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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Jail Appeal No.D-05 of 2019.
Crl. Ref: No.D-02 of 2019

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For hearing of M.A.No.3137/2020 (U/A)
2. For hearing of M.A.No.1731/2020 (561-A)
3. For hearing of M.A.No.4166/2019 (345(2)
4. For hearing of M.A.No.4167/2019(345(5)
5. For hearing of M.A.No.4168/2019(345(6)
2. For Hearing of main case.

21.07.2020.

Mr. Safdar Ali G. Ghouri, advocate for the appellants.

Mr. Aitbar Ali Bullo, D.P.G.

Learned counsel for the appellants pleads urgency on the pretext that compromise in between the parties has already affected and on 09.06.2020 all legal heirs except Abdul Nabi and Abdul Qadir had appeared and recorded their no objection by affirming factum of compromise. Today remaining legal heirs, namely, Abdul Nabi and Abdul Qadir are in attendance and submit that by granting urgency, the legal heirs may be examined. He next submits that pursuant to the directions issued earlier he has also deposited Diyat amount of Rs.1160,100/- (Rupees. Eleven hundred sixty thousand and one hundred only) with the Accountant of this Court as share of Diyat amount in favour of minors/legal heirs. He, therefore, has drawn attention of the Court to report/office note furnished by the Accountant on 16.07.2020, which affirms his contention. In view of above, urgency is granted.

Through instant appeal, the appellants have challenged impugned judgment dated 02.02.2019, passed by learned Additional Sessions Judge-I, Shahdadkot, in Sessions Case No.410 of 2014 (re:

State v. Ghulam Muhammad & others), whereby they were convicted and sentenced to death and they shall be hanged by neck, till they are dead subject to confirmation of death by this Court.

During pendency of the appeal, joint compromise applications were preferred and the same by order dated 27.11.2019 were transmitted to trial Court for ascertaining the genuineness or otherwise of the compromise. Such report is available on record. The trial Court called the report from Mukhtiarkar Taluka Shahdadt, SHO PS Sijawal and so also NADRA and all the reports reveal that deceased Haji Mashooque had left behind him in all 10 legal heirs, out of whom following five legal heirs are minor :

1. Abdul Qadir (son) 17 years
2. Muhammad Ibrahim (son) 12 years.
3. Barkat Ali (son) 09 years
4. Baby Safooran (daughter) 07 years &
5. Baby Shabeeran (daughter) 05 years.

Statements of major legal heirs, namely, Mst. Haseena (Widow), Abdul Karim (son), Abdul Nabi (son), Mst. Maria (daughter) and Mst. Jameelan (daughter) have been recorded, in which all the major legal heirs stated that they have entered into compromise with accused Khadim and Shahmir on voluntarily basis and do not claim any kind of compensation and have forgiven right of Qisas and Diyat. The learned trial Court has published notice in daily newspaper Kawish dated 18.12.2019 to bring on record the objection, if any from the concerned quarter but no any objection was received. Learned trial Court submitted that the compromise between legal heirs of deceased and accused is true and on voluntarily basis.

Learned D.P.G present in Court contends that he has examined the case and has no objection if the compromise

applications are accepted. However, he contended that Diyat amount regarding minors, namely, Abdul Qadir, Muhammad Ibrahim, Barkat Ali, Baby Safooran and Baby Shabeeran, deposited by the appellants may be invested in favour of the minors in some Government profitable scheme for their welfare. Learned counsel for the appellants agreed with such proposition.

Perusal of impugned judgment and record reveals that offence is compoundable; not falling within the scope of fasad-e-felarz.

Accordingly, compromise applications are accepted. Resultantly, impugned judgment dated.02.02.2019, passed by learned Additional Sessions Judge-I, Shahdadkot, in Sessions Case No.410 of 2014, is set aside and death reference is answered in negative. The appellants are ordered to be released forthwith, if not required in any other case. Diyat amount so deposited by the appellants vide Receipt No.3014 dated. 16.07.2020, in favour of minors, namely, Abdul Qadir, Muhammad Ibrahim, Barkat Ali, Baby Safooran and Baby Shabeeran as calculated by the Accountant of this Court shall be invested in favour of the aforesaid minors in some Government profitable scheme, which shall be paid to the minors on attaining majority as per rules. Appeal stands disposed of along with pending applications(s), if any.

Judge

Judge

21.7.2020

21/07/2020

M.Y.Panhwar/**