

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

(1) Crl. Appeal No. D- 17 of 2020.
(*Muhammad Nawaz & others*).

(2) Crl. Appeal No. D- 18 of 2020.
(*Mst. Arbab*).

Present:

Mr. Justice Muhammad Saleem Jessar.
Mr. Justice Shamsuddin Abbasi.

Appellant (s): Muhammad Nawaz and others, through Mr. Altaf Hussain Surahyo, Advocate.

Appellant: Mst. Arbab, through Mr. Altaf Hussain Surahyo, Advocate.

Complainant: Ali Nawaz, through Mr. Shahid Hussain Gopang, Advocate.

The State: Through Mr. Aitbar Ali Bullo, Deputy Prosecutor General.

Date of hearing: 31.05.2022.
Date of judgment: 31.05.2022.

JUDGMENT

Muhammad Saleem Jessar, J. These criminal appeal are directed against the impugned judgment dated 07.03.2022, passed by learned Judge, Anti-Terrorism Court, Shikarpur, in the Special Case No.42/2018, arisen out of Crime No.45/2018, registered with P.S New Foujdari, whereby the appellants were convicted and sentenced, as stated in the impugned judgment.

At the very outset learned counsel for appellants drawn attention of this Court towards deposition of complainant Ali Nawaz Ex-16, page 127 of the paper, whereby the complainant had admitted that the accused party was annoyed with them due to previous murder (enmity). As such, according to learned counsel in the light of dictum laid down by Hon'ble Supreme Court in cases of *Khuda-e-Noor v. The State* (PLD 2016 Supreme Court 196) and *Sajid Rasheed Qureshi v. Munawar Ahmed and others* (2017 SCMR 162) this case was not to be tried by the Anti-Terrorism Court and is to be tried by the Court having ordinary

jurisdiction. Therefore, he prays that the case may be remanded to learned trial Court for its transmission to the Court of ordinary jurisdiction for *denovo* trial.

Learned D.P.G. as well as learned Advocate for complainant does not controvert or oppose above submissions made by learned counsel for the appellants and recorded their no objection.

In view of the submissions of learned counsel for appellants and the law laid down by Hon'ble Supreme Court (*supra*) the conviction and sentences awarded to the appellants vide impugned judgment are hereby set-aside and case is remanded to learned trial Court with directions to remit the same to the Court of learned Sessions Judge concerned for conducting *denovo* trial.

The captioned appeals are disposed of in above terms.


Judge


Judge

Ansari