

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Appeal No. S- 42 of 2021.

Date of hearing	Order with signature of Judge
08.04.2022.	

1. For orders on M.A. No.411/2022 (U/S: 345 (5) Cr.P.C).
2. For orders on M.A. No.412/2022 (U/S: 345 (6) Cr.P.C).
3. For orders on M.A. No.3138/2021 (U/S: 426 Cr.P.C).
4. For hearing of main case.

Mr. Asif Ali Abdul Razaque Soomro, Advocate for appellants.

Mr. Ali Anwar Kandhro, Additional Prosecutor General.

Legal heirs of deceased Pir Bux Brohi, namely, widow Mst. Sehat Khatoon, daughters Mst. Bhagul, Mst. Peroz Khatoon, Mehr-un-Nissa, Mst. Zarina, Mst. Bakhtawar, and sons Nandho Khan, Bahadur, Mazhar Ali, Liaquat Ali and Karim Bux, present in person.

ORDER

Muhammad Saleem Jessar, J- Appellants Pervez Ahmed son of Sobdar Brohi, Abdul Ghaffar son of Abdul Kareem Brohi, Rehamdil son of Wahid Bux Brohi, and Noor Ahmed son of Mir Hassan Brohi, were tried in Sessions Case No.505/2019, re-State v. Pervez Ahmed and others, arisen out of *Crime No.39/2019 of P.S Dilmurad*, and vide judgment dated **12.06.2021**, passed by the learned Additional Sessions Judge-II, Jacobabad, they all were convicted and sentenced as under:-

1. for offence under Section 302(b), PPC to undergo "*imprisonment for life as Tazir*" and to pay Rs.300,000/- each, as compensation to legal heirs of deceased Pir Bux in terms of Section 544-A, Cr.P.C; in default whereof to suffer S.I for six months more.
2. for offence under Section 337-A(iii), PPC to suffer R.I. for five (05) years as Tazir, and to pay 10% of Diyat amount as Arsh, to be paid in equal share to legal heirs of deceased; in default whereof, same to be recovered as arrears of land revenue.
3. for offence under Section 337-F(i), PPC to suffer R.I. for six (06) months as Tazir, and each accused to pay Rs.10,000/- as Daman to legal heirs of deceased; in default whereof, same to be recovered as arrears of land revenue.
4. for offence under Section 337-F(iii), PPC to suffer R.I. for two (02) years as Tazir and each accused to pay Rs.20,000/- as Daman to the

legal heirs of deceased; in default whereof, same to be recovered as arrears of land revenue.

5. for offence under Section 506/2, PPC to suffer R.I. for three (03) years and each accused to pay fine of Rs.30,000/-; in default whereof to undergo S.I. for two (02) months more.
6. for offence under Section 148, PPC to suffer R.I. for one (01) year and each accused to pay fine of Rs.10,000/-; in default whereof to undergo S.I. for one (01) month more.

2. Against their conviction and sentence the appellants filed instant appeal, which was admitted for regular hearing. However, during pendency of the appeal, the appellants entered into compromise with legal heirs of deceased and such applications under Section 345(5), Cr.P.C (M.A. No.411/2022) and under Section 345(6), Cr.P.C (M.A. No.412/2022) were filed, which were sent to the learned trial Court, for enquiry as to the legal heirs of the deceased as well as genuineness or otherwise of compromise between the parties.

3. The learned trial Court after publication of notice of compromise in newspaper daily "KAWISH" Hyderabad, dated 12.3.2022 has furnished its report dated 21.3.2022, which is available with the file. It has been mentioned in report that as per reports furnished by the NADRA Authority, Mukhtiarkar, Revenue Thul, SHO P.S. Dilmurad, Secretary, UC Karim Bux, Taluka Thul and Head Master, Govt. High School Karim Bux, Taluka Thul, deceased Pir Bux Brohi left one widow, five daughters and five sons as his surviving legal heirs. The learned trial Court after recording statements of legal heirs of deceased has affirmed the fact of compromise between them to be genuine and voluntary.

4. Today, all the legal heirs of deceased Pir Bux Brohi have appeared before this Court; they have filed their respective affidavits thereby affirming the fact that they have patched up with appellants Pervez Ahmed, Abdul Ghaffar, Rehamdil and Noor Ahmed, all by caste Brohi, and have pardoned them and they do not claim any monetary compensation or Badl-e-Sulh from the accused/appellants. All the legal

heirs of deceased appeared before this Court and categorically stated that they have pardoned the appellants and they have no objection if the compromise is accepted and the appellants/accused are acquitted of the charge.

5. The learned Addl. P.G., appearing for the State, has recorded no objection if the compromise between the parties is accepted and the appellants are acquitted in terms of compromise.

6. Heard. Record perused.

7. The offence is compoundable, besides legal heirs have waived the right of their "*Qisas and Diyat*", hence there is no impediment, which may restrain or restrict the parties from entering into compromise.

9. All the legal heirs of deceased appeared before this Court and categorically stated that they have pardoned the appellants and have also waived their right of "*Qisas & Diyat*". This fact is also gets support from the report furnished by the trial Court, which reveals that compromise between the parties appears to be voluntary, genuine and without any duress or coercion and since there is no other impediment to allow the compromise, therefore, permission to compound the offence is accorded to the parties, and in result *whereof* compromise between the parties is hereby accepted. Consequently, appellants Pervez Ahmed, Abdul Ghaffar, Rehamdil and Noor Ahmed, all by caste Brohi, are acquitted of the charge in terms of compromise. The appellants are reportedly behind Bars, they shall be released forthwith, if their custody is not required in any other case.

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

JUDGE