

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Criminal Appeal No. 669 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGES
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1. For orders on MA No.15207/2022
2. For orders on MA No.15208/2022
3. For hearing of case.
4. For hearing of MA No.13982/2022

24-01-2023

Ms. Tabassum Hashmi, Advocate for appellants.

Ms. Robina Qadir, Addl.P.G.

Complainant Wahid Ahmed Siddiqui and injured Noushad present in person.

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Omar Sial, J: Muhammad Qaiser, Mirza Athar Baig and Imrana were nominated accused in F.I.R. No.346 of 2018 registered under section 324 and 34 P.P.C. at Pak Bazar police station.

2. This case was filed on the complaint of Wahid Ahmed Siddiqui, who reported an offence which had occurred on 8-11-2018. He had recorded that 3 accused persons had very badly beaten his brother Noushad who sustained serious injuries in the incident. After a full dress trial, the learned 2nd Additional Sessions Judge, Karachi West found the accused guilty and convicted and sentenced them as follows:

- (i) For an offence under section 324 P.P.C. to a 3 year prison term and a fine of Rs. 50,000 each or a further period of 6 months in prison.
- (ii) For an offence under section 337-A(v) P.P.C. to 3 year prison term and directed to pay Arsh Jointly to the injured Noushad which shall be one third of the Diyat amount.

3. The appellants being aggrieved by the judgment of the learned 2nd Additional Sessions Judge, Karachi West filed this appeal on 24-11-2022

challenging the said judgment. During pendency of this appeal, the parties reached a settlement in terms of which injured Noushad has forgiven the 3 accused persons. Accordingly, M.A. No.15207/2022 was filed under section 345(2) Cr.P.C. which is being wrongly filed under this section, it should have been filed under section 345(5) Cr.P.C. seeking permission of this court to compound the offence. Simultaneously an application under section 345(6) Cr.P.C. has been filed being M.A. No.15208/2022 through which it has been prayed that the appellants may be acquitted in terms of the compromise.

4. Both the applications are accompanied with an affidavit of the injured Noushad and signed by both injured as well as appellants. Injured Noushad and complainant Wahid Ahmed Siddiqui are present in court and they have shown their CNICs for their identity. Injured Noushad categorically and clearly stated that he has forgiven the appellants in the name of Allah.

5. The record further reflects that the name of the appellant Mirza Athar Baig S/o Mirza Afsar Baig has been wrongly written in the memo of appeal as Mirza Akhtar Baig S/o Mirza Afsar Baig. Office may correct the error with red ink.

6. Learned Addl.P.G. has no objection to the compounding as an offence under section 324 P.P.C. is a compoundable one and the injured Noushad has forgiven the appellants out of his own free will without any pressure, duress or coercion. Accordingly, the application under section 345(5) Cr.P.C. is allowed. Consequently, the appellants are acquitted under section 345(6) Cr.P.C. They may be released forthwith if not required in any other custody case.

7. The appeal stands disposed of in the above terms.

JUDGE