

Scenario 184

MUMTAZ QADRI's CASE

BACKGROUND FACTS:

The facts traced back to the first day are given below.

On 4th January 2011; the Pakistan police commando, from the Elite Force, named Malik Mumtaz Qadri, one of Punjab Governor Salman Taseer's bodyguards, killed one of the country's known liberal politicians for urging reform of blasphemy laws. He was taken into custody at the spot by the local police with his used gun. Mumtaz Qadri had confessed before the trial court that he killed Salmaan Taseer for criticising the blasphemy law.

On 10th January 2011; Mumtaz Qadri, who was led away smiling on the eventful day of 4th January after gunning down his boss outside, appeared in court for a remand hearing following his official confession. He told the court he killed in the name of religion because Mr Governor wanted to reform the blasphemy laws. The police told the media:

"He [Mumtaz Qadri] got recorded his confessional statement for the murder...in which he said that he killed Governor Salman Taseer on his own and there was no involvement of any religious or militant organisation."

Questions were raised and discussed that why no policeman or guard apparently made an attempt to overpower the 26-year-old gunman. His appearance in the court for confession caused infuriation amongst defence lawyers who said they were not invited. But the police held they did not summon the defence lawyers because they did not feel the need; we presented him in the court according to law.

More than 50,000 people from religious groups had rallied in Karachi on a day before in support of Qadri, calling him a hero and demanding that any effort to reform the blasphemy law — [then recently] used to sentence a Christian woman to death — be dropped.

At his last court appearance, Qadri was showered with rose petals and a loud crowd of supporters at the courthouse forced the relocation of hearing to Islamabad. It was the most high-profile assassination in Pakistan since former premier Benazir Bhutto was killed on 27th December 2007.

Two weeks after Taseer was killed, the only Christian minister in the federal cabinet, Shahbaz Bhatti, was gunned down in Islamabad. He too was a critic of the blasphemy laws.

In August 2011, Taseer's son was kidnapped from his car in Lahore. Shahbaz Taseer's whereabouts remain untraced for weeks, months and years. *He was later recovered in 2016.*

On 1st October 2011; Mumtaz Qadri, the self-confessed assassin of Punjab governor Salman Taseer, was sentenced to death on two counts for murder and terrorism by an Anti-Terrorist Court [ATC].

Judge Syed Pervaiz Ali Shah of the ATC announced the verdict after an in-camera trial in Adiyala jail. He also imposed a fine of Rs:200,000 on the convict, who would have to undergo one-year imprisonment in case of failure to submit the fine.

The judge overruled a plea by Mumtaz Qadri that he had assassinated the governor because of his '*blasphemous statements*'. The judge said the accused had already confessed to his crime and the law did not entertain his defence arguments for killing the governor.

Police were deployed at the jail gate to prevent any break-in. The verdict came in spite of a relentless campaign by hard-line religious groups which invoked Islam to glorify the murder. Qadri, who was an official bodyguard of the Governor, gunned down Salman Taseer outside a restaurant at Islamabad's Koshar market.

In a 40-page statement submitted to the court, Qadri said Mr Taseer's statements in support of Asia Bibi, a Christian woman charged with blasphemy, had provoked him to kill the governor.

Mumtaz Qadri had cited in the statement verses from the Holy Quran, quotations from the life of the Holy Prophet [PBUH], four decisions of the Caliphs and views of *Hanafi, Shafai, Maliki, Hanbali* and *Jafria* schools of thought from Islamic jurisprudence about blasphemy under section 265-F (5) of the CrPC to justify his act.

On the day the ATC sentenced Qadri, and the judgment announced, more than 500 people rallied outside the prison in support of Qadri, and later blocked off a main road in the city by setting tires alight. Some of the stick-wielding protesters forced shops to close but later all dispersed peacefully.

Although the murder was chilling in itself, what followed jolted the nation with a sense of threatening: lawyers decorated Mumtaz Qadri with flowers, thousands took to the streets in his defence and mainstream politicians refrained from publicly condemning the cold-blooded killing.

