

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Appeal No.317/2004

Date Order with signature of Judge

For hearing of Case _____

08.08.2016

Mr. Farhad Khan, advocate for the appellant.
Ms. Rahat Ahsan, D.P.G.

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This Cr. Appeal is pending since 2004 and several counsel on different dates were appearing for appellant and seeking dates. On 14.1.2016 when appellant was absent and even no application for his condonation was filed, it was ordered that since the appellant was absent on 16.1.2015 and also on 23.12.2015 for which dates BWs were issued if he remained absent on the next date of hearing his absence shall not be treated as condoned and case was adjourned to **02.2.2016**. On 02.2.2016 application for condonation of absence on the previous date was filed, which was allowed and without touching the merits of the case, at the request of the appellant that he would deposit the diyyat amount in Court within 30 days since after more than 12 years he has attempted to compromise with the family of deceased victim. Since 02.2.2016 no compromise has even been proposed and from that date onwards the appellant absconded.

On 04.3.2016 brother of appellant appeared and informed that the appellant is not feeling well, therefore, he was directed to produce medical certificate. On 18.3.2016 again position remained same and appellant was absent even on the subsequent date of hearing on **05.4.2016**. Appellant was again directed to be present in Court or produced by the police. On **14.4.2016**, **25.5.2016** and **29.5.2016** orders were passed to ensure attendance of the appellant. On **02.5.2016** ultimately the appellant was produced in custody and by

that time earlier surety has expired therefore, no surety was available in Court. On **03.6.2016** a detailed order was passed whereby the application for bail was rejected.

On **25.7.2016** Mr. Farhad Khan, advocate for appellant was informed by the Court about the order dated **02.2.2016** whereby appellant undertaken to deposit diyyat amount before proceeding further. On the said date at the request of the learned counsel for the appellant the case was adjourned for today i.e **8.8.2016** and no reservation were shown against the Court. Today, the case is date by court and counsel is same, I do not know what happened in two months, instead of proceeding he is asking for transfer of the case. He has not filed any formal application if there is any serious grievance.

In view of the above, I am left with no option but to dismiss this Cr.Appeal even on the ground of failure of the appellant to comply with the order dated **02.2.2016** and on failure of his counsel to advance any argument against the impugned order of conviction. I have read the impugned order and evidence. On merit, since the appellant in his statement under **Section 342** and **340(2)** Cr.P.C has failed to prove his defence and evidence against him has gone unrebuttal, this appeal is dismissed on merit.

JUDGE