

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Jail Appeal No. S-83 of 2021

Appellants : 1. Gul Zaman son Muhammad Hayat, Almani
2. Sikandar son of Muhammad Hayat, Almani
3. Munawar Ali son of Muhammad Hayat Almani
Through Mr. Ubedullah Malano, Advocate

Complainant : Asghar Ali son of Muhammad Khan, Almani
Through Mr. Rukhsar Ahmed Junejo, Advocate

The State : *Through Mr. Muhammad Raza Katohar, DPG*

Date of Hearing : 27.11.2025
Date of Decision : 27.11.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J.— The appellants Gul Zaman, Sikandar, and Munawar Ali, all belonging to the Almani caste, have assailed the conviction and sentence rendered against them by the learned Additional Sessions Judge-III/ MCTC-II, Sukkur, dated 02nd October 2021, whereby they were found guilty under Sections 302(b) read with Section 149 PPC as *Ta'azir*. The impugned judgment sentenced them to imprisonment for life and imposed a fine of Rs. 300,000/- each to be paid to the legal heirs of the deceased, Ghulam Mustafa, in terms of Section 544-A, Cr.P.C., failing which they were to undergo six months additional imprisonment. The benefits of Section 382-B Cr.P.C, were also extended.

2. At the outset, the learned counsel for the appellants argued that the formal charge framed on 19.04.2017 did not adequately specify the offenses, and that the trial was tainted by procedural irregularities. Specifically, the evidence recorded against the appellants was reproduced verbatim after framing the amended charge following the prosecution's application under Section 227 Cr.P.C. Such replication of testimony raised doubts about the genuineness and reliability of the evidence, undermining the foundation of a fair trial.

3. Importantly, the statements of the accused under Section 342 Cr.P.C. were taken in a cursory manner. The record reflects that while formal questions were posed, the essential practice of confronting the accused with incriminating

evidence was egregiously neglected, violating the procedural safeguards enshrined to ensure justice and fair adjudication.

4. The learned Deputy Prosecutor General, with able assistance from the complainant's counsel, acknowledged the procedural flaws in the recording of the accused's statements and consented to the remand of the case for recording fresh statements strictly in accordance with legal requirements. The prosecution did, however, express reservations regarding a complete retrial; notwithstanding, it was conceded that the witnesses' testimonies appear stereotyped and identical to those previously recorded, a circumstance that strongly militates against the credibility and reliability of such evidence.

5. A meticulous scrutiny of the record reveals that the evidence of five prosecution witnesses including the complainant was reiterated without material variation before and after the amendment of charges, a scenario incontrovertibly inconsistent with the expectations of a fair trial under criminal justice system. The duplicity in witness testimony, coupled with the failure to properly examine the accused, fundamentally undermines the integrity of the trial process.

6. Given these facts, and in deference to the principle that every accused is entitled to a fair and impartial hearing guaranteed under Article 10-A of the Constitution of Pakistan, the conviction rendered on 02.10.2021 cannot be sustained. Accordingly, the impugned judgment is hereby set aside.

7. The matter is remanded to the learned trial court with explicit directions to:

- Record afresh the evidence of all five prosecution witnesses, including the complainant;
- Following the prosecution's closure, record the statements of the accused in strict compliance with Section 342 Cr.P.C., ensuring they are confronted with all incriminating material presented against them;
- Conduct further proceedings in an expeditious manner, recognizing the protracted nature of this case traced back to 2021.

With these observations, the instant Criminal Jail Appeal is disposed of.

J U D G E