

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:** Justice Muhammad Hashim Khan Kakar  
Justice Salahuddin Panhwar  
Justice Ishtiaq Ibrahim

**Jail Petition No. 183/2019**

(Against the judgment/order dated 29.01.2019  
passed by the Lahore High Court, Lahore,  
in Crl. A. No. 54-J/2016 and M. R. No. 196/2016)

Arshad alias Billu

Petitioner(s)

Versus

The State

Respondent(s)

For the Petitioner(s):

Mr. Shoukat Hayat, ASC

For the State:

Ms. Mamoona, DPG

Assisted by:

Mr. Muhammad Qasim Najam and  
Ms. Tayyaba Munir, Law Clerks

Date of Hearing:

26.01.2026

**JUDGMENT**

**Muhammad Hashim Khan Kakar, J.** This jail petition has been preferred by the petitioner-convict, Arshad alias Billu, against the judgment dated 29.01.2019 of the Lahore High Court, Lahore whereby his appeal was dismissed whilst maintaining his conviction under section 302(b) PPC, however, his sentence of death was reduced to that of imprisonment for life.

2. The prosecution story, as narrated in paragraph-2 of the impugned judgment of the High Court, is as follows:

“... the FIR (Ex.PK) registered on the statement of Jahangir, complainant (PW.5) is that he was resident of Thathi Hinduan and a cultivator. The complainant got land measuring 2½ acres from Muhammad Akram on lease for Rs.40,000/- (rupees forty thousand only), cultivated *chari* crop on it and after cultivation, the land was lying vacant. On 23.10.2004 at around 11.30 a.m. the complainant went to his agricultural land and saw that Arshad alias Billu (appellant), Hakim Ali, Asad Ullah, Khurshid, Irshad and Sarwar all

armed with 12 bore guns had irrigated the land of complainant with tube-well water. The complainant asked them as to why they watered his (complainant's) land, whereupon the accused grappled with him. On seeing this, Muhammad Tufail and Jaan Muhammad brothers of complainant attracted to the spot. Hakim Ali raised *lalkara* to capture and kill them, upon which Arshad alias Billu (appellant) fired with 12 bore gun at Muhammad Tufail, which landed on his right thigh, who fell down. Jaan Muhammad stepped forward, Hakim Ali made fire shot with 12 bore gun, hitting Jaan Muhammad on his right arm; second fire was made by Asad Ullah with 12 bore gun which landed on left shoulder of Jaan Muhammad; Khurshid also fired with 12 bore gun, which hit Jaan Muhammad on his left buttock; Irshad fired with 12 bore gun hitting Jaan Muhammad on right side of his chest; Muhammad Sarwar made fire shot of 12 bore gun which landed on left side of head of Jaan Muhammad. On hue and cry of complainant and report of fires, many persons as well as Manazar and Mukhtar arrived on the spot and witnessed the occurrence. The accused fled away from the spot while making aerial firing. Muhammad Tufail and Jaan Muhammad were shifted to Kanganpur hospital in injured condition where Muhammad Tufail succumbed to the injury whereas Jaan Muhammad was referred to Ellahabad Hospital. It was alleged in the FIR that the land in question was in possession of Sials and Muhammad Akram obtained the same from them with promise to give them Rs.40,000/-. Thereafter, Muhammad Akram asked the complainant to take the possession of land by giving him Rs.40,000/-, which were paid. Sials *brotheri* demanded the land from Muhammad Akram or Rs.40,000/- in lieu thereof, who told them in presence of Jaan Muhammad and Ramzan to occupy the land. It was further alleged that if Muhammad Akram had not asked Sials to take the possession of land, the incident would have not been committed."

3. The petitioner and his co-accused were sent up to face trial and upon its conclusion the Trial Court convicted the petitioner under section 302(b) PPC for the murder of Muhammad Tufail (deceased) and sentenced him to death with an order to pay Rs.200,000/- as compensation to the legal heirs of the deceased and in default whereof to undergo six months S.I. Being aggrieved, he challenged his conviction and sentence before the High Court by filing an appeal but it was dismissed in the terms as stated above.

4. We heard the learned counsel for the petitioner, who adamantly maintained that the prosecution failed to establish its case against the petitioner beyond a reasonable doubt, consequently, the instant petition may be accepted and the petitioner may be acquitted. Conversely, the learned Deputy Prosecutor General for the State contended that the

prosecution had effectively established the petitioner's culpability to the fullest extent, and as a result, the instant petition may be dismissed.

5. The incident in question occurred during daylight and FIR was promptly lodged wherein the petitioner was identified as the perpetrator and a specific role was assigned to him. The Trial Court was presented with two eyewitnesses by the prosecution: Jahangir complainant (PW-5) and Jan Muhammad (PW-6). Both witnesses have provided a reasonable explanation for their presence on the location at the relevant time. As residents of the area, their presence cannot be deemed unnatural or improbable. An injured witness was also one of these natural witnesses. The ocular account provided by the aforementioned eyewitnesses was adequately supported by the medical evidence and all of them had made consistent statements before the Trial Court. The witnesses of ocular account have no animosity toward the petitioner and have not attempted to fraudulently implicate him in this case by allowing the real culprits to go unpunished. Substitution is a rare phenomenon in such cases, regardless of the circumstances. After conducting a thorough examination of the evidence on record, both the courts below reached a unanimous conclusion that the petitioner's guilt had been fully established. However, we have observed that there are some mitigating circumstances and their benefits be extended to the accused. Such circumstances are that: (1) a grapple took place between the parties immediately before the incident; (ii) the petitioner had only made a single fire shot upon a non-vital part of the body of the deceased and he did not repeat any fire shot; and, (iii) no undue advantage was taken by the petitioner. Upon our own independent assessment of the evidence, we have been unable to adopt a stance that differs from the concurrent stance of the courts below regarding petitioner's conviction, but in view of the aforementioned mitigating circumstances, we reduce the petitioner's sentence of life imprisonment to that of fifteen years' imprisonment.

