

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

Cr. Appeal No.S-275 of 2017

Cr. Acquittal Appeal No.S-270 of 2017

Cr. Revision Application No.S-218 of 2017

DATE ORDER WITH SIGNATURE OF JUDGE

16.01.2023.

Syed Tarique Ahmed Shah, Advocate for appellant in Cr. Appeal No.S-275 of 2017.

Mr. Muhammad Sachal R. Awan, Advocate for complainant in Cr. Appeal No.S-275 of 2017 and for appellant / applicant in Cr. Acquittal Appeal No.S-270 of 2017 and Cr. Rev. Appl. No.S-218 of 2017.

Ms. Sana Memon, Asst. Prosecutor General, Sindh.

MOHAMMAD KARIM KHAN AGHA, J:- The appellant Safdar Ali in Cr. Appeal No.S-275 of 2017 was tried in the Court of 1st Additional Sessions Judge, Dadu in Sessions Case No.166 of 2017 for offence under Section 324, 337-F(vi), 114, 504, 337-II(ii), 34 PPC in respect of Crime No.01 of 2017 registered at Police Station Rukkan and by impugned judgment dated 13.11.2017 he was convicted u/s 324 PPC and sentenced to undergo R.I for three years and to pay fine of Rs.10,000/- and in default whereof to further undergo S.I for two months more. The appellant was also convicted for the offence under Section 337-F(vi) PPC to pay daman amount of Rs.1,00,000/- and to suffer R.I for three years as Ta'zir. The amount of daman was to be paid to the injured Mushtaque Ahmed. All convictions were to run concurrently. However, the benefit of Section 382-B Cr.P.C was also extended to him.

2- The brief facts of the case are that on 01.01.2017 complainant Ghulam Qadir Panhwar got lodged FIR at Police Station Rukkan alleging therein that Mushtaque Ahmed is son of his nephew who is new appointment in police and was on training at Sakrand. On 30.12.2016 Mushtaque Ahmed came to village on night pass and on that day there had arisen altercation between the brothers of Mushtaque Ahmed and Safdar Ali and others. He further alleged that on 31.12.2016 the Mushtaque Ahmed and Nadir Ali were going to village Khalid Panhwar from Phulji Station via Khariro Shakh on foot and when at 5:45 p.m reached near Village Yousif Panhwar saw accused Safdar Ali with

... (2) ...

Pistol, Zeeshan with Kalashnikov and Munwar Ali who emerged on the ramp towards western side. Out of them, accused Munawar Ali instigated his companions to commit murder of complainant party to which accused Safdar Ali made fire from his Pistol upon Mushtaque Ahmed in order to commit his murder which hit on his right thigh who fall down due to sustaining fire. Accused Zeeshan also made straight fires from his Kalashnikov upon complainant party who saved themselves while lying in the shakh and also raised cries of "khooon khooon". Then accused Safdar and Zeeshan made aerial firing and while abusing went towards western side along with accused Munawar. The complainant then arranged conveyance and brought the injured Mushtaque Ahmed at P.P Phulji Station, obtained letter and brought the injured at Civil Hospital Dadu. The injured was referred to Hyderabad and then he was referred to Karachi. Complainant sent the injured along with other relatives and came at Police Station and got lodged his FIR.

3- After usual investigation, the matter was challaned and the appellant was sent-up for trial. The appellant pleaded not guilty and in his Section 342 Cr.P.C statement claimed his innocence. The prosecution in order to prove its case examined as many as five (05) PWs who exhibited various documents and other items.

4- After hearing the parties and appreciating the evidence on record the trial Court convicted and sentenced the appellant Safdar Ali as set-out in the preceding paragraph of this judgment, hence the appellant has filed this Cr. Appeal No.S-275 of 2017 against his conviction.

5- The parties to this matter namely the appellant Safdar Ali, the complainant Ghulam Qadir, the injured Mushtaque Ahmed, who was also paid daman amount, and one of the PWs Nadir Ali today have filed this application under Section 345(2) Cr.P.C. as the parties have patched up their differences and the complainant Ghulam Qadir, injured Mushtaque Ahmed as well as one of the PWs Nadir Ali have compromised the matter and pardoned the appellant Safdar Ali in the name of Allah Almighty.

6- I have specifically asked the appellant Safdar Ali present in Court that whether he has made this compromise on his own accord and free will and likewise from the complainant Ghulam Qadir, injured Mushtaque Ahmed and PW Nadir Ali, who have all confirmed in open Court that they have made this compromise on their own volition and free will.

... (3) ...

7- It is noted that the offences for which the appellant was convicted are all compoundable and as such this Court under Section 345(5) and 345(f)(a) may allow such compromise.

8- It is further noted that appellant Safdar Ali, complainant Ghulam Qadir, injured Mushtaque Ahmed and PW Nadir Ali have all sworn affidavits to the agreement with the compromise and compounded all these offences.

9- Keeping in view the above circumstances of this case, the application under Section 345(2) Cr.P.C is allowed and as a result thereof the appellant Safdar Ali is acquitted of the charge. He is present on bail. His bail bonds are cancelled and surety stands discharged. Resultantly, the Criminal Appeal No.S-275 of 2017 is hereby disposed of accordingly.

10- Learned counsel for the appellant / applicant under instructions and in view of the above, does not press the Cr. Acquittal Appeal No.S-270 of 2017 and Cr. Revision Application No.S-218 of 2017 which are hereby disposed of as not pressed.

Hafiz Fahad