

IN THE FEDERAL SHARIAT COURT
(Original Jurisdiction)

PRESENT

Mr. JUSTICE RIAZ AHMAD KHAN, CHIEF JUSTICE
MR. JUSTICE ALLAMA DR FIDA MUHAMMAD KHAN
MR JUSTICE ZAHOOR AHMED SHAHWANI

SHARIAT PETITION NO.07/I OF 2013

Dr Muhammad Aslam Khaki, Advocate
Office No 4, 1st Floor Pak Plaza, F-10 Markaz,
Islamabad

.... Petitioner

Versus

Federation of Pakistan through Ministry of Law Justice &
Parliamentary Affairs, Islamabad

.... Respondent

Counsel for Petitioner

In person

For Federal Government

Raja Ahsan Mehmood Satti,
Standing Counsel

For Govt. of Punjab

Barrister Qasim Ali Chohan,
Assistant Advocate General

For Govt of Sindh

Mr Ahsan Hameed Dogar,
Advocate

Date of Institution

.... 28.05 2013

Date of hearing

.... 10 11.2015

Date of decision

.... 25.11.2015

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JUDGMENT

ALLAMA DR. FIDA MUHAMMAD KHAN, Judge.- The

petitioner/Advocate Dr Muhammad Aslam Khaki has filed this Shariat Petition and challenged Section 295-C PPC with the prayer that:-

- “* The Section 295-C should be declared a Hadd law as provided in Quran and Sunnah and its placement as Ta’azir in PPC may be declared Un-Islamic and hence void.
- * The appeal of the said law may be directed to be filed before Federal Shariat Court by suitable amendment in the law.
- * That the guidelines elaborated in the said judgment may also be issued/sent to the trial Court to be observed and followed for the safe carriage of justice ”

2. The impugned section is reproduced as under -

“295-C. Use of Derogatory remark etc., in respect of the Holy Prophet: Whoever by words either spoken or written or by visible representation, or by any imputation, innuendo, or insinuation, directly, defiles the sacred name of the Holy Prophet Muhammad ﷺ shall be punished with death and shall also be liable to fine.”

3. We have heard the learned counsel at great length. He submitted that Article 203DD of the Constitution authorizes the Federal Shariat Court to call for and examine the record of any case decided by any criminal Court under any law relating to the enforcement of Hudood.

The learned counsel, however, was not in a position to support his contention by any Verse of the Holy Quran or Sunnah of the Holy Prophet

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4. Learned Standing Counsel for Federal Government submitted that the relevant statute clearly provides the forum of appeal against any decision passed by the trial court and that forum has to decide such appeals in accordance with the law as laid down therein. He further submitted that the standard of evidence required as proof for the said offence has been clearly mentioned in the Qanoon-e-Shahadat Order, 1984 and that reflects the standard as required in accordance with the injunctions of Islam. He also contended that the blasphemy law has been incorporated in the Pakistan Penal Code and these laws are very clear in import and substance. The learned counsel prayed that the instant petition be dismissed.

5. We have given our anxious consideration to the submissions made by the learned petitioner as well as the Standing Counsel for Federal Government.



6. There is no cavil to the legal proposition that according to clause 3(b) of Article 203D of the Constitution of Islamic Republic of Pakistan, any law or its provision shall, to the extent to which it is held to be repugnant to the Injunctions of Islam, cease to have effect on the day on which the decision of the Court takes effect. This Court vide judgment dated 30.10.1990 had declared the punishment of imprisonment of life, for an offence falling under section 295-C PPC, repugnant to the Injunctions of Islam as ordained in the Holy Quran and Sunnah of the Holy Prophet ﷺ and had directed that the same be deleted upto 30th April, 1991. The appeal filed against the aforementioned judgment of the Federal Shariat Court of Pakistan was also dismissed by the Shariat Appellate Bench of the Supreme Court of Pakistan on 19.05.1991.

7. Hence the said judgment of the Federal Shariat Court has attained finality and the punishment i.e imprisonment for life for commission of an offence under section 295-C PPC has ceased to have effect with effect from 30.04.1991 and the only punishment already provided for the said punishment is death as *Hadd*

8. It is, however, pertinent to point out that since the appeals against conviction and sentences awarded under Pakistan Penal Code lie to the concerned High Courts, the revisions are also competent only before the said forum. The scheme of legal procedure as laid down is very clear in this respect.

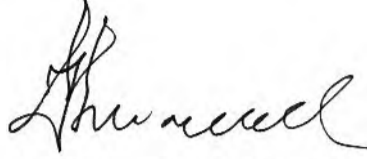
9. It should be appreciated that this Court has to exercise its jurisdiction under Article 203D which is reproduced hereinunder for easy reference:-

“203-D. (1) The Court may, [either of its own motion or] on the petition of a citizen of Pakistan or the Federal Government or a Provincial Government, examine and decide the question whether or not any law or provision of law is repugnant to the Injunctions of Islam, as laid down in the Holy Quran and the Sunnah of the Holy Prophet, hereinafter referred to as the Injunctions of Islam.”

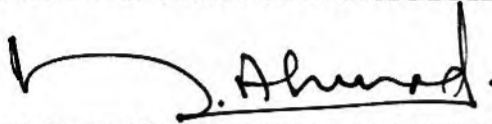
10. As is clear from bare reading of the above Article, any Shariat Petition to be decided by this Court has to be examined on the touchstone of Injunctions of Islam as contained in the Holy Quran and Sunnah of the Holy Prophet ﷺ. The petitioner, however, failed to support his contention by

any Verse of the Holy Quran or any Sayings of the Holy Prophet ﷺ.

11 In this view of the matter, we have found this petition
misconceived and dismiss it accordingly.



MR. JUSTICE ALLAMA DR. FIDA MUHAMMAD KHAN



MR. JUSTICE RIAZ AHMAD KHAN
Chief Justice



MR. JUSTICE ZAHOOR AHMED SHAHWANI



Announced in open Court
on 25/11/19 at Islamabad
Umar Draz/*