

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Appeal Nos.S-21 & 24 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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Cr.Appeal No.S-21 of 2017

1. For orders on MA-5121 of 2017
2. For orders on MA-5122 of 2017

Cr. Appeal No.S-24 of 2017

1. For orders on MA-3017 of 2017
2. For orders on MA-3018 of 2017

20.09.2017.

Mr. Ayaz Ali Gopang, Advocate for appellant Aijaz in
Criminal Appeal No.S-21 of 2017

Syed Madad Ali Shah, Advocate for appellant Azeem in
Criminal Appeal No.S-24 of 2017

Syed Meeral Shah Bukhari, Additional P.G.

ORDER

ABDUL MALIK GADDI, J:- By this common order, I intend to dispose
of the aforesaid appeals as they arise out of the same crime.

2. The compromise applications under Sections 345(5) and 345(6) Cr.P.C have been filed by Muhammad Ayoob Mari S/o Haji Ahmed Khan and Mst.Imam Zadi W/o Muhammad Ayoob Mari, both father and mother of deceased Mst.Muneera, as well as appellants Azeem S/o Muhammad Ayoub Mari and Aijaz S/o Ibrahim Mari, whereby, the parties jointly seek disposal of instant appeals in which the appellants have impugned the judgment dated 10.01.2017 passed by learned IInd Additional Sessions Judge, Shaheed Benazirabad in Sessions Case No.695 of 2014 (re: the State V/s. Azeem & another) arising out of Crime No.120 of 2014 registered at P.S Qazi Ahmed for offence under Sections

302, 311 & 34 PPC, whereby the appellants were convicted under Section 302 PPC and sentenced to life imprisonment each.

3. At the very outset of the proceedings, the learned Advocates for the appellants as well as legal heirs of deceased i.e. father and mother have contended that since the parties have buried their hatchets due to intervention of *Nakmards*, therefore, they have no objection if compromise is accorded and their applications for such compromise are accepted.

4. Preliminary, the learned Additional P.G had raised objection that in this matter the deceased was murdered in the name of *Ghairat /Karo Kari*, therefore, in such circumstances the compromise applications are not maintainable. However, after hearing the parties at length as well as perusing the case law reported in the case of Muhammad Azam V/s. The State (2015 Cr.L.J 128), learned A.P.G diverted himself by submitting that if required formalities are completed and such compromise applications are accepted then he shall have no objection for acceptance of the said compromise.

5. Record reflects that by order dated 24.07.2017 the compromise applications were referred to the Trial Court with direction to conduct complete inquiry by recording statement of the legal heirs of deceased Mst.Muneera and submit such report with the Additional Registrar of this Court. Accordingly, learned IInd Additional Sessions Judge, Shaheed Benazirabad, submitted a report dated 08.02.2017 with regard to compromise between the appellants and the legal heirs of the deceased. Since the deceased was unmarried, therefore, father and mother are only legal heirs of the deceased. On 18.08.2017 this Court observed that the report received from the Trial Court does not contain the statements of the legal heirs of the deceased, therefore, direction was

issued to the Trial Court, whether the statements of legal heirs of deceased have been recorded or not, however, the matter was again referred to the Trial Court for recording statements of legal heirs of the deceased. Pursuant to that, the Trial Court submitted the report dated 24.08.2017 which reflects that Muhammad Ayoob and Mst.Imam Zadi are only legal heirs of the deceased, whose statements on oath are appended with the report. It appears from the subsequent report dated 24.08.2017 that both the legal heirs of deceased Mst.Muneera have no objection if this compromise is accepted and both the accused are released from the jail. It is further stated in the statements that this compromise is without any pressure or inducement and that they do not claim any Qisas and Diyat amount against any of the accused.

6. On perusal of the impugned judgment and inquiry reports coupled with the statements of the legal heirs, it is apparent that the offence whereby the appellants were convicted by the Trial Judge is compoundable as per Schedule-II of the Code and the legal heirs have competently waived of their right of Qisas and Diyat, therefore, it would be in the interest of justice if this compromise is accepted.

7. Keeping in view the above facts and circumstances, applications for permission to enter into compromise are allowed and consequently the compromise between the parties is accepted. Resultantly, the impugned judgment is set-aside and both the appellants/accused are acquitted of the charge. The appellants are ordered to be released forthwith if not required in any other custody case.

Appeals stand disposed of.

JUDGE