Raja Shujaur Rehman, the counsel for Qadri, later told the media that the verdict was "*unexpected and unprecedented*" because the judge had announced the verdict in the absence of defence counsel and handed over its copy to the convict. "*The court informed us only after awarding death sentence to Mumtaz Qadri.*"

The conviction enraged supporters of Mumtaz Qadri. They burnt tyres on important roads in Rawalpindi and Lahore, smashed window panes of public and private vehicles, tore up portraits of government figures and vandalised the monument of Benazir Bhutto at Pindi's Liaquat Bagh. Police and law enforcement personnel did not try to control the enraged protesters. The *Sunni Ittehad Council* observed a wheel-jam strike and *Youm-i-Muzamat* (day of condemnation) on 7th October 2011.

On 6th October 2011; Qadri filed an appeal against his death sentence through Shuja-ur-Rehman, one of his lawyers. Mr Shuja told the media that "***...the anti-terrorism court was not the competent authority to sentence him; this decision is illegal and baseless.***"

Qadri had confessed to shooting Taseer dead outside the coffee shop in Islamabad's Kohsar Market, close to his residence. Governor Taseer had objected to the politician's calls to amend the blasphemy law, which mandates the death penalty for those convicted of defaming the Holy Prophet Mohammed [SAWS]. Mr Taseer had also supported a Christian mother of five sentenced to death in November 2010 for alleged blasphemy.

Mumtaz Qadri was viewed as a hero by many who thought Mr Taseer himself was a blasphemer by calling for the law's reform. Also that:

- ***Some lawyers threw rose petals at Qadri when he arrived in court days after the killing.***
- ***The judge who convicted Qadri was forced to flee the country after death threats.***

- ***Near Islamabad, immediately after the event, Qadri's admirers constructed a 500 sq metre mosque by his name.***

The ATC in Rawalpindi sentenced Mumtaz Qadri to death on two counts – under section 302 of the Pakistan Penal Code [PPC] and section 7 of the Anti-Terrorism Act [ATA]. Following the sentencing, Qadri's counsels had challenged the ATC's decision through two applications the same month; one petition demanded that Qadri's death sentence be quashed and the other asked for Section 7 of the ATA to be declared void.

On 9th March 2015; the Islamabad High Court [IHC] rejected Qadri's application against his death sentence under the PPC but accepted his petition to void ATA's Section 7. A two member bench comprising Justice Noorul Haq Qureshi and Justice Shaukat Aziz Siddiqui dismissed the appeal.

*[Qadri's counsels included former Lahore High Court **CJ Khawaja Sharif** and retired **Justice Mian Nazeer** who had just concluded their arguments on 11th February 2015.]*

Both the counsels for Qadri pleaded before the IHC to award lesser sentence to their client as he had no personal grudge against Salmaan Taseer. They further contended that in most of such murder cases, death sentence was not awarded by the courts.

The IHC division bench hearing Mumtaz Qadri's appeal against his conviction in the said murder case raised question whether a police constable could pronounce judgment or carry out the sentence against an individual, on the basis of his or her beliefs. Justice Siddiqui asked Qadri's defence team to explain to the court how a policeman could **"determine whether an individual was an apostate or not"**.

The team of two retired judges of the biggest high courts in Pakistan, one of whom had been the CJ, standing in the same like court as defence lawyers of Qadri, had no answer to that simple question - the irony with Pakistani poor nation that such people having zero legal acumen had been ruling them for years and decades. The defenders, the two rogue judges of their times had to go ashamed when Justice Qureshi remarked:

'Overlooking this murder would give everyone a licence to kill in the name of religion.

In the presence of the blasphemy laws, how can we justify a person taking the law into his own hands.

If this state of affairs persists, tomorrow one can end up being punished for not reciting religious verses or wearing green turbans."

The IHC also held that no person could be allowed to take the law into their own hands - proper forum was there to handle. The judge said there was a need for extra caution in such matters, recalling a [then recent] case where a cleric fabricated evidence against a minor Christian girl to implicate her in a blasphemy case. The life of a human being was more sacred than anything else, Justice Qureshi said, adding that the court had to examine whether the killing was an act of murder or not.

Kh Sharif, former CJ of the LHC, claimed that:

'...the prosecution did not fulfil all legal formalities during Qadri's trial before an ATC..... that the investigating officer did not record the statement of Waqas Khan, a key witness who was Mr Taseer's host in Islamabad.

As per the crime scene map, Mr Khan was with Mr Taseer at the time of the attack..... that the shooting was not an act of terrorism and that Qadri had no criminal background.'

