

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO  
Cr. Appeal No.S-87 of 2017

Order with signature of Judge

Date

1. For order on office objection.
2. For hearing of C.M.A No.
3. For hearing of M.A No.3509/2017.

31-01-2019

Appellant

Haji Khan Devro,  
Through Mr. Nadeem Ahmed Qureshi,  
advocate,

Complainant

Rahib Ali Kharal,  
Through, Mr. Sarfraz Ali Abbasi, advocate.

Respondent

The State through Mr. Sharafuddin Kaanhar,  
A.P.G

Date of hearing

31-01-2019

Date of judgment

31-1-2019

## JUDGMENT

MUHAMMAD SALEEM JESSAR, J:- Through captioned Criminal Appeal, the appellant Haji Khan has impugned judgment dated 20.09.2017, passed by the learned VI-Additional Sessions Judge, Larkana, in Sessions Case No.186/2012, re: State V. Haji Khan Devro and others, emanating from Crime No.169/2011 of P.S. Waleed, offence U/Ss: 302,114, 34 P.P.C, whereby the appellant has been convicted for offence U/S 302(b) P.P.C and sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.100,000/- to be paid to the legal heirs of deceased Javed, and in default in payment thereof, he

shall suffer S.I for two years more. Benefit of Section 382-B Cr.P.C was extended to the appellant.

2. Per prosecution evidence, the role attributed to the appellant Haji Khan Devro is that he allegedly had instigated to an unknown/unidentified persons who caused the murder of deceased Javed Ali. The said unknown culprit latter was introduced as Abdul Jabbar, who is son of appellant. The main accused Ghulam Abbas, who is named in F.I.R with specific role and other one/Abdul Jabbar against whom allegation of direct firing upon the deceased is assigned, have not been arrested by the police. One co-accused Baqa Muhammad who too was named and assigned the role of instigation to co-accused Ghulam Abbas, died during pendency of the trial. The motive as shown by the complainant in his F.I.R was that over the marriage of the daughter of one Abdul Fattah and that Abdul Fattah has not been made as witness or was examined by the police as well before the trial court, therefore, the motive as is evident has not been established by the prosecution. The evidence whatever has been adduced before the trial court is not inspiring confidence rather creates lot of doubt which goes to favour the accused.

3. Heard arguments of both sides and perused the material available on record.

4. For the reasons to be recorded later-on, instant criminal appeal is allowed. Impugned judgment dated 20.09.2017, passed by VI-Additional Sessions Judge, Larkana in Sessions Case No.186/2012, re: State Versus Haji Khan Devro and others, arising out of crime No.169/2011 of



P.S. Waleed, Larkana, is hereby set-aside to the extent of conviction and sentence of present appellant Haji Khan Devro by extending benefit of doubt. Appellant Haji Khan son of Qadir Bux Devro, is hereby acquitted of the charge. He is in custody, he shall be released forthwith if his custody is not required to be detained/kept for the purpose of any other criminal case.

5. Instant criminal appeal is disposed of along with pending application.



Judge

Abdul Salam/P.A