that stage no role weapon or any other thing has been specifically assigned by these witnesses to any specific accused. It is now well settled that in absence of specific role of an accused during the identification parade or while appearing in court, such identification proceedings of the accused are not considered worth reliance. Reliance is made on the following reported judgments:



- (1) **1995 SCMR-127, (Mehmood Ahmad and 3 others Vs. The State and another) wherein it has been observed that ---"Ss.302/34 & 323---Qanun-e-Shahadat(10 of 1984), Art.22---identification parade---Evidentiary value---Identification of accused in the identification parade without attributing to them their role in the crime is of no evidentiary value.---**"
- (2) **2011 SCMR 563 (Sabir Ali alias Fauji Vs. The State) wherein it has been observed that ----S.302(b)---Identification parade---Evidentiary value---Failure on the part of witnesses to describe the role of accused at the time of identification parade is an inherent defect, which renders the identification parade valueless and unreliable.**

It is clear that identification proceedings during the investigation are only of corroborative nature. It absence of specific identification of the accused in court, such corroborative evidence loses its value. Reliance is placed on **2011 SCMR 537 (Shafqat Mehmood and others Vs. The State), wherein it has been held that---Art.22---Identification parade---Evidentiary value---Picking out of accused in identification parade is not a substantive piece of evidence, but is merely of corroborative nature.---**

In the circumstances the identification of the appellants Zahid, Nazir, Zafar Iqbal and Abdul Salam by P.W.13 (the complainant) and appellant Abdul Salam by P.W.14 stands highly doubtful. Shabbir appellant was not put to identification parade. His name was introduced after one month of the occurrence although he was close neighbor and was known to the witnesses. Such circumstance makes the involvement of Shabbir in this occurrence highly doubtful.

As per prosecution case the deceased was present in his room along with his wife. As such his wife was star witness of this case but she was not produced in court and was given up by the prosecution. Moreover, the case of prosecution further stands highly doubtful as it has come on record in the evidence of

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complainant that after alleged incident the snuffer dogs were brought by complainant party in order to trace the culprits and the snuffer dogs chased the foot prints and led to the house of one Bakht Sher who was arrested by police and investigated but later on was released having some health problem. It has also come on record rather admitted by complainant that appellant Shabbir Hussain and Zahid Hussain had attended the funeral at house of complainant to offer *fatiha* for three days. Had the appellants Shabbir Hussain and Zahid Hussain involved with the commission of offence and were seen by witnesses. They would have never attended the funeral and visit the house of victim party to offer *fatiha* for three days. A part from that, investigating officer during cross-examination has admitted that bolts of the door of the room of complainant were not found broken whereas the complainant and his wife (PW-15) eye witness stated that accused had opened the door forcibly. Had the accused opened the door of room of complainant forcibly, the bolts/locks would have been found damaged but astonishingly no damage had been caused to the door and bolts/lock. A part from that, the presence of PW Muhammad Fawad, who is son of the complainant, is also not established from the deposition of complainant and his wife (PW-15), as both the said witnesses in their deposition have not uttered a single word about presence of Muhammad Fawad (PW-14). His presence further stands highly doubtful as neither he has played any role at the place of occurrence nor accompanied his father and injured uncle to hospital.

13. So far as the recoveries of crime weapons, robbed article i.e. klashinkove, golden ear rings on pointation of appellants are concerned, the same too are highly doubtful. According to prosecution witnesses that appellant

