

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

Criminal Appeal No.S-256 of 2018

For hearing of MA No.10761/2022.  
For hearing of MA No.10762/2022.

Appellant: Hajjan through Mr. Shafi Muhammad Prizada, Advocate.

Respondent: The State through Mr. Abdul Waheed Bijarani, A.P.G. Sindh.

Complainant: Ranjho Ghalu through Mr. Maqbool Ahmed Nizamani, Advocate.

Date of hearing: 20.03.2023.

Date of Decision: 20.03.2023.

**J U D G M E N T**

**Amjad Ali Sahito, J.** Through the above miscellaneous applications being MA No.10761/2022, the parties have prayed to accord permission to compound the offence under section 345[5] Cr.P.C. and MA No.10762/2022 for acquittal of the appellant under section 345 [6] Cr.P.C.

**2.** In terms of impugned judgment dated 02.11.2018, passed by the learned trial Court / 1<sup>st</sup> Additional Sessions Judge, Shaheed Benazirabad in S.C. No.683/2014, Crime No.22/2014 for the offences under sections 302, 311 PPC registered at PS Jamal Shah, the appellant was convicted and sentenced under section 302 (b) PPC to suffer life Imprisonment and to pay compensation of Rs.100,000.00 [Rupees one hundred thousand only] to the legal heirs of deceased Mst. Hameeda as provided under section 544-A Cr.P.C; and 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.** During pendency of instant appeal, the parties have entered into compromise and filed the aforementioned

applications putting thumb impressions by legal heir of deceased namely Mst. Zeebal being mother and accused as well as supported with their affidavits stating by the legal heir that she has no objection for acquittal of the appellant as they have entered into compromise due to intervention of nekmarks 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 20.12.2022 has submitted its report, wherein it is stated that, with regard to the legal heirs of deceased the reports were called from the Mukhtiarkar Revenue Taluka Daur, SHO of PS Jamal Shah as well as NADRA. The trial Court found that the deceased has left his legal heirs namely Hajjan [appellant], Mst. Zeebal [mother], Sikandar Ali, Muhammad Ameen, Ali Sher, Bakhat Ali, Ali Asghar [brothers], Mst. Khursheda, Mst. Najma and Afshan [sisters]. The learned trial Court also recorded statement of legal heir namely Mst. Zeebal Ghaloo, who confirmed the compromise with appellant. Objections from public at large in respect of compromise were invited through the daily newspaper 'Kawish' Hyderabad on 12.12.2022 but nobody come forward to raise objection.

**5.** On 10.02.2023, Mst. Irfana having CNIC No.45404-0806769-8, Mst. Najma having CNIC No.45401-4216437-4, Mst. Khursheed having CNIC No.45404-0694188-4, Mr. Bakht Ali having CNIC No.45403-6642919-1, Mst. Zeebal having CNIC No.45403-9743721-2, Mr. Muhammad Ameen having CNIC No.45404-0409552-1, Mr. Ali Sher having CNIC No.45403-2772725-1, and Mr. Sikandar Ali having CNIC No.45201-3575485-1, appeared in person and stated that they have entered into compromise with the appellant / accused as well as admitted the contents of application for permission to compound the offence and compromise application.

**6.** So far the offence under section 311 PPC is concerned, the reliance is placed on the case of 'IQRAR HUSSAIN and others v. The STATE and others' reported in 2014

S C M R 1155, wherein the Hon'ble Supreme Court has held as under:-

“10. After the accused entered into a genuine compromise with the complainant party / legal heirs of the deceased and when no clear evidence was available to constitute the offence involving the element / mischief of **فساد في الارض**, then, the learned High Court was not justified in law to convert punishment of the appellants to one under section 311, P.P.C. instead of acquitting them on the basis of compromise.”

**7.** 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, the permission to compound the offence is allowed under section 345 [5] Cr.P.C. Resultantly, the impugned judgment is set-aside, however, with order that the appellant shall deposit compensation amount of Rs.50,000.00 [Rupees fifty thousand only] instead of Rs.100,000.00 [Rupees one hundred thousand only] to be given to the legal heirs of deceased. The appellant Hajjan is acquitted of the charge under section 345 [6] Cr.P.C. He is confined in Jail and shall be released forthwith, if not required in any other custody case. The payment of reduced compensation amount shall be deposited by the appellant after his release from jail with easy four monthly installments with the Accountant of this Court, who on payment, shall distribute the same to each legal heir of the deceased.

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

JUDGE