IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].

Crl. Appeal No.381-P/2015
With Murder Reference No.10-P/2015

Date of hearing:- 15.03.2017

Date of announcement: _____

Appellant (s):- Rehmat alias Kaku by Mian Mohibullah Kakakhel, Advocate.

Respondent (s):-Irshad Khan complainant by Barrister Aamir Ullah Khan Chamkani and the State by Miss Abida Safdar, AAG.

JUDGMENT

ROOH-UL-AMIN KHAN, J:- At a trial held by learned Trial Court/Additional Sessions Judge-III, Kohat, accused Rehmat alias Kaku, having been found guilty of committing the *'Qatl-e-Amd'* of Naushad Khan deceased and attempting at the life of Irshad Khan complainant (PW.10), vide judgment dated 18.06.2015, has been convicted and sentenced as under:-

> ***Under section 302 (b) PPC:-*** *Death as Ta'azir to be hanged by the neck till declare dead and to pay Rs.1,00,000/- as compensation in terms of section 544-A Cr.P.C. to the LRs of the deceased and in default thereof to undergo 06 months S.I. further.*
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> ***Under section 324 PPC:-*** *To undergo 05 years imprisonment and to pay a fine of Rs.10,000/- or default thereof to undergo 06 months S.I. further. Benefit of section 382-B Cr.P.C. has been extended to him.*

2. By way of this appeal, Naushad alias Kaku, the convict, has questioned his conviction and sentences, while learned Trial Court has sent ***Murder Reference No.10 of 2015***, in terms of section 374 Cr.P.C, for confirmation of death sentence of the convict. Since, both the matters arise

out from one and the same judgment of the learned Trial Court dated 18.6.2015, hence, we, propose to decide the same through this common judgment.

3. The prosecution case, as unfolded in First Information Report Exh.PA, is that on 16.06.2012 at 08.00 hours, complainant Irshad Khan (PW.10), in company of dead body of his brother Naushad Khan deceased, reported to Ashiq Hussain ASI (PW.5), in emergency Unit of Divisional Headquarter Hospital (DHQ) KDA, Kohat, that on the fateful day he along with the deceased was busy in construction work in their house, situated near *Parade ground Madina Masjid Mohallah Charbagh Jungle Khel,* when at 06.20 hours, appellant Rehmat alias Kaku, duly armed with firearm, came there and opened fire at them, as a result, the deceased got hit and ran towards the nearby house of Dilbar Khan for taking shelter, but was chased by the appellant and no sooner he entered the house of Dilbar Khan, the appellant once again opened fire at him, consequent whereupon, he got hit and fell on the ground. After commission of the offence, the appellant decamped from the crime scene. The deceased then injured was being shifted to the hospital by the complainant, but succumbed to the injuries on the way. Motive behind the crime is that the deceased had cordial relations with the opponent/enemy of the appellant, on which the appellant was annoyed. In addition to the complainant, the incident

is stated to have been witnessed by PW Abdullah (now dead).

4. Ashiq Hussain ASI (PW.5) recorded the report of complainant in the shape of Murasila Exh.PW.5/1 which was verified by Abdullah (PW.4). He sent the Murasila to Police Station through Constable Maqsood No.1392, on the basis of which, FIR (Exh.PA) bearing No.461 dated 16.06.2012 under sections 302/324 PPC, was registered against the appellant in Police Station Jungle Khel, Kohat. He also prepared injuries statement and inquest report of the deceased and shifted his dead body to the Mortuary for autopsy under the escort of Constable Ibrahim No.3369.

5. Dr. Younas Nadim Medical Officer, DHQ Hospital KDA, Kohat conducted postmortem examination on the dead body of the deceased on 16.06.2012 at 07.20 a.m., and observed the following injuries on his person, vide PM report Exh.PW.3/1:-

A cadaver of a middle-aged man of about 43 years of age, medium built, stout, wearing blood stained sky blue colour shalwar qameez.

