

P L D 1995 Supreme Court 343

Present: Saleem Akhtar, Fazal fahi Khan and Mir Hazar Khan Khoso JJ

SHAB.BIR AHMAD- -Appellant

versus

THE STATE---Respondent

Criminal Appeal No.124 of 1993, decided on 2nd April, 1995.

(On appeal from the judgment dated 20-11-1991 of the Lahore High . Court, Lahore passed in Criminal Appeal No.430 of 1987).

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

---S. 302---Constitution of Pakistan (1973), Art.185(3)---Leave to appeal was granted to consider whether the defence version was more plausible and further that the statement of the accused should have been accepted or rejected in toto and reliance should not have been placed only on a portion for corroborating the ocular account.

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

---S. 302---Appraisal of evidence---High Court had not relied on any inculpatory part of the accused's statement---Ocular evidence suffered from no material contradiction and was corroborated lay medical evidence---courts below after having correctly analysed and examined the prosecution evidence, had rightly found the prosecution case to have been proved beyond reasonable doubt---Entire story pleaded by the defence seemed to be a cooked up plea---Conviction and sentence of accused were upheld in circumstances---Benefit of S.382-B, Cr.P.C. was, however, allowed to accused.

(c) Criminal Procedure Code (V of 1898)---

___S. 342---Aims and objects of 5.342, Cr.P.C.- --Object of 5.342, Cr.P.C. is that the Court should draw the attention of the accused to the specific points in 'evidence upon which the prosecution relies to prove its case against him so that he may have the opportunity to give any explanation if he so desires-- Section 342, Cr.P.C. also aims at bringing to the notice of the accused such points of evidence which are likely to influence the mind of the Court to draw adverse inference against him.

(d) Criminal Procedure Code (V of 1898)---

---S. 342---Statement of accused, acceptance or rejection of---Statement of an accused has to be read in its entirety and is to be accepted or rejected as a whole---Not permissible to accept the inculpatory part to corroborate the prosecution evidence and reject the exculpatory portion---Where the accused makes a statement to have committed an offence, but simultaneously raises plea constituting a defence, the Court will not rely on the inculpatory portion alone and reject the exculpatory one---Where, however, prosecution has produced clear, cogent and reliable evidence, the exculpatory part may be rejected and conviction can be recorded on such evidence.-[Evidence].

Q.M. Salim, Senior Advocate Supreme Court instructed by Tanvir **Ahmad**, **Advocate-on-Record** (absent) for Appellant.

Sheikh M. Naeem, Advocate Supreme Court for the State.

. Date of hearing: 2nd April, 1995.