

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Rev. App. No. D – 37 of 2023
(*Mumtaz Ali Bhagat versus The State and others*)

Cr. Rev. App. No. D – 42 of 2023
(*Mumtaz Ali Bhagat versus The State and another*)

Cr. Jail Appeal No. S – 82 of 2023
(*Haji Khan Bhagat and others versus The State*)

Present:

Mr. Muhammad Iqbal Kalhoro, J.
Mr. Arbab Ali Hakro, J.

Date of hearing : **18.04.2024**

Date of decision : **18.04.2024**

Mr. Shabbir Ali Bozdar, Advocate for applicant in Cr. Rev. Apps. No. D-37 & 42 of 2023.

Mr. Achar Khan Gabol, Advocate for appellant in Cr. Jail Appeal No. S-82 of 2023 and for respondents No.2 to 4 in Cr. Rev. App. No. D-37 of 2023.

Mr. Shafi Muhammad Mahar, Deputy Attorney General.

J U D G M E N T

Muhammad Iqbal Kalhoro, J. – After hearing the parties at some length, with consent, the impugned judgment is **set aside** being in violation of Section 367 CrPC and Section 302(b) PPC which provides only two punishments: death or life imprisonment that is reaffirmed by the Supreme Court in the case of *Muhammad Juman versus The State and others* (2018 SCMR 318), whereas in this case u/s 302(b) PPC, the trial court has awarded sentence to suffer imprisonment for fourteen (14) years to accused Roshan Ali and Irfan Ali, and to accused Aftab Ahmed sentence of two (02) years, and the case is **remanded** to the trial Court for re-writing the judgment after hearing the parties, within a period of two (02) months maximum.

2. Since impugned judgment shows that accused Roshan Ali, Imam Bux and Aftab were present on bail at the time of its pronouncement and were taken into custody, their position, being on bail, shall stand restored against the same surety, if found intact, but with a fresh bond to be executed by the surety /

sureties. But if the surety has already been discharged, they will have to furnish a fresh surety in the same amount, in which they were granted bail by the trial Court.

3. At this juncture, Mr. Bozdar submits that since the impugned judgment has been set aside, he does not press both criminal revision applications, which are **dismissed as not pressed**.

4. Both criminal revision applications and criminal jail appeal stand **disposed of** along with pending application(s), if any, in above terms.

J U D G E

J U D G E

Abdul Basit