

## HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

### Crl. Jail Appeal No.S-353 of 2019

Appellant : Ghulam Shabbir s/o Ghulam Hussain Buriro  
Through Ms.Ambreen Siyal, Advocate. Nemo  
Complainant : Arshad Ali s/o Nizamuddin Arain,  
Through Mr.Muhammad Irfan Chandio,  
Advocate  
The State : Through Ms.Safa Hisbani, A.P.G

### Crl. Jail Appeal No.S-354 of 2019

Appellant : Salak alias Saleh s/o Muhammad Ramzan Jamali  
Through Mr.OM Parkash H. Karmani, Advocate  
Complainant : Arshad Ali s/o Nizamuddin Arain,  
Through Mr.Muhammad Irfan Chandio,  
Advocate  
The State : Through Ms.Safa Hisbani, A.P.G  
Date of hearing : 15.10.2025, 29.10.2025 and 06.11.2025  
Date of decision : 18.11.2025

### ORDER

**JAWAD AKBAR SARWANA, J:** These two (2) criminal jail appeals dispose of the submissions made by the learned D.P.G. and A.P.G. for the State that aforesaid two criminal appeals cannot be heard and decided by the Single Bench of the High Court and may be transferred to the Division Bench of this Court as it has emerged during the course of the hearing that the murder of the victim in the instant crime was preceded by an act of alleged sodomy committed by the co-accused. The learned D.P.G. invited the Court to page 116 of the paper book wherein a confession under Section 164 Cr.P.C. has been recorded of the accused/convict (leading to the murder of the victim in this crime) that the co-accused had also sodomized the victim. The learned D.P.G. submitted that as a result of this confession, which has been overlooked by the trial Court, and which triggers the provisions of Section 377 PPC, which section falls under the Scheduled Offences under the Anti-Rape (Investigation and Trial) Act ("Anti-Rape Act"), 2021, hence, this matter

ought to be transferred to the Division Bench for further proceedings. To this end, the learned D.P.G. has contended that the Single Bench cannot hear the matter, and no further orders can be passed in the two criminal appeals by the Single Bench except by the Division Bench, which alone has competent jurisdiction over the subject matter of the crime concerning sexual offence(s). Therefore, learned D.P.G. and A.P.G. submit that the three criminal appeals should be transferred from the Single Bench to the Division Bench.

2. Counsels for the appellants oppose the submissions made by the learned D.P.G. and A.P.G.

3. Heard learned D.P.G. and Counsel. This is a case of murder. Neither challan was submitted by I.O. nor any charge framed for anything other than murder. The Prosecution led no evidence in support of any other crime except for murder. The learned trial Court considered only the issue of murder in the impugned Judgment. There is no other reference to any other crime committed by the accused convicts other than murder. Indeed, no other case has been made out until 15.10.2025 for anything else, other than murder, when the learned D.P.G. and A.P.G. raised the issue of the confession.

4. Given the above facts and circumstances of the case, no case is made out for the transfer of the two cases. Issue Court motion notice to all parties, including Counsel, by all electronic modes for hearing on 01.12.2025 at 11:00 a.m.

**JUDGE**

AHSAN K. ABRO