

The Supreme Court of Pakistan acquit a man accused of blasphemy 11 years ago: Mushtaq was held under “frivolous charges”

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A Statement by the Asian Human Rights Commission

PAKISTAN: Supreme Court declares blasphemy accusation as tool of oppression and releases Christian after 11 years

The Supreme Court of Pakistan’s acquittal of a man accused of blasphemy 11 years ago is a breath of fresh air amidst the country’s suffocating patronage of religious extremism and mob justice. The three-member appellate bench found Mr. Mushtaq innocent and absolved him of all charges after spending more than a decade in jail. The court ruled that Mushtaq was held under frivolous charges brought by the complainant, for the purposes of revenge.

The axiom ‘justice delayed is justice denied’ aptly describes the state of judicial affairs in Pakistan where poor accused are found to be innocent at best after spending decades behind bars, or at worse, after being hanged for crimes they never committed. The judicial precedence of absolving an innocent man or woman is rare. More so in cases of blasphemy, where judges of the lower courts do not dare tread the fine line between appeasing Islamic fundamentalism and upholding the rule of law. The former almost always trumps the latter, and the whole life of the accused is destroyed.

Since the Mashal Khan lynching in April this year, Pakistan’s judiciary has become slightly more proactive in dealing with cases of blasphemy. The accused is now given the benefit of doubt, and religious sentiments are not being allowed to colour judicial logic and decisions.

The landmark judgment acquitting Mushtaq Masta, a Christian scavenger, harshly criticised the method of investigation, prosecution and the incompetency of the lower judiciary hearing his case. Justice Arif Khosa’s apt observations can be viewed as a commentary on the dismal state of Pakistan’s justice institutions.

Mushtaq was accused of burning pages of Quranic scripture inside his house on 26 October 2006. The three-member bench presiding over the case held that the prosecution failed to prove the occurrence of blasphemy beyond a reasonable doubt, and that the investigation was faulty and inefficient. The court observed for instance, that the matchbox produced in the lower courts was stated to be different from the one in police records. Further, the burnt piece of Holy Scripture used as evidence against the accused, was not recovered by the investigation officer from the crime scene, but was rather provided by the complainant. This creates doubt over the authenticity of the evidence, thus making it inadmissible in a court of law.

This only serves to underline the common practice of instigating and bribing police in Pakistan to file frivolous charges, for which complainants themselves provide concocted evidence. To worsen matters, the prosecution bases its argument solely on the police investigation report and usually ignores any discrepancies. The lower judiciary meanwhile, due to its heavy backlog of cases, does not spend time sifting through the evidence. The result is a travesty of justice.

Justice Khosa further expressed his shock that despite the lack of credible witnesses to the crime, Mushtaq was convicted for blasphemy. Also, the admission of the complainant of breaking into Mushtaq's house at night, which is a crime, was never brought into question by the investigation officer, defendant or the lower judiciary. The bench also expressed its dissatisfaction with the Multan High Court for adding an Anti-Terrorism Act provision in the case.

Justice Khosa is quite right when he states in his judgment that frivolous blasphemy accusations are made to seek vendetta against opponents, and are a sure fire way to ruin their lives. The bench also stated that given the legal and social connotations, no sane man will ever indulge in such a crime. According to the judges, mob justice and lynching is associated with the religious fervour that clouds reasoning and logic.

Religious fundamentalists in Pakistan consider it their religious duty to kill any accused of blasphemy, and no one is allowed to defend the poor accused. Two days prior to Asia Bibi's appeal in the Supreme Court for instance, fundamentalist organizations published advertisements and video clippings warning the judiciary not to accept Bibi's appeal. Receiving the message loud and clear, the judiciary refrained from giving her the same benefit of doubt that Mushtaq was afforded.

More than five cases of mob lynching taking innocent lives have occurred since 2017 began. Increasing blasphemy allegations and misuse of the law is but a symptom of failed governance, and is exacerbated with Pakistan's deteriorating law and order situation. Pakistan's criminal justice system ranks 81 out of 113, and is in urgent need of improvement and reengineering. It is thus incumbent upon more judicial officers to partake their duties with full honesty and integrity, as in the case of Mushtaq.
