

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Jail Appeal No.S- 93 of 2022

Appellant	Wazir Ahmed S/o Khamiso Malik Through Mr. Rukhsar Ahmed Junejo Advocate
The State	Through Mr. Zulfiqar Ali Jatoi, Additional Prosecutor General for the State
Date of hearing	22-11-2023
Date of decision	22-11-2023

J U D G M E N T

IRSHAD ALI SHAH, J. It is alleged that the appellant with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object besides committing murder of deceased Malik Islam alias Kaka caused fire shot injuries to complainant Sharafuddin with intention to commit his murder, for that the present case was registered. On conclusion of trial, co-accused Rahim Bux, Liaquat Ali and Zamir Hussain alias Zamir Ahmed were acquitted while the appellant was convicted u/s 302 (b) PPC and sentenced to undergo imprisonment for life as *Ta'zir* and to pay compensation of Rs.500,000/- to the legal heirs of the deceased and in default whereof to undergo simple imprisonment for six months; he was further convicted u/s 324 PPC and sentenced to undergo rigorous imprisonment for ten years; he was further convicted u/s 337-F(v) PPC and sentenced to undergo rigorous imprisonment for five years as *Ta'zir* and to pay daman of Rs.50,000/- all the sentences were directed to run concurrently with benefit of section 382(b) Cr.P.C by learned 1st. Additional Sessions Judge/(MCTC), Sukkur, vide judgment dated 05.10.20220, which the appellant has impugned before this Court by preferring the instant Crl. Jail Appeal.

2. At the very outset it is stated by learned counsel for the appellant that on joining of the trial the charge was amended by

learned trial Court and then case proceeded without recalling and re-examination of PWs HC Muhammad Soomar and ASI Abdullah who were examined before the amendment of the charge. By such omission the appellant has been prejudiced in his defence seriously. By stating so, he suggested for remand of the case for recalling and re-examination of the above named witnesses and disposal of the case afresh in accordance with the law, which is not opposed by learned Additional Prosecutor General for the State.

3. Heard arguments and perused the record.

4. Omission pointed out by learned counsel for the appellant has prejudiced the appellant in his defence seriously 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 to everyone; consequently the impugned judgment only to the extent of appellant is set aside with direction to learned trial Court to recall and reexamine the above named witnesses and then to make disposal of the case afresh in accordance with the law preferably within two months after receipt of copy of this judgment.

5. The instant Crl. Jail Appeal is disposed of accordingly.

J U D G E