

**IN THE FEDERAL SHARIAT COURT**  
(APPELLATE JURISDICTION)

**PRESENT**

**MR. JUSTICE DR. FIDA MUHAMMAD KHAN**  
**MR. JUSTICE MEHMOOD MAQBOOL BAJWA**

**JAIL APPEAL NO.12-I OF 2018**

1. AYAZ SON OF IBRAHIM SOLANGI
2. SIKANDAR ALI SON OF KHABAR KHAN MARI
3. NASRULLAH SON OF MUHAMMAD JUMAN SOLANGI  
(NOW CONFINED IN CENTRAL PRISON SUKKUR)

APPELLANTS

VERSUS

THE STATE

RESPONDENT

COUNSEL FOR THE APPELLANTS  
(AT STATE EXPENSES)

KHAWAJA MANZOOR AHMED,  
ADVOCATE.

COUNSEL FOR THE STATE

KHADIM HUSSAIN,  
ADDITIONAL PROSECUTOR-  
GENERAL, SINDH

FIR NO. AND  
POLICE STATION

...

91 OF 2013  
THARU SHAH,  
DISTRICT NAUSHAHRO FEROZE

DATE OF JUDGMENT  
OF TRIAL COURT

10.09.2018

DATE OF HEARING

...

25.04 2019

DATE OF DECISION

...

25 04 2019

DATE OF JUDGMENT

02 05.2019



**JUDGMENT:**

**Mehmood Maqbool Bajwa, J:** Ayaz, Sikander Ali and Nasrullah, appellants three in number, assail the legality and validity of judgment dated 10<sup>th</sup> September, 2018, handed down by a learned Additional Sessions Judge, Naushahro Feroze, whereby after conclusion of trial, conviction was recorded against them under Section 302 (b) of The Pakistan Penal Code, 1860 (Act XLV of 1860) (Hereinafter called Act XLV of 1860) read with Section 20 of The Offences Against Property (Enforcement of Hudood) Ordinance VI of 1979 (Hereinafter called Ordinance VI of 1979), awarding each appellant sentence of life imprisonment, requiring each of them to pay compensation to the tune of Rs.100,000/- (Rupees One Hundred Thousand Only), to be reimbursed to the legal heirs of the deceased Gulab Khan. In case of default in payment of compensation, each appellant was to suffer six months imprisonment.

Concluding about the proof of charge under Section 396 of Act XLV of 1860, each appellant was awarded sentence of five years rigorous imprisonment and fine in a sum of Rs.50,000/- (Rupees Fifty Thousand Only) and in default to further suffer six months rigorous imprisonment .

All the sentences were directed to run concurrently  
Premium was also granted to all the appellants under Section 382-



B of The Code of Criminal Procedure, 1898 (Act V of 1898)  
(Hereinafter called The Code)

2 Prosecution case reflected in the Crime-Report No 91 of 2013, copy of which is Ex.10-A, lodged on 19<sup>th</sup> October, 2013, by Muhammad Parial (P.W.1), father of deceased Gulab Khan is that on 15<sup>th</sup> October, 2013, he alongwith Abdul Majeed (P.W 2), Nasrullah (P W.3), Ghulam Mustafa, Seengar as well as deceased Gulab Khan were coming back from Karachi to native village, after selling he-goats on the occasion of Eid-ul-Azha and when they reached at a bridge near Link Road, leading to village Faqir Usman Tunio, five armed persons were found standing near road having two motorcycles. On signal to stop, the driver of Mazda, stopped the vehicle, on which, they all stepped down Sikandar (appellant No.2) and Bahawal alias Nang (proclaimed offender) were identified by all of them in the headlights of the vehicle. The accused snatched Rs 450,000/- from the complainant, Rs.350,000/- from Abdul Majeed Lund (P.W.2), Rs.200,000/- from Ghulam Mustafa and one mobile telephone from driver of the vehicle After that, Bahawal alias Nang tried to get cash from his son Gulab Khan Lund by force, which attempt was resisted, on which, on the command of said Bahawal alias Nang, Sikandar Mari (appellant

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No.2) made fire with Repeater, hitting on the chest, who fell down and ultimately succumbed to the injuries.

Un-identified assailants took Rs.210,000/- from the pocket of the deceased.

Though, on the hearing of firing, people of the vicinity attracted to the spot but all the accused managed to escape.

