

IN THE FEDERAL SHARIAT COURT
(Appellate Jurisdiction)

PRESENT

MR. JUSTICE SYED AFZAL HAIDER

CRIMINAL REVISION NO. 115-/L OF 2006

Sarfraz Shah son of Salam Shah, Caste Qureshi R/o Rustam Sargana, Tehsil Shor Kot,
District Jhang.

.... **Petitioner**

VERSUS

1. The State
2. Learned Additional Sessions Judge, Tehsil Shorkot, District Jhang.
3. Mehdi Shah son of Zawar Hussain Shah, caste Qureshi, R/o Sheikh Chaur,
Tehsil & District Jhang.
4. Mst.Farzana Bibe daughter of Sarfraz Shah, caste Qureshi, R/o Sheikh Chaur,
Tehsil & District Jhang.
5. Mst.Kaneez Fatima wife of Zawar Shah, caste Qureshi, R/o Sheikh Chaur,
Tehsil & District Jhang.
6. Ghulam Shabbir son of Zawar Hussain Shah, caste Qureshi, R/o Sheikh
Chaur, Tehsil & District Jhang.

--- Respondents

Counsel for petitioner	---	Mr.Amir Muhammad Joiya, Advocate.
Counsel for the State	---	Ch.Abdur Razaq, Deputy Prosecutor-General
F.I.R No. date and Police Station	---	105/04, 22.3.2001, P.S. Shorkot, Jhang.
Date of the Order of the Trial Court	---	21.9.2006
Date of Institution	---	19.10.2006
Last date of hearing	---	09.01.2009
Date of Decision	---	09.01.2009

JUDGMENT

SYED AFZAL HAIDER, J.- This revision is directed against the order dated 21.09.2006 passed by learned Additional Sessions Judge, Shorkot, district Jhang, whereby "evidence of the remaining witnesses" of the complainant "was closed" and official witnesses were ordered to be summoned for 07.10.2006 on the ground that the complainant despite warning had "failed to produce his other private witnesses." A.I.

2. Brief facts of the case leading upto this petition are that the petitioner Sarfraz Shah got registered criminal case F.I.R No.105/2002 dated 22.03.2001 against Mehdi Shah and others, respondents No.3 to 6, at Police Station Shorkot City, District Jhang. The report under section 173 of the Code of Criminal Procedure requiring the accused to face trial was sent to the Court on 15.05.2000 whereafter charge was framed under section 10(2) of the Offence of Zina (Enforcement of Hudood) Ordinance VII of 1979 on 09.10.2003.

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Statements of accused/respondents Mehdi Shah, Mst.Farzana, Ghulam Shabbir and Mst.Kaneez Fatima were recorded on 13.12.2005 with reference to charge in which they pleaded not guilty and claimed trial.

3. The complainant then submitted an application to summon the other two accused namely Ghulam Shabbir son of Zawar Shah and Mst.Kaneez wife of Zawar Shah whereupon the learned trial Court vide order dated 21.07.2005 directed him to produce all the PWs as stated in the Police report. The learned trial Court recorded examination-in-chief of Sarfraz Shah as PW-1 on 10.08.2006. His cross examination was closed on 21.09.2006. Examination-in-chief of PW-2 Ahmad Nawaz Shah and PW-3 Haji Muhammad Nawaz Shah was recorded on 10.08.2006 and their cross examination was conducted on 21.09.2006.

4. That on 20.08.2006, Ghazanfar Shah PW had not turned up. Bailable warrants of arrest of the said PW were ordered to be

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issued for appearance for 21.09.2000. PW-1 and PW-3 were present on 21.09.2000 and their cross examination was conducted. However, Ghazanfar Shah had not turned up.

5. That learned trial Court partly closed the case of the prosecution ~~partly~~ in the sense that the evidence of the complainant comprising of private witnesses was closed and the official witnesses were ordered to be summoned for next date of hearing.

6. Feeling aggrieved by the order dated 21.09.2006 whereby the evidence of complainant was closed, the petitioner has moved this revision mainly on the ground that the impugned order is violative of section 265-F of the Code of Criminal Procedure. It is further urged that under section 540 of the Code of Criminal Procedure, the Court shall summon any person if such evidence is essential to the just decision of the case. Since the witness had to testify as regards the factum of marriage so evidence of the witness was necessary for the just decision of the case.

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7. I have gone through the impugned order with the help of learned counsel for the petitioner. Sufficient time had been given by the learned trial Court and there does not appear to be any irregularity in the impugned order nor any illegality or jurisdictional defect pointed out by learned counsel for the petitioner.

8. In this view of the matter, this Revision Petition No.115-L of 2006 is dismissed.

Syaid

Justice Syed Afzal Haider