

JUDGMENT SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

Cr. J. Appeal No. D — 24 of 2010.
Confirmation Case No.03 of 2010.

PRESENT

Mr. Justice Naimatullah Phulpoto

Mr. Justice Abdul Rasheed Soomro.

Appellant: Muhammad Moosa through Mr. Hameedullah Dahri,
Advocate.

The State Through Syed Meeral Shah Bukhari, D.P.G. for the
State.

Date of Hearing: 26.01.2017

Date of Judgment:

JUDGMENT

Appellant Muhammad Moosa was tried by learned IInd Additional Sessions Judge Badin, in Sessions Case No.129 of 2006. After full dressed trial appellant Muhammad Moosa was found guilty by Judgment dated 12.01.2010. Appellant was convicted under section 302 (b) PPC and sentenced to death, however, death sentence was subject to confirmation by this Court. Appellant was directed to pay compensation of Rs.200,000/- to the legal heirs of the deceased. In case of the default in payment of the compensation appellant was ordered to suffer S.I. for six (06) months more. Appellant was further convicted under section 324 PPC and sentenced to suffer R.I. for ten years and to pay fine of Rs.10,000/-. In case of the default in payment of the fine appellant was ordered to suffer S.I. for three (03) months more. He was also convicted under section 337-F(iv) and sentenced to suffer R.I. for five (05) years and also to pay Rs.5000/- as Daman. In case

of default in payment of Daman he was ordered to suffer S.I. till payment is made. All the sentences were ordered to run concurrently.

Brief facts of the prosecution case as disclosed in the F.I.R. are that on 19.07.2006 complainant Haji Muhammad lodged his F.I.R. at Police Station Badin at 1930 hours alleging therein that he had six daughters and one son. Out of the six daughters, it is alleged that three were married and remaining daughters were unmarried and were residing with the complainant. Complainant further stated that his elder daughter was married with appellant Muhammad Moosa who also resides in the same village. As regards to the motive, complainant has stated that prior to the lodging of the F.I.R. his unmarried daughter Miss Aisha complained to the parents that Muhammad Moosa had evil eyes upon her and was teasing her. It is alleged that wife of the complainant namely Mst. Husna asked Muhammad Moosa to mend his ways and not to cause any harassment to Miss Aisha which caused annoyance to him. It is alleged that on 19.07.2006 at 4-00 p.m. complainant was present at his house at that time his wife Mst. Husna and daughter Miss Aisha went out of the house to fetch the water. After some time it is stated that complainant heard cries of his wife and daughter coming to the side of the shop of Shareef Mandhro. Thereafter complainant along with his brother Aleem and step brother Muhammad Raheem Mandhro went running there and saw that Muhammad Moosa son in law of the complainant was causing hatchet blows to his wife Mst. Husna and daughter Miss Aisha. They raised cries and Muhammad Moosa succeeded to run away along with hatchet which he was carrying at the time of incident. Complainant saw that his daughter Miss Aisha had received injuries on left side of ear and his wife Mst. Husna had sustained hatchet injury on her right shoulder. Both were seriously injured. It is stated that Miss Aisha succumbed to the injuries within no time at spot and complainant made arrangement of the vehicle and took the dead body of her daughter to the Hospital so also injured wife. Thereafter, leaving his brothers Aleem and Muhammad Raheem Mandhro at

the Hospital, he went to the Police Station to lodge the F.I.R. which was recorded vide crime No.146 of 2006 under section 302, 324 PPC.

Investigation was initiated by S.I.O. Abdul Raheem of Police Station Badin. He went to the Civil Hospital Badin, where he inspected dead body and prepared inquest report in presence of mashirs namely Sawan and Hussain. Investigation Officer prepared Mashirnama of injuries of Mst. Husna and recorded her 161 Cr.P.C. statement. He had also recorded 161 Cr.P.C. statements of other witnesses. He secured blood stained clothes of the deceased and visited place of incident situated in village Abdullah Mandhro and prepared such Mashirnama. He had also secured blood stained earth from the place of incident and sealed the same at spot in presence of Mashirs and prepared sketch of place of incident. The appellant Muhammad Moosa was arrested on 27.07.2006 from Bus Stop in Seerani Town at 1730 hours in presence of Mashirs and prepared such Mashirnama. On 25.07.2006 Investigation Officer secured blood stained clothes of the accused / appellant Muhammad Moosa. On 30.07.2006 during interrogation accused Muhammad Moosa prepared to produce hatchet used by him in the commission of offence and took the police party and mashirs to his house and voluntarily produced the same. It was secured by S.H.O. in presence of Mashirs namely Sawan and Hussain. Mashirnama of recovery was prepared. Investigation Officer sent blood stained clothes of the deceased, blood stained earth and blood stained hatched to the Chemical Examiner for the report. Positive reports were received by him and on the conclusion of the investigation he submitted challan against the accused under section 302, 324 PPC.

Charge against accused was framed at Ex.2, for offences under section 302, 324. Accused / Appellant met the charge with denial and claimed to be tried. In order to substantiate the charge prosecution examined following witnesses:-

P.W.1 Complainant Haji Muhammad at Ex.5.

P.W.2 Injured Mst. Husna (mother of the deceased) at Ex.6.

P.W.3 Dr. Rasheeda (who conducted postmortem of the deceased at Ex.7.

P.W.4 Muhammad Rahim (Mashir) at Ex.8.

P.W.5 ASI Ghulam Akbar at Ex.10.

P.W.6 Hussain (Mashir) at Ex.13.

P.W.7 SIP Muhammad Sadiq at Ex.14.

P.W.8 Inspector Abdul Rahim at Ex.15.

P.W.9 Tapedar Muhammad Yousif.

Thereafter prosecution side was closed vide statement at Ex.17.

Statement of accused under section 342 was recorded at Ex.18.

Accused claimed his false implication and denied the prosecution allegations. He has stated that deceased girl was of loose character and she was killed by someone else. He claimed false implication and stated that complainant has enmity due to the dispute over piece of land therefore, he has been falsely implicated in the case. The accused did not examine himself on oath nor produced any witness in defence.

Learned II-Additional Sessions Judge Badin, after hearing the learned counsel for parties and assessment of entire evidence convicted and sentenced the appellant as stated above.

Learned trial Court in its judgment has mentioned entire prosecution facts and discussed the evidence in detail. In order to avoid repetition and duplication, there is no need to repeat the same.

We have carefully heard the learned counsel for the parties and scanned the entire evidence.