3. During the course of investigation, identification parade was held under the supervision of Muhammad Saleem, learned Judicial Magistrate (P.W.12) on 31<sup>st</sup> October, 2013. The complainant (P W 1) and Nasrullah (P W.3) identified Ayaz son of Ibrahim Solangi.

After the arrest of Sikandar Ali, 12 Bore Repeater was recovered from his custody on 13<sup>th</sup> June, 2014, when he was arrested, taken into custody through Mashirnamna (Ex.12-A)

Ayaz son of Ibrahim after his arrest, got recovered gun on 3<sup>rd</sup> November, 2013, from Banana Garden of one Liaquat Almani, witnessed through memo (Ex 13-E).

12 bore empties, eighteen in number (ten of white colour and eight of red colour) were secured from the spot on 16<sup>th</sup> October, 2013 through Mashirnama (Ex.13-C).

4. Empties and weapon of offence were sent for examination to the Forensic Science Laboratory and according to the Reports

(Ex.23-C-D), two crime-empties (C-10-14) were fired from the weapon of offence recovered at the instance of Ayaz Solangi, while one crime-empty (C-16) was fired from the repeater recovered from Sikander Mari.

5. The appellants named above put to face the trial, denied the accusation, requiring the prosecution to produce evidence resulting in appearance of 13 witnesses including Muhammad Parial, complainant-appellant, father of the deceased (P.W.1), Abdul Majeed and Nasrullah (P.W.2-P.W.3) (eye-witnesses), Dr. Nazeer Hussain (P.W.8) and Muhammad Saleem, Civil Judge-Judicial Magistrate, Bhiria City, District Naushahro Feroze (P.W.12).

6. The appellants being accused before the learned Trial Court in their respective statements recorded under Section 342 of The Code, denied the incriminating evidence put to them.

Bare perusal of their respective statements referred to suggest that whole incriminating evidence was not put to all the three appellants, which is un-fortunate aspect of this case, with which, we will deal at appropriate stage.

7. Heard adversaries and perused the record.



8. There are three appellants, i.e., Ayaz son of Ibrahim (2) Sikander Ali son of Khabar Khan Marı and (3) Nasrullah son of Muhammad Juman Solangi.

9. In the judgment under challenge, names of Bahawal alias Nang son of Mir Muhammad Machi and Munawar son of Ibrahim Solangi also finds mentioned in the list of accused but they were declared proclaimed offenders.

10. Sikander Ali is nominated in the F.I.R., copy of which is Ex.10-A. Rest two were not named in the crime-report

As per prosecution case, Ayaz son of Ibrahim Solangi was identified by complainant, Muhammad Parial (P.W.1) and Nasrullah (P.W.3) in the identification test held on 31<sup>st</sup> October, 2013, supervised by Muhammad Saleem, learned Judicial Magistrate, Bhiria City. He was also implicated by complainant in his supplementary statement made on 2<sup>nd</sup> November, 2013 (Ex.10-B), making reference to the proceedings of identification test.

11. Nasrullah son of Muhammad Juman Solangi was un-identified assailant. As per prosecution stance, on 1<sup>st</sup> November, 2013, the complainant, Nasrullah son of Muhammad Qasim (P.W.3), Ghulam Mustafa (not produced) and Abdul Majeed (P.W.2) identified him by face outside portay at road and while identifying him and other un-known accused with him, inquired their names and particulars, who disclosed their particulars, upon

which, he and witnesses, approached the police, implicated him while making statements on 2<sup>nd</sup> November, 2013 (Ex.10-B).

12. Occurrence took place on 15<sup>th</sup> October, 2013 at about 8.20 p.m. while F.I.R. was registered on 19<sup>th</sup> October, 2013 at 13 00 hours. One cannot find any reason or justification to report the occurrence with delay to the police either in the crime-report (Ex.10-A) or in the statement of complainant (P W 1)

Delay occurred in the circumstances was heavily pleaded on behalf of appellant. Factual position explained on behalf of appellant though cannot be questioned but legal implications canvassed in order to suggest deliberation on the part of the complainant (P W 1) at least to the extent of Sikander Mari (appellant No.2) cannot be endorsed in view of the statement of Gul Muhammad Niazi, A.SI who while appearing as P W 5 deposed that on 15<sup>th</sup> October, 2013, the complainant made contact with him through his mobile phone, narrated the detail of occurrence, disclosing the receipt of injuries by his son Gulab Khan, ultimately succumbed to the injuries, and further informing him about the shifting of dead body in the Rural Health Centre, asking him to reach in the hospital. This is not a bald assertion on behalf of the witness as the facts were incorporated by him in *Rapt* No 22 at 20 35 hours We have gone through the contents of *Rapt* No 22 (Ex.14-A), which was entered at 20:35 hours. Factum of



contact by the complainant with this police officer not only finds mentioned in it but also the detail of the occurrence is also highlighted. Though, we do not find the number of assailants in the said *Rapt* but name of Sikander Mari is very-well mentioned in the F.I.R. and as such to his extent question of deliberation and concoction does not arise at all. Name of the appellant also finds mentioned in the inquest report (Ex.13-B). Though, it can be validly pleaded to the extent of rest of the appellants who were not named in the crime-report

