

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

Criminal Appeal No.S-200 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on application u/s 561-A Cr.P.C MA No.745/2023
2. For hearing of application u/s 345(2) Cr.P.C MA No.746/2023
2. For hearing of application u/s 345(6) Cr.P.C MA No.747/2023

07.04.2023

Mr. Inayat Ali Sahito, advocate for appellants.

Mr. Manzoor Ahmed Panhwar advocate for complainant.

Ms. Sana Memon and Mr. Abdul Waheed Bijarani, APGs.

Legal Heirs of deceased Allah Bachayo namely : Muhammad Qasim (father), Mst. Adrri (mother) and Mst. Niamat (widow).

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Appellants were convicted and sentenced to suffer life imprisonment by learned Sessions Judge/MCTC Tando Muhammad Khan vide impugned judgment dated 29.10.2022 in S.C. No. 01 of 2021 arising out of FIR No.97/2020 of police station Bulri Shah Kareem, under Section 302, 34 PPC. They preferred instant appeal before this Court which was admitted for regular hearing. During pendency of this appeal, the complainant and legal heirs of deceased and the appellants compromised the matter outside the court in the name of Almighty Allah and on the intervention of nekmards of the locality. Therefore, they filed applications under section 345(2) & 345(6) Cr.P.C seeking compounding of the offence and resultant acquittal of the appellants. The said applications were sent to the trial court for conducting an inquiry in respect of legal heirs of deceased and genuineness of compromise between the parties who has submitted his report dated 01.04.2023 which is available on record.

Learned counsel for the appellants submits that the offence is compoundable and all the legal heirs of deceased including complainant have pardoned the appellants, therefore, compromise application may be accepted and the appellants may be acquitted in terms of compromise.

Learned Assistant PGs after going through the compromise applications and the report of the learned trial court submit that

entire exercise carried out by it is in accordance with law hence they have no objection if compromise application is accepted.

I have heard the learned counsel for the parties, complainant and legal heirs of the deceased, who have confirmed factum of compromise and their pardon to the appellants, and examined the file minutely.

Admittedly, the offence is compoundable and the parties i.e. the appellants, complainant and legal heirs of the deceased have filed joint applications for compounding the offence and acquittal. These applications were sent to the trial court for verification of legal heirs of deceased and genuineness of compromise. The report has been received which reveals that reports from concerned SHO, NADRA, Administrator Town Committee and Mukhtiarkar were called and notice in daily kawish newspaper was published. As per reports of SHO, NADRA, Administrator Town Committee and Mukhtiarkar no other person claiming to be legal heir of deceased came in picture and nobody objected to the compromise. Today, the legal heirs of deceased i.e. father, mother, widow are present. They have stated that they have compounded the offence and have pardoned the appellants in the name of Almighty Allah and they also do not claim any diyat, daman or compensation, hence they have no objection if the appellants is released by this court. In view of above, the compromise between the parties appears to be genuine and not the result of any coercion. The compromise is likely to promote harmony between parties and peace in the society. There appears to be no impediment legal or otherwise in accepting the compromise between the parties. Accordingly, the application under Section 345(2) is accepted. The parties are allowed to compound the offence. Resultantly, the application under Section 345(6) Cr.P.C. is also allowed. The appellants are acquitted in view of the compromise arrived at between the parties. Resultantly, the conviction and sentence awarded by the trial court is set-aside. Appellants are in custody, they shall be released forthwith, if not required in any other custody case.

The appeals stand disposed of accordingly.

JUDGE

Ali Haider