The former LHC Chief Justice also declared that the men who stormed controversial French magazine Charlie Hebdo and killed 12 of its staff – including the editor – for publishing blasphemous cartoons, were his heroes.

The judges simply were not fully convinced with their former CJ's pleas. The IHC in a 64-page verdict ruled:

"The conviction of appellant recorded by the trial court under Section 7(a) of the Anti-Terrorism Act is set aside, the appeal to this extent is allowed and appellant is acquitted from the said charge whereas conviction and sentence recorded under Section 302(b) PPC is upheld and appeal to this extent is dismissed.

It is amazing to note that the appellant Mumtaz Qadri took protections and rights guaranteed by the Constitution but deprived deceased Salmaan Taseer from all constitutional guarantees."

The ruling by IHC was a surprise to many who had expected the killer's sentence might be reduced amid growing threats to lawyers and judges hearing blasphemy-related cases.

With the removal of Section 7 of ATA, Qadri had still to face the death sentence but was likely not being executed. It was because the government had, in December 2014, done away with the moratorium on capital punishment but the hangings since then had been those of terror convicts only. With the acceptance of Qadri's plea demanding the exclusion of anti-terror clauses, the case could go for a retrial in Sessions Court.

In light of that day's verdict, security around the IHC had been tightened and paths leading to the court were sealed off with barbed wires due to the sensitive nature of the case. Unauthorised personnel were also barred from entering the court. The killing highlighted a growing gulf between conservatives and more liberal elements in the Pakistani society.

Later, Mumtaz Qadri filed an appeal in the Supreme Court against the verdict of the IHC, upholding his death sentence. Similarly, having reservation on the findings of the IHC, the federal government had also challenged in the Supreme Court the verdict of the IHC removing terrorism charges against Mumtaz Qadri.

J KHOSA REJECTED QADRI'S APPEAL:

On 14th May 2015; the Supreme Court had admitted for regular hearing the appeals filed by both Mumtaz Qadri and the Federation against the verdict of the IHC, upholding the death sentence of Mumtaz Qadri.

On 7th October 2015; the Supreme Court upheld the death sentence awarded to Mumtaz Qadri, the self-confessed killer of former Punjab Governor Salmaan Taseer, and allowed the Federation's appeal seeking restoration of terrorism charges against the accused. A three-member bench of the apex court headed by Justice Asif Saeed Khosa and comprising Justice Mushir Alam and Justice Dost Muhammad Khan dismissed the said appeal.

The apex court restored the conviction and sentence awarded to the accused by Anti-Terrorist Court Rawalpindi [ATC], the trial court, and allowed the Federation's appeal, seeking restoration of terrorism charges against the accused earlier set aside by the IHC.

While no-one had ever been sent to the gallows under Pakistan's blasphemy law, activists said it was used to attack others out of personal enmity or because of business disputes. Since Governor Taseer's assassination, right-wing religious clerics had heaped praise on his killer. The PPP government

went silent during its tenure till March 2013 on the whole set of related issues and never indicated or planned to re-discuss the law.

In the darkness of Rawalpindi's Adiala Jail; barred and locked up representation of the country, a condemned man Mumtaz Qadri was king, judge, arbiter of right and wrong – the people around used to approach him to get 'Islamic & judicial' verdict on their tiny issues though informally.

Till his last day in the Adiala prison, from inside Mumtaz Qadri continued to dole out death sentences, of which he was still sole judge and jury. So complete appeared his control, so unquestioned his elevation to punisher rather than punished that he could use the prison guards to carry out the punishments he decided.

Through one Mohammad Yousuf, another member of the Elite Force, as guard who had been deployed to watch over Qadri became the latest tool with which the prison king wielded his wrath. In this case, it took just two weeks to wash over any qualms Yousuf may have had.

In the same jail, there were two blasphemy convicts named Mohammad Asghar and Pastor Zafar Bhatti – Qadri's appointed targets. Once inside, Yousuf shot Asghar, a 70-year-old man with paranoid schizophrenia.

Frail and in ill health, Asghar was the perfect victim, easily vanquished. It was Asghar's insanity that had landed him in prison; his senseless ramblings collected and provided as proof of blasphemy.

In a country like Pakistan, without compassion there is no room for insanity. One Shakeel Auj, the Dean of Islamic Studies at Karachi University, was gunned down by unknown assailants on the same allegations – allegedly condemned for his dissent against extremism.

