

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

Criminal Appeal No.S-198 of 2020

For hearing of MA No.4447/2022.

For hearing of MA No.4448/2022.

For hearing of MA No.4449/2022.

Appellant: Shahnawaz Sanjrani through Mr. Saad Salman Ghani, Advocate.

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

Complainant: Mst. Bakhtawar present in person along with other legal heirs Lal Bux and Mst.Azeema.

Date of hearing: 11.08.2022.

Date of Decision: 11.08.2022.

J U D G M E N T

Amjad Ali Sahito, J. Through the above miscellaneous applications being MA No.4447/2022, the parties have prayed to accord permission to compound the offence under section 345[2] Cr.P.C. and MA No.4448/2022 for acquittal of the appellant under section 345 [6] Cr.P.C. and through MA No.4449/2022 sought the appointment of Lal Bux as 'Wali' being real grandfather of minor legal heirs namely baby Sadiq Hussain aged about 08 years, Deen Muhammad aged about 07 years and baby Meerzadi aged about 05 years.

2. In terms of impugned judgment dated 25.11.2020, passed by the learned Additional Sessions Judge-I/MCTC, Tando Adam in S.C. No.89/2018, Crime No.27/2018 for the offences under sections 302 PPC registered at PS Shahpur Chakar, the appellant was convicted and sentenced under section 302 (b) PPC to suffer Imprisonment for life and to pay compensation of Rs.500,000/- to the legal heirs of deceased as provided under section 544-A Cr.P.C; in default whereof, to

suffer S.I. for six months. Benefit of section 382-B Cr.P.C was extended to the appellant.

3. The applications in respect of compromise are signed by the learned counsel for the appellant and bear thumb impressions of major legal heirs of deceased Khadim Hussain Sanjrani supported with their affidavits. All the legal heirs have raised their no objection for acquittal of the appellant by stating that they have entered into compromise with them due to intervention of nekmards and pardoned the appellant in the name of Almighty ALLAH. Since Lal Bux is real grandfather of the minor legal heirs namely Sadiq Hussain, Deen Muhammad and Meerzadi having no adverse interest against the rights of minors is appointed as their 'Wali' for the purpose of compromise, as such, application being MA No.4449/2022 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 11.06.2022, wherein it is stated that, with regard to the legal heirs of deceased the reports were called from the concerned Mukhtiarkar, SHO and NADRA authorities. Notice was also issued to public in newspaper 'Daily Kawish Hyderabad' inviting objections if any but none appeared to raise objection over compromise application. The Mukhtiarkar Shahdadpur and SHO PS Shahpur Chakar and NADRA have reported the legal heirs of deceased to be Mst. Azeeman (Widow), Sadiq Hussain, Deen Muhammad (sons), Meerzadi (daughter), Lal Bux and Mst. Bakhtawar (father and mother). The legal heirs namely Sadiq Hussain, Deen Muhammad and Meerzadi are shown to be minors. The trial Court also recorded the statements of Lal Bux, Mst. Bakhtawar and Mst. Azeeman being adult legal heirs. 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 has paid Rs.25,00,000/- as Diyat amount and they have purchased 01.22 acres agricultural land in the name of minors. They have raised no objection if the appellant is acquitted from the charge.

6. Since all the major legal heirs of the deceased appeared in Court and have confirmed the contention of compromise applications and stated that they have entered into compromise with the appellant with their own freewill and consent and without any inducement and excused the right of Qisas and Diyat to the appellant in the name of Almighty ALLAH. Per report of Accountant of this Court, the Diyat share amount of each male minor legal heir is Rs.9,23,261/- while minor baby's share is Rs.4,61,631, total share amount of minor legal heirs is Rs.23,08,153/-. Today they have also placed on record a registered sale deed in respect of agricultural land admeasuring 01.22 acre in favour of minor legal heirs, which is taken on record. They have also raised no objection for acquittal of the appellant. The offence is compoundable. There is no objection for grant of compromise and acquittal of the appellant as the legal heirs of deceased have pardoned the right of Qisas & Diyat to the appellant in the name of Almighty ALLAH. The major legal heirs of deceased have waived their right of Diyat, and the appellant was required to pay Diyat share amount of each of the minor legal heirs; as such, the accused paid an amount of Rs.25,00,000/- in favour of minor legal heirs and an agricultural land admeasuring 01.22 acres, situated in deh 13-Dim, Tapa Thahim, Taluka Sinjhoru in favour of minor legal heirs of deceased Khadim Hussain namely Sadiq Hussain, Deen Muhammad and Meerzadi (sons and daughter of deceased respectively) has been purchased and transferred in their names, in lieu of their respective share pertaining to Diyat amount. Learned counsel pointed out that although the amount of Diyat in respect of the respective shares of minor legal heirs becomes Rs.23,08,153/-, however, the valuation of land is Rs.25,00,000/-, as such, the compensation amount

Rs.5,00,00.00 as per impugned judgment is requested to be reduced and adjusted in the said amount. The request so made by learned counsel is allowed and the transfer the said agricultural land in the names of minor legal heirs of deceased is allowed. Therefore, 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. Resultantly, the impugned judgment is set-aside. Consequently, the appellant Shahnwaz is acquitted of the charge under section 345 [6] Cr.P.C. Let release writ of the appellant be issued forthwith to the concerned Jail authorities.

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

JUDGE

Abdullah Channa/PS