

**JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.**

Cr. Appeal No.S-235 of 2019

[Dilawar Khan v. The State]

Appellant: Dilawar Khan through Mr. Aijaz Shaikh,
Advocate

Respondent: The State through Mr. Fayaz Hussain
M.A. Sabki A.P.G. Sindh

Date of hearing & judgment: 28.03.2022

J U D G M E N T

SALAHUDDIN PANHWAR, J. Through miscellaneous application bearing No.MA No.8679 of 2021, the parties have prayed to accord permission to compound the offence under section 345(2) Cr.P.C. and through application being MA No. 8680 of 2021 prayed for acquittal of the appellant under section 345 (6) Cr.P.C, who through impugned judgment dated 03.08.2019, passed by the learned Additional Sessions Judge-I/Model Criminal Trial Court, Umerkot in Sessions Case No.134 of 2017 (The State V Dilawar Khan), emanating from Crime No.60 of 2017, registered at Police Station Umerkot City, under sections 302, 324, 504, 337-A(iii), 337-F(i) PPC, was convicted and sentenced to undergo imprisonment for life as Ta'zir and to pay Rs.100,000/- (Rupees one hundred thousand) as compensation to the legal heirs of deceased, in case of failure,

he shall undergo S.I for one year more. He also convicted u/s 324 PPC and sentenced to suffer R.I for 05 years and to pay fine of Rs.50,000/-. In case of default he shall to suffer S.I for 06 months more. Appellant was further convicted u/s 337-A(iii) PPC and sentenced to suffer R.I for 03 years and to pay Rs.2,23020/- as Arsh and u/s 337-F(i) PPC to suffer R.I for 06 months and to pay Daman to the tune of Rs.10,000/- to the injured Jalil Channa. The compromise applications are supported with the affidavits of complainant/nephew of the deceased namely Naveed Haider Shah, legal heirs of deceased namely Mst. Dilshad Begum (widow), Mst. Kaneez Shah, Humaira Shah and Saira Shah (daughters) as well as injured P.Ws Jahangir Khan and Abdul Jalil. All the legal heirs of the deceased as well as the complainant and injured P.Ws have raised their no objection for acquittal of the appellant by stating that they have entered into compromise with him due to intervention of nekmards outside the Court and pardoned him the right of Qisas and Diyat amount in order to maintain good relations.

2. In order to ascertain the genuineness of the compromise between the parties, the compromise applications were sent to the trial Court for thorough inquiry into the matter. The learned trial Court vide its letter dated 26.08.2021 has reported that in compliance of the order of this Court, statements of the legal heirs of deceased Mehboob Ali Shah namely Mst. Dilshad[widow], Mst. Kaneez Shah, Humaira Shah, Saira [daughters], as well as minor legal heirs Hasnain Abbas (aged 16 years) and Syed Kashif Abbas (aged 11 years) (sons) as

well as injured P.Ws Jahangir and Abdul Jalil were recorded. The major legal heirs of the deceased as well as injured in their statements, they have categorically stated that they have pardoned the accused in the name of Almighty ALLAH and waived the right of Qisas; however, subject to payment of Diyat amount in favour of accused with their own free will, consent and without any coercion and recorded their no objection if the appellant is acquitted from the charge. The learned trial Judge has also called reports from concerned Mukhtiarkar and SHO and NADRA regarding legal heirs of deceased, who in their respective reports have also mentioned the said legal heirs of the deceased. Record reflects that publication for inviting objections from the interested persons with regard to compromise between the parties was made in daily newspaper Kawish but nobody came forward to raise any objection before the trial Court. Mr. Fayaz Hussain M.A. Sabki, the learned A.P.G. Sindh, who is present in Court in connection with other case while waiving notice of compromise applications has also extended his no objection on the plea that all offences are compoundable.

3. The report submitted by the Accountant of this Court reflects that appellant/accused has deposited Diyat amount to the tune of Rs.42,61,205/-. In the said report the share of each major as well as minor legal heir is mentioned. Since the offence(s) are compoundable. There is no objection for grant of compromise and acquittal of the appellant as the legal heirs of deceased so also the injured persons have pardoned the appellant in the name of Almighty Allah; however, subject to

payment of Diyat amount, which has been done in the present case, hence in order keep cordial relations and harmony between the parties in future and strike off the enmity between them, the permission to compound the offences is allowed under section 345 [2] Cr.P.C. As a result of which, the appellant is acquitted of the charge under section 345 [6] Cr.P.C. The office shall issue release writ of the appellant; and, the Additional Registrar of this Court shall ensure that share in Diyat amount of each major legal heir of the deceased as mentioned in the Accountant's report is paid to her. As regard the shares in respect of the minor legal heirs of the deceased namely Hasnain Abbas Shah and Syed Kashif Abbas, same shall be invested in any Government profit yielding scheme and it shall be paid to them after attaining their majority; however, on moving proper application.

4. In view of above, the instant Criminal Appeal stands disposed of along with listed applications.

JUDGE

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