

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

Cr. Jail Appeal No.S-04 of 2012

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For hearing of MA-12241/2021
2. For hearing of MA-12242/2021

18.11.2022

Mr. Ishfaque Ahmed Lanjar, Advocate for appellant.

Ms. Sana Memon, Assistant P.G Sindh.

Legal heirs of deceased namely Ahmed, Mst. Soomri, Mst. Guddi @ Firdous, Abdul Hakeem, Khalil, Hafeez, and Mst. Rabia are present in person.

ORDER

SIP Muhammad Anwar Leghari, SHO P.S Badin present submits compliance report supported by certain documents including Family Registration Certificate of the deceased Shoukat Mallah; taken on record. He also submits reply to show-cause notice issued to him on 11.11.2022; taken on record. The SHO has categorically stated in the reply that he had not received the notice issued earlier to him; however, as and when he received it he made compliance; hence, prays that show-cause notice issued to him may be vacated. Learned A.P.G has no objection. The explanation furnished under the reply to show-cause notice seems to be plausible. Accordingly, show-cause notice issued to SHO P.S Badin is hereby recalled/vacated.

2. The legal heirs of deceased Shoukat Mallah namely Ahmed (father), Mst. Soomri (mother) and widow Mst. Guddi @ Firdous alongwith four minors / children namely Abdul Hakeem, aged about 15 years, Khalil, aged about 13 years, Hafeez, aged about 09 years and Mst. Rabia, aged about 11 years are present and have affirmed the contents of memo of listed applications. The father, mother and widow being Adult legal heirs of deceased have categorically stated before the Court that they have entered into

compromise with appellant Inayat Mallah without any duress or coercion; hence, have no objection for grant of listed applications as well acquittal of appellant by way of compromise. As far as their right of Qisas and Diyat to the legal heirs mentioned above, they submit that they have waived out their right of Qisas and Diyat and would not claim the same at any point of time. As far as minor legal heirs, namely Abdul Hakeem, Khalil, Hafeez and Mst. Rabia, who are also present before the Court alongwith their counsel, affirm the contents of instant applications and record their no objection for grant of said applications as well acquittal of the appellant. Since the minor legal heirs are not competent to waive the right of their Qisas and Diyat; hence, the appellant is directed to make payment / deposit Diyat amount as per due share of minor legal heirs. The Accountant of this Court is directed to calculate Diyat amount as per latest notification duly issued by Federal Government in this behalf and submit such report before this Court to the extent of minor legal heirs, namely Abdul Hakeem, Khalil, Hafeez and Mst. Rabia (sons and daughter of deceased). Per learned Counsel for appellant; one month's time may be given to the appellant so that he may be able to deposit Diyat amount to the extent of above named minor legal heirs. Order accordingly.

3. Learned Assistant P.G appearing for the State has extended no objection for grant of listed applications as well disposal of main appeal.

4. Since the offence(s) is / are compoundable; hence, there is no impediment for grant of compromise and acquittal of the appellant as the legal heirs of deceased have pardoned the appellant in the name of Almighty ALLAH; however, subject to payment of Diyat amount in favour of minors as ordered hereinabove. Therefore, in order to keep cordial relations and harmony between the parties in future, the permission to compound the offence(s), subject to payment of Diyat amount to the extent of minor legal heirs, is allowed under Section 345(2) Cr.P.C. Resultantly, appellant is acquitted of the charge under Section

345(6) Cr.P.C. Once the Diyat amount to the extent of share of above named minor legal heirs is deposited by appellant, office shall invest the same in any Government profitable scheme. After depositing Diyat amount by appellant, release writ shall be issued by the office in his favour.

5. In view of above, instant Criminal Jail Appeal No.S-04 of 2012 stands disposed of along with listed applications in the terms stated above.

JUDGE

Shahid