

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-219 of 2009

For hearing of MA No.12737/2021.

For hearing of MA No.12738/2021.

Appellant: John Christian through Mr. Jamshaid
Locus Khokhar, Advocate.

Respondent: The State through Ms. Rameshan Oad,
Assistant Prosecutor General Sindh.

Complainant: Complainant Mehtab expired during
pendency of instant appeal while legal
heirs of deceased appeared in Court.

Date of hearing: 08.09.2022.

Date of Decision: 08.09.2022.

J U D G M E N T

Amjad Ali Sahito, J. Through the above miscellaneous applications being MA No.12737/2021, the parties have prayed to accord permission to compound the offence under section 345[2] Cr.P.C. and MA No.12738/2021 for acquittal of the appellant under section 345 [6] Cr.P.C.

2. In terms of impugned judgment dated 29.09.2009, passed by the learned trial Court / 1st Additional Sessions Judge, Mirpurkhas in S.C. No.124/2008, Crime No.133/2008 for the offences under sections 302 PPC registered at PS Town Mirpurkhas, the appellant was convicted and sentenced under section 302 (b) PPC to suffer Imprisonment for ten years and to pay compensation of Rs.50,000/- to the legal heirs of deceased Younus Maseeh as provided under section 544-A Cr.P.C; in default whereof, to suffer S.I. for six months more. Benefit of section 382-B Cr.P.C was extended to the appellant.

3. It is pertinent to mention here that during pendency of instant appeal, the complainant Mehtab has passed away. However, the applications in respect of compromise are signed by legal heirs of deceased and accused as well as supported

with the affidavits of the appellant and legal heirs of the deceased. All the legal heirs have raised their no objection for acquittal of the appellant by stating that they have entered into compromise with them due to intervention of nekwards and pardoned the appellant in the name of Almighty ALLAH.

4. In order to ascertain the genuineness of the compromise between the parties, the compromise applications were sent to the trial Court for careful inquiry into the matter. The learned trial Court vide its letter dated 11.12.2021 has submitted its report, wherein it is stated that, with regard to the legal heirs of deceased the reports were called from the Mukhtiarkar Taluka Hussain Bux Mari, SHO of PS Town Mirpurkhas and found as per report of Mukhtiarkar that the deceased has left his legal heirs namely Yousuf, Anees, Vishal, Micheal [sons], Najma and Farri [daughters] and widow namely Iqbal Bibi. The SHO concerned in his report has also stated same legal heirs. Learned trial Court also recorded statements of legal heirs who confirmed the compromise with appellant. Objections from public at large in respect of compromise were invited through the daily Newspaper 'NAWA-E-WAQT' Karachi dated 07.12.2021 but nobody come forward to raise objection.

5. On 22.11.2021, the legal heirs namely Iqbal Bibi, Micheal, Anees, Yousuf, Vishal, Najma and Farri appeared before this Court and confirmed the compromise with the appellant on the intervention of their nekwards and forgiven the accused in the name of Almighty ALLAH. The legal heirs have raised no objection if the appellant is acquitted from the charge.

6. Since all the legal heirs of the deceased appeared in Court and have confirmed the contention of compromise applications and stated that they have entered into compromise with the appellant with their own freewill and consent and without any inducement in the name of Almighty ALLAH. They have also raised no objection for acquittal of the appellant. The offence is compoundable. Therefore, in order to keep cordial relations and harmony between the parties in future and strike off the enmity between them, the permission to compound the offence is allowed under section 345 [2] Cr.P.C. Resultantly, the

impugned judgment is set-aside, however, with order that the appellant will deposit compensation amount of Rs.30,000/- instead of Rs.50,000/- to be given to the legal heirs of deceased. The appellant John is acquitted of the charge under section 345 [6] Cr.P.C. However, the appellant shall execute a personal bond that he will make payment of reduced compensation amount in three easy installments each of Rs.10,000/- on 10th of each calendar month from October, 2022 till December, 2022. The appellant is present on bail, his bail bonds stand cancelled and surety discharged. In case of failure, the appellant shall face the consequences. The aforesaid compensation amount if paid, the Accountant of this Court is directed to distribute the same to each legal heir of the deceased.

7. With above modification, instant Criminal Appeal preferred against the impugned judgment is disposed of along with listed applications.

JUDGE