

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

**Crl. Appeal No. D –34 of 2020**  
**[Confirmation case No.14 of 2020]**

**Before:**

Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Irshad Ali Shah

Appellant: Fouji Imam Ali son of Ali Akber Jamali,  
through Mr. Muhammad Sachal R. Awan,  
advocate.

Complainant: Through Mr. Khalid Hussain Surhio,  
Advocate.

Respondent: The State, through Mr. Sana Memon,APG.

Date of hearing: 02-12-2020.

Date of decision: 02-12-2020.

**J U D G M E N T**

**IRSHAD ALI SHAH, J;** The facts in brief necessary for disposal of instant appeal and death reference are that the appellant allegedly committed Qatl-e-Amd of Haji Muhammad and Zaheer Ahmed by causing them fire shot injuries, for that he was booked and reported upon by the police. The charge framed against the appellant to proceed with the case does not contain the name of deceased Zaheer Ahmed, such omission being material in its character has rendered the very charge to be defective

and illegal one, which could not be cured in terms of section 537 Cr.P.C as it has not only occasioned in failure of justice but has prejudiced the appellant seriously in his defence which is contrary to the mandate contained by Article-10/A of the Constitution of the Islamic Republic of Pakistan 1973.

2. Learned counsel for the parties when were confronted with the above legal flaws in the impugned judgment were fair enough to concede for the remand of the matter to learned trial Court for re-writing of the judgment.

3. In view of above, the impugned judgment is set-aside with direction to learned trial Court to frame the charge against the appellant afresh and then to proceed with the case denovo in accordance with law.

4. The instant appeal and reference are disposed of accordingly.

**Judge**

**Judge**

