

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

Cr. Rev. A. No.S-05 of 2018

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

1. For orders on office objection.
2. For hearing of main case.

24.01.2020.

Applicant is present on bail.

Mr. Sohail Shahzad Advocate files Vakalatnama on behalf of the applicant.

Injured / complainant of the case Adnan present in person.

Ms. Rameshan Oad, A.P.G.

=

ORDER

ABDUL MAALIK GADDI, J.-It appears from the record that the learned Civil Judge & Judicial Magistrate, Badin after full-dressed trial of the case i.e. Criminal Case No.14 of 2017 (Old CrI. Case No.06 of 2017) (re: State v. Sarang) arisen out of Crime 16 of 2017, registered at Police station Talhar, under sections 337-A(III), 337-A(i) and 504 PPC, vide judgment dated 30.05.2017, has convicted and sentenced the aforementioned applicant as mentioned in the concluding para (Point No.2) of the said judgment, which reads as under:-

“24 Point No.2.

As discussed above, the prosecution has fully proved its case against the accused Sarang son of Haji Abro beyond reasonable doubt have committed the offence of Shajjah I Hashimah under section 337-A(iii) and Shajjah I Khafifah under section 337-A(i) of the Pakistan Penal Code. Therefore, the accused Sarang son of Haji Abro is hereby convicted under section 245(ii) Cr.P.C. and punishment for the offence punishable under section 337-A(iii) PPC to pay Arsh 10% of Diyat in sum of Rs.168,032/- (Rupees One lac, Sixty Eight Thousand and Thirty Two Only), offence under section 337-A(i) to pay Daman in sum of Rs.5000/- (Rupees Five Thousand Only) by keeping in mind expenses incurred on the treatment of injured Adnan Abro. Total amount of arsh and daman would be Rs.173,032/- (Rupees One

lac seventy three thousand and thirty two only) be paid to victim / injured Adnan Abro.

In the present case, nothing is on record that accused is previously convict, habitual or hardened, desperate or dangerous criminal. Therefore, this Court has complied with provision of 337N(ii) PPC which has a overriding effect on the whole chapter of hurts in PPC and imposed above mentioned Arsh and Daman upon accused and same be paid to injured / complainant Adnan son of Muhammad Saleh Abro. In case of non-payment / default of Arsh and Daman accused be dealt in accordance with 337-X and 337-Y(2) PPC respectively. However, the accused namely Sarang son of Haji Abro shall be taken into custody forthwith to serve out above prescribed punishment as per law.”

The said judgment has been assailed by the applicant by preferring Cr. Appeal No.22 of 2017 before the learned Sessions Judge, Badin, who entrusted the same to learned IInd Additional Sessions Judge, Badin, who after hearing both the parties’ counsel, vide judgment dated 01.01.2018 dismissed the said criminal appeal and maintained the judgment passed by the learned Civil Judge & Judicial Magistrate, Badin, which judgment has been assailed by way of captioned criminal revision application before this Court.

2. Today, the case is fixed for hearing. Applicant / accused Sarang (on bail) alongwith his learned counsel as well as complainant / injured Adnan (alongwith his CNIC No.41105-5023360-5) are present in Court. During course of hearing, both private parties have jointly moved applications U/s 345(2) and 345(6) Cr.P.C to accord them permission to compound the offence and then acquit the applicant of the charge on the ground that they have compounded the offence on the intervention of Nek Mard of their locality.

3. I have heard learned counsel for the applicant, learned APG as well as complainant / injured in person, (whose CNIC has also been verified by the Reader of this Court) and perused the relevant record.

4. Learned counsel for the applicant and complainant have submitted that the offence i.e. sections 337-A(i), 337-A(iii) and 504 PPC are compoundable in nature and due to intervention of nekmards of the community and brotherly for keeping good and cordial relations with each other and for the betterment of parties, the matter has been patched up between the parties and compromise applications are supported by the affidavits of the applicant/accused and the complainant / injured. Both parties are present in court and on query of the Court,

they confirmed the contents of the said compromise application. They also stated that they have settled the matter as well as pardoned to each other.

5. Complainant / injured Adnan, present in Court, does not claim any Arsh and Daman as ordered by the Courts below and submits that said Daman and Arsh have been forgiven.

6. Complainant / injured and the learned A.P.G appearing for the State have also extended their no objection if the above applications are allowed and as a result thereof applicant / accused may be acquitted of the charge.

7. In view of above circumstances, applications u/s 345(2) Cr.P.C. seeking permission to compound the offence and u/s 345(6) Cr.P.C. seeking acquittal of the applicant from the charge by way of compromise are allowed.

8. As a result of above, the impugned judgments dated 30.05.2017, passed by learned Civil Judge & Judicial Magistrate, Badin in Criminal Case No.14 of 2017 (Old Crl. Case No.06 of 2017) and dated 01.01.2018, passed by learned IInd Additional Sessions Judge, Badin in Criminal Appeal No.22 of 2017 stand set aside and applicant Sarang is acquitted of the charge in terms of compromise. He is present on bail; his bail bond is cancelled and surety stands discharged. However, the office is directed to place on record both the aforementioned applications viz u/s 345(2) and 345(6) Cr.P.C, jointly moved by the parties today, after assigning them proper number(s).

9. In the above terms, instant criminal revision application stands disposed of alongwith pending application(s), if any.

10. Office is directed to immediately send the copy of this order to learned trial Court for information.

JUDGE

S