

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Jail Appeal No. S-76 of 2024

Appellant : Faqeer Muhammad s/o Fida Hussain, Ghangro
Through Miss Rizwana Jabeen Siddiqui, Advocate

Complainant : Muharram Ali Bangul s/o Nawab Khan, Ghangro
Through Mr. Muhammad Yaseen Khaskheli,
Advocate

The State : *Through* Mr. Muhammad Raza Katohar, DPG

Date of hearing : 02.02.2026

Date of decision : 02.02.2026

JUDGMENT

KHALID HUSSAIN SHAHANI, J.— At the very inception of the hearing, learned counsel appearing on behalf of the appellant adverted to the charge delineated at page 101 of the paper book, framed conjointly against the present Appellant and one Imtiaz Hussain alias Zahir Hussain. It, however, transpires from a close scrutiny of the impugned judgment that while the learned trial Court proceeded to convict and sentence the appellant under Section 302(b), PPC, as *Tazir*, to imprisonment for life coupled with the payment of compensation to the tune of Rs.500,000/- under Section 544-A, Cr.P.C (and, in default, simple imprisonment for six months), it simultaneously acquitted the co-accused Imtiaz Hussain alias Zahir Hussain and one Muhammad Shareef, despite the conspicuous omission of a formal charge against the latter.

2. Learned Deputy Prosecutor General apprised the Court that the complainant had assailed the acquittal of the aforementioned co-accused through Criminal Acquittal Appeal No.D-19 of 2024; nonetheless, the said appeal stood dismissed as not pressed vide order dated 30.10.2024.

3. The Court's attention was next invited to the deposition of the complainant Muharram Ali (Exh.10), which unequivocally demonstrates that although the appellant stood duly represented by learned counsel

Mr. Abdul Qadir Khanzada during trial, he was, regrettably, afforded no occasion to cross-examine the witness, a manifest derogation from the fundamental precepts of fair trial and due process.

4. The learned DPG further submitted that the Appellant appears to have been treated as a juvenile during trial proceedings, yet the record is bereft of any indication that the proceedings were conducted *in camera*, as mandatorily ordained by the Juvenile Justice System Ordinance. He also underscored multiple procedural incongruities: *inter alia*, the inconclusive treatment of co-accused Muhammad Shareef, the absence of his statement under Section 342 Cr.P.C, and the overall haste with which the trial appears to have been concluded.

5. Perusal of the record discloses further infirmities, the statement of the appellant under Section 342 Cr.P.C, was not recorded in conformity with law, inasmuch as several incriminating circumstances were omitted from being put to the accused, notably the alleged recovery of a *gilaf* (cover) of the Holy *Qur'an*, circumstances attendant upon his arrest, the chemical examiner's report respecting a blood-stained brick, and the depositions of prosecution witnesses Allah Bux and Ghulam Yaseen recorded under Section 164 Cr.P.C (Ex.11-B and Ex.11-D). The non-confrontation of these pivotal facets deprived the appellant of his statutory right to explanation and rebuttal, an omission striking at the very root of procedural fairness.

6. In these circumstances, the learned DPG, with commendable candour, has submitted that the conviction and sentence cannot, in law, be sustained, and that the matter merits remand to the trial Court for a *de novo* adjudication commencing from the stage of framing of charge. Learned counsel representing the complainant has, with fairness, no demur to such course.

7. Accordingly, acceding to the consensus of the learned counsel for the contesting sides and fortified by the manifest procedural irregularities discernible from the record, the appeal is disposed of in the following terms: the case is remitted to the learned trial Court for a *de novo* trial, to be undertaken afresh from the stage of framing of charge and thereafter proceeding sequentially through the reception of evidence and recording of statements under Section 342 Cr.P.C, in strict conformity with the dictates of law. The proceedings shall be held *in camera* in compliance with the Juvenile Justice System Ordinance, and the learned trial Court is directed to endeavour to conclude the trial expeditiously, preferably within three months from the date of receipt of this order.

8. The instant Criminal Jail Appeal is accordingly disposed of in the above terms.

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