

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Appeal No. S – 240 of 2018

Crl. Appeal No. S – 241 of 2018

Appellants: Ibrahim son of Deeno, Abbas son of Akbar and Hameed son of Ahmed Khan all by caste Laghari, through M/s Shabeer Hussain Memon and Waseem Hussain Jafri, Advocates.

Complainant: Through Mr. Sajjad Ahmed Chandio, Advocate

Respondent: The State, through Mr. Shevak Rathor, Addl.P.G.

Date of hearing: 22-02-2021.

Date of decision: 22-02-2021.

J U D G M E N T

IRSHAD ALI SHAH, J; It is alleged that the appellants with rest of the culprits of culprits after having formed an unlawful assembly and in prosecution of their common object allegedly committed murder of Bahadur and Ali Dost alias Manzoor by causing them fire shot injuries and then went away by making aerial firing to create harassment only to satisfy their grudge over abduction of Mst. Hameeda and her husband Qadir Bux, for that they were booked and reported upon. On conclusion of trial, they for offence punishable u/s 302(b) r/w Section 149 PPC, were convicted and sentenced to undergo *Imprisonment* for Life and to pay fine of rupees two lac each to legal heirs of the above said deceased as compensation and in default whereof to undergo Simple Imprisonment for six months by learned 3rd Additional Sessions Judge, Dadu vide his judgment dated 19.10.2018, which is impugned by the appellants before this Court by preferring separate Appeals.

2. Heard arguments and perused the record.
3. It was double murder case, which as per impugned judgment the prosecution was able to prove against the appellants, therefore, the appellants ought to have been convicted and sentenced for committing two murders specifically on two counts. Simply awarding punishment to the appellants u/s 302(b) PPC for Imprisonment for Life, with fine payable to legal heirs of the deceased as compensation is not fulfilling the requirement of law. Such omission in impugned judgment is against the spirit of section 367(2) Cr.P.C, which prescribes that the judgment should specify the offence / penal section under which the accused are punished, convicted and sentenced.
4. When were confronted with the above situation, learned counsel for the parties consented for remand of the case to learned trial Court for re-writing of the judgment.
5. In view of above, the impugned judgment is set-aside with direction to learned trial Court to re-write the same by forming its independent opinion after providing chance of hearing to all the concerned preferably within two months.
6. Appellants Ibrahim and Abbas were enjoying the concession of bail at trial; they may enjoy the same concession subject to furnishing fresh surety in sum of rupees two lac each and PR bond in the like amount to the satisfaction of learned trial Court.
7. The instant appeals are disposed of accordingly.

Judge