

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

Cr. Jail Appeal No.S-129 of 2018

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

1. For hearing of MA-7510/2019
2. For hearing of main case.

22.01.2021.

M/s. Tarique Ahmed Shah and Muhammad Zakaria
Bahalkani, Advocates for appellants.
Mr. Shahzado Saleem Nahiyoan, DPG for State.

====

It is alleged that the appellants in furtherance of their common intention committed murder of Muhammad Nadeem by strangulating his throat, for that they were booked and reported upon by police.

2. On conclusion of trial, the appellants for an offence punishable u/s 302(b), 34 PPC were convicted and sentenced to undergo Rigorous Imprisonment for Life and to pay fine of Rs.200,000/-each to the legal heirs of the said deceased as compensation and in default of payment whereof to undergo Rigorous Imprisonment for six months by learned IIIrd Additional Sessions Judge, Hyderabad vide his Judgment dated 04.05.2018, which is impugned by appellants before this Court by preferring instant Criminal Jail Appeal.

At the very outset, it is pointed out by the learned counsel for the appellants, learned D.P.G for the State and learned counsel for the complainant that on joining of trial by appellant Imran, the charge already framed was amended, the evidence already recorded in his absence was adopted, which is contrary to the mandate contained by section 353 Cr.P.C which call for examination of witnesses in presence

of accused and then all the three 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.

Needless to state that appellant Muhammad Shahbaz was enjoying the concession of bail at trial, he to enjoy same concession subject to furnishing fresh surety in the sum of Rs.100,000/-to the satisfaction of learned trial Court.

The instant appeal is disposed off in above terms.

Judge