

# IN THE HIGH COURT OF SINDH, KARACHI

## Criminal Appeal No. 416 of 2021

1. For hearing of M.A No.10685/2021.
2. For hearing of M.A No.10686/2021.
3. For hearing of Case.

Appellant AsifPanhwar : Through Mr.Ashfaq Ahmed  
Shah, Advocate.

State : Through Mr. Talib Ali Memon,  
A.P.G,Sindh, for theState.

Date of hearing : 14.10.2021

Date of Order : 14.10.2021

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## ORDER

**Muhammad Saleem Jessar, J-** Appellant Asif Panhwar son of Dr. Sikandar was tried in Sessions Case No.750/2017, Re: State v. Asif Panhwar, arising out of *Crime No.242/2017 of P.S Boat Basin, Karachi*, registered for offences punishable under Section 320/427 P.P.C, vide judgment dated **05.08.2021**, passed by learned Additional Sessions Judge-IX, Karachi (South), whereby the appellant was convicted and sentenced as under;

- a. Appellant was convicted and sentenced for the offence punishable under section 320 PPC to undergo R.I for five years and to pay Diyat amount as declared by the Government for the current year 2021/22 i.e. Rs.42,61,000/- to the legal heirs of deceased Sikandar.
  - b. Appellant was convicted and sentenced for offence punishable under section 427 PPC to undergo R.I for six months.
  - c. In case of default in payment of Diyat amount to the legal heirs of the deceased, appellant was further directed to imprisonment till payment of Diyat on part thereof.
2. All the sentences were ordered to run concurrently and benefit of section 382-B Cr.P.C was also extended to him.
  3. Appellant Asif Panhwar, against his conviction and sentence, filed instant appeal. However, during pendency of the appeal, the appellant entered into compromise with legal heirs of deceased and such

applications in terms of Sections 345(2) and 345(6)Cr.P.C vide M.A No.10685/2021 and 10686/2021 were moved, which were sent to learned trial Court, for enquiry as to verify the legal heirs of the deceased as well as genuineness or otherwise of compromise effected between the parties.

4. The learned trial court submitted report dated 13.10.2021, which is available with the file. In its report, the learned trial Court has mentioned that during course of enquiry reports with regard to legal heirs of deceased from concerned SHO and NADRA authorities were called. The learned trial Court has further mentioned that during enquiry proceedings, statements of legal heirs of deceased viz. father, mother and brother were recorded, who affirmed the fact of compromise between them.

5. Moreover, according to report of the trial Court, deceased had left in all three legal heirs, namely, Mumtaz Ahmed (Father), Mst. Samina Mumtaz (mother) and Arsalan Mumtaz (Brother).

6. All the major legal heirs of deceased also appeared before this Court and categorically stated that they have pardoned the appellant in the name of Almighty Allah.

7. Legal Heirs of the deceased namely Mumtaz Ahmed (Father) and Arsalan Mumtaz (Brother) are present before the Court and affirm the contention of compromise effected between them as well as accused/appellant.

8. Learned counsel for the appellant submits that the offence is compoundable, the compromise effected between the parties is genuine one, therefore, they may be allowed to live peacefully by maintaining law and order as well as tranquility within the vicinity.

9. Learned A.P.G appearing for the State, in view of above, has recorded his no objection, if listed applications are allowed.

10. Since, legal heirs of the deceased are present in person, affirm the compromise effected between them as well as accused/appellant, therefore, there will be no impediment to allow the same with the appellant. As, the report furnished by the trial Court reveals that compromise between the parties appears to be voluntary, genuine and

without any duress or coercion, therefore, permission to compound the offence is accorded to the parties, and in result whereof compromise between the parties is hereby accepted. Consequently, listed applications bearing M.A No.10685 and 10686 of 2021 are hereby allowed. Appellant Asif Panhwar son of Dr. Sikander is acquitted of the charge in terms of compromise. The appellant is present on bail, therefore, his bail bonds are hereby cancelled and surety furnished by him is also hereby discharged.

11. In compliance of order dated 05.10.2021, the appellant deposited entire Diyat amount worth of Rs.4,261,205/- (Rupees Forty Two Lacs Sixty One Thousand and Two Hundred Five Only) before Nazir of this Court on 06.10.2021 vide receipt No.214 dated 06.10.2021. Since the parties have entered into compromise which after due process of law, has been accepted by this Court, therefore, Diyat amount lying with Nazir of this Court shall be released and paid to the legal heirs of deceased as per their due share.

12. The instant appeal alongwith listed applications stand disposed of in the above terms.

**JUDGE**

Zulfiqar/PA