

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

**Crl. Appeal No. 58 of 2015.
Crl. Reference No. 09 of 2015.**

Date of hearing	Order with signature of Judge
13.03.2019.	

1. For orders on M.A. No. 259/2019.
2. For orders on M.A. No. 260/2019.
3. For orders on M.A. No. 261/2019.
4. For hearing of case.

Mr. Akbar Ali Dahir, Advocate for appellant.
Mr. Sharafuddin Kanhar, A.P.G.

Muhammad Saleem Jessar, J- Appellant Nadir son of Umed Ali Seehar was tried and convicted in Sessions Case No.85/2009, Re: State v. Nadir, arisen out of *Crime No.38/2008 of P.S Badeh*, registered for offences punishable under Section 302, 337-H (2), 34 P.P.C, vide judgment dated 14.09.2015, passed by learned Sessions Judge, Kamber-Shahdadkot @ Kamber, whereby the appellant was convicted and sentenced to “*death*” and was directed to pay compensation of Rs.500,000/- to legal heirs of deceased Mst. Parveen and in default thereof to suffer S.I for six months more.

Against his conviction and sentence, the appellant filed instant appeal. However, during pendency of the appeal, the appellant entered into compromise with legal heirs of deceased and such applications in terms of Section 345 Cr.P.C. were moved, which were sent to learned trial Court, for enquiry as to verify the legal heirs of the deceased as well as genuineness or otherwise of compromise between the parties.

Pursuant to directions, the trial Court enquired into the matter and furnished its report dated 04.03.2019, which is available with the file. In its report, the learned trial Court has mentioned that during course of enquiry reports with regard to legal heirs of deceased from concerned Mukhtiarkar, SHO and NADRA authorities were called, so also it got

published such notice in the newspaper. The learned trial Court has further mentioned that during enquiry proceedings, statements of major legal heirs of deceased were recorded, who affirmed the fact of compromise between them.

According to report of the trial Court, deceased had left in all four legal heirs namely, Mst. Rubina Khatoon (mother), Ali Gohar (father) Sahib (son) aged about 13 years and Fatima alias Popra (daughter) aged about 11 years.

Both the major legal heirs of deceased also appeared before this Court and categorically stated that they pardoned the appellant in the name of Almighty Allah, and waived off their right of "*Qisas & Diyat*".

Besides, major legal heirs, there are two minor legal heirs, namely, Master Sahib (son) and baby Fatima alias Popra (daughter) and in cases of like nature, where deceased leaves behind him ^{she} some minors; their interest is to be safeguarded on the basis of their share in the "*diyat*" amount, which is a prescribed one.

In these circumstances, the Accountant of this Court is directed to calculate the share of aforesaid minors in respect of "*diyat*" amount, as per gazette notification issued by Government of Pakistan for current year, which shall be payable by the appellant. After calculation of share of minors in respect of "*diyat*" amount, the same is liable to be deposited by the appellant.

The learned A.P.G appearing for the State raised no objection, if listed applications are allowed.

The report furnished by the trial Court reveals that compromise between the parties appears to be volunteer, genuine and without any duress and coercion, therefore, permission to compound the offence is accorded to the parties, and in result whereof compromise between the parties is hereby accepted and appellant Nadir Seehar is acquitted of the charge in terms of compromise subject to deposit of share of "*Diyat*" of

minor legal heirs, which is to be calculated by the office. The appellant is reportedly confined in jail; his release writ should be issued, as soon as the share of minors is deposited by him in the Court. And, office is directed to invest the amount so deposited by appellant in respect of share of minors, in a profitable scheme of the government, which would be paid to the minor legal heirs, as and when they attain the age of majority.

The Appeal and Reference alongwith listed applications stand disposed of in the above terms.

JUDGE

JUDGE

Ansari/*

For Directions / Disposed of Matter

- Accountant report as flag 'B'