Injuries:

1. Firearm entry wound present in about middle of the hypogastrium, measuring ¼" in diameter.
2. Firearm exit wound on the back of left lumber region about 2" above posterior superior iliac bone, measuring about ¾" in diameter.
3. Firearm entry wound on hypogastrum about 1" above and 2" left lateral to the injury No.1, measuring ¼" in diameter.

4. Firearm exit wound on the back of left lumber region about 2 ½" above injury No.2 measuring about 1" in diameter.
5. Firearm entry wound on hypogastrium about 2" right lateral and 2" above injury No.3 measuring about 1/3" in diameter.
6. Firearm exit wound on dorsal aspect of the right upper region, about 2" lateral to the spine measuring about 1" in diameter.
7. Firearm entry wound on right iliac fossa measuring about ¼" in size.
8. Firearm exit wound on right lumber region about 2" above injury No.6 (on dorsal aspect), size 1 ¼".
9. Firearm entry wound on umbilicus region about 1" left lateral to the umbilicus measuring about ¼" in diameter.
10. Firearm exit wound on dorsal aspect of the right lumber region (in upper ¼") measuring about ½" in diameter.
11. Firearm entry wound on ventral aspect of the left lumber region measuring about ¼" in diameter.
12. Firearm exit wound on the back of the chest in 10th intercostals space-right dorsal), size 1 ½".
13. Firearm entry wound on left hypocondrium, size ¼".
14. Firearm exit wound on 8th intercostals space dorsally on right side size about 1 ¼".
15. Firearm entry wound on left lateral aspect of the chest on 9th ICS, size ¼".
16. Firearm exit wound on epigastrium size about 1 1/2 " with omentum and parts of intestines protruded.
17. Firearm wound on 4th ICS ventrally, corresponding to the mid clavicular line, size ¼".

18. Firearm exit wound on dorsal aspect of the chest in the 3rd ICS, just lateral to the medial border of the right scapula, size 1".

19. Firearm grazing wound on lateral aspect of the left half of the scrotum and corresponding part of the thigh (groin) sizes 2" in length plus 4" in length respectively.

20. Firearm grazing wound just above the left anterior superior iliac spine, size 2" in diameter.

Thorax: Walls, ribs and cartilages, plurae, right and left lungs, pericardium, heart and blood vessels injured.

Abdomen: Walls, peritoneum, diaphragm, stomach, small intestines, large intestines, liver, spleen, kidneys, bladder, left half of the scrotum, injured.

Opinion: In his opinion the death of the deceased occurred due to trauma to the vital organs of the chest and abdomen like heart, lungs, liver, spleen, kidney and major blood vessels of the chest and abdomen leading to organ failure combined with massive haemorrhage resulting into cardio pulmonary failure preceded by shock and death.

Probable time between injury and death: Instantaneous.

Between death and Post-mortem: within about an hour.

6. Munawar Khan S.I. (PW.9) conducted investigation in the case. He proceeded to the spot and prepared site plan Exh.PB on the pointation of complainant as well as obtained the snapshots of the crime scene Exh.PW.9/1 to Exh.PW.9/3. During spot inspection, he secured blood Exh.P.3 though cotton from the place allotted to the deceased, 03 empties of 7.62 bore Exh.P.4 from point No.4, and 12 empties of the same bore Exh.P.5 from Point 4A (the places allotted to the appellant in the

site plan), vide recovery memo Exh.PW.4/1. He took into possession the last worn bloodstained garments of the deceased Exh.P.1 and P.2, vide recovery memo Exh.PW.1/1, having cut marks, sent by the doctor from the hospital through constable Ibrahim. As the appellant was avoiding his lawful arrest, therefore, he initiated proceedings under sections 204 and 87 Cr.P.C. against him vide applications Exh.PW.9/5 and Exh.PW.9/6. He sent the bloodstained articles to the FSL, report whereof is Exh.PZ, recorded statements of the PWs under section 161 Cr.P.C. and on completion of investigation, handed over the case file to SHO, who submitted challan against the appellant in terms of section 512 Cr.P.C. before the learned Trial Court, where after recording evidence of the prosecution, the appellant was declared as Proclaimed Offender and perpetual warrant of arrest was issued against him.