6. It has been noticed with grave concern, that during the course of hearing, complainant was identified in the FIR as "*Nau-Muslim Sheikh*", written in Urdu language. To be clear, the distinction between "*Sheikh*" and "*Nau-Muslim Sheikh*" does not disclose any legal or religious basis.

Under Islam, no differentiation in status, dignity or faith is recognized on the basis of the person's conversion or the timing thereof. Once a person embraces Islam, he/she stands equal in status and respect with other Muslims. The Holy Prophet's (PBUH) final sermon delivered on the ninth day of *Dhul-Hijjah*, 10 A.H. reads as under:

“All mankind is from Adam and Eve, an Arab has no superiority over a non-Arab nor a non-Arab has any superiority over an Arab; also a White has no superiority over a Black nor a Black has any superiority over a White except by piety and good action. Learn that every Muslim is a brother to every Muslim and that the Muslims constitute one brotherhood. Nothing shall be legitimate to a Muslim which belongs to a fellow Muslim unless it was given freely and willingly.”

7. Accordingly, the use of any qualifying expression that marks a convert as “*new*” or otherwise distinct neither has sanction in Islamic teachings, nor in law. Any term merely identifying the caste or social origin to which a person belongs and, in themselves, carry nothing inherently reprehensible. However, they become objectionable when used to demean, stigmatize, or portray a person as belonging to an inferior social status. The term “*Nau Muslim Sheikh*” (or similar expressions such as “*Dhobi*” “*Naahi*”, “*Jamadar*”, “*Bhangri*” or “*Dam*” which are occasionally used in police records) appears to be a derogatory or coded reference that implies a stigmatized or lower caste status. This term is frequently associated with occupational or social hierarchies that persist in certain segments of society, despite constitutional prohibitions. These terms are intended to indicate that an individual is a member of a particular community or caste, frequently one that has been historically marginalized. This practice of prefixing or suffixing names with caste identifiers in official police records, including FIRs, is in direct opposition to the fundamental principles of our Constitution. This practice perpetuates a social ill that the Constitution of the Islamic Republic of Pakistan explicitly and unequivocally aims to eradicate. The protection of the law and equality before the law are guaranteed to all individuals by Article 25 of the Constitution. Article 26 prohibits discrimination based on religion, race, caste, sex, or place of origin, while Article 33 mandates that the State discourage parochial, racial, tribal, sectarian, and provincial prejudices among the citizenry. The Constitution's provisions unambiguously deny any form of social hierarchy or stigma based on birth, representing the collective

consciousness of the nation. Unless it is statutorily pertinent for the offense itself, there is no legitimate forensic, investigative, or legal purpose to mentioning a person's caste in a FIR. Conversely, it institutionalizes discrimination, perpetuates stigma, violates the dignity of human beings, and undermines the rule of law.

8. Pakistan's international human rights obligations serve to bolster this assertion. Articles 1 and 7 of the Universal Declaration of Human Rights (UDHR), Articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR), and Article 3 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) – all of which Pakistan is a State party with the exception of the first one – all of the aforementioned mandate equality before the law and protection against discrimination on the basis of religion or social origin. The State is exposed to normative inconsistency in the enforcement of fundamental rights, and domestic practices that stigmatize individuals through official nomenclature are incompatible with these obligations.

9. We are deeply disheartened to witness that society continues to determine whether a human being is deserving of respect based solely on the nature of their profession, rather than on their inherent dignity. Human dignity is not a privilege that can be bestowed; it is an inalienable right that is inherent to every individual by virtue of their humanity, as stated in Article 14 of the Constitution. It is noteworthy that the terms *bhangi*, *chura*, *morassi*, *jamadar*, *dam*, and *musalli* are no longer used to define a caste but are instead used as derogatory remarks against the members of that particular caste. We are apprehensive about a society that relies on cleanliness for survival, yet dehumanizes those who make it possible. Those who clean society's waste is described as "*dirty*", and those who make cities livable are regarded as lives that are inherently less deserving of respect. The moral failure of the social order itself is revealed by a system that dehumanizes individuals for earning a living by performing sanitation or similar tasks, rather than the dirtiness of the workers. Dignity, respect, and equality are the rights of every person, irrespective of their occupation, in the eyes of the law and society.

10. In furtherance of our constitutional obligation to uphold the values of equality, dignity and non-discrimination and to ensure that State institutions do not perpetuate distinction forbidden by law, we issue the following directions:

- (i) All Inspectors General of Police across the provinces and Islamabad Capital Territory shall ensure that no reference to caste, tribe, *biradari*, conversion status or any classificatory or derogatory expression is mentioned in the names of complainant, accused persons, victims or witnesses in FIRs, arrest memos, recovery memos, investigation reports, *challans* or any other police records;
- (ii) Any departure from this rule shall be permissible only where the investigating officer, for *bona fide* investigative reasons directly connected with the offence and recorded in writing, believes such identification to be strictly necessary; and
- (iii) The Registrar of this Court shall transmit copies of this judgement to all Inspectors General of Police of all the provinces and Islamabad Capital Territory as well as to the respective Home Secretaries/Chief Commissioner for immediate compliance and circulation to all field formations.

11. The petition is accordingly converted into an appeal and partially allowed in the above terms, observations and directions.

ISLAMABAD

26.01.2026

(Farrukh)



Approved for Reporting