

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA**

**Cr. Appeal No. D-30 of 2020
Cr. Conf. Case No. D-30 of 2020**

PRESENT:

Mr. Justice Amjad Ali Sahito

Mr. Justice Jan Ali Junejo

1. For order on office objection.
2. For hearing of M.A No. 1678/2023. (Appln. U/0 345(2) Cr.P.C).
3. For hearing of M.A No. 1679/2023. (Appln. U/0 345 Cr.P.C).
4. For hearing of M.A No. 1680/2023. (Appln. U/0 345(6) Cr.P.C).
5. For hearing of M.A No. 2465/2022. (Appln. U/0 345(4) Cr.P.C).
6. For hearing of M.A No. 2466/2022. (Appln. U/0 345(2) Cr.P.C).
7. For hearing of M.A No. 2467/2022. (Appln. U/0 345(6) Cr.P.C).
8. For hearing of main case.

Appellants	Abdul Hafeez s/o Mazhar Ali Shaikh and Irshad s/o Muhammad Shareef Shaikh Through M/s Athar Abbas Solangi and Farhat Ali Bugtri, advocates
The State	Through Mr. Ali Anwar Kandhro, Additional Prosecutor General for the State
Date of hearing	22-04-2025
Date of judgment	22-04-2025

J U D G M E N T

Amjad Ali Sahito, J.- Through the miscellaneous application being M.A No. 1678/2023, the parties have prayed to accord permission to compound the offence under Section 345(2) Cr.P.C and through application being M.A No. 1680/2023 prayed for acquittal of the appellants under Section 345(6) Cr.P.C.

2. Through impugned judgment dated 12.09.2020, passed by the learned trial Court / Additional Sessions Judge-III/MCTC, Larkana in Crime No. 28/2017 for the offences under Sections 302, 34 P.P.C, registered at Police Station Hyderi, District Larkana, the appellants were convicted and sentenced U/S 265-H(2) Cr.P.C for committing offence punishable under

Section 302(b) P.P.C for committing murder of deceased Nadir Ali and sentenced both of them to death. Both the accused were directed to be hanged by their respective necks till their respective deaths. The sentences shall be confirmed by this Court U/S 374 Cr.P.C.

3. The compromise applications are supported with the affidavits of legal heirs of both the deceased. All the legal heirs have raised their no objection for acquittal of the appellants by stating that they have entered into compromise with them due to intervention of nekmarks outside the Court and pardoned them the right of Qisas.

4. In order to ascertain the genuineness of the compromise between the parties, the compromise applications were sent to the trial Court for thorough inquiry into the matter. The learned trial Court vide its letter dated 12.05.2023 has submitted its report, wherein it is reported that deceased Nadir Ali Shaikh left his legal heirs, namely, Hadi Bux (father), Mst. Basran (mother), minor Mudassir (son) and minor Muzamil (son). Wife of the deceased, namely, Mst. Roshan Khatoon has contracted second marriage after demise of the deceased. However, the learned trial court recorded the statements of Hadi Bux (father) and Mst. Basran (mother). In their statements, all the legal heirs have categorically stated that they have pardoned the appellants/accused Abdul Hafeez Shaikh and Irshad Shaikh in the name of Almighty Allah and waived the right of Qisas; however, they have claimed the right of Diyat amount through the Court. All the legal heirs have accepted the compromise and stated it to be out of their own free will, consent and without any coercion and recorded their no objection if the appellants are acquitted from the charge. The learned trial Judge has also called reports from Mukhtiarkar Larkana regarding legal heirs of deceased Nadir Ali Shaikh, who has also mentioned above mentioned legal heirs of both the deceased. Record reflects that publication for inviting objections from the interested persons with regard to compromise between the parties was made in newspaper but nobody came forward to raise any objection before the trial court.

5. On 22.04.2025, the legal heirs of deceased Nadir Ali Shaikh, namely Hadi Bux (father) and Mst. Basran (mother) appeared in Court and have confirmed the contention of compromise applications and stated that they have entered into compromise with the appellants with their own freewill and consent and without any inducement. They have further stated that they excused the appellants subject to payment of Diyat amount. They have admitted their LTIs / RTIs, as the case may be, on the application for permission to compound the offence and compromise application in Court. All the legal heirs have raised no objection for acquittal of the appellants.

6. Learned D.P.G. has also recorded his no objection for allowing the appeal by way of compromise.

7. It has come on record that there are two minor sons of deceased. An application bearing M.A No. 2465/2022 U/S 345(4) Cr.P.C has also been filed for appointment of Hadi Bux (father of deceased) as wali for minors Mudasir (son aged about 08 years) and Muzamil Hussain (son, aged about 06 years) being their grand-father. Same application is allowed and Hadi Bux is appointed as Wali for minors Mudasir and Muzamil Hussain.

8. Since the offence is compoundable. There is no objection for grant of compromise and acquittal of the aforementioned appellants as the legal heirs of deceased have pardoned the right of Qisas to the appellants in the name of Almighty Allah subject to payment of Diyat amount, hence, 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, however, subject to payment of Diyat amount by the appellants as per report dated 02.11.2023, furnished by the Accountant of this Court in respect of legal heirs of the deceased. In compromise application filed by the appellants, a Diyat amount was fixed as grand total Rs.67,57,902/- from which Rs. 45,05,268/- was fixed for minor legal heirs of the deceased. The appellants have transferred a property as Diyat in the name of minor legal heirs of deceased, such registered sale deed was also mutated in the revenue record and they are enjoying the possession.

9. In view of above, the compromise application is accepted. Impugned judgment dated 12.09.2020, passed by the learned Additional Sessions Judge-III/MCTC, Larkana is set-aside. The appellants are acquitted of the charge under Section 345(6) Cr.P.C. They shall be released forthwith if not required in any other case.

10. As a result of above findings, the Reference No. D-30/2020 submitted by the trial court for confirmation of death sentence to the appellants is answered in **Negative**.

11. With above modification, Criminal Appeal No. D-30/2020, preferred against the same impugned judgment, is disposed of along with listed applications.

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