

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**Crl. Appeal No. S- 61 of 2014**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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- 1.For hearing of MA 6239/2019.
- 2.For hearing of MA 6240/2019.
- 3.For hearing of main case.

Ms Ambar Iqbal Advocate for the Appellant.  
Mr. Khalil Ahmed Maitlo, Deputy P.G.

Date of Hearing:   **28-09-2020**  
Date of Order:     **28-09-2020**

**ORDER**

**AFTAB AHMED GORAR J.** Legal heirs of deceased Soomar, namely, Ali Akbar, Mst. Ashraf, Mst. Subhana, Mst. Kamul, Mst. Jiwai, Mst. Shahzadi and Muhammad Hanif so also appellant Nandhoo Samejo filed applications under sections 345(2) and 345(6) CrPC. Said compromise applications were sent to learned trial Court for holding an enquiry in respect of legal heirs of deceased and to ascertain the genuineness of the compromise.

2.    Learned 3<sup>rd</sup> Additional Sessions Judge, Mirpur Mathelo submitted report dated 06.01.2020, wherein he has disclosed that apart from legal heirs, deceased has also left one minor son, namely, Raja. He further submitted that above legal heirs of deceased were examined by him who in their statements have voluntarily forgiven the appellant in the name of Almighty ALLAH and waived their right of Qisas and Diyat.

3. Today, Accountant of this Court has submitted report showing share of Diyat amount of **Rs.486,036.775/-** which the minor Raja is entitled to receive.

4. Today, legal heirs of deceased Soomar, namely, Ali Akbar, Mst. Ashraf, Mst. Subhana, Mst. Kamul, Mst. Jiwai, Mst. Shahzadi and Muhammad Hanif appeared before this Court and admitted their signatures/thumb impressions on their affidavits and contents of the same and further submit that they were examined by learned trial Court and stated that they have voluntarily forgiven the appellant in the name of Almighty ALLAH without any coercion, compulsion or inducement and waived their right of Qisas and Diyat and recorded no objection to the acquittal of appellant subject to deposit of share of minor Raja.

5. In view of above circumstances, learned Deputy P.G for the State recorded no objection to the grant of permission to compound the offence and acceptance of permission subject to deposit of share of minor Raja.

6. I have carefully heard the learned counsel for the parties, perused the impugned judgment, compromise applications and reports of the trial Court regarding ascertaining the genuineness of compromise between the parties.

7. In my humble view and looking to the circumstances of this case on the basis of reports of learned trial Court about the correctness and

genuineness, the compromise arrived at between the parties is voluntary and genuine and for better relations between the parties in future, I grant permission and accept compromise for peaceful and coexistence relations between the parties. So far share of minor Raja is concerned, Accountant of this Court has submitted report determining his share to the tune of **Rs.486,036.775/-** in view of the latest Notification of the rate of Diyat, issued by the Federal Government in the month of 1<sup>st</sup> July, 2020. It is ordered that on deposit of share amount of minor Raja, same shall be deposited in some Government profitable scheme and be released to minor Raja on attaining majority subject to proper verification. On deposit of share amount of minor, the appellant shall be released forthwith, if not required in any other case.

8. Instant Criminal Appeal stands disposed of in the above terms.

**JUDGE**

Ahmad

Yasir appellant through this appeal has challenged his conviction and sentence recorded by the learned Sessions Judge Sialkot vide judgment dated 20.06.2007 in case FIR No. 251/2004 dated 14.08.2004 offence under Sections 302/34, PPC registered at Police Station Rangpura District Sialkot whereby the appellant alongwith his co-accused namely Naeem alias Deemi was convicted and sentenced as under:

“29 ... therefore, both the accused Naeem alias Deemi and Yasir are convicted under Section 302(b)/34, PPC and are awarded normal penalty of death sentence and subject to the confirmation by the Honourable Lahore High Court, Lahore both the accused shall be hanged by neck till they are dead. They shall also pay Rs. 1,00,000/- each, as compensation to the legal heirs of the deceased u/S. 544-A, Cr.P.C. and the amount if recovered be paid to the legal heirs of the deceased and in default of the same to undergo SI for Six months each ...”

The learned trial Court has sent Murder Reference No. 445 of 2007 for confirmation or otherwise of the sentence of death.

2. During the pendency of the titled appeal, Yasir (appellant) filed Crl. Misc. No. 1631-M of 2010 for his acquittal on the basis of compromise, whereupon report was called from the learned District and Sessions Judge, Sialkot, however, the said application was dismissed as not pressed, vide order dated 18.01.2011. Thereafter second petition bearing Crl Misc. No. 1266-M of 2011 was filed by Yasir (appellant) for his acquittal on the basis of compromise, whereupon again report was called from the learned District and Sessions Judge, Sialkot regarding

genuineness or otherwise of the compromise, who, vide letter No. 1610 dated 23.06.2011, has reported that statements of Mst. Surayya Begum (widow), Ijaz Ahmad (son), Muhammad Nawaz (son), Shamim Akhtar (daughter), Samra Shahzadi (daughter) and Shahida Bibi (daughter) of Muhammad Saleem have been recorded. It is pertinent to mention here that Imtiaz Ahmad (son of the deceased) was abroad and an affidavit alongwith special power of attorney duly executed by said Imtiaz Ahmad son of the deceased in favour of Mst Surayya Begum (widow of the deceased) was placed on record. Through their statements all the legal heirs have conceded the factum of effecting a valid and bona fide compromise with Yasir (appellant) and they being legal heirs of deceased have forgiven Yasir (appellant) in the name of Almighty Allah without receiving any compensation. They have also waived their right of qisas and diyat. All the legal heirs of the deceased have also deposed that they have no objection if Yasir (appellant) is acquitted in this case. It was thus submitted by the learned District and Sessions Judge Sialkot that a valid compromise has been effected between the legal heirs of Muhammad Saleem (deceased) and Yasir (appellant).

3. The learned Deputy Prosecutor General, after having gone through the report of the learned Sessions Judge and statements annexed therewith, submit that the State has no objection to the acceptance of the compromise.

4. As the report from the learned Sessions Judge Sialkot has been received which is complete in all aspects, therefore, after having gone through the said report of the learned District and Sessions Judge

Sialkot and the statements annexed therewith, it appears that the compromise has been arrived at between the parties for mutual harmony and the Court sees no reason not to accept the same as it appears that the same is genuine and without any coercion, duress, pressure, compulsion, deception or threat coupled with the fact that it is according to the settled principles of the superior Courts of the country including the Apex Court and there seems no reason to convict the appellant under Section 311, PPC. Resultantly this compromise is accepted, the appeal is allowed, the impugned judgment to the extent of Yasir (appellant) is set aside. The appellant is acquitted from the case and he is directed to be released forthwith if not required to be detained in any other case.

5. Murder Reference No. 445 of 2007 is answered in the NEGATIVE and the sentence of death awarded to Yasir (convict) is NOT CONFIRMED.