

# IN THE HIGH COURT OF SINDH AT KARACHI

**Criminal Appeal No. 492 of 2022**

**&**

**Criminal Acquittal Appeal No. 587 of 2022**

Appellant Sohail Majeed Ayat : through M/s. Mahmood A. Qureshi,  
in Cr. Appeal No.492 of 2022 Jamshed Iqbal & Farhatullah,  
Advocates.

State: through Mr. Muhammad Noonari,  
Deputy Prosecutor General, Sindh.

Appellant Asif Ibrahim in Cr. : through M/s Muhammad Ayoub  
Acq. Appeal No. 587 of 2022 & Chaniho, Murtaza, Aftab Ahmed,  
Complainant in CrI. Appeal Nazir Ahmed, Abid Ali, Sikandar  
No. 492 of 2022 Ali Shah, Advocates.

Respondent Mansoor Majeed : through Mr. Musawir Gajani  
Ayat in CrI. Acq. Appeal No. Advocate.  
587 of 2022.

Plaintiffs in Civil Suits : through M/s Saalim Salam  
Ansari, Ramish Farhat,  
Amir Raza Dayo &  
Farhatullah, Advocates

Dates of hearing : 24.04.2024, 09.05.2024,  
16.05.2024 & 20.05.2024

Date of judgment : 20.05.2024

-----

## JUDGMENT

**Muhammad Saleem Jessar, J.-** Through this single judgment, I propose to dispose of above said Criminal Appeal as well as Cr. Acquittal Appeal, as both appeals are the outcome of one and the same F.I.R. besides, factual as well as legal aspects in both cases are almost same.

2. Criminal Appeal No.492 of 2022 has been filed by Appellant Sohail Majeed Ayat against the judgment dated 06.08.2022 passed by IVth Additional

Sessions Judge, Karachi East (the Trial Court) whereby appellant was convicted U/s 265-H(ii) Cr.P.C. for an offence punishable under section 498-A P.P.C. and sentenced to suffer R. I. for seven years and to pay fine of Rs.10,00,000/-. In case of default in payment of fine, he was ordered to suffer S.I for six months more. Appellant was also convicted for an offence punishable under section 468 P.P.C. and sentenced to suffer R. I. for five years and to pay fine of Rs.100,000/-. In case of default in payment of fine, he was ordered to suffer further S.I for three months more. Appellant was also convicted for an offence punishable under section 471 P.P.C. and sentenced to suffer R. I. for two years and to pay fine of Rs.30,000/-. In case of default in payment of fine, he was to suffer S.I for one month more. Appellant was also convicted for an offence punishable under section 420 P.P.C. and sentenced to suffer R. I. for five years and to pay fine of Rs.30,000/-. In case of default in payment of fine, he was to suffer S.I for three months more. Appellant was also convicted for an offence punishable under section 427 P.P.C. and sentenced to suffer R. I. for two years and to pay fine of Rs.10,000/-. In case of default in payment of fine, he was to suffer S.I for one Month more. However, the appellant was extended benefit under section 382-B Cr.P.C. All the sentences were ordered to run concurrently.

3. Through CrI. Acquittal Appeal No. 587 of 2022, Appellant/Complainant Asif Ibrahim has challenged acquittal of accused/respondent Mansoor Majeed Ayat vide same judgment.

4. Brief facts of the prosecution case, are that complainant Asif Ibrahim lodged F.I.R. No.93/2020, at Police Station Ferozabad, Karachi East, for offences punishable under sections 420/468/471/427/34 PPC on 30.1.2020, stating therein that he resides at the address mentioned in the F.I.R. alongwith his family and his mother in law. He possesses Power of Attorney in respect of above said house and is doing business. It was further alleged that on 05.10.2019 he was present at his house when at about 1230 hours he heard the commotion of breaking the roof, therefore he came outside the house and found that one gunman was standing at main gate and on seeing him, he took out weapon and on inquiry he disclosed that he had come alongwith builder Mohammad Amin and Farhan. Meanwhile, Amin and Farhan also reached there alongwith two unknown persons. The complainant enquired from them as to why they were breaking the roof, whereupon they showed him

documents and Heir-ship Certificate and disclosed that they have purchased said house from Sohail Majeed and Mansoor Majeed who are owners of said house. It was further alleged in the FIR that thereafter the complainant informed the matter to 15 police and also moved application before concerned court. He also enquired from the society office and came to know that brothers of his mother in law namely, Sohail Majeed, Mansoor Majeed and deceased Ovais had obtained forged Heir-ship Certificate by way of fraud and produced the same in the society office and got transferred the property in their names. Thereafter, complainant got registered instant FIR against accused persons.

