

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Rev. Appln. No. S- 165 of 2019

Applicants: Nizamuddin, Siraj Ahmed, Ayaz Hussain, Mukhtiar Ali, Naseer Ahmed, Mst. Zubeda Begam and Mst. Aqeela, through Mr. Ghulamullah Memon, Advocate

Respondents: Through Ms. Ambreen Siyal, Advocate.

The State: Through Shahzado Saleem Nahiyoan D.P.G

Date of hearing: 19.10.2020

Date of decision: 19.10.2020

ORDER

Irshad Ali Shah, J; The applicants alleged to have committed murder of Bashir Ahmed and then caused disappearance of evidence to save themselves from legal consequences, for that they were booked and reported upon by police. At trial, the applicants compounded the offence with the legal heirs of the deceased other than themselves and then filed such application for their acquittal, it was dismissed by learned trial 3rd Additional Sessions Judge, Hyderabad by way of his order dated 19.11.2019, which is impugned by the applicants before this Court by way of instant Criminal Revision Application.

2. It is contended by learned counsel for the applicant that the impugned order is non-speaking, it has been passed by

learned trial Court without taking provisions of sections 305 and 317 PPC into consideration, therefore, same being illegal is liable to be set-aside. In support of his contention he relied upon ***case of Nazakat Hussain vs The State (PLD 1996 SC 178)***.

3. Learned counsel for the complainant did not support the impugned order. However, learned DPG for the State by supporting the impugned order has sought for dismissal of the instant Revision Application by contending that it was a State case.

4. I have considered the above arguments and perused the record.

5. The operative part of the impugned order reads as under;

“Record further shows that accused person namely 1) Nizamuddin, 2) Siraj Uddin, 3) Ayaz Hussain, 4) Mukhtiar, 5) Naseer Ahmed, 6) Mst. Zubeda and 7) Mst. Aqeela are legal heirs of deceased Bashir Ahmed, therefore, accused cannot forgive themselves.”

6. The bare perusal of the above paragraph of the impugned order would reveal that the applicants have been denied right of compromise by learned trial Court only for the reason that they being legal heirs of the deceased could not forgive them. No provision of law in that respect is referred.

Therefore, in these circumstances, it is rightly being contended by learned counsel for the applicants that the impugned order is non-speaking and obviously it is against the mandate contained by Sub-Section(2) to Section 24-A of the General Clauses Act 1897 which prescribes that authority, office or person making any order or issuing any direction under the powers conferred by or under any enactment shall, so far as necessary or appropriate, give reasons for making that order.

7. For what has been discussed above, the impugned order is set aside with direction to learned trial Court to pass the same afresh in detail, after providing chance of hearing to all the concerned.

8. The instant Criminal Revision Application is disposed of accordingly.

Judge

Ahmed/Pa,