

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

Criminal Jail Appeal No.S-228 of 2018

For order on MA No.3997 / 2023
For order on MA No.3998 / 2023

Appellants: Himat Ali [confined in jail] and Allahdad [present on bail] through Syed Muhammad Waseem Shah, Advocate.

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

Date of hearing: 29.05.2023.

Date of Decision: 29.05.2023.

J U D G M E N T

Amjad Ali Sahito, J. Through impugned judgment dated 10.09.2018, passed by the learned 2nd Additional Sessions Judge, Badin in S.C. No.117/2012, Crime No.35/2012 for the offences under sections 302, 114, 324, 337-H (ii), 504, 147, 148, 149 PPC registered at PS Talhar, the appellants were convicted and sentenced in the following manner:-

- For offence under section 148 r/w/section 149 PPC to suffer R.I. for two years each;
- For offence under section 302 (b) PPC r/w/section 149 PPC to suffer life imprisonment and to pay Rs.200,000.00 each to the legal heirs of deceased Murad Ali as compensation as provided under section 544-A Cr.P.C. as Ta'zir;
- For offence under section 324 r/w/section 149 PPC to suffer R.I. for five years and to pay Rs.10,000.00 each as fine and in case of default whereof, to further undergo R.I. for six months;
- For offence under section 337-F (i) PPC r/w/section 149 PPC to pay Rs.10,000.00 each as Daman to injured Namosh;
- For offence under section 337-F (ii) PPC to pay Rs.20,000.00 each as Daman to injured Namosh.
- All the sentences were ordered to run concurrently.
- Benefit of section 382-B PPC was extended to the appellants.

2. During pendency of instant appeal, the parties have entered into compromise and filed the aforementioned applications signed/LTIs by complainant and legal heirs of deceased as well as appellants 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 nekwards and pardoned the appellants in the name of Almighty ALLAH.

3. 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 19.05.2023 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 Badin, SHO of PS Talhar as well as NADRA. The trial Court found that the deceased has left his legal heirs namely, Mst. Neelo [mother], Namosh Ali, Altaf Hussain and Kamran [brothers], Mst. Aisa, Mst. Ameena and Mst. Shahzadi [sisters]. Their statements were also recorded, who confirmed the compromise with appellants. It has also come in the statements that father of deceased Muhammad Saleem has been expired. Publication in respect of compromise was made in daily newspaper Kawish dated 12.05.2023 inviting the objections from general public nobody came forward to raise objection.

4. Since all the legal heirs of the deceased / injured 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, Diyat or Daman from the appellants. They have also raised no objection for claiming the compensation amount in terms of section 544-A Cr.P.C. They have 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. The appellants are acquitted of the charge under section 345 [6] Cr.P.C. Appellant Himat Ali is confined in Jail and shall be released forthwith, if not required in any other custody case. Appellant Allahdad is present on bail, his bonds stand cancelled and surety discharged. Office is directed to return surety papers to the surety after property verification and identification.

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

JUDGE

Abdullah Channa/PS