

**JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.**

Cr. Appeal No.S-180 of 2020

Appellants: Amir and Imran, both sons of Ghulam Rabbani Jamali, through Mr. Sajjad Ali Gopang, Advocate.

Complainant: Zakir Hussain, through Mr. Riaz Hussain Solangi, Advocate,

Respondent: The State through Mr. Fayaz Hussain Sabki, Assistant P.G.

Date of hearing : 08.04.2022

Date of judgment : 08.04.2022.

J U D G M E N T

SALAHUDDIN PANHWAR, J.- Through miscellaneous application bearing No.MA No.14340 of 2021, the parties have prayed to accord permission to compound the offence under Section 345(2) Cr.P.C and through application bearing MA No. 14341 of 2021 prayed for acquittal of the appellants under Section 345 (6) Cr.P.C, who vide impugned judgment dated 05.11.2020, passed by the learned Vth Additional Sessions Judge/Model Criminal Trial Court, Shaheed Benazirabad in Sessions Case No.75 of 2020 (The State v. Amir and others), emanated from Crime No.177 of 2019 registered at Police Station B-Section, Nawabshah, under Sections 302, 114, 34 PPC, were convicted and sentenced to undergo imprisonment for life and to pay Rs.400,000/- (Rupees Four Hundred Thousand) each as compensation to the legal heirs of deceased in terms of Section 544-A Cr.P.C, failure whereof, they shall undergo S.I for five months more.

2. The compromise applications are supported with the affidavits of complainant/brother of the deceased namely Zakir Hussain, legal heirs of deceased namely Mst. Manzooran (widow) and Mst. Uroosa (widow). All the

legal heirs of the deceased as well as the complainant have raised their no objection for acquittal of the appellants by stating that they have entered into compromise with them due to intervention of nekmards outside the Court and pardoned them the right of Qisas and Diyat amount in order to maintain good relations.

3. In order to ascertain the genuineness of the compromise between the parties, the compromise applications were sent to the trial Court for thorough inquiry into the matter. The learned trial Court vide its letter dated 03.02.2021 has reported that in compliance of the order of this Court, statements of the legal heirs of deceased Muharram Ali namely Zakir Hussain (brother), Mst. Manzooran (widow) and Mst. Uroosa (widow) were recorded. Besides, deceased has left behind him two minors i.e. Muhammad Sahil (son) aged about four years and baby Maryam (daughter) aged about three years. The major legal heirs of the deceased in their statements, have categorically stated that they have pardoned the accused in the name of Almighty ALLAH and waived the right of Qisas; however, subject to payment of Diyat amount in favour of minors and therefore they have recorded no objection if the appellants are acquitted from the charge. The learned trial Judge has also called reports from concerned Mukhtiarkar, SHO and NADRA regarding legal heirs of deceased, who in their respective reports have also mentioned the said legal heirs of the deceased. Record reflects that publication for inviting objections from the interested persons with regard to compromise between the parties was made in daily newspaper "KAWISH" but nobody came forward to raise any objection before the trial Court.

4. Learned Counsel for appellants submits that major legal heirs of the deceased have waived off their share of Diyat in favour of appellants, however, the appellants have transferred 01-00 acre of agricultural land in Survey No.7/4 of Deh 67 Nasrat Taluka Daur, valuing Rs.14,00,000/- (Rupees Fourteen Lacs) as well Plot No.220 area 1350 formed out of Revenue Survey No.134/4, Deh 87-A Nasrat, Taluka Nawabshah, valuing Rs.25,00,000/- (Twenty Five Lacs) in favour of minor legal heirs namely Muhammad Sahil and Baby Mariyam through their Guardians namely Zakir Hussain and Mst. Manzooran. The attested photostat copies of Sale Deeds of both the properties alongwith valuation certificates and Deh Farm No.II have been placed on record. Learned Counsel further submits that the appellants have transferred

the properties in favour of minors which are equivalent to the amount of Diyat i.e. Rs.39,00,000/- (Thirty Nine Lacs).

5. Learned A.P.G. Sindh, who is present in Court in connection with other cases while waiving notice of compromise applications has also extended his no objection on the plea that all offences are compoundable.

6. Since the offence(s) is / are compoundable, hence, there is no impediment for grant of compromise and acquittal of the appellants as the legal heirs of deceased have pardoned the appellants in the name of Almighty ALLAH; however, subject to payment of Diyat amount in favour of minors, which has been done in the present case in the shape of aforesaid plot and agricultural land. Therefore, in order keep cordial relations and harmony between the parties in future, the permission to compound the offences is allowed under Section 345 (2) Cr.P.C. Resultantly, both the appellants are acquitted of the charges under Section 345 (6) Cr.P.C. Since the aforesaid property in lieu of Diyat amount has been transferred in favour of minors, which as per learned Counsel is equivalent to Diyat amount, therefore, same shall be verified by the Accountant of this Court and thereafter release writ of appellants shall be issued, however, subject to verification of property documents.

7. In view of above, the instant Criminal Appeal stands disposed of along with listed applications.

JUDGE

Shahid