

2001 S C M R 199

[Supreme Court of Pakistan]

Present: Javed Iqbal and Hamid Ali Mirza, JJ

MUHAMMAD MANSHA---Petitioner

versus

THE STATE---Respondent

Jail Petition No. 194 of 1998, decided on 29th May, 2000.

(On appeal from the judgment, dated 7-9-1998 of the Lahore High Court, Lahore, passed in Criminal Appeal No. 1093 of 1992 and Murder Reference No. 198 of 1993).

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

---S.302---Reappraisal of evidence---Hostile witness may be truthful one, while a disinterested witness may be bribed or pressurised to make a false statement---Court should look to the quality of evidence whether probable or consistent.

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

---S.302---Reappraisal of evidence---Triple murder---Solitary statement of injured prosecution witness, basis of conviction---Credibility of the solitary witness---Incident, place of occurrence and presence of the injured prosecution witness remained unchallenged ---Occurrence was admitted but the mode of commission of offence was controverted ---Injured prosecution witness had given a detailed account of the incident by attributing the entire responsibility to the accused in respect of fire-armed injuries sustained by her and three other persons were killed---Evidence of the witness was duly supported by medical evidence, positive report of Forensic Science Laboratory, Report of Serologist, recovery of empty cartridges from the place of occurrence, recovery of gun at the pointation of the accused and motive---Validity---Injured witness was worthy of credence, independent, natural and trustworthy witness and there was no lawful justifiable cause to discard her testimony---Evidence of the injured prosecution witness was rightly considered by the Trial Court and the High Court in circumstances.

1980 PCr.LJ 898; PLD 1980 SC 225; 1971 SCMR 659; 1969 SCMR 76; 1998 PCr.LJ 1441; 1971 SCMR 273; 1971 SCMR 530; 1995 SCMR 1979; PLJ 1980 SC 492; 1993 SCMR 2405; NLR 1985 Cr. 501; AIR 1936 Lah. 778; PLD 1957 SC (Ind.) 525 and 1972 SCMR 620 ref.

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

-----S.302---Qanun-e-Shahadat (10 of 1984), Art. 17(2)(b)---Conviction based upon evidence of single witness---Competence and number of witnesses required for conviction---Scope---If testimony of the single witness is found by the Court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof---Even as the guilt of an accused person may be proved by the testimony of a single witness, innocence of accused person may be established on the testimony of a single witness, even though considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution---Court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact---Particular number of witnesses is not required for the proof of any fact and the same can be produced by a single witness under the provisions of Art. 17(2)(b) of Qanune-e-Shahadat 1984.

Principles and Digest of the law of Evidence by M. Monir, p. 1458 and on the Law of Evidence by C.D. Field, p. 4746 ref.

(d) Qanun-e-Shahadat (10 of 1984)---

---Art.17(2)(b)---Fact---Proof---Number of witnesses required---Principle "unus nullus" (one is equal to none)---Applicability---Such principle is no more enforced hence cannot be taken into consideration---In order that the sole testimony of a witness is made the foundation and the basis for finding a person guilty of the charge, the evidence must be clear, cogent and consistent and should be of an unimpeachable character:

(1982) 53 Cut. LT 368 ref.

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

---S.302---Reappraisal of evidence---Interested witness is one who has a motive to falsely implicate an accused or has some previous enmity to involve a person mala fide---No rule of law that statement of an interested witness cannot be taken into consideration without corroboration and uncorroborated version can be relied in context with other circumstances of a particular case.

PLD 1962 SC 269; PLD 1969 SC 488; PLD 1960 SC 387 and 1985 SCMR 203 ref.

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

---S.302---Reappraisal of evidence---Solitary evidence of injured prosecution witness---Validity---Fact of witness being injured and such injuries not self-suffered is not by itself indicative of witness having told the truth---Statement of an injured witness should be and up to what extent can be relied upon depends upon the circumstances of each case---Injury to the witness, however, lends corroboration to factum of presence of the witness at the place of occurrence and if some corroboratory and confirmatory material is available such statement cannot be discarded.

1981 SCMR 795 and Khalil Ahmad v. The State 1976 SCMR 161 ref.

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

---S.302---Reappraisal of evidence---Interested witness---Such witness is one who has a motive for falsely implicating an accused, is a partisan and is involved in the matter against the accused---Friendship or relationship with the deceased is not sufficient to discredit a witness particularly when there is no motive to falsely involve the accused.

PLD 1962 SC 269; Khalil Ahmad v. The State 1976 SCMR 161; Allah Ditta and others v. The State 1970 SCMR 734; Muhammad Akbar v. Muhammad Khan and others PLD 1988 SC 274; Shehruddin v. Allah Rakhia 1989 SCMR 1461; 1998 SCMR 1814 and Niaz v. State PLD 1960 SC 387 ref.

Malik. Muhammad Jehanzeb Tamman, Advocate Supreme Court for Petitioner.

Ch. Arshad Ali, Advocate. Supreme Court for the State. .

Date of hearing: 29th May, 2000