In May 2014, Rashid Rehman, a lawyer who had represented blasphemy victims in court was also killed. Later gathered details indicated that between the lines of dead lawyers and scholars were the tales of property takings, business disagreements, vengeance and revenge – but who bothers in Pakistan.

Why the appeal of Mumtaz Qadri took about three years and a half to get heard in the IHC – see ***Babar Sattar's*** essay in the '**Dawn**' of **2nd February 2015**:

"Mumtaz Qadri, defended by former chief justice of the Lahore High Court, Khawaja Sharif, former LHC judge Mian Nazir Akhtar, and hundreds of other lawyers, is being lionised by these professed defenders of law and justice in Pakistan.

The Attorney General's office has reportedly lost the case file and the state has yet to formally instruct a prosecutor to oppose the appeal of Salman Taseer's self-confessed killer....this the picture of just a broken state or a broken society as well."

In Pakistan, there is no consensus over any rules of behaviour; no one even agree that life is sacred and murder wicked. The Salmaan Taseer murder case was the mirror that projected the reality of that Muslim state and society in all its ugliness. The governor of the largest province was not killed because he said derogatory things about the Prophet [PBUH].

Governor Taseer was killed because he stood up to even the odds for poor Christian woman charged with blasphemy in a society where criticism of the abuse of the blasphemy law has come to be equated with blasphemy itself.

Mumtaz Qadri, whose job was to secure Salmaan Taseer, chose to kill him instead and confessed that the murder was deliberate and pre-planned. One understands what Taseer was trying to do and what Qadri did. But ***what was it that former justices Sharif and Nazir Akhtar along with hundreds of lawyers were trying to do?***

The most disastrous scenario comes when one thinks that the said defenders had been the Justices [one as CJ too] of the biggest high court in the country – but so disillusioned with the judicial norms. They conveyed that it was OK to murder someone who in one's subjective opinion didn't have the right respect for his religion - OR that killing some one was justified so long as it claimed to have been done out of love for your religious thoughts.

Qadri's defence was neither insanity nor provocation. It was that his self-assumed moral obligation emerging from his personal justification for the murder. The two retired judges in fact pleaded that:

'.....murder is no crime if it is committed to punish a perceived sinner. That one's moral obligation to one's faith ought to override one's legal obligation to the law.

And further that court should understand that killing in the name of religion ought to be celebrated and not punished'.

Again, in the words of **Babar Sattar** cited above; it is pity with Pakistan's judicial standards that Qadri's defence judges did not want him to face the legal consequences of his violent actions in the name of religion. Saalat Mirza's defenders did not want him to face the legal consequences of his violent actions in the name of ethnic loyalty.

The reaction of the state in both cases was identical: it was willing to give up the writ of law and patronise perpetrators of violence in the name of convenience and suitability.

Rule of law is valuable for it defines the agreement within the society over concepts of right and wrong. In the said Qadri's case, the Pakistani society was not at all confused that Qadri was a wrong doer but it lacked courage to stand out.

What's worse — Qadris and Mirzas who claimed human lives out of misplaced loyalty to faith or ethnicity, or their defenders who projected vile criminals as patron saints – were all partners in crime while denting sense of basic justice and deliberately enhancing the gap between law and its performance.

On 7th October 2015's day carried enormous significance for Pakistan, for it marked the Supreme Court of Pakistan's landmark ruling of maintaining the capital punishment of Mumtaz Qadri, who continued to remain a hero for some and a cold-blooded murderer for others. Mumtaz Qadri's case held a mirror bearing clear reflection of a nation that has been miserably fragmented and still millions of miles far from being called a nation.

This ruling was to be marked 'high valued' for reason that:

'...a man in uniform took the law into his own hands and murdered an unarmed fellow country man he was morally and legally bound to protect'.

That was why the culprit was hated indiscriminately by all, regardless of his origin or belief. His religious beliefs, colour, cast, or creed would not have mattered at all. The chances of escaping capital punishment in his case were absolutely remote.

The SC ruling came as a pleasant surprise to some and at the same time as one big shock to a very large number of souls. The observations made by the learned judges during the course of hearing came as a breath of fresh

air, as it rekindled hope for shining future of coming generations in an underdeveloped country like Pakistan.

