

**THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

CrI. Jail Appeal No.S- 150 of 2016

*(Mehtar Ali v. The State)*

Date of hearing	Order With Signature Of Judge.
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**Hearing of Case**

1. For orders on MA 694/2024
2. For hearing of main case.

M/s Achar Khan Gabol and Irshad Hussain Dharejo, Advocates for pauper appellant.

Mr. Ghulam Muhammad, Associate of Mr. Sikandar Ali Junejo, Advocate for complainant.

Mr. Aftab Ahmed Shar, Additional P.G for the State.

Date of Hearing: **20-05-2024**

Date of Decision: **20-05-2024**

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

**Muhammad Iqbal Kalhoro J.-** I have heard learned counsel for the parties and perused record. Appellant was charged for setting a copy of Holy Quran on fire on 26.06.2014 at 09.30 a.m, in a common street near Henna Factory of Bajhi Khan Almani, witnessed by complainant Ghulam Rasool and PW Muhammad Ayoob. After recording of evidence of these witnesses and one mashir and I.O, appellant has been convicted under section 295-B PPC and sentenced to imprisonment for life through impugned judgment.

2. Record reflects that appellant was provided an Advocate on State expenses, who has conducted a very sketchy cross-examination of the witnesses and has not put material questions to the witnesses necessary to serve the interest of justice and fulfill criteria of a fair trial envisaged under Article 10-A of the Constitution.

3. This fact has been admitted by all concerned including counsel for the complainant and have proposed that they would have no objection if the case is remanded back to the trial Court for conducting cross-examination of the witnesses by a senior Advocate having experience in criminal cases. It is further stated that in case, the case is remanded back to the same Court in district Naushahro Feroze, this being religious issue would attract unnecessary attention of the area people and conduction of the proceedings

would become difficult. Hence, it is proposed that on remand, the case may be transferred to district Khairpur for the above purpose.

4. In view of these facts and grounds, I agree with the above propositions. It is clear that the requirement of fair trial in the present case, under Article 10-A of the Constitution, has not been met. Hence, conviction and sentence awarded to the appellant vide impugned judgment are set aside and the case is remanded. On remand, it is transferred to learned Sessions Judge, Khairpur to either proceed with the same or entrust it to any of the Additional Sessions Judge, Khairpur, who shall recall the witnesses and allow the defence counsel to conduct cross-examination of the witnesses.

5. Mr. Irshad Hussain Dharejo, Advocate states that he hails from Khairpur district and volunteers to appear on behalf of the appellant before the Sessions Court at Khairpur. It is further requested by learned counsel for pauper appellant that appellant has already remained in jail for a substantive period of ten years, and therefore keeping in view his long period, he may be granted bail, to which no one has raised objection.

6. Therefore, on remand of the case, the appellant is granted bail subject to his furnishing solvent surety in the sum of **Rs.50,000/- (Fifty Thousand)** to the satisfaction of the trial Court where the trial of the case is to be entrusted or before the learned Sessions Judge, Khairpur, as the case may be.

7. The appeal along with listed application is accordingly **disposed of** in the above terms.

**JUDGE**