

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Amjad Ali Sahito

Criminal Jail Appeal No.579 of 2019

Appellant : Mashooque Ali S/o Khan Muhammad Sanjrani through Mr. Abdul Latif Golo, Advocate

Respondent : The State through Mr. Muhammad Iqbal Awan, Addl. P.G.,

Date of hearing : 20.03.2025

Date of Judgment : 20.03.2025

J U D G M E N T

Amjad Ali Sahito, J. Through Miscellaneous Application being M.A. No.4656/2024, Mst. Sanam W/o deceased Zulfiqar Ali Sanjrani and Khan Mohammad Sanjrani (Guardian) of the deceased Mst. Rashida are praying that they may be allowed to be guardian of the legal heirs of both the deceased. Through M.A. No.4657/2024, the parties have prayed to accord permission to compound the offence under section 345[5] Cr.P.C. by waiving of their right of Qisas without taking any compensation in the shape of Diyat amount from the appellant. Through M.A. No.4658/2024 the parties have prayed for acquittal of the appellant under section 345 [6] Cr.P.C.

2. In terms of impugned judgment dated 10.08.2019, passed by the learned trial Court / Additional Sessions Judge-I (MCTC), Thatta in Sessions Case No.27 of 2017 under Crime No.58/2016 U/s 302 & 504 PPC registered at PS Chuhar Jamali; whereby the appellant named above was convicted and sentenced to suffer imprisonment for life. He was also required to pay Rs.100,000/- as compensation payable to the legal heirs

of the deceased. Such compensation shall be recoverable as arrears of land revenue. However, in case of default in payment of such compensation, the appellant shall undergo S.I. for six months. The benefit of Section 382-B Cr.P.C. was extended to the appellant.

3. During pendency of instant appeal, parties have entered into compromise and filed such applications supported with the affidavits of the legal heirs of the deceased. All the legal heirs of deceased have raised their no objection for acquittal of the appellant by stating that they have entered into compromise with appellant due to intervention of *nekmards* and their common well-wishers/friends and pardoned the appellant in the name of Almighty ALLAH and do not claim anything in lieu of compromise from the appellants.

4. Since Sanam is appointed as Guardian of deceased Zulfiqar Ali Sanjrani and Khan Mohammad Sanjrani is appointed as *Wali* of the legal heirs of deceased Mst. Rashida for the purpose of compromise, as such, application being MA No.4656/2024 stands allowed.

5. In order to ascertain the genuineness of the compromise between the parties, the compromise applications were sent to the trial Court for careful inquiry into the matter. The learned trial Court vide its letter dated 22.05.2024 has submitted its report stating that reports of NADRA and Town Officer, Town Committee Chuhar Jamali, District Sujawal regarding the list of heirs of deceased Zulfiqar Sanjhrani and Mst. Rasheeda were received, similarly the copy of publication which was published in daily newspaper "Kawish" Hyderabad was also received, which were kept on record. The learned Judge then recorded the statements of legal heirs of deceased Zulfiqar Sanjhrani namely Khan Muhammad Sanjhrani; who was father of deceased Zulfiqar and so also father-in-law of deceased Mst. Rasheeda and of Mst. Sanam Sanjrani; who was widow of deceased Zulfiqar Ali and brother-in-law of accused Mashooque

