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IN THE COURT OF SYED KAMAL HUSSAIN SHAH,
DISTRICT & SESSIONS JUDGE, KARAK.

Sessions Case #.....26/7 of 2014.
Date of Institution 19.07.2014.
Date of Decision16.03.2016.

The State.
Vs

- (1). Amin ullah.
(2). Khob Niaz ss/o Abdul Ghaffar rs/o Warrana Mir Hassan Khel Tehsil
Takht-e-Nasrati District Karak.

.....(Accd facing trial).

Case FIR No. 520 dated 11.10.2013 u/ss 302/34 PPC P.S Latamber.

1994 S C M R 1 [Supreme Court of Pakistan], 1995 S C M R
1776 [Supreme Court of Pakistan], P L D 2001 Supreme
Court 222, 2005 S C M R 1110 [Supreme Court of Pakistan],
2008 S C M R 917 [Supreme Court of Pakistan], 2008 S C M R
922 [Supreme Court of Pakistan], 2011 S C M R 492
[Supreme Court of Pakistan], 2015 M L D 927 [Peshawar] &
2015 M L D 938 [Lahore].

... By the prosecution.

AND

1991 P Cr. L J 76 [Peshawar], 1991 P Cr. L J 433 [Lahore],
1991 P Cr. L J 1195 [Lahore], 1991 P Cr. L J 2275 [Lahore],
1992 P Cr. L J 48 [Karachi], 1992 P Cr. L J 313 [Lahore], 1992
P Cr. L J 101 [Karachi], P L D 2002 Supreme Court 1048, 2010
S C M R 566 [Supreme Court of Pakistan], 2013 P Cr. L J 708
[Peshawar], 2015 P Cr. L J 81 [Peshawar], 2015 P Cr. L J 248
[Peshawar], 2015 P Cr. L J 416 [Peshawar] & 2015 P Cr. L J
585 [Peshawar].

... By the defence.

JUDGMENT

(1) In this about 2 ½ years old prosecution's case is that the
complt Shams-ur-Rehman s/o Muhammad Ayub in emergency
ward KDA hospital Karak has reported before Yousaf Khan SI at
18:00 hours on 11.10.2013 after bringing dead body of his father
Muhammad Ayub to the effect that he with his deceased father after
late post noon prayer in mosque Abu Hurira of village Mir Hassan
Khel went out to the shop of one Adnan in the village where both
the brothers accd Amin ullah and Khob Niaz altercated with the

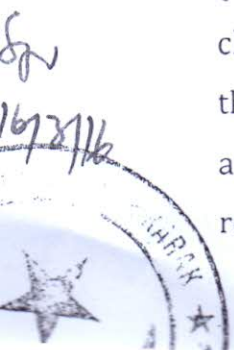


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complt party and agitated that we have published statement in the press against them and left away. It was 17:15 hours of even date when the complt alongwith his father Muhammad Ayub went to their land known as "Marra" where both the accd appeared with Kalashnikovs and stated imperatively be get ready and started firing at his deceased father in furtherance of common intention and the motive of the killing was stated the ferocity of the accd against the statement published in the press/newspaper by his father and the accd de-camped from the scene and the incident was seen by the complt/informant and the other people at the spot and the dead body was brought to the hospital for PM and legal proceeding and the report was reduced into memo report twice posted as Ex.PA and was signed by the informant in English and was read over to him by the scribe also signing the same in English and was sent to I/C of PS at the hands of cop Ajmal Khan # 146 for the registration of case whereas the dead body alongwith inquest report & injury sheet were handed over to cop Noor Islam # 374 for medical reports and such written information was resulted into the registration of case at 19:30 hours and investigations were started out and initially both the accd have been POs and complete challan u/s 512 Cr.PC was drafted and put in the Court of learned area Magistrate on 10.12.2013 receiving proceeding and statements of SW alongwith two PWs and in the meanwhile, the accd Amin ullah was arrested on 26.06.2014 and complete challan u/s 512 Cr.PC against both the accd alongwith supplementary challan of the said accd were, however, sent to this Court on 15.07.2014 by the area JM-I Karak and the case was registered as Sessions Case # 26/7 of 2014 on 19.07.2014 in the diary of this Court.

(2) Arrested accd Amin ullah was indicted on 16.09.2014 and he claimed trial and the case was put for evidence and statements of three PWs could be recorded when the co-accd Khob Niaz was arrested on 07.11.2014 and his supplementary challan was received and he was framed charge on 11.12.2014 also claiming

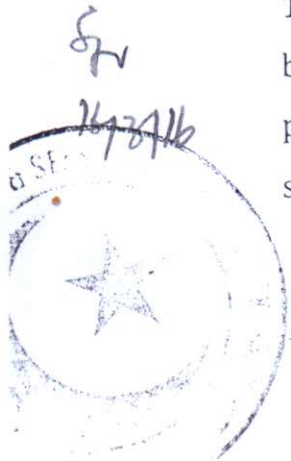


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statements with other P.Ws. It is relevant to mention here that the bail application of the aced Khob Niaz was dismissed by this Court on 08.04.2015 while the co-aced Amin ullah did not seek release on bail and both the aced have contested the proceeding from judicial lock up Karak so far.

(3) The prosecution recorded evidence of fifteen PWs in all alongwith case properties including statement of Muhammad Nawaz (PW-15) by order of this Court dated 02.12.2015 u/s 540 Cr.PC upon the prosecution's application whereas PWs cop Zar Karim # 53, Mamtaz Ali ASI, Inam ullah & Muhammad Adnan ullah, were abandoned.

(4) According to the prosecution's counsel Akhtar Nawaz Adv assisted by Zahir Khan APP for the State that it is a case of promptly lodged FIR with direct charge to both the aced with common roles in the day-light occurrence and the parties are co-villagers with no question of miss-identity of the aced party under the proved motive of disputed publication. It was further stated that the medical evidence and the site plan support the FIR, time, distance & type of weapon and no contradiction in the statement of P.Ws with especial reference to the complt's natural eye-account and the aced have pointed out & verified the place of occurrence to the I.O. It was loudly urged that the willful & long abscondence of the aced party does not give way to them to make flee from the gruesome murder of Muhammad Ayub local journalist for nothingness and in the whole proceeding no favourable evidence has been brought to create benefit for the aced party and the aced Amin ullah has been alleged to bear bad character being wanted in case FIRs # 180/2010, 380 & 505/2013 of PS Latamber and instant case has been said living paradigm of his knavery & brutality and it has been prayed that both the aced be dealt with under the law by taking support of case law cited at the bar.



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