

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,

GILGIT.

Cr. PLA NO. 16/2014.

Before:-

- 1. Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.**
- 2. Mr. Justice Muzaffar Ali, Judge.**

The State

Petitioner.

VERSUS

Shams-ur-Rehman S/o Abdul Aziz R/o Yadgar Muhallah Gilgit
RESPONDENT/ACCUSED.

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE) ORDER, 2009 AGAINST THE JUDGMENT DATED 10.06.2014 PASSED BY THE DIVISION BENCH OF CHIEF COURT GILGIT-BALTISTAN IN CR. APPEAL NO. 05/2012 WHEREBY APPEAL OF PETITIONER HAS BEEN DISMISSED HOLDING THE SAME MERITLESS AND MAINTAINED THE IMPUGNED ACQUITTAL JUDGMENT DATED 07.10.2012 PASSED BY THE ANTI-TERRORISM COURT NO.1 GILGIT-BALTISTAN.

BY CONVERTING THIS PETITION FOR LEAVE TO APPEAL INTO APPEAL AND ACCEPTING THE APPEAL THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE IMPUGNED JUDGMENT/ORDER PASSED BY LEARNED CHIEF COURT DATED 10.06.2014 IN CR. APPEAL NO.05/2012 AND ORDER /JUDGMENT DATED 07.10.2012 PASSED BY THE ATC COURT

NO.1 GB IN ATC NO. 31/2010 AND 32/2010 CONVERTING THIS PETITION FOR LEAVE TO APPEAL INTO APPEAL AND ACCEPTING THE APPEAL FOR ENDS OF JUSTICE LAW AND EQUITY.

Present:-

1. The Advocate General Gilgit-Baltistan, Gilgit.

DATE OF HEARING: - 22-09-2015.

JUDGMENT.

The learned Advocate General Gilgit-Baltistan contends that a criminal case vide FIR No. 223/2010 under Section 302/34, PPC read with 6/7 Anti-Terrorism Act, 1997 was registered against the respondent/accused on the application of one Muhammad Ismail. He further contended that during the investigation of the case, the crime weapon was effected on the pointation of the respondent/accused and another FIR No. 271/2010 was also registered against the respondent/accused under Section 13 Arm Ordinance. He also contended that the prosecution after completion of investigation submitted the challan before the learned Trial Court i.e. Anti-Terrorism Court Gilgit-Baltistan. The pistol

was recovered from the accused on his pointation. The recovered pistol and crime empties were sent to ballistic expert and as per FSL report it matched with the crime empties, it is a fit case for conviction. On the contrary, the learned trial Court vide judgment dated 07.10.2012, acquitted the accused from charges. The petitioners being aggrieved by and dissatisfied with the said impugned judgment filed Cr. Appeal before the learned Chief Court Gilgit-Baltistan. Upon hearing the learned Chief Court vide impugned order/judgment dated 10.06.2014 not only maintained the impugned judgment of learned trial court but also imposed Diyat on State for defective investigation instead of taking action against Investigating Officer (IO) under Section 27 of Anti-Terrorism Act 1997. He also contended that there are four witnesses who support the prosecution case. Whereas, crime empties were also recovered from the place of incident matched fired from the pistol recovered from the home of respondent/ accused on his pointation, which is admissible under Section 38 of Qanoon-e-Shahadat. The learned Advocate General Gilgit candidly admitted that there is neither any eye witness of the case nor independent or private witnesses associated with the recovery of the Pistol on the

pointation of respondent /accused from his house. He concluded his arguments that on the basis of the above contentions the impugned judgment dated 10.06.2014 passed by the learned Chief Court Gilgit-Baltistan in Cr. appeal No. 05/2012 as well as the judgment of the learned Trial Court dated 07.01.2012 requires to set aside as both the judgments/orders have been passed without considering the evidence of Prosecution Witnesses (PWs) and other circumstantial Evidences as well other corroborated evidence available on the record of the case.

We have heard the learned Advocate General Gilgit-Baltistan, perused the material of the case file and gone through the impugned judgment dated 10.06.2014 of the learned Chief Court Gilgit-Baltistan as well the judgment dated 07.01.2012 passed by the learned trial Court. In our considered view, the learned Advocate General Gilgit-Baltistan could not point out any infirmity and illegality in both the judgments of the courts below. He very candidly admitted that there is no eye Witnesses, recovery of Pistol not affected in presence of independent witnesses from the house of the accused. The matching of empties fired from recovered

Pistol lost its evidentiary value, hence, such recovery cannot be believed rather become doubtful.

In this view of the above discussion, we are not inclined to grant leave. The leave is refused. Both the impugned judgments dated 10.06.2014, passed by the leaved Chief Court Gilgit-Baltistan and the learned trial Court Judgment dated 07.01.2012 are maintained.

The Leave refused.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?