5. After usual investigation, the I.O. submitted challan before the concerned Judicial Magistrate, wherein he exonerated accused Mansoor Majeed under Section 497(2) Cr. P.C. whereas accused Sohail Majeed was shown to be in custody. The Judicial Magistrate after taking cognizance and obtaining receipt from accused under Section 241-A Cr.P.C. vide Ex:1, sent up R & Ps of the case to Sessions Judge, Karachi East, who marked the same to the trial Court for its disposal according to law.

6. During pendency of the trial complainant moved an application under Section 193 Cr. P.C. for summoning and joining Mansoor Majeed as co-accused in this case. Such his application was allowed by the trial Court vide order dated 02.09.2020 and summons were issued to the proposed accused Mansoor Majeed to join the proceedings as co-accused. Thereafter, Mansoor Majeed appeared and submitted surety in the sum of Rs.30,000/- and joined the trial.

7. A formal charge against accused persons was framed vide Ex: 3 to which they pleaded not guilty and claimed for trial vide their pleas Ex: 3/A and 3/B. At this stage, it is pointed out that in the F.I.R. there was no mentioned of Section 498-A PPC; however, while framing the Charge, the trial Court added said section therein.

8. In order to prove its case, prosecution examined PW-1 complainant Asif Ibrahim at Ex.4, who produced certified copy of order dated 06.11.2019 passed in Cr. M.A. No:1490/2019, copy of FIR, 6 photographs, site inspection memo, certified copy of transfer order dated 17.11.2008 and power of attorney as Ex: 4/ A to 4/F respectively. PW-2, Lubna Asif was examined at Ex.5, while

PW-3, Arhan Yousuf and PW-4, Zahir Shah were examined at Ex:6 and Ex:7 respectively. PW-5, Oath Commissioner Zaib-un-Nisa, was examined at Ex:8, who produced affidavit, undertaking, indemnity bond, heirship certificate dated 07.11.2007, verification, heirship certificate dated 18.1.2020 as Ex:8/A to 8/F respectively. PW-6, Nawab Khan, Civil Judge was examined at Ex:9, who produced verification and letter of IO as Ex:9/A & 9/B respectively. PW-7, IO ASI Mohamad Saeed was examined at Ex.10, who produced entries No:31, 38 dated 31.1.2020 recorded at 1610 hours, entry No:38 dated 31.1.2020 recorded at 1930 hours, letter addressed to Secretary, PECHS, Karachi for verification of documents, report of Secretary alongwith documents (containing 51 pages), entry No:36, letter addressed to Notary Public, reply of Notary Public, letter addressed to SSP 15 for verification regarding calling 15 and report of SSP office as Ex:10/A to 10/J respectively. Thereafter, learned DDPP, appearing for the State, closed prosecution side vide Statement Ex.11.

9. Statements of accused under Section 342 Cr. P.C. were recorded at Ex.12 and 13, wherein they denied the allegations of the prosecution levelled against them and claimed their false implication in the case by the police; however, accused persons neither examined themselves on oath under Section 340(2) Cr. P.C. nor produced any witness in their defence. However, accused Sohail Majeed filed written statement under Section 265-F(5) Cr. P.C. and annexed therewith certified copies of Complaint and Written Statement filed in Suit No.1322/2018, affidavit / undertaking, family agreement, Wasiyatnama and statements as 'A' to 'D'.

10. After formulating the points for determination in the case, recording evidence of the prosecution witnesses and hearing counsel for the parties, trial Court vide impugned judgment convicted and sentenced accused Sohail Majeed and acquitted accused Mansoor Majeed as stated above, hence these two appeals.

11. I have heard learned advocates appearing for the appellant, complainant and acquitted accused as well as learned Deputy P.G. appearing for the State and perused the material available on the record with their assistance.

12. In instant case, on various dates arguments of learned counsel for the parties as well as learned Deputy P.G. appearing for the State were heard.

13. On 24.04.2024 learned counsel for the appellant in Criminal Appeal No.492 of 2022 raised legal objection upon the Charge framed by the trial Court against the accused (*available as Ex.03 at page-37 of the paper book*) on the ground that in the FIR No.93 of 2020 registered at P.S. Ferozabad, Karachi, (*available at page-55 of the paper book*), there was no mention of Section 498-A PPC, thus the trial Court had wrongly framed charge against the appellant under Section 498-A PPC. In support of his plea, learned counsel submitted that at the time of transaction / mutation dated 17.11.2008 (*available at page-73 of the paper book*), section 498-A PPC was not in the field / existence as it was promulgated by the Legislature through Criminal Law (Third Amendment) Act, 2011 (Act No.XXVI of 2011) on 28th December, 2011; therefore, on this score alone, by allowing the appeal, case may be remanded for *de novo* trial.

