

2001 S C M R 505

[Supreme Court of Pakistan]

Present: Abdur Rehman Khan, Abdul Hameed Dogar and Tanvir Ahmad Khan, JJ

AHMAD HASSAN and another---Petitioners

versus

THE STATE--- Respondent

Criminal Petitions Nos.235-L, 239-L and Jail Petitions Nos. 117 and 118 of 1999, decided on 6th November, 2000.

(On appeal from the judgment 8-5-1999 of the Lahore High Court, Bahawalpur Bench, Bahawalpur passed in Criminal Appeals Nos.(SCT)-7/1999/BWP and SCT-10 of 1999/BWP and M.R. Nos.4 and 3/BWP/1999 respectively).

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

---S. 302/34---Qanun-e-Shahadat (10 of 1984), Art. 37---Constitution of Pakistan (1973), Art. 185(3)---Accused had committed brutal murders of high officials viz. D:I.-G. and A.D.I.-G. in collusion with each other while acting in a callous manner and they did not deserve any leniency---Strong and independent ocular evidence furnished by three prosecution witnesses was fully established on record---Both the incidents were so connected in time and space that they had constituted one and the same transaction, as such separate confessional statements were not required to have been recorded in each case, particularly when the motive too was common in them---Judicial confessions were not only true and voluntary but they stood corroborated by matching of empty bullets recovered from the dead body of the deceased and from inside the car, their positive Ballistic Expert Report, motive, last seen evidence, extra judicial confession and recoveries and thus the delay in recording the confession was not material---Confessional statements were not shown to have been recorded under any inducement, threat or promise and, thus, they were admissible in evidence in view of Art. 37 of the Qanun-e-Shahadat, 1984---Very basis for registration of prosecution case depended upon the recovery of the dead body from the Diggi, crime empties, crime weapons at the instance of the accused, voluntary surrendering and subsequent arrest of accused and these pieces of evidence being the connecting links were the natural relevant factors for registration of the F.I.R. which could not be said to have been lodged after preliminary investigation, consultation and deliberation---Motive for the occurrence had also been established on the record---No prejudice having been caused, to the accused in the investigation conducted by S.P., C.I.A., as such contention that he merely being complainant in the case was incompetent to be an Investigating Officer, had no force---No infirmity, misreading or non-appraisal of evidence having been pointed out, concurrent findings of the facts by the two Courts below did not call for any interference by Supreme Court---Leave to appeal was refused accordingly.

Khan Muhammad and others v. The State 1999 SCMR 1818 ref.

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

---Ss. 302/34---Qanun-e-Shahadat (10 of 1984), Art.41---Appreciation of evidence--Delayed confession---Delay in recording of confession by itself cannot render the confession nugatory if otherwise it is proved on record to have been made voluntarily.

Khan Muhammad and others v. The State 1999 SCMR 1818 ref.

M.A. Zafar, Advocate Supreme Court for Petitioners.

Miss Yasmin Siagal, Assistant Advocate-General and Ch. Nazir Ahmad, Advocate Supreme Court for the State.

Dates of hearing: 1st and 6th November, 2000.