

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

Criminal Jail Appeal No.D-151 of 2019

Confirmation Case No.37 of 2019

Present:-

Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Amjad Ali Sahito.

Date of hearing: 30.08.2022
Date of decision: 30.08.2022
Appellants: Through Mr. Altaf Sachal Awan advocate
Complainant: Through Mr. Qambar Ali Jamali advocate.
The State: Through Mr. Nazar Muhammad Memon, APG.

JUDGMENT

MUHAMMAD IQBAL KALHORO, J:- Allegedly appellant on 12.07.2014 at 130 hours, at Bahawalpur - Village Allah Bachayo Link Road near Mobile Phone Tower, Deh Khaat, Taluka Johi, in the company of co-accused Gulzar and Ali Anwar, since acquitted, and absconder accused Manzoor Jamali duly armed with guns formed an unlawful assembly and in prosecution of common object committed Qatl-i-Amd of Nazeer Ahmed and Mst. Afroz by shooting at them and injuring Mumtaz and Baby Sawera. Against such allegations, they were tried by learned Additional Sessions Judge-IV, Dadu in Sessions Case No.969 of 2014 bearing Crime No.14/2014 registered at PS Phulji Village, and convicted in the terms whereby appellant Muhammad Bux was sentenced to death u/s 302(b) PPC and to pay compensation to the tune of Rs.500,000/- u/s 544-A CrPC to the legal heirs of deceased, whereas, appellant Ghulam Sarwar and Gul Sher, have been convicted and sentenced, under several offences for injuries, maximum for 05 years and to pay Damn in each offence separately however with benefit of section 382-B CrPC and the direction for all sentences to run concurrently, vide impugned judgment dated 19.08.2019, which they have challenged through instant jail appeal. Learned trial court has sent reference for confirmation of death sentence of appellant Muhammad Bux.

2. During pendency of this appeal, appellant Muhammad Bux, awarded death penalty, expired on 07.07.2022 at Liaquat University Hospital Hyderabad and report of his death was submitted before this court vide letter No.JB/-20924/32 dated 07.07.2022. Inquest into the death of said appellant was conducted by learned IX-Civil Judge & Judicial Magistrate, Hyderabad. Copies of such letter and inquest report are available in the file and are taken on record. Learned defense counsel in view of such facts has requested to abate the proceedings against the said appellant. And since appellant Gul Sher after completing his sentence has been released and appellant Ghulam Serwer has also completed his sentence of 05 years as is reflected from the jail roll received today but is in jail in Crime No.15/2014 of PS Phulji Village u/s 302(b) PPC, has not pressed the appeal on their behalf on merits and has simply requested that sentence already endured by appellant Ghulam Sarwar may be ordered to run concurrently with the sentence awarded to him in aforesaid crime and offence. This request has not been opposed by learned Additional Prosecutor General Sindh acting on behalf of State.

3. Accordingly, in view of death of appellant Muhammad Bux, the proceedings of this appeal and impugned conviction and sentence awarded to him are abated against him u/s 431 CrPC. Appeal against appellant Ghulam Sarwar, already released on completing his sentence, having been not pressed by learned defense counsel is accordingly dismissed. The sentence of appellant Ghulam Sarwar which he has already suffered in this case is ordered to run concurrently with the sentence awarded to him in Crime No.15/2014 of PS Phulji Village u/s 302(b) PPC. The order of compensation and payment of diyat against appellant shall remain intact, however.

4. Resultantly, the appeal in hand is disposed of in the terms as stated above and the Reference No.37/2019 having become infructuous is accordingly disposed of.

JUDGE

JUDGE