Sanjrani. Both the witnesses in their statements have forgiven the accused Mashooque in the name of Almighty Allah and further they have also forgiven him on behalf of minors of the deceased Mst. Rasheed. Both the examined witnesses are the father and widow of deceased Zulfiqar but the legal heirs of deceased Mst. Rasheeda did not come except the minors, therefore this Court called the fresh report in respect of legal heirs of deceased Mst. Rasheeda and in consequence whereof, report of SHO is received which reflects that father and mother of deceased Mst. Rasheeda have already been died but disclosed the names of her brothers and sisters names as Hamzo, Muhammad Soomar, Abdul Karim, Abdul Aziz, Mst. Ameenah, Mst. Rukhsana and Mst. Bashir Khatoon. Resultantly, trial Court also called the brothers and sister of deceased Mst. Rasheeda in this regard. The matter was adjourned to 25.05.2024 by the trial Court, for calling fresh reports about the legal heirs of deceased Mst. Rasheeda as well as for recording statements to the above effect. It is also submitted by the learned trial Court that the learned Judge has taken over the charge of the Court on 02.05.2024, and the case was proceeded without any unnecessary delay. Thereafter, report of NADRA about the family information of Mst. Rashida mentions the name of herself only. Accordingly, the court in order to ascertain the further confirmation / clarification about the legal heirs of deceased Mst. Rashida, called fresh report from the concerned quarter. The fresh reports of SHO concerned, Mukhtiarkar, Taluka Shah Bunder and Town Officer, Town Committee, Chuhar Jamali, received which similarly indicates that father and mother of deceased Mst. Rashida had already died and she left the following legal heirs which are as under:

Fresh list of legal heirs of deceased Mst. Rashida:

- i. Hamzo (brother)
- ii. Muhammad Soomar (brother)
- iii. Abdul Karim (brother)
- iv. Abdul Aziz (brother)
- v. Mst. Ameenah (sister)
- vi. Mst. Rukhsana (sister)
- vii. Mst. Shabir Khatoon (sister)

6. Since all the legal heirs have stated that they have entered into compromise with the appellant with their own freewill and consent and without any inducement and excused the right of Qisas, Diyat and Daman to the appellant in the name of Almighty ALLAH. They have also raised no objection for acquittal of the appellant. The offence is compoundable. There is no objection for grant of compromise and acquittal of the appellant as the legal heirs of deceased have pardoned the right of Qisas, Diyat and Daman to the appellant in the name of Almighty ALLAH. Therefore, in order to keep cordial relations and harmony between the parties in future and strike off the enmity between them, the permission to compound the offence is allowed under section 345 [2] Cr.P.C. Resultantly, the impugned judgment is set-aside and the appellant namely Mashooque Ali Sanjrani is **acquitted** of the charge under section 345 [6] Cr.P.C. subject to payment of share of Diyat amount of the minor legal heirs in the following manners:

A. Legal heirs of deceased Zulfiqar Ali

Sr. No.	Name of legal heirs	Relation	Amount
1.	Sheeraz	Son	1,612,754.58
2.	Iftikhar	Son	1,612,754.58
3.	Muneeran	Daughter	806,377.29
4.	Anam	Daughter	806,377.29
Total share of minors			Rs.4,838,263.75/-

B. Legal heirs of deceased Mst. Rashida

Sr. No.	Name of legal heirs	Relation	Amount
1.	Farhan Ali	Son	1,951,568.57
2.	Imran	Son	975,784.29
3.	Irshadan	Daughter	975,784.29
4.	Mufeeda	Daughter	975,784.29
5.	Alishan	Daughter	975,784.29
Total share of minors			Rs.4,838,263.75/-

7. However, today Mst. Sanam, wife of deceased Zulfiqar Ali and Khan Muhammad, Wali of legal heirs of deceased Mst. Rashida appeared and filed their affidavits that in lieu of share of Diyat amount of their minors, the appellant has given eight buffaloes each total amounting to Rs.4,838,263.75/- and Rs.4,878,921.43/- respectively which they have accepted and prayed that this Court may also permit the delivery of buffaloes in lieu of share of Diyat amount of their minors. Since, the wife of deceased Zulfiqar Ali and Khan Muhammad/Wali of minors of deceased Mst. Rashida have themselves accepted the said buffaloes in lieu of share of Diyat amount, as such, their request is accepted. Consequently, MA No. 4657/2024 stands disposed of. As shares of Diyat amount of the minors of both the deceased have been paid in shape of delivery of Buffaloes to the wife of deceased Zulfiqar Ali and Khan Muhammad/Wali of deceased of Mst. Rashida equivalent to the share of Diyat amount, hence, office is directed to issue release writ for the appellant to the concerned jail authorities.

8. Instant Criminal Appeal preferred against the impugned judgment stands disposed of. Office is directed to return R&Ps of the case to the learned trial Court.

JUDGE

Kamran/