13. First of all, we will take the case of Ayaz son of Ibrahim Solangi (appellant No.1)

Admittedly, he was not nominated in the F.I.R. To prove his culpability, proceedings of identification parade have been banked upon.

As per prosecution case, the complainant (P.W.1) and Nasrullah (P.W.3) identified him in the identification test held on 31<sup>st</sup> October, 2013.

The said convict was arrested on 29<sup>th</sup> October, 2013 alongwith Safdar and Jabbar as disclosed by Sikandar Ali, S.I.P.-S.H.O. Police Station Daras (P.W 13).

14. Prior to dealing with the evidentiary value of identification test, it is desirable to make reference to the parameters to be kept in view while determining the evidentiary value of identification test.





15. While reviewing the case-law on the subject, one of us as a Judge of Lahore High Court, while making elaborate discussion<sup>1</sup> formulated following points amongst others to be kept in view in order to determine the binding force of identification parade:

- (i) Omission to disclose features and description of suspect in the F I R and statement made under Section 161 of The Code would render identification parade without legal sanctity.
- (ii) Identification proceedings should be held as early as possible but no hard and fast rule can be formulated. However, delay in holding identification test will reduce its value;
- (iii) Identification test should not be held at police station,
- (iv) Separate identification parade should be conducted for each accused;
- (v) Whole proceedings of identification test including lining up accused with dummies should be conducted by the Magistrate himself and the assignment should not be delegated to the jail authorities;
- (vi) Prior to conduct of proceedings, concerned authority is under obligation to conceal the identity of the accused from one place to another place and such measures are not only required to be taken but should be proved to have been taken;
- (vii) It is the duty of Supervising Magistrate to make note of every objection made by accused at the time of parade enabling the court of competent jurisdiction to judge the genuineness of the objection while determining value of identification test;
- (viii) Number of dummy for each accused must be given;
- (ix) Description of dummies as to whether they were of the same structure, age etc. should be mentioned;

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<sup>1</sup> “MANSOOR AHMAD alias SHAHZAD alias SHEERI and others vs THE STATE” (2012 YLR 2481)



- (x) Number of dummies to be mixed with each accused should not be less than nine or ten;
- (xi) No mark or stamp should be put on the suspect;
- (xii) The dummies and the suspect should almost be of same structure and appearance. If there is any visible mark on the person of accused (For example, beard), it is advisable to mix up the accused with others of similar appearance;
- (xiii) Role of each accused must be described by the witness. The witnesses are required to explain as to how and in what manner they were to identify or pick up the accused person,

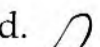
16. Keeping in view the parameters, when evidence of complainant (P.W 1) Nasrullah (P.W.3), Miral Khan, Head Constable (P W.10), and Muhammad Saleem, Judicial Magistrate (P.W.12) as well as proceedings are examined, it becomes crystal clear that identification proceedings were not conducted according to the settled yardstick. We have noted following illegalities, irregularities and infirmities in the proceedings:

(1) Admittedly, the appellant was not known to both the identifying witnesses Complainant, Muhammad Parial (P.W.1) admitted in cross-examination that he did not disclose features of un-known culprit in the F.I.R. (2) Nasrullah (P.W.3) is also sailing in the same boat as features of the appellant does not find mentioned in his statement made during the course of investigation on 19<sup>th</sup> October, 2013. (3) There is a contradiction regarding the time of holding of identification test. As per stance of Nasrullah (P W.3), it was 9:15 a.m., when identification test was



held, which stands contradicted by Miral Khan, Head Constable (P.W.10) maternal nephew of complainant, witness of Mashirnama (Ex.20-A), according to whom, they reached in court premises at 12:00 noon and proceedings were held at 1:00 p.m. The Supervising Magistrate (P.W.12) also disclosed the time, intimated by Mashir