14. On the other hand, learned counsel for the complainant opposed the proposal and submitted that general power of attorney was executed by the accused / respondent on 04.05.2018 (*available at page-77 of the paper book*) and FIR was lodged on 30.01.2020, therefore, the trial Court had rightly framed the charge. In support of his contention, he placed reliance upon the case of **BASHIR AHMED KHAN SIREWAL** Versus **REGIONAL PROVINCIAL ELECTION COMMISSIONER, HYDERABAD** (2022 YLR Note 123).

15. Learned Additional P.G. Sindh submitted that though the mutation with regard to disputed property by which women legal heirs were deprived of their due share in the property left by their elders was effected in the year 2008; however, further sale agreement through general power of attorney was effected in the year 2018 and subsequently the FIR was lodged on 30.01.2020, therefore, sequence of offence continued to accrue; hence, the trial Court had rightly framed the charge. In the circumstances, according to him, there is no need to remand the case for *de novo* trial.

16. On 09.05.2024 learned counsel for the appellant in Criminal Appeal No.492 of 2022 submitted that no clause was added in Criminal Law (Third Amendment), Act, XXVII of 2011 whereby Section 498-A to C PPC was inserted by the Legislature in the year 2011 thereby making said newly inserted provision of law to be effective retrospectively. He referred to the mutation order effected on 17.11.2008 (*available at page-73 of the paper book*), Affidavits of the legal heirs sworn on 25.06.2007 (*available at page-127 of the*

*paper book*), undertaking executed in the month of February, 2007 (*available at page-131 of the paper book*), Indemnity Bond executed on 25.06.2007 (*available at page-133 of the paper book*), legal Heirship Certificate issued by the concerned on 17.01.2007 (*available at page-137 of the paper book*) and submitted that the trial Court has committed a penal defect by adding Section 498-A PPC in the Charge and subsequently convicting the appellant under said provision of law which is not curable. He, therefore, prayed that by allowing instant appeal, impugned judgment may be set-aside and the case may be remanded to the appropriate forum for *de novo* trial. With regard to the contention raised by learned counsel for the complainant that power of attorney was executed by the appellant and others in the year 2018, therefore, provision of Section 498-A PPC would be applicable, learned counsel for the appellant submitted that it cannot be termed to be in continuation of the crime chain but it was executed upon the mutation effected in the year 2007; hence, it would not make the said provision of law to take retrospective effect. In support of his contention, learned counsel placed reliance upon an unreported judgment passed by learned Bench of Lahore High Court in Writ Petition No.15477 of 2021 (re-Muhammad Ajmal Versus Ex-Officio Justice of Pence/Additional Sessions Judge, Burewala, and ten others), as well as cases of MUHAMMAD WASEEM Versus SESSIONS JUDGE, ISLAMABAD and 2 other (2004 YLR 2867), MUKHTAR ALI QURESHI Versus STATION HOUSE OFFICER, POLICE STATION WESTRIDGE, RAWALPINDI (2004 P.Cr.L.J. 1545), MUHAMMAD AHMAD Versus S.H.O. and others (2005 MLD 1245), Mst. GHAZALA SAEED Versus Mst. SHAKARA ZAFAR and others (2005 YLR 1246). Lastly, learned counsel submitted that when concurrent jurisdiction is provided by the law, the first remedy always lies with the lower forum and not before any Apex forum. In support of his contention, learned counsel placed reliance upon the case of MUHAMMAD FAROOQ Versus AHMED NAWAZ JAGIRANI and others (PLD 2016 Supreme Court 55).

17. Learned Deputy P.G. Sindh, appearing for the State, opposed the appeal, so also the proposal advanced by learned counsel for the appellant and submitted that trial Court has rightly convicted and sentenced the appellant. He referred to Charge (*available at page-37 of the paper book*). He also referred to page-153 of the paper book and submitted that legal Heirship Certificate produced by the appellant through SHO was verified; hence, Civil Judge & Judicial Magistrate-III, West Karachi had declared that no such

Heirship Certificate was issued on 17.01.2007. He further submitted that when the appellant had not come with clean hands and knowingly deprived the women legal heirs of their share in the inherent property, he does not deserve to be extended any leniency. He, therefore, submitted that by dismissing the appeal in hand, conviction and sentences awarded to the appellant may be maintained.

