

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Crl. Acq. Appeal No.662 of 2022

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Date Order with Signature(s) of Judge(s)  
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- 1.For orders on office objection & reply as at flag 'A'.
- 2.For orders on M.A. No.13800/2022 (Ex./A).
- 3.For hearing of main case.

**13.03.2025**

Appellant/Complainant Ghulam Shabir is present in person.  
Mr. Khadim Hussain Koharo, Addl. Prosecutor General.  
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**ZAFAR AHMED RAJPUT, J:** - This Criminal Acquittal Appeal is directed against the order, dated 14.10.2022, whereby the Additional Sessions Judge-I/Model Criminal Trial Court, Thatta, acquitted the private respondents No.1 to 6 of the charge under section 265-K, Cr. P.C in Sessions Case No.125 of 2022, arising out of Crime/FIR No.137 of 2020, registered under sections 302, 201/34, P.P.C. at P.S. Makli. Dist. Thatta.

**2.** Briefly state facts of the case are that, on 11.09.2020, the appellant lodged the FIR, stating therein that on 25.05.2020, accused persons, namely, (1) Shah Zain Hazaraywal, (2) Asif Bugti, (3) Madad Ali Pathan, all residents of Goth Rahmatullah Bugti, Ahsanabad Industrial Area, Site Super Highway, Gadap Town, Karachi took with them his son Sajid, 20, from house for picnic and reached Makli, where they committed his murder by drowning him in the flowing water of New Wah near Makli Bypass; that they then brought his dead body in Civil Hospital, Makli and informed Nawaz s/o Atta Muhammad Bugti, who along with appellant's son Tahir Abbas reached Civil Hospital Makli, where after completion of the proceedings, they received dead body of the deceased and brought it Karachi; that after funeral and rituals, he (*Appellant*) inquired at his own about the incident; meanwhile above-named accused persons admitted before him that they with consultation of Nawaz Bugti, his sons Arif and

Tahir Abbas took Sajid for picnic and killed him with the help of Madad Ali Pathan; that he came to Makli and attempted to get the F.I.R registered and then he filed an application in Session Court Thatta, and on the order of said Court, dated 15.8.2020, FIR was registered.

**3.** The appellant has submitted his written arguments on 02.05.2024. He states that the trial Court had assigned four reasons for recording acquittal of the private respondents i.e. (i) name of two witnesses are not appearing in FIR (ii) 164, Cr. P.C. statements Mst. Sughra and Mst. Tahira are against him (iii) FIR is delayed by four months and (iv) MLO has opined the death of the deceased due to drowning; that his witness, namely, Dost Ali Pathan identified the dead body of his deceased son while other witness, namely, Safdar Ali saw some peoples committing murder of his deceased son who can appear in trial Court and record their evidence; that Mst. Sughra and Mst. Tahira, who are his wife and daughter and mother and sister of the deceased, respectively, had not seen the deceased drowning and they recorded their 164, Cr. P.C. statements due to pressure of the accused persons; that after investigation police submitted report for disposal of the F.I.R. under C-Class but the Judicial Magistrate did not agree with the report and took the cognizance; that the MLO submitted his report without conducting postmortem; hence the impugned order is not sustainable in law.

**4.** On the other hand, learned Additional Prosecutor General, Sindh fully supports the impugned order.

**5.** Heard and record perused.

**6.** It appears from the perusal of the record that after investigation, police submitted a Summary for cancellation of FIR in C-Class on the ground that the legal heirs of the deceased i.e. his mother and sister did not support the contents of the FIR and the opinion of MLO was also not

supportive to the contents of FIR, which reflected that the deceased had died due to drowning; however, the concerned Judicial Magistrate disagreed with the Summary and took the cognizance of the offence.

**7.** It further reflects from the record that Mst. Sughra, the mother of the deceased, recorded her 164, Cr. P.C. statement on 29.09.2020 before the Judicial Magistrate Thatta, wherein she has categorically stated that his deceased son used to reside with him while his husband (*Appellant*) resided separately; that his son had gone with his friends and died as an act of God; that his husband lodged a false FIR. Mst. Tahira, the sister of the deceased, has also recorded similar 164, Cr. P.C. statement. It is also an admitted position that the complainant has lodged the FIR with delay of twenty-five days after obtaining order from the Court of Sessions Judge, Thatta and for that he has not given any plausible explanation. As per report of MLO the dead body produced before him was fresh and no mark of injury was seen on it; hence, in his opinion, the deceased died on account of drowning.

**8.** As regard the contention of the Appellant, it may be seen that he has stated in his FIR that the respondents/accused themselves admitted their guilt before him. It is matter of record that out of six private respondents/accused, two respondents; namely, Arif Hussain and Tahir Abbas are the sons of the Appellant. It does not appeal to mind of a prudent person that without any motive they (*the brothers of deceased*) would commit murder of the deceased with the help of other accused. It is also an admitted position that the Appellant does not reside with his family. There is no eye-witness of the incident and the alleged two witnesses of the Appellant, referred to in his arguments, are not the eye-witnesses of the incident. The MLO did not notice any mark of injury on external examination of the dead body of the deceased, hence, there appeared no need of conducting postmortem of the dead body of the deceased. There

is no ocular account or circumstantial evidence in the case supporting the allegations of the appellant.

**9.** For the forgoing facts and reasons, we do not find any illegality or irregularity in the impugned order requiring any interference of this Court under its appellate jurisdiction under Section 417(2) Cr. P.C. Hence, this Appeal is dismissed, accordingly.

JUDGE

JUDGE

*Abrar*