(4) It was joint identification test Ayaz (appellant) alongwith Safdar son of Ahmed Nawaz and Jabbar son of Shahzado Solangi were put together for identification test (5) Though in the proceedings of identification test (Ex.20-A), it finds mentioned that dummies were of similar age and height but same stands contradicted by Nasrullah (P.W 3) stating in cross-examination that dummies were of "different heights, size and ages." Miral Khan (P.W.10), close relative of the complainant, attesting witness of mashirnama of "identification test", while following the footprints of Nasrullah (P.W 3) categorically stated that dummies were of "different shapes, heights, ages and colour" (6) The witness (P.W.10) also admitted the presence of S.H.O. at that time (7) Though, according to Miral Khan (P W.10) mashirnama was prepared by the Supervising Magistrate, but not endorsed by him (P.W 12) stating that contents of mashirnama were written by his Reader under his dictation but there is no such endorsement (9) Role of the said appellant was not disclosed in explicit manner, just adding that he is the accused.



Even if this mode and manner is treated sufficient compliance, it would not put the case of prosecution on better pedestal in view of illegalities, irregularities and omissions pointed out, particularly omission to state features and description of the appellant in the F.I.R. and statement made during the course of investigation by the complainant (P W.1) and Nasrullah (P.W.3), respectively, by itself sufficient to brush aside the evidence

17. Banking upon the evidence of Sikander Ali, S.I.P.-I.O. (P.W.13), Daulat Khan (P W.4) and Mushirnama (Ex.13-E) suggesting recovery of SBBL Gun on the pointation of Ayaz (appellant No 1), it was contended that this aspect of evidence furnishes corroboration to the ocular account produced by prosecutor.

Empties eighteen in number (ten of white colour and eight of red colour) were taken into custody vide memo (Ex.13-C) on 16<sup>th</sup> October, 2013, while weapon of offence was secured on the pointation of appellant on 3<sup>rd</sup> November, 2013, as is evident from memo (Ex.13-E). The empties and gun were sent to the Forensic Science Laboratory on 11<sup>th</sup> November, 2013, together. Though, according to the Report (Ex.23-C), two empties (C-10 and C-14) were fired from the said gun but it will be of little help to the prosecution as the gun and empties were sent together. Even otherwise, this stated corroboration is of no use to substantiate the



case of prosecution because fire was attributed to Sikander Mari (appellant No.2) nominated in the F I R , who according to the prosecution case made one fire

Furthermore evidence corroborative in nature in the absence of ocular account cannot prove the case of prosecution. We are fortified in our view by law laid down in "ADNAN RASHID vs GUL NAWAZ and 4 others" (2018 YLR 340 (FSC), and "MUHAMMAD NAWAZ and others vs The STATE and others" (2016 SCMR 267)

18. No other incriminating evidence was led by prosecution to prove the guilt of this appellant

Admittedly, no amount was recovered from him, though, there is also accusation in the F I.R and evidence was led accordingly that un-identified assailants also robbed the cash.

19. There is another important omission going to the root of case. Learned Trial Court failed to put whole incriminating evidence to the appellant Since omission was repeated with reference to all the three appellants, therefore, we will deal with this aspect after re-appraisal of evidence against rest of the appellants.

20. Nasrullah son of Muhammad Juman Solangi, another appellant was also not named in the F I.R. He was stamped as unknown assailant.



The appellant as per deposition of Muhammad Bux, A.S.I - I.O. (P.W.9) came into picture on the disclosure of Sikander Mari, appellant, nominated in the F.I.R

Disclosure of co-accused by itself is not sufficient to endorse the conclusion of culpability drawn.

21. Another type of evidence led by prosecution is his identification on 1<sup>st</sup> November, 2013, not only by the complainant (P.W.1) but also by Abdul Majeed (P.W 2) and Nasrullah (P.W.3). According to the version, they three alongwith Ghulam Mustafa (not produced) went to Bhorti Town and while standing on road, they noticed the presence of this appellant as well as Munawar on motorcycle and after due identification, on query from the people of locality, they got information about their names

Mode and manner of identification of the appellant after 16 days of the occurrence and that too in the absence of disclosure of their features at the time of their first association in the investigation on 19<sup>th</sup> October, 2013, clearly suggests conscious but un-successful attempt to coin and fabricate incriminating evidence

Source of information about the identity of said appellant as per testimony of complainant (P.W 1) and Abdul Majeed (P W.2) was persons of locality, whose identity is not known Nasrullah (P W 3), however, did not disclose his source of information

In the circumstances, how one can act upon this unsuccessful attempt to establish the identity of the appellant as culprit, just on the premises that while appearing before Investigating Officer, Sikandar Ali, S.I.P. (P.W.13) on 2<sup>nd</sup> November, 2013, the witnesses made statements, statedly identifying them at a public place after getting information about their identity from persons of locality.

