

**P L D 2005 Supreme Court 288**

**Present: Iftikhar Muhammad Chaudhry, Actg. C. J. Faqir Muhammad Khokhar and Tassadduq Hussain Jilani, JJ**

**SHAFQAT ALI and others---Petitioners**

**Versus**

**THE STATE---Respondent**

Criminal Petitions Nos.752 to 753-L of 2003, decided on, 26th January, 2005.

(On appeal against the judgment dated 3-10-2003 passed by the Lahore High Court, Lahore in Criminal Appeals Nos.1944-1946 of 2000).

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

---Ss. 302/148/149---Appreciation of evidence---If a witness has furnished wholly reliable evidence, it is bound to be accepted even without corroboration, whereas halfly reliable evidence needs strong corroboration for its acceptance---Statement of prosecution witness, in the present case, had been accepted as a whole in respect of happening of the incident, whereas the statements of other two prosecution witnesses had also not been disbelieved by the Trial Court as well as by the High Court as the same related to the actual incident---Contention that on disbelieving the evidence of said other two witnesses on the point of hatching conspiracy, the whole story could be disbelieved was repelled by following the principle of sifting grain from the chaff.

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

---Ss. 302/148/149---Appraisal of evidence---Ocular account furnished by prosecution witnesses got corroboration from the medical evidence and contention that contradictions existed in the ocular and medical evidence could not be substantiated by pointing out any major contradiction sufficient to disbelieve the ocular testimony furnished by the prosecution witnesses and consequently holding that they were not present at the place of incident---Held, as far as medical evidence or expert's opinion was concerned, it was always treated to be confirmatory in nature and if there was ocular account fully reliable in support of incident, then the minor contradictions in medical and ocular evidence could be outweighed.

Muhammad Hanif v. The State PLD 1993 SC 895 ref.

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

---Ss. 338-E, 302, 148 & 149---Constitution of Pakistan (1973), Art. 185(3)---Qatal-e-Amd---Compromise---Petitions for leave to appeal against conviction though were dismissed, but Supreme Court observed that as far as the convict with whom legal heirs of the deceased had entered into compromise, he could approach the Trial Court for acceptance of the same under S.338-E, P.P.C. as, observed in Safdar Ali v. State PLD 1991 S.C. 202.

Muhammad Hanif v. The State PLD 1993 SC 895 fol.

Irshadullah Chatta, Advocate Supreme Court, Walayat Umer, Advocate-on-Record and Khadim Hussain Qaiser, Advocate Supreme Court for Petitioners (in both the cases).

Aftab Ahmed Bajwa, Advocate Supreme Court and Tanvir Ahmed, Advocate-on-Record for Respondents (in both cases).

Date of hearing: 26th January, 2005.