7. Appellant was arrested by police of District Swabi in another criminal case, so Sadda Khan ASI (PW.8), after compliance of the requisite legal formalities, proceeded to District Swabi and arrested the appellant on 18.09.2013, shifted him to District Kohat, obtained his three days physical custody, interrogated him and recorded his statement under section 161 Cr.P.C. After completion of necessary investigation, supplementary challan was submitted against him before the learned Trial Court where he was formally charge sheeted under sections 302 and

324 PPC, to which he pleaded not guilty and claimed Trial. To prove the guilt of the appellant, prosecution examined as many as eleven witnesses while the statement of PW Abdullah recorded on 02.10.2012 during proceedings under section 512 Cr.P.C. as (PW.4), was transposed to the trial of the appellant. On closure of the prosecution evidence, statement of the appellant was recorded under section 342 Cr.P.C., wherein he denied the prosecution allegations and professed his innocence. He, however, declined to be examined on oath under section 340 (2) Cr.P.C, or to produce evidence in defence. On conclusion of trial, the learned Trial Court, after hearing both the sides, convicted and sentenced the appellant as mentioned above, hence, this appeal.

8. Learned counsel for the appellant argued that appellant is innocent and has been implicated falsely in the case on mere suspicions; that escape or let off the complainant Irshad Khan does not appeal to a prudent mind and is a strong circumstance to make his presence on the spot at the time of incident highly doubtful; that autopsy of the deceased at 7.20 a.m. before making report at 8.00 a.m., proves the incident to have been reported after preliminary investigation, deliberation and consultation after procuring the complainant and PW Abdullah, so medical evidence belies the prosecution case; that site plan Exh.PB also negates the ocular account, wherein the

deceased has been shown at point No.1 and the appellant at point No.4 at the time of first episode of the firing, but no blood has been secured from point No.1 where the deceased allegedly got hit and ran towards the house of Dilbar Khan; that similarly no trail of blood has been noticed by the I.O. inter se points No.1 and 1A; that appellant has not confessed his guilt before the competent Court of law nor has any crime weapon been recovered either from his direct or indirect possession; that the alleged crime empties have not been sent to the FSL, therefore, it is still uncertain as to whether the incident is the doing of one or more than one persons; that no construction material and instruments have been taken into possession from the spot nor shown in the site plan to support the ocular account. He contended that the learned Trial Court while over-sighting the above-mentioned crucial aspects of the case has arrived at erroneous conclusion by holding the appellant guilty of the offence. He submitted that for recording conviction in a capital charge, evidence of unimpeachable character, corroborated by strong independent circumstances is the requisite criteria, which is missing in the instant case; that the above referred circumstances, creates serious doubt in the prosecution case, benefit of which should have been extended to the appellant, but the learned Trial Court being influenced due to singular and direct charge of the

appellant, convicted and sentenced him. He lastly submitted that the impugned judgment being against the law, facts and principles of appreciation of evidence in criminal cases, is liable to be set at naught.

9. Conversely, learned A.A.G. assisted by learned counsel for the complainant, contended that appellant is directly and singularly charged for commission of the offence; that being a broad daylight incident and the parties well known to each others, question of mistaken identity does not arise; that there exists no reason that the complainant will charge innocent person by letting off the real culprit; that occurrence has taken place at 6.20 a.m. and both the eyewitnesses shifted the deceased to the hospital at 7.00 a.m and this fact by itself has been established by the defence by putting a question to Ashaq Hussain ASI (PW.5) (the author of the Murasila), to which he replied in these words **"that he got information about 6.30 a.m. and reach the hospital at about 7.00 a.m. and report was made at 8.00 a.m.";** that Dr. Younas Nadim conducted autopsy on the dead body of the deceased at 7.20 a.m.; that injury sheet and inquest report, which are usually prepared before autopsy, bears the signature of complainant Irshad Khan and this fact justify his presence in the hospital at 7.00 a.m.; that escape of complainant Irshad or his let off by the appellant, does appeal to a prudent mind, because the appellant had motive only with

