

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mian Saqib Nisar, HCJ
Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Maqbool Baqar

Criminal Appeals No. 1-K to 3-K of 2018

(Against the judgment dated 28.11.2017 passed by the High Court of Sindh, Karachi in Special Criminal ATA No. 19 of 2013, Special Criminal ATA No. 24 of 2013, Special Criminal ATA No. 25 of 2013, Criminal Revision Application No. 40 of 2014 and Confirmation Case No. 01 of 2013)

Muhammad Jibran Nasir, etc. *(in all cases)*

... *Appellants*

versus

The State, etc.

(in all cases)

... *Respondents*

For the appellant(s):

Mr. Faisal Siddiqi, ASC
(in all cases)

For the State:

Mr. Zafar Ahmed Khan, Additional
Prosecutor-General, Sindh
Mr. Mukhtar Ahmed, DSP, Praid, I,
Karachi
(in all cases)

For respondent No.2:
(in Crl. A. 1-K of 2018)

Sardar M. Latif Khan Khosa, Sr.
ASC
with respondent No. 2 in person.

For respondent No.2:
(in Crl. A. 2-K of 2018)

Syed Iqbal Hussain Gillani, ASC

For respondents 2 & 3:
(in Crl. A. 3-K of 2018)

Mr. Farooq H. Naek, Sr. ASC
Mr. Mehmood Akhtar Qureshi, ASC
with respondents No. 2 and 3 in
person.

On Court's notice:

Mr. Ashtar Ausaf Ali,
Attorney-General for Pakistan

Dates of hearing:

31.01.2018 & 01.02.2018

JUDGMENT

Asif Saeed Khan Khosa, J.: Mehr Muhammad appellant had allegedly murdered his brother's wife namely Mst. Bakht Begum and had also injured his brother namely Taj Muhammad by firing at them at about 07.00 P.M. on 21.07.2008 in village Khushal Garh in the area of Police Station Tamman, District Chakwal in the backdrop of a motive according to which there was a dispute between the brothers over some landed property and the appellant also wanted his brother to divorce his wife. With the said allegations the appellant was booked in case FIR No. 97 registered at the above mentioned Police Station during the same night and after a regular trial the appellant was convicted by the trial court for an offence under section 302(b), PPC and was sentenced to death and to pay compensation besides having been convicted and sentenced for offences under sections 324, 337-A(ii) and 337-A(i), PPC. The appellant challenged his convictions and sentences before the High Court through an appeal which was dismissed, the convictions and sentences of the appellant recorded by the trial court were upheld and maintained and the sentence of death passed against the appellant was confirmed. Hence, the present appeal by leave of this Court granted on 25.02.2016.

2. Leave to appeal had been granted in this case in order to reappraise the evidence and with the assistance of the learned counsel for the parties we have undertaken that exercise.

This appeal is disposed of in the terms noted above.

“These appeals are converted into a Suo Motu Case under Article 184(3) of the Constitution with a direction to the office to assign a number thereto as such.

2. For reasons to be recorded later the case is disposed of with the following orders:

- i) The common judgment passed by a learned Division Bench of the High Court of Sindh, Karachi on 28.11.2017 in Special Criminal ATA No.19 of 2013, Special Criminal ATA No.24 of 2013, Special Criminal ATA No.25 of 2013, Criminal Revision Application No.40 of 2014 and Confirmation Case No.1 of 2013 is set aside.
- ii) The order passed by the said Court in the above mentioned matters remanding the relevant criminal case to a court of ordinary jurisdiction for a *de novo* trial as well as all the post-remand proceedings before the trial court are also set aside.
- iii) Special Criminal ATA No.19 of 2013, Special Criminal ATA No.24 of 2013, Special Criminal ATA No.25 of 2013, Criminal Revision Application No.40 of 2014 and Confirmation Case No.1 of 2013 shall be deemed to be pending before the High Court of Sindh, Karachi and the same shall be finally decided on their merits at the Court's earliest convenience, preferably within a period of two months by another bench of the High Court to be constituted by the Chief Justice of the Court.
- iv) The accused persons convicted in the relevant criminal case by an Anti-Terrorism Court are ordered to be retaken into custody as their admission to bail during the post-remand proceedings was nullity in the eyes of law. Our order dated 13.1.2018 putting the names of the accused on the ECL shall continue to hold the field till the time the main matters remanded to the High Court are finally disposed of."

Chief Justice

Judge

Judge

Islamabad

01.02.2018

Not approved for reporting.

Arif