

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**  
**Criminal Jail Appeal No.D- 132 of 2019**  
**[Confirmation Case No.25 of 2019]**

**Before;**

Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Irshad Ali Shah

**Appellant:** Muhammad Asad s/o Mehmood Palejo,  
Through Mr. Om Parkash H. Karmani,  
Advocate.

**Complainant:** Through Mr. Zaheerudd S. Leghari, Advocate

**State:** Ms. Sana Memon, A.P.G.

**Date of hearing: 17.12.2020**

**Date of decision: 17.12.2020**

**JUDGMENT**

**IRSHAD ALI SHAH, J.** The appellant was found to be guilty for committing murder of Sultan Khaskheli by causing him dagger blows; therefore, he for an offence punishable u/s 302(b) PPC was awarded death penalty as “*Tazir*” with fine of Rs.500,000/- payable to the legal heirs of the said deceased as compensation by learned Model Criminal Trial Court/ivth Additional Sessions Judge, Hyderabad vide his judgment dated 12<sup>th</sup> July, 2019, which is impugned by the appellant before this Court by way of filing the instant appeal. Simultaneously, a reference u/s 174 Cr.P.C is also made by learned trial Court for confirmation of death sentence to the appellant.

2. Heard learned counsel for the parties and perused the record.

3. On investigation it transpired that the appellant has allegedly committed death of the deceased during course of robbery of rupee one lac and mobile phone of the deceased. On arrest from the

appellant has allegedly been secured robbed amount worth rupees twenty five thousand together with the wallet and mobile phone of the deceased. No charge for such robbery was framed against the appellant; such omission could not be lost sight of as same has occasioned in failure of justice not for the appellant but for the *State* too as is mandated by Section 535 Cr.P.C. On examination of the appellant u/s 342 Cr.P.C a question with regard to the alleged robbery and recovery of robbed articles was put to the appellant yet surprisingly no point for determination to that effect was framed by learned trial Court in impugned judgment which is contrary to the mandate contained by Article-367 Cr.P.C which prescribes framing of points for determination on each and every allegation so leveled against the accused by the prosecution.

4. Learned counsel for the parties when were confronted with the above said omissions, out of them learned A.P.G for the State was prompt to consent for remand of the case for denovo trial.

5. In view of above, the impugned judgment is set-aside with direction to learned trial Court to frame the charge against the appellant afresh and then to proceed with the case again in accordance with law.

6. The instant appeal and criminal reference are disposed of in above terms.

**JUDGE**

**JUDGE**