

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS

Criminal Jail Appeal No.S-55 of 2024
Old Criminal Jail Appeal No.S-109 of 2019.

Appellant : Meer Hassan s/o Khan Muhammad Roonjho
Through Mr. Shahid Hussain Bhurghari
advocate

The State : Through Mr. Shahzado Saleem Nahiyoon,
Additional P.G

Date of hearing : 25-09-2025.

Date of decision : 25-09-2025

J U D G M E N T

Amjad Ali Sahito, J:- This judgment shall decide the fate of the captioned Jail Appeal preferred by appellant Meer Hassan s/o Khan Muhammad Roonjho through Senior Superintendent Central Prison, Hyderabad, impugning the judgment dated 09-05-2019, passed by learned Additional Sessions Judge-I/MCTC, Sanghar, in Sessions Case No.64/ 2013 (Re. St.Vs.Meer Hassan), vide FIR Crime No.24/2013, registered for offence punishable under Sections 302, 34 PPC at Police Station Sanghar, whereby he, for having committed the murder of complainant's brother Meer Roonjho, was sentenced to suffer imprisonment for life under Section 302(b) PPC, with compensation of Rs.200,000/=, to be paid to the legal heirs of the deceased in terms of section 544-A Cr.P.C, and in default thereof, to suffer R.I for six months more. However, benefit of section 382-B Cr.P.C was extended to the appellant.

2. The brief facts of the prosecution case as per FIR lodged by complainant Ali Bux Roonjho at Police Station Sanghar on 27-01-2013 at 1530 hours are that his younger brother Meer, aged about 45 years, who is a married person, used to reside with him. On 24-01-2013, in evening time he was present at his house and his brother was out of house. At about 1900 hours, he heard cries from the *otaque* of Ali Hassan Roonjho, due to which he rushed towards said *otaque*, where he saw that Meer Hassan s/o Khan Muhammad having iron rod and Khan Muhammad s/o Ali

Hassan Roonjho having lathi in their hands were causing iron rod and lathi blows to his brother on head and other parts of body with intention to commit his murder and his brother was lying on the ground. Meanwhile, his relatives Sono Roonjho and Dilber Roonjho also came there. They made *hakkals* to accused persons by saying not to beat his brother, whereupon accused persons fled away. Then they saw that his brother received injury on his head due to which head was broken, brain matter came out from the head and blood was oozing. Then they immediately brought the injured to Civil Hospital, Sanghar in a car where during treatment he succumbed to the injuries. Then complainant informed about the incident to the police, whereupon police reached there and after completing formalities and conducting post mortem of deceased, the dead body was handed over to him. After funeral ceremony complainant came at PS where he lodged instant FIR.

3. After completion of usual investigation, the I.O submitted a police report under section 173 Cr.P.C before the concerned Magistrate, showing appellant in custody while name of co-accused Khan Muhammad was shown in column No.2. Since alleged offence is triable by the court of Sessions, therefore, learned Magistrate sent the R&Ps of the case to the court of learned Sessions Judge, Sanghar, wherefrom R&Ps of the case was received to the trial court by way of transfer. After supplying copies of necessary documents to the appellant, charge was framed against him, to which he pleaded not guilty and claimed trial.

4. At trial, the prosecution to prove its' case, examined in all ten (10) witnesses, who produced numerous documents and then learned Prosecutor closed the prosecution side by filing statement. Thereafter, statement of the appellant/ accused under section 342 Cr.P.C was recorded wherein he denied the allegations being false and claimed his innocence. However, accused neither examined himself on oath as required under section 340(2) Cr.P.C nor led evidence in his defence. After hearing learned counsel for both parties, learned trial Court

convicted the appellant through impugned judgment, hence this Criminal Jail Appeal.

5. It is pertinent to mention here that due to absence of learned counsel for the appellant, P.O of the appellant was issued and in pursuance thereof he is produced in custody and he submitted that he remained in jail for sufficient time and learnt the lesson and prayed for his acquittal. The complainant Ali Bux Roonjho, who was present in Court yesterday viz 24.09.2025, stated that alleged incident took place on the spur of moment due to sudden fight and he has no objection if the appellant is acquitted as private *Faisla* had already been made in this regard.

