

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Appeal No. S – 389 of 2019

Appellants: Zaheer Ahmed son of Sharif Ahmed Malik and Khaleel son of Sharif Ahmed Malik, through Mr. Aijaz Shaikh, advocate.

Complainant: Muhammad Yameen through M/s Irfan Ali Bughio and Muzamil Khan, advocates..

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

Date of hearing: 29-01-2021.

Date of decision: 29-01-2021.

J U D G M E N T

IRSHAD ALI SHAH, J; The facts in brief necessary for disposal of instant appeal are that the appellants allegedly after having formed an unlawful assembly and in prosecution of their common object committed death of Jumma and Nadeem by causing them fire shot injuries and then made fires in air to create harassment, for that they were booked and reported upon. On conclusion of trial, they were found guilty for offence punishable u/s 302(b) PPC, therefore, were awarded *Life Imprisonment* and to pay compensation of rupees five lac each to the legal heirs of the said deceased and in default whereof to undergo Simple Imprisonment for six months by learned Model Criminal Trial Court-II/IVth Additional Sessions Judge Hyderabad, vide his judgment dated 25.11.2019, which is impugned by the appellants before this Court by preferring the instant Criminal Appeal.

2. Heard arguments and perused the record.

3. It was double murder case, which as per impugned judgment the prosecution was able to prove against the appellants. If, it

was so, then appellants ought to have been convicted and sentenced for committing two murders specifically on two counts. Simply awarding punishment to the appellants u/s 302(b) PPC for Imprisonment for Life, without making discloser that it is Rigorous or otherwise, with compensation payable to the legal heirs of the deceased is not fulfilling the requirement of law. Such omission in impugned judgment is against the spirit of section 367(2) Cr.P.C, which prescribes that the judgment should specify the offence / penal section under which the accused are punished, convicted and sentenced.

4. Being faced with the above situation, learned counsel for the parties consented for remand of the case to learned trial Court for re-writing of the judgment.

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

6. Appellant Khalil was enjoying the concession of bail at trial; he may enjoy the same concession subject to furnishing fresh surety in sum of rupees two lac and PR bond in the like amount to the satisfaction of learned trial Court.

7. The instant appeal is disposed of accordingly.

Judge