

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

Criminal Appeal No.S-97 of 2021

For hearing of MA No.5023/2022.

For hearing of MA No.5024/2022.

For hearing of MA No.5025/2022.

Appellants: Sakhi @ Shakhi and Khadim Hussain Shahani through Mr. Wazeer Hussain Khoso, Advocate.

Respondent: The State through Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Date of hearing: 06.10.2022.

Date of Decision: 06.10.2022.

**J U D G M E N T**

**Amjad Ali Sahito, J.** Through the above miscellaneous applications being MA No.5023/2022, the parties have prayed to accord permission to compound the offence under section 345[2] Cr.P.C. and MA No.5024/2022 for acquittal of the appellant under section 345 [6] Cr.P.C. and through MA No.5025/2022 sought the appointment of Mst. Wazeeran widow of deceased as 'Guardian' being mother of minor legal heir namely Yameen aged about 12 years.

**2.** In terms of impugned judgment dated 31.05.2021, passed by the learned 1<sup>st</sup> Additional Sessions Judge/MCTC, Kotri in S.C. No.15/2010, Crime No.01/2010 for the offences under sections 302, 324, 147, 148 & 149 PPC registered at PS Bhan, the appellants were convicted for the commission of murders of two deceased persons namely Altaf Hussain and Abdullah Khokhar within the meaning of section 302 (b) PPC and sentenced them to suffer Imprisonment for life and to pay compensation of Rs.10,00,000/-[rupees one million] each to the legal heirs of deceased as provided under section 544-A Cr.P.C within the period 30 days. The compensation was ordered to be

recovered as arrears of Land Revenue; in default whereof, to suffer S.I. for six months. Benefit of section 382-B Cr.P.C was extended to the appellants. While the case of absconding accused namely Asif @ Sassi was kept on dormant file till his subsequent arrest and produced before the learned trial Court.

**3.** The applications in respect of compromise are signed by the learned counsel for the appellants and bear signatures/thumb impressions of major legal heirs of both the deceased persons supported with their affidavits duly verified through the NADRA. All the legal heirs have raised their no objection for acquittal of the appellants by stating that they have entered into compromise with them due to intervention of nekmarks and pardoned the appellants in the name of Almighty ALLAH. Since Mst. Wazeeran is mother of the minor legal heir namely Yameen having no adverse interest against the rights of minor is appointed as his 'Wali' for the purpose of compromise, as such, application being MA No.5025/2022 stands allowed.

**4.** In order to ascertain the genuineness of the compromise between the parties, the compromise applications were sent to the trial Court for careful inquiry into the matter. The learned trial Court has submitted its report dated 09.06.2022, wherein it is stated that, with regard to the legal heirs of deceased persons, the reports were called from the SHO PS Bhan, Mukhtiarkars Taluka Sehwan and Taluka Johi and from NADRA (Assistant Director Jamshoro Zone). Notice was also issued to public in newspaper daily 'Kawish Hyderabad', which was published in its issue on 28.05.2022 inviting objections if any but none appeared to raise objection over compromise application. Statements of legal heirs of deceased Altaf Hussain namely Mst. Wazeeran (widow), Mst. Saima (daughter) and Muhammad (complainant/brother of deceased) as well as legal heirs of deceased Abdullah Khokhar namely; Mst. Shahzadi (widow), Abdul Hameed (son), Mst. Hameeda, Mst. Fahmida, Mst. Rehana, Mst. Yasmeen, Mst. Nadia and Mst. Naila (daughters) were recorded. Apart from above legal heirs, one legal heir/son of deceased Altaf Hussain namely Yameen has been shown as minor aged about 12 years in the

report dated 03.06.2022 submitted by Mukhtiarkar, Taluka Johi. On the basis of above reports, trial Court found the compromise to be genuine one, without any pressure, inducement or coercion.

**5.** In their statements, the major legal heirs have categorically stated that they have pardoned the appellant in the name of Almighty ALLAH without any duress, threat, coercion, inducement or promise and without obtaining any compensation or Badl-e-Sulah. They have waived the right of Qisas and Diyat. However, accused have paid Rs.25,19,139/- as Diyat share amount of minor namely Yameen the legal heir/son of deceased Altaf Hussain. They have raised no objection if the appellants are acquitted from the charge.

**6.** Since all the major legal heirs of the deceased persons appeared before the learned trial Court and have confirmed the contention of compromise applications and stated that they have entered into compromise with the appellants with their own freewill and consent and without any inducement and excused the right of Qisas and Diyat to the appellants in the name of Almighty ALLAH. Per report of Accountant of this Court, the Diyat share amount of minor Yameen, the legal heir of deceased Altaf Hussain is Rs.25,19,139/- which has been deposited on behalf of the appellants, the report is taken on record. They major legal heirs of both the deceased persons have also raised no objection for acquittal of the appellants. The offence is compoundable. There is no objection for grant of compromise and acquittal of the appellants as the major legal heirs of both the deceased have pardoned the right of Qisas & Diyat to the appellants in the name of Almighty ALLAH. The major legal heirs of deceased have waived their right of Diyat, and the appellants were required to pay Diyat share amount of the minor legal heir; as such, the accused paid an amount of Rs.25,19,139/- in favour of minor legal heir. At this juncture, learned counsel for the appellants requested for reduction of the compensation amount Rs.10,00,00.00 as per impugned judgment on the ground that

appellants are very poor and they have also paid the share amount in respect minor legal heir.

**7.** Learned A.P.G. Sindh has raised no objection on compromise applications including reduction of compensation amount.

**8.** In order to keep cordial relations and harmony between the parties in future and strike off the enmity between them, the permission to compound the offence is allowed under section 345 [2] Cr.P.C. The request for reduction of compensation amount made by learned counsel is allowed; the compensation amount is reduced and ordered that each of the appellants shall pay Rs.100,000/- (Rupees one hundred thousand) in easy four monthly installments. First installment of Rs.25000/- by each of the appellants is ordered to be deposited after their release from Jail, while the remaining installments to be paid on or before 10<sup>th</sup> of each calendar month. In this regard, the appellants are required execute their bonds for the payment of rest of the installments in the like amount. The impugned judgment is set-aside. Consequently, the appellants namely, Sakhi @ Shakhi and Khadim Hussain are acquitted of the charge in terms of section 345 [6] Cr.P.C. The office is directed to issue release writ of the appellants forthwith to the concerned Jail authorities, if they are not required in any other custody case. The Accountant of this Court is directed to invest the diyat share amount of minor legal heir namely Yameen son of deceased Altaf Hussain in a profitable scheme till the minor / legal heir namely Yameen attains his age of majority. The compensation amount when recovered from the appellants as ordered above shall be distributed amongst the legal heirs of deceased persons.

**9.** In above terms, the impugned judgment is disposed of along with listed applications.

JUDGE