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Abdul Salam led the police to his house and got recovered robbed ear rings and crime weapon pistol. The appellant Zafar Iqbal led the police and got recovered crime weapon *toka*. The appellant Shabbir Hussain led the police to his house and got recovered robbed one ear ring and klashinkove and crime weapon pistol. The appellant Nazir Ahmad led the police to the recovery of klashinkove dumped in earth, while appellant Zahid Hussain led the police to his house and got recovered Kalashnikov and one robbed ear ring and two magazines of klashinkove from a well. But the recovery of crime weapon and robbed articles are highly doubtful for one or the other reason. As no seal parcel in respect of recovered robbed ear ring was prepared after recovery. Similarly no seal parcel in respect of *toka* recovered on pointation of accused Zafar Iqbal and klashinkove and ear rings allegedly recovered on pointation of appellant Shabbir Hussain. Whereas the crime weapon *toka* has been recovered from house of one Nazia sister of accused Zafar Iqbal. Moreover, the recovery *mashir* (PW-7, PW-9 and PW-10) are close relatives of complainant party. It is astonishing to note that police has associated the close relatives of complainant party as recovery *mashirs* but no independent person has been associated to witness the recoveries. It may be mentioned here that investigating officer while replying a question had agreed that house of accused Zahid Hussain was searched earlier but nothing was recovered. The recovery of klashinkove and ear ring later on from his home stands highly doubtful and cannot be believed. In absence of private witnesses to the recoveries and non-preparation of sealed parcels of recovered articles the same cannot be believed and relied upon for safe administration of justice. So far as the identification parade conducted through

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complainant in respect of alleged recovered robbed ear rings is concerned, the same too cannot be relied upon as the identification parade was not conducted properly because only one extra pair of ear rings, that too with different design, was mixed/mingled with alleged recovered two pair of ear rings.

14. So far as the Fire Arms Expert Report in respect of recovered klashinkove and empties secured from the place of occurrence is concerned, the same too is not helpful to the case of prosecution. It may be mentioned here that according to deposition of investigating officer that klashinkove recovered from possession of accused Nazir Ahmed and the klashinkove used by deceased and the empties taken into possession from the place of occurrence were sent to Fire Arm Expert and report in this regard was obtained. According to prosecution evidence and site plan Ex/P-B/1 that appellant Nazir Ahmed had made firing with klashinkove and investigating officer had secured 13 empties of klashinkove lying at place '4'. But the complainant and other eye witnesses in their depositions did not utter a single word that accused Nazir Ahmed had made any firing with klashinkove rather the complainant and other eye witnesses have stated that after hearing firing report accused had fled away. Thus the recovery of empties as well as klashinkove are highly doubtful and the matching report issued by Fire Arm Expert cannot be relied upon specially when there is some difference of number of Kalashnikov mentioned in the recovery memo and that of the Forensic Science Laboratory report even otherwise the empties and the weapon were sent together for analysis. As per the medical evidence, the deceased or the injured witness did not receive any injury with fire arm weapon,

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so in the circumstances the Fire Arm Expert report has to be kept out of the consideration for the safe administration of justice.

15. Moreover, the madlafide is apparent on the part of complainant party, as he concealed the ownership of the alleged robbed klashinkove but later on disclosed that the same belonged to one Hussain Ahmed and he also produced the licence of the same to police. Similarly the complainant party also concealed the klashinkove used by deceased Alamzeb and thereafter produced the same before the police on 14.03.2012, that too after laps of more than one month. The receipts of golden ornaments are also doubtful and cannot be relied upon because the same have been issued by one of the relatives of complainant, and neither the statement of said witness has been recorded by investigating officer nor his name has been included in the calendar of witnesses in challan. It may be mentioned here that it has come on record in the evidence of complainant that brother of appellant Shabbir Hussain was murdered by one Tehsinullah and his brothers and after compromise 20 canals landed property was transferred in the name of legal heirs of Irshad Hussain. It was also admitted by complainant that his sister was married with Tehsinullah. The contention of defence that appellant Shabbir Hussain was involved by complainant party in order to grab the said 20 canal property back and his false implication cannot be ruled out. Careful perusal of the evidence collected and led by prosecution against the appellants show that the incident has not taken place in the manner as narrated /mentioned by witnesses. The entire prosecution evidence is highly doubtful and not reasonable and convincing, but the learned trial Court without proper appreciation of evidence convicted and sentenced the appellants by

