

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Revision Application No.S-42 of 2021.

Date	Order with signature of Judge
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1. For Orders on office objection.
2. For hearing of main case.

12-08-2021.

Mr. Naeemuddin Kasimi, advocate for the applicant.

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Through this application, the applicants have impugned the order dated 23-11-2020 passed by learned Additional Sessions Judge (Hudood) Sukkur in Sessions Cse No. 428/20218 Re. State Vs. Ghulam Shabbir & others, offence u/s 302, 324, 147, 148, 149 PPC, Crime No. 18/2018 registered at police station Airport, District Sukkur, whereby the Applications U/S 345(2), 345 (6) and 345 (4) Cr.P.C along with proforma for effecting compromise filed by the applicants was dismissed. The legal heirs of the deceased Juwan @ Nale Chango son of Mehal Khan Kharose namely Ali Nawaz, Makhno and Mureed Hussain (brothers), Mst. Azmat (sister) Mst. Kouran (widow), Mashooq (son) and Allah Andi (daughter) entered into the compromise and have compound the offence with the applicants/accused, but two injured namely Yasin Ahmed and Haji Ali Nawaz have not compromised with them, as such the applications filed by the applicants was dismissed on the ground that complainant and others PWs/injured victims have not compromised with the accused persons. He case is ripe and fixed for evidence, the accused could take benefit of cromptomise of one party/LRs of deceased, but the case would be decided on merits after recording the evidence of complainant and other injured PWs and without the compromise of injured witnesses/victims, the accused could not be acquitted as prayed.

Per leaned counsel, the legal heir of the deceased have filed their affidavits, in which they have stated that they have amicably settled the dispute with the applicants on intervention of Nekomards of their locality and there is no dispute between them. They further stated that they have forgiven the accused in the name of Almighty Allah and they have waived their right of Qisas and Diyat and they do not claim any compensation from the appellants. In support of his contention, learned counsel for the applicants relied upon unreported case law i.e Crl. Jail Appeal No.D-152 & 153/2011 and Confirmation

Case No. 08/2011, wherein the injured has refused to enter into compromise with the accused, but Division Bench of this Court has allowed the compromise application and set-aside the judgment. It is appropriate to reproduce such portion of said judgment, which reads as under:-

“The appellants as well as the legal heirs of the deceased Mst. Razia and Abdul Khaliq @ Punhal and injured Tufael Ahmed and Jaleel Ahmed have submitted that they have amicably settled the dispute on account of intervention of Nek mards of their locality and there is no dispute between them. They further state that they have forgiven the appellants in the name of “Almighty ALLAH” and they have waived their right of Qisas and Diyat and they do not claim any compensation from the appellants, while the Daman is paid to the injured Amanullah, who has not entered into the compromise”.

Mr. Khalil Ahmed Mailto, DPG for the State present in the Court in other matters, waived the notice and tendered his no objection and submits that to the extent of murder, the learned trial Court can accept the compromise between the parties, but he may proceed with the case, in which two persons have become injured.

In view of above, the impugned order dated 23-11-2020 is set aside. The compromise application deemed to be pending before the learned trial Court , after hearing the parties, the learned trial Court pass speaking order on the compromise application, after taking guidelines from the order passed in Crl. Jail Appeal No.D-152 & 153/2011 and Confirmation Case No. 08/2011 passed by Division Bench of this Court.

The instant Crl. Revision Application stands disposed of.

Judge