In fact, it is a case of no evidence against this appellant.

22. There is no other evidence available on record even to suggest the culpability of the said appellant
23. Sikander Ali son of Khabar Khan Mari was nominated in the F.I.R., whose name also finds mentioned in *Rapt* No.22 (Ex.14-A) entered by Gul Muhammad, A SI (P.W 5) on 15<sup>th</sup> October, 2013, at 20:35 hours, on the information furnished by Muhammad Parial, complainant (P.W.1), father of deceased (Gulab Khan) Occurrence as per accusation held at 20:20 hours. According to prosecution case, there were five persons, out of them two were identified including Sikander Mari in the light of Mazda vehicle.
24. The Apex Court dealt with the aspect of identification of suspect in the light of electric bulb, etc, in the case of "MUHAMMAD ARSHAD vs. THE STATE" (PLD 1995 SC 475) and concluded that the evidence of "Visual identification" is kind of

“Suspect evidence”, ordinarily not safe to record conviction on the basis of such evidence without corroboration. However, highlighting exceptional circumstances, it was concluded that same may be acted upon in the following cases (1) Previous intimacy of the offender and the witnesses; (2) Availability of sufficient light; (3) Opportunity for a witness to have an unobstructed view of the assailants; and (4) Opportunity of a dialogue between the witnesses and suspect

Reference may also be made to the dictum laid down in “SAJJAD HUSSAIN vs. THE STATE” (1997 SCMR 174).

25. In the present case, occurrence held at open place Stated identification is in the headlights of vehicle, upon which the complainant party was going One has to keep in mind the distinction between opportunity of identification at open place and at covered area such as house, etc., while applying the principle. However, guidance can be sought from the yardstick enumerated

26. Testimony of complainant (P W 1), Abdul Majeed (P.W.2) and Nasrullah (P W 3) suggests that they identified the appellant in the lights of Mazda Truck

The evidence of all the three except Abdul Majeed (P W.2) is nowhere suggestive, whether the appellant was previously known to them. If so, how? The complainant and the witnesses (close relatives) (P W.1 to P.W 3) are resident of the village Hamal Mastoi,



Taluka, Kandiaro. Though, appellant also belongs to same Taluka (Tehsil) but is resident of another village Sajwal Mari Inter-se distance of both the villages is not known. Though, Abdul Majeed (P.W.2) in cross-examination stated that Sikander was known to him about 2-3 years prior to the occurrence but rest of the witnesses did not utter even a single word on this aspect. Deposition of Abdul Majeed (P W.2) stating that he knew Sikander 2-3 years prior to the occurrence in view of non-disclosure of source cannot be acted upon.

The complainant party and appellant are also from different brotherhood.

It is not the case of prosecution witnesses that they had occasions and opportunities to see the appellant prior to the occurrence.

Site plan with scale (Ex.17-B) is nowhere suggestive about the inter-se distance of point of location of complainant party and the appellant According to the complainant (P.W.1), they noticed the accused at the distance of about 10-15 feet. Same distance was disclosed by Nasrullah (P W 3) However, according to Abdul Majeed (P W 2), the inter-se distance was 15 feet. The complainant (P.W.1) stated in cross-examination that he alongwith Abdul Majeed (P.W.2) was sitting on front seat. Neither there was any



occasion nor opportunity to the complainant party to have dialogue with the appellant.

Site plan with scale (Ex.17-B) does not highlight the point, where the accused were standing.

The complainant and the witnesses are not in agreement with one another about the location of accused and motorcycles.

According to the complainant (P W.1), two motorcycles were parked besides the road and five armed persons were standing there. However, according to Abdul Majeed (P.W.2), two motorcycles were parked on both sides of the road and five persons with open faces were standing at mid of the road. As per version of Nasrullah (P W.3) motorcycles were parked on both sides of the road and five persons were standing on the road.

27. Keeping in view the inter-se distance disclosed by the witnesses (P W 1 to P W.3), version of the witnesses regarding position of the accused, it can be said without any fear of contradiction that there was no availability of sufficient light enabling the complainant party to recognize and identify the appellant and that too among the five.

