

SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Raja Saeed Akram Khan, ACJ.

Civil PLA No.21 of 2020

(Filed on 19.10.2020)

Ehtesab Bureau AJ&K

.... PETITIONER

VERSUS

Waseem Afzal

..... RESPONDENT

(On appeal from the judgment of the High Court dated
31.08.2020 in Criminal Appeal No.27 of 2020)

FOR THE PETITIONER: Sardar Amjad Aslam,
Chief Prosecutor
Ehtesab Bureau.

FOR THE RESPONDENTS: Nemo.

Date of hearing: 26.11.2020.

ORDER:

RAJA SAEED AKRAM KHAN, ACJ—

The titled Petition for Leave to Appeal has been directed against the judgment of the High Court dated 31.08.2020, passed in Cri. Appeal No.27 of 2020, whereby the appeal filed by the petitioner, herein, has been dismissed.

2. The facts necessary for disposal of the petition for leave to appeal are that Ehtesab Court Mirpur vide order dated 26th December, 2019, has dismissed the reference filed by the Ehtesab Bureau in offences under Sections 467, 468, 471 APC and Section 11 of Ehtesab Bureau Ordinance/Act on the ground of limitation and mandatory approval of Chairman Ehtesab Bureau has not been obtained prior to filing reference. Feeling dissatisfied from the said order, petitioner herein, challenged the order of the Ehtesab Court Mirpur before the learned High Court. The learned High Court through impugned order dated 31st August, 2020 dismissed the appeal, hence, this petition for leave to appeal.

At the very outset the learned Chief Prosecutor is confronted about the limitation that the Additional Registrar has pointed out that the petition for leave to appeal is 17 days time barred. He stated that under order **23** – Supreme Court Rules limitation for filing PLA against acquittal is 60 days, after same is included the petition for leave to appeal is within time.

Sardar Amjad Aslam, Chief Prosecutor Ehtesab Bureau, argued that judgment are based upon mere procedural and technicalities, which cannot effect the merits of the case The impugned judgment of lower Courts do not cover all the fact and circumstances of the case and liable to be set at naught. He further submitted that the petitioner, herein, proved the case by producing sufficient evidence, Courts below failed to consider the same. The judgment of the Courts below based on misconception and mis-interpretation of the relevant laws.

4. I have heard the learned counsel for the petitioner and gone through the record made available.

5. The learned counsel for the petitioner has raised important legal question of public importance, which can only be resolved in a regular appeal. Leave to appeal is, therefore, granted to consider the same. The learned counsel for the petitioner is directed to deposit the amount of security Rs.1000/- within one month, failing which leave granted order shall automatically stands rescinded. The office is directed to

proceed further according to law and place the file before me for constitution of bench after its completion.

The point of limitation shall be taken up at the time of final arguments.

ACTING CHIEF JUSTICE

Mirpur.
26.11.2020.