

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

Crl. Appeal No. S- 64 of 2020

Nazimuddin Bhutto

V/S

The State

SINDH HIGH COURT

Composition of Bench Before Mr. Justice Muhammad Saleem Jessar Single/D.B.

Dates of Hearing: 01.01.2021

Decided on 01.01.2021

(a) Judgment approved for
Reporting

YES
NO

C E R T I F I C A T E

Certified that the judgment / Order is based upon or enunciates a principle of law / decides a question of law which is of first impression / distinguishes/ over-rules/ reverses/ explains a previous decision.

Strike out whichever is not applicable.

NOTE: - (i) This slip is only to be used when some action is to be taken.

(ii) If the slip is used. The Reader must attach it to be the top of the first page
Of the judgment.

(iii) Reader must ask the Judge writing the Judgment whether the Judgment is
Approved for reporting.

(iv) Those directions which are not to be used should be deleted.

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

Cr. Appeal No. S- 64 of 2020.

Appellant	Nazimuddin Bhutto through Mr. Imtiaz Ali Mugheri, Advocate.
Respondent	The State through Mr. Aitbar Ali Bullo, , D.P.G.
Date of hearing.	01.01.2021.
Date of order.	01.01.2021.

J U D G M E N T.

MUHAMMAD SALEEM JESSAR-J:- Through this criminal appeal, appellant Nazimuddin Bhutto has assailed the judgment dated 19.10.2020 passed by learned Sessions Judge Kashmore at Kandhkot in Sessions Case No. 401 of 2020 re: State v. Nazimuddin Bhutto arisen out of Crime No.80 of 2020 of P.S B-Section Kandhkot registered for an offence under Section 23(i)(a) Sindh Arms Act 2013, whereby appellant has been convicted and sentenced to suffer R.I for five years and pay fine of Rs.100,000/- and in case of default in payment of fine, he shall undergo S.I for six months more. He is also extended benefit of section 382-b Cr.P.C.

After arguing the appeal at some length, learned counsel for the appellant submits that this is an off-shoot case of main case i.e Sessions Case No.448 of 2020 re: State v. Nazimuddin Bhutto arisen out of Crime No.79 of 2020 of P.S B-Section Kandhkot registered for an offence under Section 302 PPC in which appellant Nazimuddin Bhutto has been acquitted of the charge by way of compromise in terms of Section 345 Cr.P.C vide judgment/order dated 19.10.2020. In support of his contention he has placed on record certified copy(ies) of said

orders, same are hereby taken on record. He, therefore, submits that in view of his acquittal in main case appellant deserve acquittal from the charges of this case also. In support of his contention he has placed reliance on the case of Manjhi v. The State (PLD 1996 Karachi 345).

Learned D.P.G appearing for the State after going through paper book submits that there are certain contradictions in the evidence adduced by the prosecution before trial Court with regard to the appearance of accused. Besides the alleged weapon was sent to Forensic Science Laboratory for examination with the delay of about 7 days for which no justification has been given by the I.O, hence in view of above legal flaws in the case coupled with acquittal of appellant in the main case, he extends his no objection.

Heard arguments perused the record. Admittedly instant case is outcome of main crime No.79 of 2020 under Section 302 PPC registered with Police Station B-Section Kandhkot in which appellant has been acquitted of the charge by way of compromise vide order dated 19.10.2020 passed by same trial Court. The dicta laid down by this Court in the case of Manjhi (Supra) was followed by the learned Bench at Lahore High Court in the case of Yasir Chaudhry v. The State and another (2012 MLD1315), in following words:

"5. In the case reported as Manjhi v. The State (PLD 1996 Kar. 345), it has been held that when the accused has been acquitted in the main case, he would become entitled to acquittal in a case which is offshoot of the said case. Same is the position here, as the present lis is an offshoot of the main murder case. So, respectfully following the dictum laid down in the judgment supra, this petition is allowed and the application of the petitioner under section 249-A, Cr.P.C. is accepted and the petitioner is acquitted of the charge in case F.I.R. No.17 of 2003 dated 12-1- 2003 registered under section 7 of the Surrender of Illicit Arms Act No.XXI of 1991 with Police Station Civil Lines, Bahawalpur. Resultantly, the proceedings before the learned trial Court are quashed."

Accordingly and in view of above legal position, instant appeal is hereby allowed. Consequently the impugned judgment dated 19.10.2020 penned down by Sessions Judge, Kashmore at Kandhkot vide Sessions Case No.401 of 2020 re: State v. Nazimuddin Bhutto being outcome of Crime No.80 of 2020 of P.S B-Section Kandhkot under Section 23(i)(a) of Sindh Arms Act, 2013 is hereby set aside. Resultantly appellant Nazimuddin S/O Ghulam Rasool Bhutto is hereby acquitted of the charge. Appellant is in custody; therefore, he shall be released forthwith if his custody is no more required by jail authorities in connection with other criminal custody case.

The appeal stands allowed/disposed of.

JUDGE