

Compromise

785

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

Cr. Appeal No. S- 375 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on M.A No.5861/23.
2. For orders on M.A No.66/23.
3. For orders on M.A No.67/23.
4. For orders on M.A No.68/23.
5. For orders on M.A No.10559/23.
6. For hearing of the main case.

26.06.2023

Mr. Zainuddin Baloch, Advocate for the appellant.

Mr. Imtiaz Ali Abbasi, Advocate for the complainant.

Ms. Rameshan Oad, Asst. Prosecutor General, Sindh.

**ORDER**

**Mohammad Karim Khan Agha, J.-** Through instant appeal, the appellant Hamza has assailed conviction and sentence awarded to him, as mentioned in the concluding para of the impugned judgment dated 14.11.2019, passed by the learned 5<sup>th</sup> Additional Sessions Judge/MCTC-II, Hyderabad, in Sessions Case No.127 of 2014, emanating from Crime No.83 of 2013, registered at Police Station Pinyari, under sections 302, 324, 504, 337-H(ii), 147, 148 and 149 PPC.

The appellant as set out in the impugned judgment, was convicted and sentenced to suffer life imprisonment with compensation amount of Rs.1,00,000/- payable to the legal heirs of the deceased. He was also convicted and sentenced to suffer R.I of five (05) years for offence under Section 324 PPC with fine of Rs.30,000/-. He has further been convicted and sentenced to suffer R.I for three (03) years for offence under Section 337-D PPC with fine of Rs.20,000/-. He has also been convicted and sentenced to suffer R.I of six months for offence under Section 504 PPC with fine of Rs.5000/-. During pendency of the matter, legal heirs of the deceased namely Mst. Naseem, Muhammad Umar Farooq, Tayab, Muhammad Qasim and Mst. Fatima (mother, brothers and sister of the deceased)

as well as the appellant/accused Hamza have jointly moved applications under sections 345(2) and 345(6) Cr.P.C, on the ground that they have compromised the matter outside the court in the name of ALMIGHTY ALLAH and on the intervention of nekmarks of the locality, therefore, they filed aforementioned applications seeking compounding of the offence and resultant acquittal of the appellant. The said applications were sent to the learned 5<sup>th</sup> Additional Sessions Judge/MCTC-II, Hyderabad, for conducting an inquiry in respect of the legal heirs of deceased and genuineness of compromise between the parties who has submitted his report dated 15.06.2023, which is available on record. The said report shows that while conducting inquiry as to the genuineness of the said compromise, notices were issued to the legal heirs of the deceased who appeared before the learned trial Court. Thereafter, the learned Judge had himself recorded the statements of the legal heirs of the deceased. The report further reveals that deceased had died unmarried leaving behind the aforesaid surviving legal heirs including his father who is the complainant however, complainant had also expired on 12.09.2020 during pendency of this appeal.

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

Learned Asst. P.G after going through the compromise applications and the report of the learned 5<sup>th</sup> Additional Sessions Judge/MCTC-II, Hyderabad, submits that entire exercise carried out by the trial Court is in accordance with law; hence, she has no objection if compromise application is accepted and as a result thereof, the appellant is acquitted in terms of compromise.

I have heard the learned counsel for the parties and have examined the file minutely. Perusal of the report reveals that legal heirs of the deceased were appeared before the trial Court and have supported the contents of the aforementioned compromise applications.



Admittedly, the offence is compoundable and the parties i.e. the appellant, and the legal heirs namely Mst. Naseem, Muhammad Umar Farooq, Tayab, Muhammad Qasim and Mst. Fatima (mother, brothers and sister of the deceased) have filed joint applications for compounding the offence and acquittal of the appellant. These applications were sent to the trial court for verification of legal heirs of deceased and genuineness of compromise and report has been received which reveals that reports from concerned SHO and Mukhtiarkar as well as family tree from NADRA were called and notice in daily Express newspaper dated 03.06.2023 was published. As per reports of SHO and Mukhtiarkar as well as the family tree of NADRA no other person except the aforementioned legal heirs claiming to be legal heir of the deceased came in picture and nobody objected to the compromise. Learned counsel for the parties have stated that both parties have compounded the offence and legal heirs of the deceased have pardoned the appellant in the name of ALMIGHTY ALLAH and they also do not claim any diyat, daman or compensation, hence they have no objection if the appellant is released by this Court. In view of above, the compromise between the parties appears to be genuine and not the result of any coercion or compulsion and 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(6) Cr.P.C. is also allowed. The appellant is 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 appellant shall be released forthwith if not required in any other custody case.

Instant appeal along with listed application stand disposed of accordingly.