THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Revision No.D- 58 of 2023

Present;
Justice Tasneem Sultana
Justice Suresh Kumar

Applicant	**:**	**Asadullah S/o Muhammad Roshan** Through M/s Achar Khan Gabol and Ghulam Ali Bozdar, Advocates.
Respondent No.1	:	**The State** Through Syed Sardar Ali Shah Rizvi, Additional Prosecutor General.
Respondent 2 to 10	:	**Muhammad Ramzan & others** Through M/s Sardar Akber F. Ujjan, Mehmood Ahmed Ujjan and Sheeraz Fazal, Advocates.
Date of Hearing	**:**	**10.11.2026**
Date of Order	**:**	**10.11.2026**

O R D E R

TASNEEM SULTANA, J.— Through this Criminal Revision Application under sections 435 and 439, Cr.P.C., the applicant/complainant seeks enhancement of the sentence awarded to respondents Nos.2 to 10 from imprisonment for life to death. The respondents were convicted under section 302(b) read with section 149, P.P.C., and other offences, vide judgment dated 11.08.2023, passed by the learned Additional Sessions Judge-I/Model Criminal Trial Court, Naushahro Feroze, in Sessions Case No.702 of 2022 (old No.64 of 2021), arising out of Crime No.204 of 2021, registered at Police Station Kandiaro.

2. Briefly, the prosecution case concerns the death of Nadeem and injuries sustained by Abdul Sattar and Zafarullah in an occurrence alleged to have taken place on 31.10.2021. The prosecution attributes the occurrence to a dispute arising from the marriage of the deceased with Mst. Sasui. Upon conclusion of the trial, learned trial Court convicted the respondents under section 302(b) read with section 149 PPC and sentenced them to imprisonment for life, besides other sentences. The applicant, being dissatisfied with the quantum of punishment, seeks its enhancement through the present Criminal Revision.

3. Learned counsel for the applicant contends that the learned trial Court, having found the charge established against the respondents, ought to have awarded the sentence of death; that the occurrence was preplanned and motivated by resentment over the deceased's marriage; that specific roles were attributed to the respondents; that the circumstances relied upon by the learned trial Court did not justify the award

of the lesser sentence; and that the punishment awarded is inadequate in view of the nature of the occurrence and the loss suffered by the deceased's family.

4. Conversely, learned Additional Prosecutor General opposes the enhancement and submits that the sentence of imprisonment for life awarded by the learned trial Court is in accordance with law; that the discretion exercised by the trial Court in awarding the lesser penalty was neither arbitrary nor perverse; and that no ground for interference has been made out.

5. Learned counsel for respondents Nos.2 to 10 also oppose the enhancement and submit that the evidence and the circumstances of the occurrence were not properly appreciated by the learned trial Court; that Mst. Sasui had chosen to accompany her father and was permitted to do so vide order dated 17.09.2021; that the complainant party subsequently came armed to the medical store and demanded that she be handed over to them, whereupon a scuffle ensued and persons from both sides sustained injuries; that Aijaz Ali and Javed Ali also sustained injuries and received medical treatment, but their version of the occurrence was not properly considered; that Aijaz Ali approached the Justice of Peace for registration of a case against members of the complainant party; that Muhammad Ramzan was away in his village at the time of the occurrence and was himself detained when he approached the police on behalf of his brother; and that these circumstances require consideration in the pending appeal against conviction and do not warrant enhancement of sentence.

6. Heard. Record perused.

7. The appeal against the respondents' conviction is pending. The record is, therefore, being examined only to the extent necessary to determine whether the sentence awarded warrants enhancement. The observations made for this purpose do not constitute a determination of the correctness of the conviction or of the grounds raised in the pending appeal.

8. Section 302(b), P.P.C., prescribes death or imprisonment for life as punishment for the offence. The finding of guilt does not, by itself, dispense with the separate consideration required for determining the appropriate sentence. Consequently, the applicant's contention that proof of the charge necessarily required the award of death cannot, on its own, furnish a ground for enhancement. The question in the present proceedings is whether sufficient grounds have been shown to warrant interference with the discretion exercised in awarding imprisonment for life.

9. In *Riffat Hussain and another v. Mst. Zahida Bibi and others* (**2026 SCMR 1139**), the Honourable Supreme Court separately considered Criminal Petition No.1487 of 2020, through which enhancement of sentence was sought. Having considered the nature of the occurrence, the role attributed to the respondent and the

reasons for awarding imprisonment for life, the Honourable Supreme Court declined enhancement, observing:

> "The discretion exercised by the learned High Court in this regard does not appear to be arbitrary or perverse so as to warrant interference by this Court. Therefore, leave is refused and the petition is dismissed."

The said authority underscores the need to examine whether interference with the sentence already awarded is justified, rather than treating the establishment of the charge as sufficient, in itself, to require capital punishment.

10. In *Fida Hussain alias Saboo v. The State* (**2025 SCMR 993**), the Honourable Supreme Court set aside the enhancement of sentence from imprisonment for life to death and restored the sentence awarded by the trial Court. While explaining the principles governing enhancement, the Honourable Supreme Court observed as follows:-

> "8. … There must be a gross misreading or non-reading of evidence or there must exist some substantial point or it must clearly appear to be a case of miscarriage of justice so as to justify interference. The power to enhance a sentence already awarded by a trial court should be sparingly exercised and the sentence should be enhanced only if the failure to do so would lead to a grave and serious miscarriage of justice. This Court has emphasized that the mere fact that the court considering enhancement of the sentence may have imposed a harsher sentence would not be a sufficient reason for exercising the power to enhance an awarded sentence."

11. In the present case, the prosecution account relied upon for enhancement alleges that the accused persons were armed with firearms, iron rods and dandas. However, the injuries to the deceased are attributed to blows with firearm butts and blunt weapons, rather than firing. The distinction between possession of a firearm and the manner of its actual use is relevant to the consideration of sentence, though it does not by itself determine the intention of the assailants or the nature of the offence. The allegations further distinguish between the assault upon the deceased and the injuries caused to Abdul Sattar and Zafarullah. Since enhancement is sought against all nine respondents, their respective participation requires consideration; the allegation that they acted in concert does not, by itself, require the same extreme punishment for each of them. These features of the prosecution account call for caution in substituting death for imprisonment for life.

12. The alleged resentment over the deceased's marriage and the contention that the attack was preplanned have also been considered. These are material circumstances relied upon by the applicant, but they must be assessed together with the manner in which the assault was allegedly carried out and the roles attributed to

the respective respondents. Even taking the prosecution account as the basis for examining the request for enhancement, these circumstances do not persuade this Court that imprisonment for life is manifestly inadequate or that its award constitutes an arbitrary or perverse exercise of discretion. This conclusion does not rest merely upon the trial Court's general references to familiarity between the parties, previous enmity or the youth of some of the accused. Rather, it follows from consideration of the circumstances of the alleged assault and the collective enhancement sought against respondents whose attributed roles are not identical. The loss suffered by the deceased's family, including the assertion that he was its earning member, is undoubtedly grave, but does not independently furnish a sufficient ground for enhancement to death.

13. In view of the above facts and circumstances, no case for enhancement of sentence has been made out. Consequently, the instant Criminal Revision Application is **dismissed**. The Crl. Appeal No.S-76 of 2023 against conviction and sentence preferred by the private respondents/accused shall be decided on its own merits, uninfluenced by any observation made in this order.

JUDGE

JUDGE

Ahmad/PS