the deceased and not with the complainant; that non-availability of trail of blood from point No.1 to point A.1, is also justifiable because the inter-se distance between the two places is only 13 paces and the deceased after receiving injury at point No.1, rushed at the spur of moment towards Point A.1, and would have covered this short distance within seconds; that bullet marks on the gate of the house of Dilbar Khan and recovery of blood from inside the said house near the main gate coupled with recovery of 3 crime empties from Point No.4 and 12 empties from point No.4A (the places allotted to accused in the site plan), corroborates the ocular account; that same dimension of all the entrance wounds on the person of the deceased squarely prove the incident to be the doing of single person for which the appellant has been directly nominated by the eyewitnesses; that the ocular account furnished by PWs Irshad Khan and Abdullah, is trustworthy, confidence inspiring and corroborated by strong circumstances of the occurrence; that the impugned judgment being well reasoned and based on proper appreciation of evidence, is not open to any interference by this Court. They lastly, submitted that there exists no mitigating circumstance to call for lesser sentence, hence, the learned Trial Court was justified to award the appellant the maximum sentence provided for the offence. They

sought dismissal of the appeal and requested for confirmation of death sentence of the appellant.

10. We have heard the exhaustive arguments advanced at the bar by learned counsel for the parties and perused the record/evidence with their valuable assistance.

11. It is well-settled principle of dispensation of justice in criminal cases that guilt against an accused must rest surely and firmly on the evidence produced in the case and plain inferences of the guilt may irresistibly be drawn from the evidence. Prosecution must produce best kind of evidence to establish accusations against the accused, but at the same time, the prosecution has no obligation to produce a good number of witnesses, because it has an option to produce as many witnesses, which in its consideration are sufficient to bring home the guilt to the accused, because it is the quality of evidence and not the quantity, which is considered in dispensation of justice in criminal cases. In this view of the matter, the testimony of a single witness, if rings true, worthy of credence and validated by circumstantial evidence would be sufficient for recording conviction. It has also been settled by the apex Court through numerous pronouncements that conviction in a criminal case can be recorded even on the statements of eyewitnesses alone, without there being any corroboration, provided their evidence inspires confidence.

12. In this case the ocular account has been furnished by Irshad Khan Complainant (PW.10) and PW Abdullah (now dead) and whose statement recorded under section 512 Cr.P.C. as (PW.4), has been transposed to the trial of the appellant.

13. Complainant Irshad Khan while appearing as PW.10 reiterated the same episode as narrated by him in his initial report. He has been subjected to taxing cross-examination, but nothing beneficial to defence could be extracted from his mouth and remained stuck to his stance on every aspect of the incident. By putting certain questions to this witness, the defence itself has confirmed some crucial aspects of the incident. In replies to questions of defence, PW Irshad Khan disclosed that at the time of firing he was in the knowledge of time i.e. 6.20 a.m.; that the distance between the spot and the hospital is two kilometers and they reached the hospital within 15 minutes; that he and PW Abdullah shifted the deceased to the hospital, so if 15 minutes are added with 6.20 a.m. the complainant reached the hospital at 6.35 a.m. The replies of PW Irshad are in line with testimony of Ashiq Hussain ASI (PW.5) and Dr. Younas Nadim, who conducted autopsy on the dead body of the deceased. In reply to a question of defence, PW Ashiq Hussain ASI (Author of the Murasila) stated that he received information about the occurrence at 6.30 a.m. and reached the hospital at 7.00

