

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

**Cr. Appeal No. 28/2017
in
Cr. PLA. No. 31/ 2017**

The State

Petitioner.

Versus

Qari Asif & others

Respondents.

PRESENT:-

1. The Advocate General Alongwith Mr. Saeed, Iqbal Deputy Advocate General Gilgit-Baltistan for the State.
2. All the respondents are present in person.

DATE OF HEARING: - 19.10.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This criminal petition has arisen out of the impugned judgment dated 17. 05.2017 in Cr. Appeal No. 06/2016 and Cr. Appeal No. 07/2016 passed by the learned Chief Court whereby the said Cr. Appeals filed by both the State and the complainant namely Sabir Ali son of Sadiq Ali resident of village Ganji, Tehsil Roundu, District Skardu were dismissed by upholding the judgment of the learned Trial Court Gilgit. The petitioner being aggrieved by and dissatisfied with filed this petition for leave to appeal. This court vide order dated 30.08.2017 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are that on 24.12.2011 at about 7:30 PM the respondents namely Qari Asif son of Saeed Khan, Arif Mehmood son of Muhammad Yousuf, Shah Raees son of Nusrat Wali, Jahangir son of Abdullah, Muzzaffer son of Hashmat Ullah alias Tota, Suhail Ahmed son of Ain Ullah, Nasrullah, Farman son of Aman Ullah and Arsalan son of Sher Afghan residents of Eidi Muhallah Gilgit and other rioters in furtherance of their common object opened fire on a motorcycle rider namely Sabir Ali son of Sadiq Ali who was coming from bazaar area to Jutial. The bullet hit the leg of above named person and after that the rioters dragged the complainant namely ASI Abdul Majeed P.S. Airport Gilgit inside the mob and beaten the complainant with fists and butts and also snatched the government/official 30-bore pistol bearing No. 32066296 alongwith magazine and 14 live cartridges.

3. Initially the FIR No. 354/2011 was registered under Sections 324/341/392/148/149/353/186 PPC read with Section 6/7 Anti-Terrorism Act, 1997. The investigation of the case was conducted by a Joint Investigation Team and challan of the said case was submitted in the Court of Anti-Terrorism Court Gilgit. The learned Trial Court transferred the case under Section 23 of Anti-Terrorism Act, 1997 to the learned Sessions Judge Gilgit. The learned Sessions Court entrusted the same to the learned Additional Sessions Judge Gilgit for disposal. The learned Additional Sessions Judge Gilgit framed charge of the respondents/accused on 05.06.2014 and PWs were summoned for

evidence. The prosecution examined 17 PWs in order to prove their case whereafter the prosecution evidence was closed on 15.12.2015. The statements of respondents under Section 342 Cr.PC were recorded on 18.12.2015. The respondents/accused, however, did not opt to be examined themselves under Section 340 (2) Cr. PC in disproof of charge. After hearing the learned counsels for the respective parties, the learned Additional Sessions Judge acquitted the respondents from all the charges leveled against them vide judgment dated 21.12.2015 which was assailed before the learned Chief Court by filing Cr. Appeals by both the State and the complainant. The learned Chief Court upon hearing dismissed the said appeals vide impugned judgment by upholding the judgment of the learned Trial Court, hence, this petition for leave to appeal.

4. The learned Advocate General submits that the respondents have been nominated in the promptly lodged FIR by the complainant attributing them specific roles in commission of the alleged offence. He also submits that weapon of offence i.e. a 30-bore pistol was also recovered from one of the respondent namely Nusratullah against him a separate FIR under Section 13 Arm Ordinance was also registered. Per learned Advocate General, the mob consisting upon 60-70 people who snatched the 30-bore official/government pistol alongwith 14 live cartridges from the complainant after thrashing him and giving him sound beating. He further submits that there are sufficient material evidence on record which connect the respondents with the commission of the crime

but the same have not been appreciated and considered by the learned Trial Court as well as by the learned Chief Court, hence, the impugned judgment and the judgment of the learned Trial Court are not tenable in law. He prays that the impugned judgment may graciously be set aside being passed contrary to the facts of the case and law.

5. We have heard the learned Advocate General at length, perused the material on record and gone through the impugned judgment as well as the judgment passed by the learned Trial Court. The learned Advocate General also could not point out any infirmity or illegality in the said impugned judgment. In our considered view, the impugned judgment and the judgment of the learned Trial Court are well reasoned and well founded, hence, no indulgence is warranted into it.

6. In view of the above discussions, we convert this Cr. Petition into an appeal and the same is dismissed. Consequently, the impugned judgment dated 17. 05.2017 in Cr. Appeal No. 06/2016 and Cr. Appeal No. 07/2016 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.