

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Appeal No.S-58 of 2022

Appellant	Muhammad Murad @ Inamullah son of Zain-ul-Abdin bycaste Shaikh, R/O Waspur Mohalla Old Sukkur through Mr. Shamsuddin Kobhar, advocate.
The complainant	Through Mr. Hamayoun Shaikh advocate.
The State	Through Imran Mobeen Khan, Assistant Prosecutor General for the State.
Date of hearing	15-11-2023
Date of decision	15-11-2023.

J U D G M E N T

IRSHAD ALI SHAH, J- It is alleged that the appellant is alleged to have committed murder of Din Muhammad by causing him knife injuries, for that they were booked and reported upon by the police. On conclusion of trial the appellant was convicted u/s 302 (b) PPC and sentenced to undergo imprisonment for life and to pay compensation of rupees two lacs to the legal heirs of the deceased, in default whereof to undergo simple imprisonment for three months with benefit of section 382(b) Cr.P.C by learned Ist Additional Sessions Judge (MCTC-I), Sukkur vide judgment dated 19-08-2022 which he has impugned before this Court by preferring the instant CrI. Appeal.

2. At the very outset, it is stated by learned counsel for the appellant that the Tapedar of the beat and Inspector Ghulam Ali Jumani who has conducted further investigation of the case have not been examined by the prosecution and such act has prejudiced the appellant in his defence. By pointing out so, he suggested for remand of the case with direction to learned trial Court to call and examine the above said witnesses in order

to meet with ends of justice, which is not opposed by learned DPG for the State and learned counsel for the complainant.

3. Heard arguments and perused the record.

4. The examination of the Tapedar and Inspector Ghulam Ali Jumani who has conducted further investigation of the case was essential; their non-examination obviously has prejudiced the appellant in his defence, which is contrary to the mandate contained by Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973, which prescribes right of fair trial; consequently the conviction and sentence awarded to the appellant under impugned judgment are set aside with direction to learned trial Court to call and examine the above named witnesses and then to make disposal of the case afresh independently in accordance with law, without being influenced by earlier findings; such exercise to be completed within three months after receipt of copy of this judgment.

5. The instant Criminal Appeal is disposed of accordingly.

JUDGE