a.m. According to Dr. Younas Nadim (PW.3), he conducted autopsy on the dead body of the deceased at 7.20 a.m. The injury sheet and inquest report of the deceased, which are always prepared before postmortem, bears the signature of PW Irshad Khan. The above facts, appearing from the testimony of the above PWs, squarely establish the presence of PWs Ashiq Hussain ASI and Irshad Khan in hospital at 7.00 a.m. The factum of presence of the complainant before 07.00 a.m. is further supplemented by autopsy conducted on the dead body of the deceased at 7.20 a.m. definitely, after preparation of the injury sheet and inquest report, which clearly proves that the occurrence was reported to PW.5 before postmortem, injury sheet and inquest report. The time of report shown as 8.00 a.m. by PW.5 in the Murasila is surely the negligence on his part for which the complainant shall not be set at a disadvantage. Though, the complainant in his statement before the Court has followed the time of report mentioned by PW.5 in the Murasila, but only for such an action, his integrity cannot be suspected nor his statement be discarded in toto, rather those portions of his statement can be taken into account which find corroboration from other independent evidence. Credibility of the complainant and liability of the accused, are to be adjudged on the basis of entire evidence on record. Mere an omission, inadvertent or deliberate, on the part of a police official, cannot be

based for adverse inference against the prosecution. Statement of the complainant was read with care and caution, which fully supports the prosecution case and his deposition furnishing trustworthy incriminating evidence, against the sole accused, having no motive to falsely involve him in the heinous offence of murder. In this view of the matter, we am firm in my mind that neither any preliminary investigation has been conducted nor has the report been lodged after consultation and deliberation. The negligence of the Author of Murasila, particularly, when complainant was nonprofessional having no knowledge of the legal complications and consequences of scribing of late report, would not be sufficient to discard his testimony, whose presence at the spot at the time of occurrence is otherwise squarely proved. He being the real brother of the deceased his presence with the deceased in construction work is quite natural. The unscathed of PW Irshad Khan from the firing of the appellant or his let off by the appellant, does appeal to a prudent mind for the simple reason that appellant had motive only with the deceased and not the complainant, so the deceased was his only prey. In regard to the non-recovery of blood at point No.1 and no trail of blood from point No.1 to point 1A, it is observed from the site plan that there is distance of only 13 paces inter-se the two places which is easily coverable in the spur of eye, particularly, when there is a threat of life. It

is also not strange to believe that the deceased while covering a short distance of 13 paces in a few seconds, blood would not have reached/fallen on the ground, for the reason that on one hand, it appears from the record that in the first volley, when the deceased was hit, he spontaneously rushed towards the house of Dilbar, while on the other hand, the clothes of the deceased have been recovered dyed in human blood; manifestly indicates that the blood; if any, oozed from the wound of the deceased in such short span of time, must have been absorbed by the worn clothes of the deceased. Blood from the house of Dilbar Khan i.e. point 1A, has been recovered through recovery memo by the I.O., which corroborates the ocular account. Similarly, 03 empties of 7.62 bore from point No.4, allotted to the appellant, wherefrom he fired at the deceased for the first time and recovery of 12 empties of the same bore, from point 4A, i.e. the place wherefrom he fired at the deceased for the second time coupled with the bullet marks on the main gate of the house of Dilbar Khan, substantiate the ocular account of the eyewitnesses. As regards non-recovery of the construction material and instruments and not showing the same in the site plan the same would not be fatal for the prosecution case as according to PW Irshad Khan he had shown such materials to the I.O., but he did not point out the same in the site plan, which amounts to negligence of the I.O. It has been

held by the worthy Sindh High Court in case of **"Nawab Ali Vs the State" (2014 P Cr L J 885),** complainant, should not suffer for the fault of prosecution or mistake of the investigating Officer in properly noting-down the facts, while in discharge of his duties and functions. If such discrepancy was allowed to supersede the direct ocular account, it would result in allowing the culprits safe passage by managing/arranging such discrepancies, which could well be claimed to be protected by prosecution to be bona fide mistake/errors. The only contradiction about time of report in this case which otherwise, have been justified from the record is trivial in nature and would not damage the prosecution case. The word "Contradiction" used in criminal administration of justice, means those conflicts in the evidence of the witnesses which touches and disturbs the root of the charge. Minor contradictions are bound to creep by lapse of time and such minor discrepancies in the statements of the PWs are inbuilt proof of the truthfulness because a human being is not expected to furnish a tape-recorded statement.

