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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Jail Appeal No.S-73 of 2016.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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For Hearing of application u/s 426, Cr.P.C on
M.A.No.3012/2016.

21.11.2017.

Messrs Shahab Sarki, Habibullah G. Ghouri and Mustafa Safvi, advocates for the appellant.

Mr. Safdar Ali G. Bhutto, advocate for the complainant.

Mr. Khadim Hussain Khooharo, Addl. P. G.

After arguing the matter at some length, learned counsel for the parties record their consent for setting aside the conviction and sentence awarded to the appellant through impugned judgment dated.06.8.2016 by the learned III-Additional Sessions Judge, Larkana, and for remanding the matter to trial Court as the statement of the appellant/accused recorded under section 342, Cr.P.C is in violation of Section 364, Cr.P.C, which provides certifying the statement under his own hand by the Presiding Officer of the Court. So also, no question with regard to FSL and the Chemical Examiner's reports has not been put to appellant. Further, although the appellant had shown willingness for examination on oath as own witness and gave names of defense witnesses but neither the appellant examined on oath by the learned trial Court nor the evidence of defence witnesses was recorded.

We, therefore, while setting aside the impugned judgment remand the case to learned trial Court with direction to record the statement of the appellant under section 342, Cr.P.C afresh and if the appellant again shows willingness for examination on oath and intention to produce witnesses in defence, then the trial Court examine the appellant on oath and his defense witnesses and, thereafter, shall

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announce fresh judgment after hearing the learned counsel for the parties within a period of thirty days.

Appellant Muhammad Siddique was on bail at the time of impugned judgment. He is granted bail on the same terms and conditions subject to furnishing affidavit or surety before the trial Court.

At this juncture, learned counsel for the appellant requests that the case may be withdrawn from the Court of learned III-Additional Sessions Judge, Larkana, and entrusted to the Court of learned Sessions Judge, Larkana, who may try himself being senior judicial officer. Order accordingly.

Crl. Jail Appeal No.S-73 of 2016 stands disposed of in the above terms.

M.Y.Panhwar/**