

Judgment Sheet

**IN THE PESHAWAR HIGH COURT, ABBOTTABAD
BENCH
JUDICIAL DEPARTMENT**

Cr.Appeal No. 22-A/2015

JUDGMENT

Date of hearing.....08.11.2018.....

Appellant (Rashid Khan) By Mr. Fazal-e-Haq Abbasi, Advocate.

Respondents. (State) By Mr. Yasir Zahoor Abbasi, Assistant A.G
and (Complainant) By Mr. Javed Khan Tanoli,
Advocate.

LAL JAN KHATTAK, J.- Through this judgment, we shall also decide **Cr.Appeal No. 21-A/2015** titled "**Fareed Khan Vs. The State & another**", **Cr.Appeal No. 16-A/2015** titled "**Muhammad Iqbal Vs. The State & others**" and **Cr.Revision No. 04-A/2015** titled "**Muhammad Iqbal Vs. Rashid Khan**" as all the four (04) matters have emanated from same judgment dated 07.02.2015 of the learned Additional Sessions Judge-III, Haripur, delivered in case FIR No. 178 dated 15.04.2011 under Sections 302 / 452 / 109 / 34 PPC of Police Station Kot Najibullah District Haripur, whereby appellant Rashid Khan has been convicted under Section 302

Again

(b) PPC and sentenced for imprisonment of life with compensation of Rs.2,00,000/-, payable to legal heirs of the deceased or in default thereof to further suffer six (06) months S.I. He has further been convicted under Section 452 PPC and sentenced to three (03) years nine (09) months and four (04) days with fine of Rs. 20,000/- or in default thereof to suffer three (03) months S.I. Appellant Fareed Khan has been convicted under Section 452 PPC and sentenced to three (03) years nine (09) months and four (04) days with a fine of Rs.20,000/- or in default of payment of fine to suffer further simple imprisonment of three (03) months, however, he was acquitted of the charge under Section 302 PPC. All the sentences were ordered to run concurrently with benefit under Section 382-B Cr.P.C.



2. Appellants have impugned their convictions while the complainant has filed appeal against the acquittal of accused Fareed Khan from the charge of murder. He

has also filed criminal revision against appellant Rashid Khan for enhancement of the sentence awarded to him.

3. Brief facts of the case are that on 15.04.2011, complainant Muhammad Iqbal (PW-6) reported to Sardar Jehangir Khan, Inspector (PW-1) to the effect that on 14.04.2011, his son Khan Nawaz and daughter-in-law Mst. Shazia, the newly wedded couple, were asleep in their room while he was asleep in the courtyard when at *Fajar Azan* time, someone knocked at the door of the groom's room where he was asleep, on which he i.e. the complainant awoke and saw appellant Fareed Khan and Rashid Khan present over there, duly armed. According to the FIR, complainant enquired from them the purpose of their presence. In the meanwhile, his son came out of his room, who was fired at by both the accused with their pistols with which he was hit on his chest and died on the spot. Motive for the offence was stated to be some previous blood feud.



4. After arrest of the accused and completion of the investigation, challan was put in court, which indicted them, to which they pleaded not guilty and claimed trial. Prosecution in order to prove its case, examined twelve (12) witnesses whereafter statements of the accused were recorded where they professed innocence. They also produced evidence in their defense. The learned trial court, after conclusion of the trial, found the appellants guilty of the charges and while recording their conviction, sentenced them as mentioned above.

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5. Arguments heard and record gone through.

6. Perusal of the case record would show that the prosecution has produced two eyewitnesses in support of its charge but as both the eyewitnesses are closely related to the deceased, therefore, for the safe dispensation of justice, their evidence will be appreciated with great care and caution. No doubt, evidence of a related witness cannot