14. Any defect or omission on the part of any police official during investigation of the case by itself, would not be a ground for acquittal of the accused. If primacy is given to such designed or negligence of the police officials or to the omissions or lapses by perfunctory actions or contaminated conducted of the police Officer, the fate and

confidence of the people in the criminal administration of justice, would be eroded. Where there had been any negligence or omission on the part of the police officials, which resulted in a defective investigation, there is a legal obligation on the part of the Court to examine the prosecution evidence, dehors such lapses, carefully to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses effected the object of finding out the truth. Therefore, an omission or negligence on the part of the police officials, while recording the FIR would not be the solitary reason for judicial scrutiny in a criminal trial and the conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation.

15. From the above, it is manifest that omissions or lapses, on the part of the police officials, cannot be a sole ground for acquittal of an accused, in view of any defect or negligence of the Investigating Agency, because doing so, would tantamount to play in the contaminated hands of the author of Murasila and Investigation Officer, rather, the Court should circumspect and be careful in evaluating the prosecution evidence. In such eventuality, the eyewitness account cannot be brushed aside on the sole ground that the author of Murasila has mentioned the time of report as 8.00 am which is after the time of conducting autopsy. As discussed in the preceding Paragraph of the judgment, it

does not create any doubt in the prosecution case, rather prima facie is an omission or negligence on the part of the police official. There is no cavil to the proposition that benefit of doubt is to be extended to the accused, but that doubt should be such, which may inherently affect the prosecution case and pricks the mind of the Court about genuineness of the allegations. Mere artificial or any hypothetical doubts should not be made basis for acquittal of accused. It is also settled by judicial pronouncements that the accused shall be considered as a beloved child of the Court, but at the same time, the aggrieved party is also not to be treated as an alien, as it is he who approaches the Court for redressal of his grievance against aggression of accused instead of taking the law in his hands. It is he who being oppressed by aggressor, put the matter before the Court for justice. If in a genuine case, the grievance of such a victim is not redressed, the people must get frustrated from the judicial system and would turn wild for lynching, and such a situation would become more alarming. The penal laws carry multi dimensional impact at different levels. First and foremost is to punish the culprit and to pacify the victim. The punishment so inflicted acts as a deterrent to the criminals and resultantly it brings about peace and tranquility and transforms the society into civilized one.

16. Adverting to the statement of eyewitness Abdullah, his statement had been recorded on 02.10.2012, in proceeding under section 512 Cr.P.C. against the appellant. Prior to arrest of the appellant, the said PW was murdered, therefore, his testimony was transposed to the trial of the appellant. The order qua transfer of statement of this witness has attained finality, as the same order has not been questioned before any competent forum. By virtue of Article 47 of the Qanun-e-Shahadat Order 1984, evidence given by a witness in a judicial proceeding or before any person authorized by law to take it, is relevant for the purpose of proving the same in a subsequent judicial proceeding or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found or is incapable of giving evidence. The aforesaid article has been inserted in the Statute to meet such like situation. Similarly, section 512 Cr.P.C. provides three eventualities for preservation and transfer of statement of witnesses, during abscondence of accused i.e. if the deponent is dead or incapable or giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience, which under the circumstances of the case, would be unreasonable. Section 512 Cr.P.C. provides a special rule

of evidence which is an exception to the general rule that all evidence in a criminal case shall be taken in the presence of the accused or his counsel when his personal appearance is dispensed with. Purpose to preserve the important evidence till the time accused is arrested. Object of section 512 Cr.P.C. is to exclude the possibility of loss of evidence at the time the accused is arrested and such statements are considered as substantive evidence. The statement of PW Abdullah has remained unchallenged wherein he while narrating the entire episode has not only substantiated the stance of the complainant, but has charged directly the appellant for commission of the offence. He has also verified his signature over the report of complainant

