

KANJU'S SON ACQUITTED:

By Inam R Sehri

On 27th October 2015; ATC-I Presiding Judge Muhammad Qasim acquitted Mustafa Kanju and his guards Sadiq, Asif, Saif and Akram. In total seven persons were indicted on charges of killing a 16 years old orphan Zain and injuring Hussain aged 18 years in a shooting incident in Cavalry Ground Lahore in April 2015.

The incident had happened in broad daylight, in a public place, in the middle of an urban centre. A Kalashnikov rifle had also been recovered from the culprit.

According to prosecution, Kanju was allegedly drunk when his car hit another car driven by a woman - Kanju got infuriated and opened fire. Punjab Chief Minister Shahbaz Sharif had taken notice of the incident, ordered the arrest of the suspect and announced Rs:0.5m for the family of the deceased.

Reasons being that all the 20 prosecution witnesses — persons who were perhaps 'recruited by the police as witnesses', who had described the scene and Kanju's involvement therein — retracted their statements and denied to testify their version in the court later. What could the court do when there was not a single witness willing to recognise the accused Kanju in the dock? Did it make sense that tens of prosecution witnesses who had implicated Kanju in the said murder all suddenly realised that they were wrong?

Zain's uncle, Sohail Zia, who had filed the complaint and spoken openly and in the media accusing Kanju of murdering his nephew, suddenly changed his mind and thus stance. Nor was it possible — as Kanju's legal team contended — that Mr Kanju's enemies were able to gather tens of people in the middle of a posh urban locality of Lahore to frame him for murder. Now the hard facts:

- *The weapon of murder, the Kalashnikov rifle had been recovered from the culprit; police made out a memo for that.*
- *On one of the dates of hearing Kanju's lawyer told the court that a 'compromise' was being negotiated between the parties.*
- *The prosecution told the court that cases had been registered against the complainant and the witnesses (those who were retracting their statements) under Section 213 of the Pakistan Penal Code i.e accepting gifts to protect an offender from punishment.*

The prosecutor said the complainant and the witnesses were persuaded to retract their statements – and had urged the court to dismiss the acquittal application of the suspects.

But the story was not so simple; the local police was the equal accomplice.

The police knew that the Zain's killing event was reported in the whole print and electronic media in April 2015 with full coverage of photographs, discussions, video displays and interviews at all the channels.

When the investigators had felt that the complainant and the witnesses had been won over then they could have approached any of the TV channels to provide them the coverage of programs along with the video clips.

When in the AT court, the witnesses were distracting, there could have been a display of video clips showing Kanju with his weapon in hands. Police could manage it easily. In fact it is customary these days that whenever some scene appears in open, the people around take

photos and videos of that occurrence on their cellular phones and then send the same to the TV channels. The TV channels feel pride in running those private clips on their screen at the first moment with ***captions of 'Breaking News'***.

Had those video clips be placed before the court, it would have been easier for the ATC judge to make out a just decision. Then the defending lawyers stance would have been different that whether those videos would be acceptable or admissible in the prevailing Pakistani justice system or not.

Hats off to the new Chief Justice of Pakistan Justice Anwar Zaheer Jamali, who **on 30th October 2015** took *suo motu* notice of Mustafa Kanju's acquittal by the Lahore ATC in the Zain murder case – asked the ATC to submit the whole record of the case in a sealed envelope. One can hope that the SC would call the TV channels to place their video clippings before the court to treat the same as an admissible evidence.

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J Asif Khosa 09:59 03/11/2015

To: Inam Sehri

Dear Mr. Sehri,

Thank you for your email. The record of the case has been received by the Supreme Court and some of us have inspected the same in our chambers. The matter shall now be fixed for hearing before the Court in the next few days.

Regards.

Asif Khosa (J)

Sent from my iPhone