

1995 S C M R 1365

[Supreme Court of Pakistan]

Present: Fazal Ilahi Khan and Mir Hazar Khan Khoso, JJ

SHERAZ ASGHAR---Petitioner

versus

THE STATE---Respondent

Criminal Petition for Leave to Appeal No. 52 of 1995, decided on 3rd May, 1995.

(On appeal from the judgment dated 22-1-1994, passed by the Lahore High Court, Rawalpindi Bench, Rawalpindi, in Criminal Appeal No. 127 of 1992).

(a) Penal Code (XLV of 1860)---

---S. 302---Delayed F.I.R.---Delay in lodging the F.I.R. is not per se fatal to a case as it neither washes away nor torpedoes trustworthy and reliable ocular or circumstantial evidence: --[First Information Report].

(b) Penal Code (XLV of 1860)---

---S. 302---Constitution of Pakistan (1973), Art. 185(3)---F.I.R. had been lodged by an eye-witness giving names of assailants, arms carried by them, active role played by them and names of eye-witnesses---Parties knew each other and the incident having taken place in broad daylight, mistaken identity was not possible---Medical evidence was not in conflict with ocular version--Non-proving of motive could not destroy the positive confidence inspiring ocular evidence---Case of accused was quite distinguishable from that of acquitted co-accused---Investigation was neither dishonest nor mala fide--Courts below had properly assessed and evaluated the prosecution evidence and the defence plea without any misreading or non-reading of evidence and their concurrent findings of facts suffering from no illegality did not call for, any interference--- Leave to appeal was refused in circumstances.

1973 PCr.LJ 102 and 1991 PCr.LJ 174 ref.

(c) Pt-I Code (XLV of 1860)---

---S. 302---Appreciation of evidence---Doctrine of "falsus in uno falsus in omni-bus" is not recognised by Courts in Pakistan---Court in order to arrive at right conclusions is duty bound to sift grain from the chaff.

(d) Criminal trial--

---Investigation---Irregular investigation, effect of---Any irregularity committed during investigation of a case would neither affect the trial of the case nor the judgment passed by the Court, sinless it uprooted the entire structure and entailed miscarriage of justice.

Sardar Muhammad Ishaq Khan, Advocate Supreme Court instructed by Ejaz Muhammad Khan, Advocate-on-Record for Petitioner.

Nemo for the State.

Date of hearing: 3rd May, 1995.