17. No doubt, PW Irshad Khan is the real brother of the deceased and PW Abdullah is his real cousin, but it is now almost a fashion that public is reluctant to appear and depose before the court, especially in criminal cases and the cases for that reason itself are dragged for years and years. By now it is a well-established principle of law that testimony of a witness otherwise inspiring confidence cannot be discarded on the ground that he being a relative of the deceased. A close relative who is a very natural witness cannot be termed as interested witness. The term “interested” postulates that the person concerned must have some direct interest in

seeing the accused person being convicted somehow or the other either because of animosity or for some other reasons. Not needed to emphasize that mere relationship of PW Irshad Khan with the deceased would not detract from his veracity, as he had absolutely no motive of his own to involve the appellant falsely by letting off the real assassinator of his brother. Guidance in this regard can be derived from case titled, **"Saeed Akhtar and others Vs the State" (2000 SCMR 383).** In case titled, **"Amal Sherin and another Vs the State through A.G." (PLD 2004 Supreme Court 371),** the Hon'ble Supreme Court while dilating upon the evidentiary value of statement of related witnesses observed as under:-

> "The trial Court was not justified to reject eyewitness account furnished by complainant Khan Amir PW and Hakim Gul PW merely on the ground of being related and interested particularly when appellants had not been able to establish on record that the above mentioned witnesses had nourished any grudge or ill will against them and deposed with a specific motive".

18. For the reasons discussed above, I entertain no amount of doubt about the presence of eyewitnesses on the spot at the time of occurrence as well as their credibility and truthfulness. In support of the findings, reliance may be placed on the judgment of the Hon'ble apex Court in case titled, **"Amal Sherin and another Vs the State**

through A.G. NWFP" PLD 2003 Supreme Court 371), wherein it has been held that:-

> ***"Conviction in a criminal case can be recorded even on the statement of eyewitnesses alone without there being any corroboration provided their evidence inspires confidence".***

Similar view has been reiterated by the Hon'ble Supreme Court in case titled, **"Mst. Sughara Begum and another Vs Qaisar Pervez and others" (2015 SCMR 1142)** in these words**:-**

> ***"That ocular account in case of 'Qatl-e-Amd' plays a decisive and vital role and once its intrinsic worth is accepted and believed then the rest of the evidence, both circumstantial and corroboratory in nature, is required as a matter of caution, but to the contrary, once the ocular account is disbelieved, then no other evidence, even of a high degree and value, would be sufficient for recording conviction on a capital charge, therefore, probative value of the ocular account is to be seen in light of the facts and circumstances of each case".***

19. Deriving wisdoms and guidance from the principles laid down by the August Apex Court in cases **Amal Sherin and another and Mst. Sughara Begum (supra),** we, while accepting the intrinsic worth of the ocular account furnished by PWs Irshad Khan and Abdullah, hold that learned Trial Court while convicting

the appellant, has committed no wrong. The findings of the learned Trial Court are well reasoned and based on proper appreciation of evidence.

20. Now the moot question for determination would be the quantum of sentence to be awarded to the appellant to meet the ends of justice. On the face of record and evidence, the occurrence has not taken place in the spur of moment. Coming of the appellant to the spot duly armed with lethal weapon, firing at the deceased on one occasion and chasing him till the house of Dilbar Khan and doing him away there, squarely proves his prior intention to do the deceased away. The conduct of the appellant demonstrated by him at the time of incident, leaves no room for any mitigating circumstance to warrant lesser sentence. The learned Trial Court has, therefore, rightly awarded him the normal penalty of death to which no exception can be taken. Similarly, the punishment awarded to the appellant under section 324 PPC by the learned Trial Court is also justified. The impugned judgment of the learned Trial Court being well reasoned and based on proper appreciation of evidence on record is not open to any interference by this Court in its appellate jurisdiction.

21. Accordingly, this appeal being meritless is hereby dismissed and Murder Reference No.10 of 2015, sent by

the learned Trial Court in terms of Section 374 Cr.P.C. is hereby answered in the **Affirmative.**

Announced:

Siraj Afridi P.S.

JUDGE

JUDGE