

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Appeal No.S-377 of 2019
Criminal Jail Appeal No.S-371 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
------	----------------------------------

1. For hearing of application u/s 345(2) Cr.P.C MA No.8204/2022
2. For hearing of application u/s 345(6) Cr.P.C MA No.8205/2022

27.03.2023

Mr. Ahsan Zahoor Baloch, advocate for appellant.

Ms. Sana Memon, Assistant Prosecutor General.

Legal Heirs of deceased Arbab Ali Almani namely : Mst. Bhirai (mother), Mumtaz and Altaf (brothers), Mst. Raheema, Mst. Haseena Mst. Sakina (sisters), and complainant Mukhtiar Ali, present in person.

-.-.-

Appellant was convicted and sentenced to suffer life imprisonment by learned 1st Additional Sessions Judge/MCTC Badin vide impugned judgment dated 16.11.2019 in S.C. No. 31 of 2019 arising out of FIR No.34/2019 of police station Matli, under Section 302, 34 PPC. He preferred instant appeal before this Court which was admitted for regular hearing. During pendency of this appeal, the complainant and legal heirs of deceased and the appellant compromised the matter outside the court in the name of Almighty Allah and on the intervention of nekmards of the locality. Therefore, they filed applications under section 345(2) & 345(6) Cr.P.C seeking compounding of the offence and resultant acquittal of the appellant. The said applications were sent to the trial court for conducting an inquiry in respect of legal heirs of deceased and genuineness of compromise between the parties who has submitted his report dated 04.01.2023 which is available on record.

Learned counsel for the appellant submits that the offence is compoundable and all the legal heirs of deceased including complainant have pardoned the appellant, therefore, compromise application may be accepted and the appellant may be acquitted in terms of compromise.

Learned Assistant PG after going through the compromise applications and the report of the learned trial court submits that entire exercise carried out by it is in accordance with law hence he has no objection if compromise application is accepted.

I have heard the learned counsel for the parties, complainant and legal heirs of the deceased, who have confirmed factum of compromise and their pardon to the appellant, and examined the file minutely.

Admittedly, the offence is compoundable and the parties i.e. the appellant, complainant and legal heirs of the deceased have filed joint applications for compounding the offence and acquittal. These applications were sent to the trial court for verification of legal heirs of deceased and genuineness of compromise. The report has been received which reveals that reports from concerned SHO, NADRA and Mukhtiarkar were called and notice in daily kawish newspaper was published. As per reports of SHO, NADRA and Mukhtiarkar no other person claiming to be legal heir of deceased came in picture and nobody objected to the compromise. Today, the legal heirs of deceased i.e. mother, brothers, sisters are present. They have stated that they have compounded the offence and have pardoned the appellant in the name of Almighty Allah and they also do not claim any diyat, daman or compensation, hence they have no objection if the appellant is released by this court. In view of above, the compromise between the parties appears to be genuine and not the result of any coercion. The compromise is likely to promote harmony between parties and peace in the society. There appears to be no impediment legal or otherwise in accepting the compromise between the parties. Accordingly, the application under Section 345(2) is accepted. The parties are allowed to compound the offence. Resultantly, the application under Section 345(6) Cr.P.C. is also allowed. The appellant is acquitted in view of the compromise arrived at between the parties. Resultantly, the conviction and sentence awarded by the trial court is set-aside. Appellant is in custody, he shall be released forthwith, if not required in any other custody case.

The appeals stand disposed of accordingly.

JUDGE