6. Learned Additional P.G looking to the above position, raised no objection for conversion of the sentence of the appellant from section 302(b) PPC to section 302(c) PPC and reduction of sentence as one of already undergone.

7. Heard perused.

8. Upon careful and thorough examination of the testimonies of the complainant/eyewitness Ali Bux and prosecution witnesses Sono and Dilber, it emerges that on **24.01.2013** at approximately **07:00 p.m.**, upon hearing cries, they proceeded to the *otaque* of Ali Hassan Roonjho, where they witnessed the appellant/accused **Meer Hassan** armed with an iron rod and co-accused **Khan Muhammad** armed with a wooden stick (*lathi*), both inflicting blows upon the deceased **Meer** on his head and other parts of the body. Upon the hue and cry (*hakkals*) raised by the witnesses, both accused persons fled the scene. The injured Meer was thereafter shifted to the Civil Hospital, Sanghar, where he succumbed to the injuries sustained.

9. It is an admitted fact that no motive for the commission of the alleged offence by the appellant is disclosed by the complainant in the First Information Report (FIR). In fact, the FIR specifically records that “accused Meer Hassan and Khan Muhammad Roonjho, in furtherance of their common intention, committed the murder of his brother Meer by causing injuries with a rod and *lathi* for reasons unknown.” During the course of evidence,

neither the complainant nor the prosecution witnesses Sono and Dilber, who claim to be eyewitnesses, have disclosed any motive for the alleged incident.

10. The absence of any stated motive by the complainant party, coupled with the ocular evidence of the aforementioned witnesses, clearly indicates that the occurrence transpired **suddenly and on the spur of the moment**, without any prior planning, deliberation, or premeditation. No evidence has been brought on record to suggest that the murder of the deceased Meer Roonjho was pre-planned. Furthermore, on the last date of hearing, the complainant appeared before the Court and stated that the incident resulted from a sudden quarrel and in the heat of the moment; hence, he expressed no objection if the appellant were to be acquitted.

11. Consequent, I am of the considered view that the appellant did not have the intention to commit *qatl-i-amd* as contemplated under section 300(a) Pakistan Penal Code. Therefore, the conviction and sentence awarded under section 302 (b) PPC, are not sustainable and case of the appellant properly falls within the ambit of section 302 (c) PPC. In this regard, I am fortified with the cases of *Amjad Shah v. The State* [PLD 2017 Supreme Court 152], *Zeeshan @ Shani v. The State* [PLD 2017 Supreme Court 165], *Azmat Ullah v. The State* [2014 SCMR 1178].

12. In the case of *Zeeshan @ Shani [supra]*, the Honorable Supreme Court has held that:

11. The appellant did not premeditate the killing, nor could he have since the complainant party had arrived unannounced at his house. Needless to state that if the complainant side had not sought out the appellant no fight would have occurred. Be that as it may, the appellant should not have struck the deceased with force and that too on a vital part of his body. The appellant, however, struck only a single blow with a simple stick and not with any weapon. Both the victim and the perpetrator were young men and had joined hands to render slaughtering services together. Unfortunately, a dispute over the share of the takings resulted in the death of one of them. There is no reason for us to take a different view from the one taken in the afore-cited precedents. In this case the appellant without premeditation and in the heat

of a free fight had struck the deceased with a single blow of a stick. In such circumstances, his case would come within clause (c) of section 302 PPC.

12. Therefore, in view of the facts and circumstances of the case it would be appropriate to alter the conviction of the appellant recorded under section 302 (b) PPC to one under section 302 (c) PPC and, consequently, reduce his sentence to ten years rigorous imprisonment whilst maintaining the sentence of fine and the simple imprisonment in default thereof. The benefit under section 382-B of the Cr.P.C. shall be extended to the appellant.

