

IN THE HIGH COURT OF SINDH AT KARACHI*Present: Ahmed Ali M. Shaikh, CJ and Omar Sial, J*

Criminal Acq. Appeal No. 43 of 2020

Jawed Khan vs. Khalid Khan & others

Mr. Noor Mohammad, advocate for the appellant
Mr. Ali Haider Saleem, DPG for the State

Date of short order : 9th March, 2021Date of detailed reasons : 1st April, 2021**ORDER**

Omar Sial, J: Jawed Khan has impugned a judgment dated 15-11-2019 passed by the learned 1st Additional Sessions Judge, Karachi Central. In terms of the said judgment Abdul Qadeer, Hassan Khan and Khalid Khan, all Afridi by cast and all 3 respondents in these proceedings were acquitted of a charge under sections 302, 109 and 34 P.P.C.

2. A brief background to the case is that on 20-2-2019, F.I.R. No. 69 of 2019 was registered at the Sharifabad police station upon information provided by Jawed Khan of an offence having been committed the previous day. He recorded that at 1:00 a.m. on 19-2-2019 while he was at home with his family he heard the sound of shots being fired. When he came out to investigate what the sound was, he saw that his son Asif was lying in a pool of blood. Jawed's nephew, Jehanzaib and some other people from the neighborhood came and took Asif to a hospital where he succumbed to his injuries. Jawed further recorded that his cousin named Abdul Rehman and another Hasnain informed Jawed that Khurram, Azmat, Wajahat and some others were playing a game after which Khurram (whose real name was Shabbir Ahmed) took Asif with him and Khurram along with 3 to 4 other boys had injured Asif.

3. It appears from the record that subsequently Khurram and another named Aurangaib were arrested but Jawed exonerated them and thus a challan with the recommendation of disposing of the case under A class was filed by the investigating officer and both the accused were discharged under section 63 Cr.P.C. Subsequently, Khalid Khan, Abdul Qadeer and Hasan Khan (the 3 respondents) were arrested who confessed to their guilt before the police and also pointed out the place of incident whereas a pistol was also recovered at the pointation of Khalid Khan.

4. After a full dress trial the respondents were acquitted.

5. We have asked the learned counsel to point the infirmity or illegality in the judgment impugned which has aggrieved him. Learned counsel replied that the respondents were acquitted even though a pistol was recovered at his pointation and that the complainant's counsel was not allowed to argue his case during the final arguments.

6. We note that the learned judge has addressed the issue of the recovered empties and the weapon in paragraphs 24 to 27 of the judgment and made cogent observations on the same. The learned counsel has not been able to rebut the same. He has also not been able to rebut the fact that the judgment in itself notes that the complainant's counsel was present at the time of the final arguments and that his argument was heard.

7. The learned counsel has been unable to point out any mis-reading or non-reading of evidence nor has he pointed out or argued any jurisdiction issues nor has he submitted that the judgment is capricious or arbitrary. We note that the impugned judgment gives cogent reasons for the decision reached by the learned trial court. The same requires no interference from this court. Needless to say that a double presumption of innocence also works in favor of the respondents.

8. Above are the reasons for our short order of 9-3-2021 in terms of which the appeal was dismissed.

JUDGE

CHIEF JUSTICE