

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Appeal No.S-28 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of MA-1754/2016
3. For hearing of main case.

21.01.2021.

Mr. Shabeer Hussain Memon, Advocate for appellants.  
Ms. Sana Memon, APG for State.  
Mr. Manzoor Ahmed Panhwar, advocate for legal heirs of  
deceased.

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It is alleged that the appellants in furtherance of their common intention committed murder of Mst. Mariam by strangulating her throat, for that they were booked and reported upon.

2. On conclusion of trial, the appellants for an offence punishable u/s 302(b) PPC were convicted and sentenced to undergo Imprisonment for Life and to pay fine of Rs.100,000/-each and in default whereof to undergo Rigorous Imprisonment for six months by learned IInd Additional Sessions Judge, Tando Muhammad Khan vide his Judgment dated 25.02.2016, which is impugned by them before this Court by preferring instant Criminal Appeal.

At the very outset, it is pointed out by the learned counsel for the appellants, learned A.P.G for the State and learned counsel for the complainant that on joining of trial by appellant Rabdino, the charge already framed was amended, the evidence already recorded in his absence contrary to the mandate contained by section 353 Cr.P.C was adopted and then both of the appellants were convicted and

sentenced accordingly by learned trial Court which is against the mandate contained by sections 231 Cr.P.C which call for examination of the witnesses afresh when charge is altered, amended or added. By pointing out so, they sought for remand of the case to learned Trial Court for its fresh disposal in accordance with Law.

In view of above, the impugned judgment is set-aside with direction to learned Trial Court to recall and re-examine the complainant and his witnesses by providing fair chance to the appellants to contest the case against them as per mandate contained by Article-10(A) of the constitution of Islamic Republic of Pakistan 1973.

The instant appeal is disposed off in above terms.

Judge

Ahmed/Pa.\*