In another case of *Azmat Ullah [supra]*, the Honorable Supreme Court has held that:

4. ... A bare perusal of the F.I.R., the statements made by the eyewitnesses before the learned trial Court and the findings recorded by the learned courts below clearly shows that there was no background of any ill-will or bitterness between the appellant and his deceased brother and that the incident in issue had erupted all of a sudden without any premeditation whatsoever. The medical evidence shows that the deceased had received one blow of a *chhurri* on his chest whereas another blow was received by him on the outer aspect of his left upper arm. The doctor conducting the post-mortem of the dead body had categorically observed that both the injuries found on the dead body of the deceased could be a result of one blow of *chhurri*. These factors of the case squarely attract Exception 4 contained in the erstwhile provisions of section 300, P.P.C. It has already been held by this Court in the case of *Ali Muhammad v. Ali Muhammad* and another (PLD 1996 SC 274) that the cases falling in the exceptions contained in the erstwhile provisions of section 300, P.P.C. now, attract the provisions of section 302(c), P.P.C. The case in hand was surely a case of lack of premeditation, the incident was one of a sudden fight which was a result of heat of passion developed upon a sudden quarrel and no undue advantage had been taken by the appellant nor had he acted in a brutal or unusual manner. In these circumstances Exception 4 contained in the erstwhile section 300, P.P.C. squarely stood attracted to the case in hand and, thus, the case against the appellant fell within the purview of the provisions of section 302(c), P.P.C.

5. Keeping in view the facts and circumstances of the case this appeal is partly allowed, the conviction of the appellant for an offence under section 302(b), P.P.C. is converted into that for an offence under section 302(c) P.P.C. and consequently his sentence is reduced from

rigorous imprisonment for twenty five years to rigorous imprisonment for ten years. The sentence of fine passed against the appellant by the learned trial court and upheld by the Lahore High Court, Lahore has been found by us to be unwarranted because section 302 (b) or 302 (c), P.P.C. do not contemplate any such sentence. Instead of fine we direct that the appellant shall pay a sum of Rs. 50,000 to the heirs of the deceased by way of compensation under section 544-A, Cr.P.C. or in default of payment thereof he shall undergo simple imprisonment for six months. The benefit under section 382-B, Cr.P.C. shall be extended to him. This appeal is disposed of in these terms.

13. During pendency of instant Jail Appeal, Jail Roll of the appellant was called from the concerned Jail Superintendent, who sent the same vide letter dated 24-09-2025, which shows that appellant has served out 12 years, 07 months and 21 days without remission and has earned remission of 10 years, 06 months and 14 days and now there remains only 02 years, 03 months and 25 days. Hence the appellant has served out total sentence more than 23 years. Further complainant Ali Bux Roonjho appeared before this court and has categorically stated that alleged incident took place on the spur of moment due to sudden fight and he has no objection if the appellant is acquitted as private *Faisla* had already been made in this regard. Moreso, learned A.P.G has also raised his no objection for conversion of the sentence of the appellant from section 302(b) PPC to section 302(c) PPC.

14. For what has been discussed above, instant Criminal Jail Appeal is **dismissed**; however, conviction and sentence awarded through impugned judgment dated 09-05-2019 by the learned trial court to the appellant for an offence under section 302(b) PPC in FIR No. 24/ 2013 of PS Sanghar is converted into that for an offence under section 302(c) PPC and consequently, appellant's sentence is converted from life imprisonment to imprisonment for twenty (20) years. However, compensation amount of Rs.200,000/= is ordered to be paid to the legal heirs of the deceased as provided under section 544-A Cr.P.C, in case of failure whereof, the appellant shall suffer S.I for six (06) months more. Since the appellant has completed his sentence, therefore,

the appellant, who is produced in custody, is sent back to Jail with direction to the Jail Superintendent concerned to release him forthwith if not required in any other case/crime. **Consequently, instant Criminal Jail Appeal stands disposed of with the above modification.**

JUDGE

“Saleem”