During the course of hearing, Justice Dost Muhammad Khan expressed his observations that should put to rest questions about whether or not blasphemy laws could be freely discussed by the people. He minced no words while saying that:

".....blasphemy law is a man-made legislation which was passed by the parliament that was composed of public representatives. Therefore, any legislation made and okayed by the parliament is a man-made thing, thus, the nation has a right to criticize it.

The deceased governor only pointed at the flaws in the blasphemy law, which were sometimes exploited for achieving personal agenda."

Justice Asif Saeed Khosa who headed the bench hearing the petitions said:

"Will it not instil fear in the society if everybody starts taking the law in their own hands and dealing with sensitive matters such as blasphemy on their own rather than going to the courts."

But Mumtaz Qadri was left with one more avenue to seek mercy from – the President of Pakistan. Could Mumtaz Qadri be punished - even at that stage no one was sure of his fate.

The fears came up true – Mumtaz Qadri, instead of going for mercy appeal before the President of Pakistan, managed to launch another re-review plea before the same Supreme Court requesting for yet another larger bench.

On 14th December 2015; a three judges bench of the Supreme Court of Pakistan [SC], headed by Justice Asif Saeed Khosa, once again rejected ***Mumtaz Qadri's review petition*** against his death sentence, which was first awarded in 2011 by an Anti-Terrorism Court, for gunning down the then Punjab governor Salman Taseer.

Rejecting Qadri's plea, the court said his lawyers had failed to ***"establish blasphemy"*** in the case and also rejected the formation of a larger bench to hear the arguments. The apex court held that:

"Mumtaz Qadri has confessed to the killing at all stages and was arrested from the crime scene. It is our responsibility to safeguard the law and stand by our oaths."

On 22nd December 2015; a 5-pages detailed judgment in the said case was released by the Supreme Court of Pakistan. The apex court had regretted that by raising arguments on the merit of the case and the sentence already confirmed, an attempt was made to re-argue the entire case through the review petition by Qadri's counsel. The SC held that:

"A review is surely not a rehearing of the main case and all contentions have already been attended to in the Oct 7 judgment under review in some detail."

The apex court in detailed judgment explained why its three-judge bench had [on 14th December 2015] rejected the review petition filed by Mumtaz Qadri through his counsel Justice (rtd) Nazir Akhtar.

"No error patent on the face of the record was pointed out by Qadri's counsel against the Oct 7 judgment," said the verdict, authored by Justice Asif Saeed Khosa, who headed the bench which had dismissed the review petition.

The detailed judgment also said that since the main review petition had been dismissed by the apex court, the application seeking interim relief regarding suspension of execution of the petitioner's sentence of death had also lost its relevance.

The Supreme Court had, in its 7th October verdict, had refrained from going into the matter of interpretation of the injunctions of Islam, especially relating to blasphemy and its punishment, the judgment said. The same was expected of the Islamabad High Court and, therefore, observation made by the high court in its order of 9th March was treated as not legally binding as a precedent.

In the 7th October judgment, the order recalled, the apex court had already held that the petitioner had failed to prove through any legally admissible evidence that the victim [Salman Taseer] had committed blasphemy.

It was also held by the apex court in the main judgment that under Articles 203 G and 230 of the Constitution, interpretation of the injunctions of Islam as laid down in the Holy Quran and Sunnah of the Holy Prophet [PBUH] fell within the exclusive domain, power and jurisdiction of the Federal Shariat

Court, the Shariat appellate bench of the Supreme Court and the Council of Islamic Ideology. And SC bench's jurisdiction in such matters was only limited to application of the principles.

Referring to the arguments of Qadri's counsel that the apex court should be guided by the injunctions of Islam as laid down in the Holy Quran and Sunnah, the order explained that this contention overlooked the fact that in the considered opinion of the court, the counsel had failed to discharge the onus on him to prove through legally admissible evidence the alleged commission of blasphemy by Salman Taseer.

The apex court also regretted that in a separate application through the review petition, the counsel had pleaded for adjudication of some very important religious and legal questions, but no such questions were identified in the application. Thus the detailed judgment observed that the said ***'side application also stands dismissed'***.

On 29th February 2016; Mumtaz Qadri was executed at the Adiala Jail at around 4.30am. Qadri had shot Salman Taseer 28 times in broad daylight in Islamabad's Kohsar Market on 4th January 2011.

The body of Mumtaz Qadri was handed over to his family members and was moved from the jail under tight security cover.