Evidence of visual identification as such in order to prove identity of appellant cannot be acted upon.

28. Factum of recovery of 12 bore repeater at the instance of Sikander Mari (appellant No.1) from the Priari Graveyard witnessed through Mashirnama (Ex 12-A) on 13<sup>th</sup> June, 2014, as stated by Muhammad Bux Khoso, A S.I.-I O (P W 9) duly attested by Nasrullah (P W.3) and Gulam Mustafa (not produced) and positive Report of Forensic Science Laboratory (Ex.23-D) in the absence of convincing ocular account as dealt with earlier would not be sufficient to prove guilt of the appellant

We have also noted that the date of receipt of articles mentioned in the document (Ex.23-D), which cannot be reconciled with the date of recovery of weapon of offence.

29. No other evidence was led by prosecution to prove guilt of this appellant.

30. Admittedly, no cash was recovered from any of the appellant though there was an allegation of taking cash by force

31. While examining the statements of all the three appellants under Section 342 of The Code, we noted that the whole incriminating evidence was not put to them.

Statements were recorded in a casual manner Only one question (Question No.1), omni-bus in nature, and verbatim copy, was put to all the three appellants, suggesting their participation in the crime on stated day and time, having firearms, snatching cash


of different denominations from complainant and witnesses and then making fire aiming at deceased besides aerial firing

Evidence led by prosecution reveals that Sikander Mari (appellant) got recovered 12 bore repeater, sent for comparison but appellant was not confronted with said aspect Report of Chemical Examiner (Ex.23-D) was also not put to this appellant

32. Ayaz (appellant) was not named in the F.I.R., being unidentified assailant, was put to identification test on 31<sup>st</sup> October, 2013, supervised by Judicial Magistrate (P W 12) in which he was identified by the complainant and witness (P.W.1 and P W.3) but he was not confronted with said evidence.

Likewise, there is omission on the part of learned Trial Court to put the factum of recovery of SBBL Gun to the said appellant.

33. Nasrullah (appellant) who as per stance of prosecution was identified by complainant (P.W.1) and Abdul Majeed (P W.2) at Bhorti Town and thus was implicated by the witnesses while making statements but he too was not required to explain it

It can be argued that since mode and manner of identification was not admissible evidence, therefore, said evidence was not put to him However, this presumptive argument cannot be invoked to put curtain on the omission of learned Trial Court to the extent of rest of the appellants. 


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34. Needless to state that second part of Section 342 of The Code, which is mandatory in nature, cast obligation upon the learned Trial Court to put all the incriminating evidence to the person facing the trial keeping in view the doctrine of "Audi Alteram Partem".

35. Evidence not put to the appellants, reference of which has been made cannot be used against all the three appellants <sup>1</sup>

36. Reliance upon medical evidence is of little help to the prosecution because neither it can disclose nor prove the identity of assailants <sup>2</sup>

37. Viewed from whichever angle, the prosecution remained unable to prove its case against all the three appellants beyond shadow of doubt.

38. Conviction cannot be recorded on high probabilities and suspicion, however strong, as it cannot take the place of proof <sup>3</sup>

39. Epitome of above discussion is that while extending benefit of doubt, appeal preferred by appellants is accepted, resulting in setting aside of judgment assailed and acquittal of appellants.

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<sup>1</sup> "QADDAN and others vs The STATE" (2017 SCMR 148)

"Mst. ANWAR BEGUM vs AKHTAR HUSSAIN alias KAKA and 2 others" (2017 SCMR 1710)

"NADEEM alias KALA vs The STATE and others" (2018 SCMR 153)

"IMTIAZ alias TAJ vs The STATE and others" (2018 SCMR 344)

<sup>2</sup> "HASHIM QASIM and another vs The STATE" (2017 SCMR 986)

<sup>3</sup> "YASIN alias GHULAM MUSTAFA vs THE STATE" (2008 SCMR 336)

40. On 25<sup>th</sup> April, 2019, after hearing the arguments, through short order, we accepted the appeal and while setting aside the conviction and sentences, appellants were directed to be released forthwith if not required in any other case Hereinbefore are the reasons for our said decision



(DR. FIDA MUHAMMAD KHAN)  
JUDGE



(MEHMOOD MAQBOOL BAJWA)  
JUDGE

Dated, Islamabad the  
2<sup>nd</sup> May, 2019

Mubashir

**Approved for Reporting**



Judge