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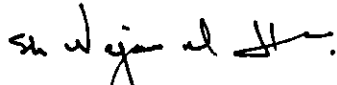


means of impugned judgment which is not tenable in the eye of law. As such the appeals i.e. (Criminal Appeal No.25/I of 2014 and Criminal Appeal No.5/P of 2014) filed by appellants are hereby accepted and the impugned judgment dated 07.05.2014 passed by learned trial court is hereby set aside. Resultantly the convict appellants are acquitted of the charge. They shall be released forthwith if not wanted in any other case.

16. As consequence of acceptance of above mentioned both the appeals, the criminal Revision No. 2/P of 2014 filed by petitioner Jehanzeb for enhancement of sentence having no merits and the same is dismissed.



(MR. JUSTICE ZAHOOR AHMED SHAHWANI)



(MR. JUSTICE SHEIKH NAJAM-UL HASAN)



(MRS. JUSTICE ASHRAF JAHAN)

Announced on 14<sup>th</sup> April, 2016  
at Islamabad  
Zain/\*

Approved for reporting



MR. JUSTICE ZAHOOR AHMED SHAHWANI

Islamabad the 15<sup>th</sup> April, 2016.



From: The Registrar,  
Federal Shariat Court,  
Islamabad 9213939/9203856.

To : The District & Sessions Judge,  
Swabi.

Subject:- CRIMINAL APPEAL NO.25/I OF 2014. L/W.  
(Shabbir Hussain @ Shabbir & another Vs. The State & another).  
CRIMINAL APPEAL NO.05/P OF 2014. L/W.  
(Nazir Ahmed & others Vs. The State).  
CRIMINAL REVISION NO.02/P OF 2014.  
(Jehanzab Vs. Shabbir Hussain & others).

Appeals/Revision against the judgment of Mr. Manzoor Qadir, Addl. Sessions Judge, Swabi at Lahore, dated 07.05.2014, Sessions Case No.57/SC of 2012, The State Vs. Shabbir Hussain & others, U/S.396-PPC, imprisonment of life & fine Rs.3,00,000/-or 6 months S.I.each, with benefit of sec.382-B,Cr.P.C. case FIR No.71 dated 07.02.2012 P.S. Yar Hussain Distt.Swabi.

Dear Sir,

I am directed to inform you that above cited Cr.Appeals/Cr.Revision petition came up for regular hearing before the Court on 17.03.2016 and judgment was reserved. While announcing the judgment on 14.04.2016, the Court has been pleased to allow the appeals of appellants setting aside their conviction and sentences awarded by the trial court and acquitted of the charges. The appellants namely-(1)Shabbir Hussain alias Shabbir son of Abdul Aziz(2)Zahid Hussain alias Zahid son of Said Maghfoor(3)Nazir Ahmed son of Aziz Ahmed(4)Abdul Salam alias Salam son of Abdul Luqman(5) Zafar Iqbal alias Zahid son of Dehran Shah(now all confined in Central Jail, Haripur) shall be released forthwith if not wanted in any other case.

2. As consequence of acceptance of above mentioned both the appeals, the criminal Revision No.2/P of 2014 filed by petitioner Jehanzeb for enhancement of sentence having no merits has been dismissed. A certified copy of judgment of this Court dated 14.04.2016 is enclosed herewith for information and necessary action.

3. I am further to return herewith the original record of trial court in the above cited case which was received vide your office letter No.147 dated 05.08.2014.

Yours faithfully

  
(HAFIZ NOOR AHMAD)  
SUPERINTENDENT (JUDL)  
FOR REGISTRAR

Copy alongwith a certified copy of judgment of this Court dated 14.04.2016 is forwarded to the Superintendent, Central Jail, Haripur for information and necessary action.

  
SUPERINTENDENT (JUDL)  
FOR REGISTRAR

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