

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Appeal No. S-131 OF 2019
(*Shahban Samejo & another Vs. The State*)

Date of hearing	Order with signature of Judge
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- 1. For Orders on M.A No. 3526/2019 (426 Cr.P.C)
- 2. For hearing of M.A.No. 3257/2021 (345 (2) Cr.P.C)
- 3. For hearing of M.A.No. 3258/2021 (345 (6) Cr.P.C)
- 4. For Orders on M.A.No. 5693/2022 (345 (2) Cr.P.C)
- 5. For Orders on M.A No. 5694/2022 (345 (6) Cr.P.C).
- 6. For hearing of main case.

29-01-2024.

Mr. Amanullah G.Malik, advocate for the appellants.
Mr. Zulfiqar Ali Jatoi, Additional P.G for the State

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It is alleged by the prosecution that the appellants with one more culprit in furtherance of their common intention committed murder of Hakim Ali and Mst. Ajaib, for that they were booked and reported upon by the police. On conclusion of trial, they were convicted under Section 302(b) r/w section 34 PPC and sentenced to undergo rigorous imprisonment for life as *Tazir* on two counts and to pay compensation of Rs.200,000/- each to the legal heirs of the deceased and in default whereof to undergo simple imprisonment for 06 months with benefit of Section 382(b) Cr.PC by learned Ist Additional Sessions Judge/MCTC, Ghotki, vide judgment dated 15-06-2019 which they have impugned before this Court by preferring the instant Crl. Appeal.

On hearing of the instant Crl. Appeal, the appellants filed applications for permission to compound the offence with the legal heirs of the deceased and for their acquittal by way of compromise; those were assigned to learned trial Court for inquiry and report.

On inquiry it was reported by learned trial Court that;

Deceased Hakim Ali on death was survived by the following legal heirs;

- i. Mst. Hawa (wife) aged about 51 years.
- ii) Sajid Ali (son) aged about 23 years.
- iii) Abid Ali aged (son) about 21 years.
- iv) Farhan Ali (son) aged about 19 years.
- v) Majid Ali (son) aged about 14 years.

- vi) Mst. Zahida (daughter) aged about 25 years.
- vii) Mst. Shahida (daughter) aged about 20 years.

Deceased Mst. Ajiab Khatoon was survived by the following legal heirs;-

- i). Wahid Bux (father) aged about 75 years.
- ii) Shahmir (son) aged about 16 years.

Beside above named persons, the brothers and sisters of the deceased too have been shown to be their legal heirs of the deceased, which they are not legally. It was further reported by learned trial Court that Majid Ali, being legal heir of deceased Hakim Ali and Shahmir being legal heir of Mst. Ajaib are minors; therefore, they could only enter into compromise through their *Wali*, that too after receipt of *Diyat money*.

Both, Majid Ali and Shahmir by confronting the report of learned trial Court by filing their respective affidavits states that they are major and in support of their contention, one amongst them, filed copy of his NIC and other a decree of Civil Court with regard to his age.

The legal heirs of both of the deceased being adults have pardoned the appellants by waving their right of "*Qisas*" and "*Diyat*" against them.

It is contended by learned counsel for the appellants that the parties have compounded the offence on intervention of their *Nekmards*; without fear or favour and it is true and voluntarily, therefore, the appellants are entitled to be acquitted by way of compromise, which is not opposed by learned Additional P. G for the State.

Heard arguments and perused the record.

The compromise arrived at between the parties is appearing to be true and voluntarily without coercion or compulsion, it has not been objected by anyone; it is therefore, accepted in the best interest of the peace and brotherhood expected to be prevailed between them; consequently, the appellants are acquitted of the offence for which they were charged, tried, convicted and sentenced by learned trial Court, in terms of compromise by resorting to provisions of section 345(6) Cr.PC

and shall be released forthwith, if is not required to be detained in any other custody case.

The instant Crl. Appeal is disposed of accordingly together with the listed applications.

J U D G E

Nasim/P.A