

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Appeal No. S- 78 of 2021.

Date of hearing	Order with signature of Judge
15.04.2022.	

1. For orders on office objection.
2. For orders on M.A. No.665/2022.
3. For orders on M.A. No.666/2022.
4. For orders on M.A. No.7115/2021.
5. For hearing of main case.

Mr. Noor Hassan Khoso, Advocate for the appellants.

Mr. Ali Anwar Kandhro, Additional Prosecutor General.

Complainant Reeman and injured PWs Mohammad Haroon and Waseem Ali present in person.

ORDER

Muhammad Saleem Jessar, J.- Appellants Inam Ali, Nizamuddin and Aijaz Ali, all three sons of Allah Warayo Khokhar, were tried in Sessions Case No.230/2021, re-State v. Inam Ali Khokhar and others, arisen out of *Crime No.83/2021 of P.S K.N. Shah*, and vide judgment dated 13.10.2021, passed by the learned Additional Sessions Judge-IV/Gender Based Violence Court, Dadu, they all were convicted and sentenced as under:-

1. for offence under Section 365-B, 511, read with 34, PPC to suffer "*R.I. for 12 years*" and to pay fine of Rs.10,000/- each; in default whereof to suffer S.I for six months more.
2. for offence under Section 337-A(i), read with 34, PPC to suffer R.I. for one (01) year as Tazir, and to pay Daman to the tune of Rs.1000/- each to injured Waseem.
3. for offence under Section 337-F(i), read with 34, PPC to suffer R.I. for one (01) year as Tazir, and each accused to pay Rs.1000/- as Daman to injured Waseem.
4. for offence under Section 337-A(i), read with 34, PPC to suffer R.I. for one (01) year as Tazir and each accused to pay Rs.1000/- as Daman to injured Mohammad Haroon.



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 the complainant party and such applications under Section 345(5), Cr.P.C (M.A. No.665/2022) and under Section 345(6), Cr.P.C (M.A. No.666/2022) have been filed. Complainant Mst. Reema and injured PWs Mohammad Haroon and Waseem Ali have filed their affidavits in support affirming the factum of compromise with the appellants.

3. Today, complainant Mst. Reema and injured PWs Mohammad Haroon and Waseem Ali have appeared. Complainant Mst. Reema submits that she has no means to engage her Counsel. However the complainant and injured PWs Mohammad Haroon and Waseem Ali have unanimously stated that they have patched up with the appellants/accused on the intervention of their nekmards and have no objection if by accepting the compromise the appellants are acquitted of the charge.

4. Learned Counsel for the appellants submits that in fact the appellants and the complainant party are relatives *inter se* and there was dispute between them over matrimonial affairs, as the daughter of appellant Nizamuddin, namely, Nirma had entered into Nikah with one Nadir Ali son of Mohammad Khan Khokhar, who happens to be sister's son of the present complainant and to such effect FIR Crime No.5/2021 was registered at P.S K.N. Shah under Section 365-B, PPC and that case has already been disposed of due to compromise between the parties. He submits that instant case is the outcome of said crime. The parties have entered into settlement outside the Court, therefore, by allowing the compromise the impugned judgment may be set aside. In support of his contentions, he relies upon the case of *IJAZ and another Vs. Mst.MANADIA and another* (PLD 2016 Peshawar 26).

5. The learned Addl. P.G., appearing for the State, after going through the file as well as having instructions from the complainant, who is present in the Court, does not oppose the appeal.

6. The complainant Mst. Reema and injured PWs Mohammad Haroon and Waseem Ali present in Court submit that they have no objection for acquittal of the appellants in terms of compromise, as they have forgiven the appellants on the intervention of nekmards of the vicinity; besides, the appellants had also forgiven her nephew Nadir Ali.

7. Arguments heard and perused the record.

8. The appellants were charged under Sections 365-B, 511, 337-A(i), 337-F(i), 34, PPC. The offence under Section 365-B, PPC is not compoundable; however, in view of the facts that it was an attempt to kidnap the complainant and the complainant/victim herself does not want to pursue this case, it would not be proper to uphold the conviction. Moreover, the parties are related *inter se* and in the earlier case based on Crime No.5/2021 of PS K.N. Shah, under Section 365-B, PPC relating to abduction of daughter of appellant Nizamuddin by the nephew of present complainant, namely, Nadir, the parties had also compromised and that case was disposed of. In such circumstances, it would be conducive for the parties that the parties may be allowed to compound the offence. Accordingly, the permission to compound the offence is hereby accorded to the parties and the compromise arrived at between the parties is accepted. Consequently, appellants Inam Ali, Nizamuddin and Aijaz Ali, all three son of Allah Warayo Khokhar, 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.

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


JUDGE