IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Appeal No.S-05 of 2024

(Asghar vs. The State)

Appellant	:	Asghar s/o Muhammad Ibrahim, Through Mr. Pervez Akhter Talpur, Advocate.
Complainant		Mehboob son of Shoukat Ali, Through Mr. Afzal Karim Virk, advocate.
Respondent	:	The State Through Mr. Neel Parkash Deputy P.G.
Date of hearing	:	23.10.2026
Date of Order	:	23.10.2026

O R D E R

NISAR AHMED BHANBHRO, J: This criminal appeal is directed against the impugned judgment dated 24.05.2016 passed by the learned Sessions Judge, Mirpurkhas in Sessions Case No.176 of 2013, titled *"The State versus Asghar,"* arising out of Crime No.29/2013, registered at Police Station, Naukot for offence under Section 302 PPC, whereby the appellant was convicted and sentenced to undergo rigorous imprisonment for life as *Taz'ir* and to pay compensation of Rs.1,00,000/- to the legal heirs of the deceased. In default of payment, he was ordered to undergo simple imprisonment for a period of six months.

2. Heard learned counsel for the appellant, learned counsel for the complainant and learned D.P.G for state. It is pointed out that the statement of the appellant has not been recorded in accordance with the provisions of Section 364 Cr.P.C, as the answers to the questions put to the appellant were typed, so also certificate appended to the statement under Section 342 Cr.P.C was not written by the hand of the learned Presiding Officer and such mistake cannot be cured. As such, it is fit case for remand. The learned D.P.G also conceded to the points raised by learned counsel for the parties.

3. In view of the above, the impugned judgment dated 24.05.2016 passed by the learned Sessions Judge, Mirpurkhas in Sessions Case No.176 of 2013 is hereby set aside by allowing this appeal and matter is remanded to the learned trial Court for recording statement of the appellant/accused afresh and passing of judgment after hearing the learned counsel for the parties. It is informed that since appellant is in jail since his arrest for period of more than 13 years and counsel for the appellant has insisted for grant of bail to the appellant. Since the appellant was not on bail during trial, therefore, appellant is at liberty to file such application before learned trial Court which shall be decided strictly in accordance with law. It is expected that learned trial Court shall decide the matter without being influenced by the findings rendered in the impugned judgment.

4. The above Criminal Appeal stands disposed in the above terms.

JUDGE

"Chander Kumar"