

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

**Criminal Appeal No.S-176 of 2021**

1. For orders on MA-4957/2023
2. For orders on MA-4958/2023
3. For hearing of main case.

Appellant : Muhammad Anees S/o Ghulam Mustafa,  
Through Mr. Ayaz Khaskheli, Advocate

The State : Through Mr.Nazar Muhammad Memon,  
Additional P.G. Sindh.

Date of hearing : **17.07.2023**

Date of Judgment : **17.07.2023**

**JUDGMENT**

**ARBAB ALI HAKRO, J.-** Appealing party Muhammad Anees son of Ghulam Mustafa, Solangi, was indicted through impugned judgment dated 21.9.2021 in Sessions Case No.76/2021, under Sections 302, 324, 114, 147, 148, 149, 504, 337-A(i), 337-C P.P.C. and sentenced to endure R.I. for Life Imprisonment and to pay fine of Rs.500,000/- as compensation payable to the legal heirs of deceased as provided under Section 544-A, Cr.P.C.; in default thereof to endure S.I. for six months more.

2. Amid the pendency of the appeal, the appealing party and legal heirs of deceased Shahzad Ali filed applications under Sections 345(2) and 345(6), Cr.P.C. Said applications were sent to the trial Court vide order dated 29.5.2023, for verification and report in accordance with law. In compliance with the said order, the learned Additional Sessions Judge-I (MCTC), Sanghar, after holding the enquiry, submitted his report through letter No.2196/2023, dated 22.6.2023, specifying therein as under:-

*"(2) The statements of the Mukhtiarkar Taluka Sinjhoru, Afzal Arain, authorized by Secretary Union Council Jaffar*

*Khan Leghari, Taluka Sinjhoru and the S.H.O. P.S. Sinjhoru have been recorded, in which they have produced their reports. In their respective reports, they have shown Gul Hassan (Father), Mst. Naimat (Mother) Muhammad Ali, Sher Ali, Rab Nawaz, Barkat Ali, Gomazi and Bahadur (Brothers) of the deceased Shahzad Ali as his legal heirs. According to a document of NADRA Ex.3/A, the deceased Shahzad Ali is not linked with the family tree of his father, Gul Hassan. At the same time, the names of Muhammad Ali, Rab Nawaz, Barkat Ali and Gomazi are shown in the family tree of Gul Hassan, father of the deceased Shahzad Ali.*

*(4) This Court also recorded statements of Mst. Naimat, Gul Hassan Rind, Sher Ali, Muhammad Ali, Rab Nawaz, Barkat Ali, Gomazi and Bahadur have stated in their statements that Gul Hassan Rind, Mst. Naimat is the father and mother of the deceased Shahzad Ali. They have further stated that the deceased has left behind Sher Ali, Muhammad Al, Rad Nawaz, Barkat Ali, Gomazi and Bahadur as his brothers. They have also said that the deceased Shahzad has not left any other legal heirs except the L.R.s mentioned earlier.*

*Based on the above discussion and evidence, it appears that the following persons are the legal heirs of the deceased Shahzad Ali.*

<b>S No.</b>	<b>NAME</b>	<b>RELATION</b>	<b>STATUS</b>
1	Gul Hassan	Father	Adult
2	Mst.Naimat	Mother	Adult
3	Muhammad Ali	Brother	Adult
4	Sher Ali	Brother	Adult
5	Rab Nawaz	Brother	Adult
6	Barkat Ali	Brother	Adult
7	Gomzai	Brother	Adult
8	Bhadur	Brother	Adult

*(5) The Statements of the above named legal heirs of the deceased have been recorded to ascertain the genuineness of compromise. The above named legal heirs of deceased have stated that the deceased Shahzad Ali was unmarried at the time of his death.*

(6) *The above stated legal heirs in their statements have stated that they have forgiven the Appellant/Accused Muhammad Anees and have waived off their right of Qisas and Diyat in the name of Al-Mighty Allah. They have further stated that there is no any pressure or coercion on them from any side.*

(7) *From the statements of legal heirs of the deceased, the compromise appears to be true, genuine and has been arrived at among the legal heirs of the deceased and Appellant/Accused is voluntarily, and there is no other legal heir of the deceased except above mentioned Ls as per statements of above named L.R.s of the deceased and reports received by this Court."*

3. The trial court's report states that the deceased individual was not married and is survived by his father, mother and six brothers, who are recognized as legal heirs. Nevertheless, under the law, both the father and mother have the complete legal authority to enter into a compromise with the accused/appellant on any terms allowed by law, as demonstrated in the case of **Sartaj and others vs Mushtaq Ahmad and others** reported in **2006 SCMR 1916**.

4. The statements of the legal heirs of the deceased were diligently recorded by the learned Additional Sessions Judge-I. In their testimonies, the legal heirs unequivocally declared their forgiveness towards the appellant/accused in the name of the divine Almighty Allah, thereby relinquishing their entitlement to Qisas and Diyat. They have recorded no objection to the acquittal of the accused/appellant.

5. Today, Gul Hassan and Mst. Naimat (father and mother of deceased) have appeared. They affirm that they have pardoned the accused/appellant of their own volition, without any

undue influence, coercion, or enticement, consequently renouncing their entitlement to retribution and compensation under the principles of Qisas and Diyat.

6. The compromise reached between the legal successors of the deceased and the appellant is anticipated to facilitate the advancement of peace within the community and society while also fostering the improvement of the current and future generations of the involved parties. This is particularly significant in light of the absence of any aspect pertaining to "**Fisad-fil-Arz**" as delineated in Section 311, P.P.C. Based on the evidential and contextual assessment of the case, the granting of permission to implement the compromise, in accordance with Section 345(2)(5) Cr. P.C. is deemed appropriate.

7. Considering the circumstances mentioned above, as the legal heirs of deceased Shahzad Ali have forgiven the appellant/accused and prayed for his acquittal, I am satisfied that the compromise between the parties is voluntary. Therefore, the application under Section 345(2), Cr.P.C., for permission to compound the offence is allowed. Consequently, the compromise between the appellant and legal heirs of the deceased Shahzad Ali is accepted. The appellant is acquitted of the charge in terms of compromise. He is confined in jail. He shall be released forthwith if not required to be detained in any other case. The appeal stands disposed of in terms of compromise.

**JUDGE**