

## IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Before:

**Mr. Justice Khalid Hussain Shahani**  
**Mr. Justice Muhammad Jaffer Raza**

**Cr. Jail Appeal No.D-12 of 2021**  
**Cr. Conf: No.D-13 of 2021**

Appellant : Mumtaz s/o Roshan Chandio  
Through Mr. Abdul Rehman A.  
Bhutto, Advocate.

Respondent : The State  
Through Mr. Nazeer Ahmed  
Bhangwar, Deputy Prosecutor  
General, Sindh.

Date of hearing : 08.07.2025

Date of Decision : 15.07.2025

### **J U D G M E N T**

**Khalid Hussain Shahani J.-** The appellant Mumtaz, was convicted by the court of learned 1<sup>st</sup> Additional Sessions Judge-I/MCTC, Kamber, in Sessions Case No.102 of 2021, emanating out of FIR No.40 of 2020, offenses punishable under Sections 302, 452, 148, and 149 PPC, registered at Police Station Gaji Khuhawar and sentenced as under:-

- For offence u/s 302 PPC to death as Ta'zir, with a direction to pay compensation of Rs.1,000,000/- to the legal heirs of the deceased in pursuance of section 544-A Cr.P.C. In default of payment, the appellant was to undergo six months of simple imprisonment.
- For offence u/s 452 PPC sentenced to five years of rigorous imprisonment along with a fine of Rs.50,000/-. In default of the fine, one year of simple imprisonment was to be served
- For offence under Section 148 PPC sentenced to pay a fine of Rs.20,000/-. In default of the fine, two months of simple imprisonment were to be served.

2. During the pendency of the appeal, the appellant submitted applications for compromise, asserting that an amicable settlement had been reached with the legal heirs of the deceased, Zulfiqar Ali. Consequently, this Court, exercising its authority under Section

345(2) Cr.P.C., granted permission for the compromise and referred the matter to the learned trial Court for an inquiry to ascertain the genuineness, voluntariness, and legal competence of the parties to compound the offense. The learned trial Court, in its comprehensive report dated March 7, 2025, confirmed the facts pertinent to the compromise. The deceased was survived by seven daughters, two sons, and a widow. Significantly, four daughters (Zehra Khatoon, Soonha, Ambar, Amal) and two sons (Walidad, Kareemdad) are minors. The adult legal heirs, comprising the widow and three major daughters, voluntarily appeared before the trial Court. They unequivocally waived their rights of Qisas, Diyat, and Arsh, and expressly pardoned the appellant "in the name of Almighty Allah." Regarding the minor legal heirs, this Court, in exercise of its inherent powers under Section 345(4) Cr.P.C., duly appointed Mst. Sanam as their Wali (guardian) for the specific purpose of facilitating the compromise. Mst. Sanam subsequently appeared before the Court and, acting in her capacity as Wali, formally waived the right of Qisas on behalf of the aforementioned minors.

3. The appellant has undertaken to pay the minors' collective share of Diyat. However, as per established legal principles, particularly underscored in the case of *Ali Dost v. The State* (2006 P Cr. L J 80), the value of Diyat must be determined by reference to the Federal Government's official notification (S.R.O.) for the financial year in which the occurrence took place. Since the FIR (No.40 of 2020) indicates the offense occurred in 2020, the Diyat amount for the minors shall be precisely fixed according to the value declared by the Federal Government for the relevant financial year i.e. 2021-2022, depending on the exact date of occurrence within 2020 and the applicable notification, which comes to Rs.42,61,205/- and the share of 04 minor daughters (Ms. Zehra Khatoon, Ms. Soonha, Ms.

Amber and Ms. Amul) and 02 minor sons (Walidad and Kareemdad) comes to Rs.24,85,704/-. This officially determined Diyat amount, considering the appellant's asserted financial hardship, shall be payable in equal monthly installments over a period of two years from the date of this judgment, as permissible under Section 331 PPC.

4. To ensure the robust protection of the minor legal heirs' interests, the appellant is directed to furnish a surety bond equivalent to the officially determined Diyat amount to the satisfaction of the trial Court. This surety shall serve as a guarantee for the punctual payment of the Diyat within the stipulated timeframe. The learned Deputy Prosecutor General, representing the State, expressed no objection to the acceptance of the compromise. Furthermore, the report of the learned trial Court definitively confirmed that the compromise is genuinely voluntary and was not procured through any form of coercion or duress.

5. Given that the offense under Section 302 PPC is compoundable with the permission of the Court, and considering that all major legal heirs have validly pardoned the appellant while the minor legal heirs are appropriately represented through a duly appointed Wali, this Court finds no legal impediment to the acceptance of the compromise. This decision is reinforced by the principles enunciated in *The State v. Muhammad Hanif* (1992 SCMR 2047) and *Khalil-uz-Zaman v. Supreme Appellate Court* (PLD 1994 SC 885).

6. In light of the foregoing, permission to compound the offence in pursuance of section 345(2) Cr.P.C. is hereby accorded, and the compromise between the parties is accepted under Section 345(6) Cr.P.C. Consequently, the appellant is acquitted of the charge

under Section 302 PPC. The ancillary sentences imposed under Sections 452 and 148 PPC are also hereby set aside. The appellant, currently incarcerated, shall be released forthwith, provided he is not required in any other case, subject to furnishing the aforementioned surety before the trial Court in the sum equivalent to the officially determined Diyat amount, thereby safeguarding the rights of the minor legal heirs. Accordingly, the appeal stands disposed of, along with all pending application(s), in terms of the compromise and undertakings recorded herein.

7. The death reference, in view of the above is answered in the negative.

**JUDGE**

**JUDGE**