

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

Criminal Appeal No.S-130 of 2014

For order on MA No.3924 / 2023

Appellants: Ghulam Mustafa @ Abu and Mumtaz @ Mamoon through Ms. Urooj Aqeel, Advocate.

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

Date of hearing: 19.04.2023.

Date of Decision: 19.04.2023.

J U D G M E N T

Amjad Ali Sahito, J. Through the listed application, the learned counsel for the appellants seeks urgent hearing in the matter, on the ground that the parties have entered into compromise and inquiry with regard to genuineness of compromise between the parties has been received, as such, she requests that compromise applications being MA. No.8608/2022 (for permission to compound the offence) and MA No.8609/2022 (for acquittal of the appellants) may be taken up. For the reasons disclosed by learned counsel for early hearing, the matter is taken up for hearing.

2. In terms of impugned judgment dated 17.10.2014, passed by the learned Sessions Judge, Badin in S.C. No.31/2012, Crime No.11/2012 for the offences under sections 302, 201, 34 PPC registered at PS Tando Bago, the appellants were convicted and sentenced under section 302 (b) PPC to suffer life Imprisonment and to pay compensation of Rs.200,000.00 [Rupees two hundred thousand only] each to the legal heirs of deceased Manthar as provided under section 544-A Cr.P.C; and in default whereof, to suffer R.I. for two years

more. Benefit of section 382-B Cr.P.C was extended to the appellants.

3. During pendency of instant appeal, the parties have entered into compromise and filed the aforementioned applications signed/LTI by complainant and accused supported with their affidavits stating that the legal heirs have no objection for acquittal of the appellants as they have entered into compromise due to intervention of nekmards and pardoned the appellants in the name of Almighty ALLAH.

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 vide its letter dated 08.04.2023 has submitted its report, wherein it is stated that, with regard to the legal heirs of deceased the reports were called from the Mukhtiarkar Revenue Taluka Tando Bago, SHO of PS Tando Bao as well as NADRA. The trial Court found that the deceased has left his legal heirs namely Mst. Husna [mother], Muhammad Saleh, Sikandar Ali, Shahjahan, Shoukat Ali [brothers], Mst. Roshna, Mst. Pathani, Mst. Gulbani, Mst. Amirzadi [sisters] and one Mst. Begi [step sister]. Their statements were also recorded, who confirmed the compromise with appellants. Publication in respect of compromise was made in daily newspaper Kawish dated 02.04.2023 inviting the objections from general public nobody came forward to raise objection.

5. Since all the 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 appellants with their own freewill and consent and without any inducement in the name of Almighty ALLAH and did not claim any Qisas or Diyat from the appellants. They have also raised no objection for acquittal of the appellants. The offence is compoundable. Therefore, in order to keep cordial relations and harmony in future between the parties, the permission to compound the offence is allowed under section 345 [2] Cr.P.C. Resultantly, the impugned judgment is set-

aside, however, with order that the appellants shall deposit compensation amount of Rs.50,000.00 [Rupees fifty thousand only] each instead of Rs.200,000.00 [Rupees two hundred thousand only] to be deposited by them in all OR in easy five installments with the Accountant of this Court, which shall be given to the legal heirs of deceased. The appellants are acquitted of the charge under section 345 [6] Cr.P.C. They are confined in confined in Jail and shall be released forthwith, if not required in any other custody case, subject to deposit of aforesaid compensation amount OR first installment by each of appellants with the Accountant of this Court; however, in case they chosen to deposit first installment then the appellant shall execute a bond for payment of remaining installments of reduced compensation amount that they shall deposit the same on or before every 10th of each calendar month. Such bond be executed before the Jail Superintendent concerned, who shall submit the same before this Court.

6. With above modification, instant Criminal Appeal preferred against the impugned judgment is disposed of along with listed applications.

JUDGE