

# HIGH COURT OF SINDH AT KARACHI

**Cr. Jail Appeal No.293 of 2020 along with  
Cr. Revision Application No.31 of 2020**

Date

Order with signature of Judges

For hearing of main case.

**20.04.2022.**

Mr. Qadir Hussain Khan, advocate for the complainant/applicant  
Mr. Muhammad Iqbal Awan, Addl. Prosecutor General.

## **ORDER**

**Mohammad Karim Khan Agha, J.** Appellant Fayyaz Ahmed @ Quad-e-Azam son of Muhammad Akram was tried in the Court of Additional Sessions Judge-VII / Model Criminal Trial Court No.II, Karachi (Central) in Sessions Case No.1138 of 2018 whereby the appellant vide impugned judgment dated 20.12.2019 was convicted under Section 302 PPC and was sentenced to life imprisonment with direction to pay fine of Rs.1,00,000/- as compensation to the legal heirs of the deceased and in case of default in payment he shall have to undergo 06 months S.I. more. The appellant was also extended benefit of Section 382-B Cr.P.C.

2. Brief facts of the prosecution case as narrated in the FIR are that the appellant had a dispute with his wife and as a result of that dispute he stabbed her to death.

3. After usual investigation the matter was challaned and the appellant was sent up to face the trial. Appellant and his co-accused pleaded not guilty and claimed trial.

4. The prosecution in order to prove its case examined 07 PWs and exhibited various documents and other items. The statement of accused under Section 342 Cr.P.C was recorded in which he denied all the allegations leveled against him. He did not examine himself on oath nor produced any DW in his defence. After appreciating the evidence on record the trial court convicted and sentenced the appellant as set out earlier in this order. Hence, the appellant has filed appeal against his conviction

5. Complainant has also filed a criminal review application bearing No.31 of 2020 for enhancement of sentence of the appellant from one life imprisonment to that of death penalty.

Learned counsel for the complainant has submitted that in this case appellant Fayyaz Ahmed ought to have been awarded death penalty as it was a very brutal crime. When confronted by this court whether there was any motive of murder, learned counsel for the applicant Qadir Hussain Khan after going through the evidence could not point out any such motive. Learned Addl. Prosecutor General Sindh when confronted by this court has also conceded that in such cases where no motive has been asserted or proved it was common for the superior judiciary to reduce the sentence of death penalty to that of life imprisonment and in this case no motive has been asserted or proved by the prosecution.

6. We have heard learned counsel for the applicant and learned Additional Prosecutor General Sindh and considered the record.

7. It appears from the impugned judgment that no reason has been given for reducing the death penalty to one life imprisonment keeping in view that under the Cr.P.C. in murder cases the usual penalty is one of death unless mitigating circumstances are available which would persuade the court to reduce the sentence to one life imprisonment. In this case we note that no motive has been asserted or proved by the prosecution and as such this is a case which would justify the learned trial court imposing sentence of life imprisonment as opposed to the death penalty. We also note that it appears that the murder of the deceased Ayesha by the appellant was prima facie on account of a sudden quarrel which would also tend to mitigate the offence.

8. Keeping in view the reasons mentioned above we are of the view that the trial court has passed the appropriate sentence and as such the criminal revision application is dismissed.

9. The Cr. Jail Appeal bearing No.293 of 2020 shall be placed before a Single Bench of this Court for hearing as per roster on **17.05.2022** with notice to the learned counsel for the appellant Mr. Moula Bux Bhutto and learned counsel for the complainant Mr. Qadir Hussain Khan.

10. The Criminal Revision Application is disposed of in the above terms.