

# IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Appeal No.340 of 2019

Appellant: Jamil Ahmed through M/s. Raj Ali Wahid  
Kunwar and Abdul Qadir Soomro, advocates

The State: Mr. Muhammad Anwar Mahar, DDPP for the  
State

Date of hearing: 10.10.2023

Date of judgment: 10.10.2023

## J U D G M E N T

**IRSHAD ALI SHAH, J-** It is alleged that the appellant with rest of the culprits in furtherance of their common intention not only committed murder of Mst. Farooqui Bibi and Muhammad Ramzan but caused fire shot injuries to PW Irfan with intention to commit his murder, for that the present case was registered. On conclusion of trial, co-accused Mursaleen Sarwar and Muhammad Shakeel were acquitted while the appellant was convicted u/s. 302(b) PPC and sentenced to undergo rigorous imprisonment for life and to pay compensation of Rs.500,000/- to the legal heirs of both the deceased; he was further convicted under Section 324 PPC and sentenced to undergo rigorous imprisonment for 07 years with fine of Rs.100,000/- payable to P.W injured Irfan as compensation and in default whereof to undergo simple imprisonment for 02 months; both the sentences were directed to run concurrently with benefit of Section 382(b) Cr.PC by learned IIIrd-Additional Sessions Judge, Malir Karachi, vide judgment dated 18.05.2019, which he has impugned before this Court by preferring the instant Criminal Appeal.

2. At the very outset, it is pointed out by learned counsel for the parties that the examination-in-chief of I.O/SIP Muhammad Bostan has been recorded in absence of the counsel for the appellant which as per mandate contained by Circular 6 of Chapter VI of Federal Capital and Sindh Courts Criminal Circulars was to have been recorded in presence of his counsel. No final Medical Certificate

disclosing nature of the injuries sustained by P.W Irfan has been produced despite examination of Dr. Shahzad Ali which is to be produced by him in order to meet with ends of justice; no point for determination with regard to the injuries sustained by P.W Irfan has been framed in impugned judgment and it makes no disclosure as to whether the appellant has been convicted and sentences on two counts for committing double murder or otherwise. By pointing out so, they suggested for remand of the case for further proceedings and its fresh disposal in accordance with law.

3. Heard arguments and perused the record.

4. The omissions pointed out by learned counsel for the parties takes support from the record, the same being incurable in terms of Section 537 Cr.PC has occasioned in failure of justice, consequently, the impugned judgment only to the extent of the appellant is set aside with direction to learned trial Court to recall and re-examine the above named witnesses as per law and then to make fresh disposal of the case in respect of the appellant in accordance with law without being influenced by earlier findings, preferably within 03 months after receipt of copy of this judgment.

5. Needless to state that if an application is filed by the appellant for his release on bail then same to be disposed of by learned trial Court strictly in accordance with law on its own merits.

6. The instant Criminal Appeal is disposed of accordingly.

**JUDGE**