

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Appeal No. S – 52 of 2014

Appellants: Yousuf son of Haji Ahmed Wassan,
Mohammad son of Haji Ahmed Wassan, Asif
son of Haji Ahmed Wassan and Mohammad
Bux son of Mohammad Achar Sanjrani
through M/s. Mazhar Ali Laghari and
Muhammad Hassan Jakhro, advocates.

Complainant: Through Mr. Ghulam Muhammad Ali
Halepoto, advocate.

The State: Through Ms. Safa Hisbani, APG

Date of hearing: 05-12-2019.

Date of decision: 05-12-2019.

J U D G M E N T

IRSHAD ALI SHAH, J. It is alleged that the appellants in furtherance of their common intention not only committed Qatl-e-amd of Ali Raza by causing fire shot injuries but fired at complainant Ahsan Ali, PWs Muhammad Shah and Qadir Bux with intention to commit their murder too and then went away by making aerial firing to create harassment for that they were booked and reported upon by the police.

2. At trial, the appellants did not plead guilty to the charge and prosecution to prove it examined complainant

Ahsan Ali and his witnesses, in all ten in number and then closed the side.

3. The appellants in their statements recorded u/s 342 Cr.P.C denied the prosecution allegation by pleading innocence. They did not examine anyone in their defence or themselves on oath.

4. On conclusion of the trial, learned Ist Additional Sessions Judge, Hyderabad found the appellants guilty for offence punishable u/s 302(b) PPC and then convicted and sentenced them to undergo Rigorous Imprisonment for life and to pay compensation of rupees two lac each to the legal heirs of the deceased, vide judgment dated 31.03.2014, which is impugned by the appellants before this Court by way of instant appeal.

5. At the very outset, it was pointed out to the learned counsel for the parties that the accused has never been charged for offence punishable u/s 324 and 337-H(ii) PPC; despite the availability of those penal sections in charge sheet, which was furnished by the police, the report of Ballistic Expert has not been produced in evidence; though the appellants have been convicted and sentenced on point

of vicarious liability; neither the applicability of section 34 PPC has not been discussed nor benefit of section 382-B Cr.P.C has been extended to the appellants being mandatory, by learned trial Court.

6. In response to above, learned counsel for the parties were fair enough to consent for denovo trial of the case.

7. In view of above, the impugned judgment is set-aside with direction to learned trial Court to amend the charge as suggested above and then to proceed with the case afresh in accordance with law.

8. The instant appeal stand disposed of accordingly.

Judge