

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Appeal No.S-33 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection reversed on MA No. 5660/2022
2. For hearing of application u/s 345(2) Cr.P.C MA No.5660/2022
3. For hearing of M.A. 345(5) Cr.P.C MA No.5661/2022

15.08.2022

Mr. Saad Salman Ghani, advocate for appellants.

Mr. Shahzad Saleem Nahiyoona, APG.

Complainant Muhammad Hussain and Mst. Sami, father and mother of deceased, present in person.

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Appellants were convicted and sentenced to suffer life imprisonment by learned Model Criminal Trial Court-I, Hyderabad, vide impugned judgment dated 14.01.2022 in S.C. No. 239 of 2019 arising out of FIR No. 176/2018 of police station Husri, Hyderabad, under Section 302, 147, 148, 149, 337-A(i), 337-F(i) PPC. They preferred the instant appeal before this Court which was admitted for regular hearing. During pendency of this appeal, the complainant, legal heirs of deceased and the appellants compromised the matter outside the court in the name of Almighty Allah and on the intervention of nekmards of the locality. Therefore, they filed applications under section 345(2) & 345(5) Cr.P.C seeking compounding of the offence and resultant acquittal of the appellants. The said applications were sent to the trial court for conducting an inquiry in respect of legal heirs of deceased and genuineness of compromise between the parties who has submitted his report dated 13.08.2022 which is available on record.

Learned counsel for the appellants submits that the offence is compoundable and all the legal heirs of deceased including complainant have pardoned the appellants, therefore, compromise application may be accepted and the appellants may be acquitted in terms of compromise.

Learned Addl. P.G after going through the compromise applications and the report of the learned trial court submits that entire exercise carried out by it is in accordance with law hence he has no objection if compromise application is accepted.

I have heard the learned counsel for the parties, legal heirs of the deceased, who have confirmed factum of compromise and their pardon to the appellants, and examined the file minutely.

Admittedly, the offence is compoundable and the parties i.e. the appellants and the complainant have filed joint applications for compounding the offence and acquittal. These applications were sent to the trial court for verification of legal heirs of deceased and genuineness of compromise. The report has been received which reveals that reports from concerned SHO, NADRA and Mukhtiarkar were called and notice in daily kawish newspaper was published. As per reports of SHO, NADRA & Mukhtiarkar no other person claiming to be legal heir of deceased came in picture and nobody objected to the compromise. Today the legal heirs of deceased i.e. parents are present. They have stated that they have compounded the offence and have pardoned the appellants in the name of Almighty Allah and they also do not claim any diyat, daman or compensation, hence they have no objection if the appellants are released by this court. In view of above, the compromise between the parties appears to be genuine and not the result of any coercion. Since the parties seem to be related to each other, the compromise is likely to promote harmony between them and peace in the society. There appears to be no impediment legal or otherwise in accepting the compromise between the parties. Accordingly, the application under Section 345(2) is accepted. The parties are allowed to compound the offence. Resultantly, the application under Section 345(5) Cr.P.C. is also allowed. The appellants are acquitted in view of the compromise arrived at between the parties. Resultantly, the conviction and sentence awarded by the trial court is set-aside. The appellants are in jail; they shall be released forthwith if not required in any other case.

The instant appeal stands disposed of accordingly.

JUDGE