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

Crl. Appeal No. S- 86 of 2012.

Date of hearing

11.03.2019.

Order with signature of Judge

1. For orders on M.A. No. 47/2018.
2. For orders on M.A. No. 48/2018.
3. For orders on M.A. No. 49/2018.
4. For hearing of case.

Mr. Asif Ali Abdul Razzak Soomro, Advocate for appellant.

Mr. Saeed Ahmed Bijrani, Advocate for complainant.

Mr. Sharafuddin Kanhar, A.P.G.

Muhammad Saleem Jessar, J- Appellant Abdul Qadir son of Abdul Karim Ogahi was tried and convicted in Sessions Case No.28/2009, Re: State v. Abdul Qadir and others, arisen out of *Crime No.87/2007 of P.S Ghouspur*, registered for offences punishable under Section 302, 148, and 149 P.P.C, vide judgment dated **25.10.2011**, passed by learned Additional Sessions Judge, Kashmore, whereby the appellant was convicted and sentenced to "*imprisonment for life*" and was directed to pay compensation of Rs.100,000/- to legal heirs of deceased Muhammad Ali and in default thereof to suffer S.I for six months more.

Appellant Abdul Qadir Ogahi, against his conviction and sentence 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.

The learned trial Court submitted report dated 13.02.2018, 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 daily newspaper "Kawish". 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.

Moreover, according to report of the trial Court, deceased had left in all twelve legal heirs, namely, Mst. Sonari (mother), Mehrab, Nadir, Haji Khan, Abdul Manan (son of deceased), Mst. Hakeema (widow), Mst. Amina, Mst. Aisha, Mst. Sughra, Mst. Farhana, Mst. Rehana and Mst. Rizwana (daughters of deceased). All 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 four minor legal heirs, namely, baby Farhana, baby Rehana, baby Rizwana (daughters) and master Abdul Manan (son). In such like cases, where deceased leaves behind him some minors; their interest is to be safeguarded on the basis of their share in the "*diyat*" amount, which is a prescribed one. As such, the Accountant of this Court was 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 and submit his report. Accordingly, the Accountant has furnished his report, which reflects that as per gazette notification issued by Government of Pakistan, an amount of Rs.1,935,594/- has been notified and declared as "*Diyat*" for financial year 2017.

As such, in order to safeguard the interest of the minors the appellant would be liable to pay their share in the "*diyat*" amount. Amongst legal heirs left by deceased eight are major, while four are minors, and according to calculation, an amount of Rs.1,445,938/- comes in the share of eight major legal heirs, whereas an amount of Rs.489,660/- becomes share of minor legal heirs in the "*diyat*" amount; and the appellant has deposited such amount in round figure worth Rs.490,000/-, which has been invested by the office in the names of minor legal heirs

vide office note dated 03.04.2018 in a profitable scheme of the government and would be paid to the minor legal heirs, as and when they attain the age of majority.

The learned D.P.G appearing for the State and learned counsel for complainant raised no objection, if listed applications are allowed.

Since, interest of minors stands safe guarded, therefore, there will be no impediment to allow the compromise with the appellant. As, 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 Abdul Qadir Ogahi is acquitted of the charge in terms of compromise. The appellant is present on bail; his bail bond stands cancelled and surety discharged.

The appeal alongwith listed applications stand disposed of in the above terms.

~~JUDGE~~

Ansari/*