

IN THE SUPREME APPELLATE COURT GILGIT- BALTISTAN
AT GILGIT
Cr. P.L.A. No.07/2014

Before:- Mr. Justice Raja Jalal- Ud- Din, Judge.
Mr. Justice Muzaffar Ali, Judge.

Sher Zaman s/o Faqir Shah r/o Gojal Hunza at present District Jail
Gilgit. **Petitioner/ Appellant**

VERSUS

The State through Police Station Gilgit.

Respondent/Prosecution

**CRIMINAL PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60
OF GILGIT- BALTISTAN (EMPOWERMENT & SELF GOVERNANCE)
ORDER 2009 AGAINST THE JUDGMEN/CONVICTION DATED 24-
03-2014 PASSED BY THE LEARNED CHIEF COURT GILGIT-
BALTISTAN IN CRIMINAL APPEAL NO. 34/2012 WHEREBY
JUDGEMENT/CONVICTION DATED 02-06-2012 PASSED BY
SESSION JUDGE GILGIT IN SESSION CASE NO. 48/2011 HAS BEEN
UPHELD DISMISSING THE APPEAL OF PETITIONER/ APPELLANT.**

Present:-

Advocate General for the respondent.

Mr. Muneer Ahmad, Advocate for the petitioner.

Date of Hearing:- 23-09-2014.

JUDGMENT

RAJA JALAL-UD-DIN, J.... This criminal appeal has been preferred against the judgment of Chief Court Gilgit-Baltistan dated 24-03-2014 who has upheld the judgment of Sessions Judge Gilgit dated 02-06-2012 where in the appellant/convict has been sentenced to 7 years imprisonment with the fine of Rupees 3 lac and in default to undergo 3 years rigorous imprisonment.

The convict/appellant has also been sentenced to imprisonment 3 months under section 13.A.O.

The background of the case madeout by the Investigating Officer is that, on the day of occurrence one accused Ibrahim Khan who was brought to the Additional District & Sessions Court for the

extention of his remand, who was charged in a criminal case u/s 302 PPC, was attempted murder by the present appellant/convict namely Sher Zaman with 30 bore pistol, a single fire shot opened which was deflected by the police personel. Thereby the fire shot did not find its mark.

The convict was overpowered and the weapon of offence was recovered from him.

The Additional & Sessions Court Gilgit who found the convict guilty of charge against him and sentenced as aforesaid. The Chief Court Gilgit also concurred with the findings of the Sessions Judge and upheld the judgment dated 02-06-2012.

Both the counsel for the petitioner as well as the Advocate General were heard at length.

The counsel for the appellant/convict mainly based his arguments on the discrepencies of the case such as the absence of independent witnesses and the non-sending of the alleged weapon to the arms expert for examination. The whole case rested upon the testamony of police officials who could not be called as independent persons to base a conviction upon.

The Advocate General Gilgit-Baltistan on the other hand strongly contested the arguments with the contention that the criminal case was a result of premeditation by appellant/convict. The occurrence taking place in brought day light infront of the Sessions Court in the presence of natural witnesses. The police personels are good witnesses who were present at the spot and given a natural and factual account of the occurrence.

We have given through thought to the version of both the parties and have also gone through the record of the case. The appellant/convict was a young man of about 22 years at the time of occurrence and he is the brother of wife of Ibrahim Khan who was behind the bars u/s 302 for the murder of his wife and two children (the sister and nephews of the convict). The said Ibrahim Khan was later on convicted u/s 302 to life imprisonment by the trial court.

The appellant/convict Sher Zaman was badly moved by the brutal act of Ibrahim Khan, and on the day of occurrence attempted to do away with the same but miserably failed to do so and thereby found guilty as aforesaid.

We feel that the investigation of the case as well as the conviction of the appellant does not suffer from any material defects and the findings of both the Chief Court and Sessions Judge are correct and convincing but we feel that the punishment is a bit excessive in the circumstances of the case and we are inclined to reduce the same.

We have calculated the period undergone by the appellant/convict amounts to about 3 years and 6 months. Whereas

the benefit of 382(b) has also been extended infavour of the appellant/convict by the two courts below.

We find that as the appellant/convict has already spent a period of 3 years & 6 months behind the bars is enough punishment for the act done.

His detention behind bars is considered as sentence undergone. The fine of Rupees 3 lac is also set aside. The sentence of 3 months u/s 13 A.O. is also considered to have been undergone.

We therefore order the release of the appellant/convict and set aside the order of the Sessions Judge dated 21-06-2012 and the order of the Chief Court Gilgit-Baltistan dated 24-03-2014 in the F.I.R. No. 83/11 u/s 324 PPC to be released from the judicial lockup if not required in any other case.

Announced:- 23-09-2014.

Judge

Judge