

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Appeal No. D – 109 of 2017

[Confirmation Case No.20 of 2017]

Before:

Mr. Justice Muhammad Shafi Siddiqui

Mr. Justice Irshad Ali Shah

Appellants: Muhammad Ayub son of Muhammad Bux
Qureshi, Mr. Shamsuddin Khushk, advocate.

Respondent: The State, through Mr. Rameshan Oad,APG.

Date of hearing: 24-11-2020.

Date of decision: 24-11-2020.

J U D G M E N T

IRSHAD ALI SHAH, J; The appellant is alleged to have committed Qatl-e-Amd of his wife Mst. Saima, his sister-in-law Mst. Seema and his brother-in-law Mohsin alias Hassan by cutting their neck with “*Churri*” for that he was booked and reported upon.

2. On trial, the appellant was found guilty for an offence u/s 302 PPC therefore, was awarded *death* penalty by learned 1st Additional Sessions Judge Hyderabad, vide his judgment dated 27.10.2017 which is impugned by the appellant by preferring the instant appeal. Simultaneously,

learned trial Court has also made a reference for confirmation of the *death* sentence awarded to the appellant in terms of section 374 Cr.P.C.

3. Heard. Perused the record.

4. It is not specified by learned trial Court as to whether the punishment awarded to the appellant is under Qisas (u/s 302[a] PPC) or Tazir (u/s 302[b] PPC). No compensation is awarded to the legal heirs of the said deceased which is mandatory in terms of section 544-A Cr.P.C. The omission pointed above on the part of learned trial Court could not be overlooked. Be that as it may, the appellant has been found to be guilty for having committed Qatl-e-Amd of three person[s] by learned trial Court, but there is nothing in the impugned judgment which may suggest that appellant has been convicted and sentenced on three counts for committing three murders, which is against the mandate contained by section 367(2) Cr.P.C, which lay down that the judgment should specify the offence / penal section under which the accused is punished, convicted and sentenced.

5. Learned counsel for the parties when were confronted with the above legal flaws in the impugned judgment were fair enough to concede for the remand of the matter to learned trial Court for re-writing of the judgment.

6. In view of above, the impugned judgment is set-aside with direction to learned trial Court to re-write the same after providing chance of hearing to all the concerned.

7. The instant appeal and reference are disposed of accordingly.

Judge
Judge