18. Learned counsel for the complainant, while opposing the appeal, referred to challan / charge sheet (*available at page-363 of the paper book*) whereby learned Magistrate had accepted the charge sheet through his order dated 26.02.2020 by mentioning therein that the offence with which appellant was charged, is exclusively triable by the Court of Sessions; thus, sent the case papers to the Court of Sessions for trial. He submitted that said observations made by the Magistrate were not assailed by the appellant and even charge framed by the trial Court was not made questionable by the appellant before any forum, therefore, at this belated stage, they cannot seek such relief. As far as, case of the respondent in Criminal Acquittal Appeal is concerned, learned counsel submitted that he was released by the police during investigation, therefore, they moved an application under Section 193 Cr. P.C. which by means of order dated 02.09.2020 was *allowed (available at page-43 of the Court file)*, therefore, he has wrongly been acquitted by the trial Court. He referred to paras-3 & 4 of the Affidavit sworn in by the appellant / respondent (*available at page-127 of the paper book*) and submitted that they had clearly committed fraud and concealed the real facts, therefore, they are not entitled to the reliefs sought by them. He further submitted that by depriving women of their vested rights in the inherited property, appellant had also violated the mandatory provisions of Article 24(i), 25(ii) & 37 of the Constitution of Islamic Republic of Pakistan, 1973. In support of his contention, learned counsel placed reliance upon the case of *FARHAN ASLAM and others Versus Mst. NUZBA SHAHEEN and another* (2021 SCMR 179), an unreported judgment dated 01.12.2023 passed by learned Apex Court in Civil Appeal No.26-Q of 2017, case of *MUHAMMAD ASLAM Versus The STATE and others* (2017 SCMR 390) and also referred to the statement of accused (*available at page-323 of the paper book*) and submitted that motive of the appellant was to deprive the woman of her vested rights which is in contravention of Articles 18 & 21 of the Qanoon-e-Shahadat Order, 1984. In this regard, learned counsel referred to question No.1 in the Statement of accused under Section 342 Cr.P.C, so also

answer to question No.7 of said statement. He also argued that appellant had not assailed the order passed by learned Magistrate whereby he had accepted challan / charge sheet and subsequently learned trial Court framed charge against him in terms of section 498-A PPC.

19. However, thereafter the parties patched up their differences / dispute amicably. Consequently, on 16.05.2024 when the case was fixed for further arguments, at the very outset, learned counsel for appellant Sohail Majeed Ayat submitted that parties had agreed to enter into settlement outside the Court, therefore, a short adjournment may be granted so that he may file proper compromise application in writing. He, however, submitted that persons who had filed Civil Suits in relation to the dispute between the parties, which are pending adjudication before this Court, may also be directed to remain present before the Court on the next date for witnessing the compromise / settlement transaction. Learned counsel appearing for the complainant as well as respondents, so also learned Deputy P.G. Sindh also raised no objection to such request. Accordingly, it was ordered that Mansoor Majeed Ayat, who has filed Suit No.394 of 2020 for Partition, Cancellation of Document and Declaration, Farhan Yousif, the Builder, who has filed Suit No.553 of 2019 for Specific Performance of the Contract as well as Injunction and legal heirs of Mst.Shamim Yasin (since deceased), who had filed Suit No.1322 of 2018 for Partition, Cancellation of Documents and Injunction, were also directed to remain present before this Court on the next date of hearing along with their written statements, if any, as well as CNICs, and accordingly by consent of the parties, case was adjourned to 20.05.2024.

20. On 20.05.2024, in compliance with the directions issued as well as undertaking given by the appellant on 16.05.2024, appellant Sohail Majeed Ayat had brought two Pay Orders bearing No.7381221 for the sum of Rs.7,500,000/- and No.7381220 for the sum of Rs.7,500,000/- issued in favour of legal heirs of the complainant namely, deceased Shoaib Yasin CNIC No.61101- 6856550-7 and Lubna Asif having CNIC No.42201-8856766-8. The appellant handed over captioned pay orders to them, in Court. Upon receipt of said Pay Orders, both legal heirs of deceased complainant, who are also Plaintiffs in Civil Suit No.1322 of 2018 filed by their mother Ms. Shamim Yasin (deceased), undertook that they shall withdraw from Civil Suit No. 1322 of 2018, which is pending adjudication before this Court, on the coming date.



21. M/s. Farhan Yousuf and Fahad Amin, the Builders, who too had filed Civil Suit No.553 of 2019, were also present and had brought 18 Pay Orders bearing Nos. 2449629, 2449630, 2449631, 2449649, 2449650, 5226670, 1106388, 1106389, 1033446, 1106210, 1106211, 2449627, 2449628, 4738433, 4738434, 4738435, 4738430 and 7381279, total amounting to Rs.17,000,000/- (Rupees Seventeen Million), issued in favour of legal heirs of deceased complainant / Plaintiff in Civil Suit No.1322 of 2018 and had undertaken to deposit the same on the same day before the Nazir of this Court. The Plaintiffs in Civil Suit No.553 of 2019 further submitted that said amount shall be drawn by the legal heirs of deceased complainant Ms. Shamim Yasin, subject to handing over the remaining portion of property in suit to them within three (3) months' time.

22. Farhan Yousuf, Plaintiff, as well as attorney of co-Plaintiff Fahad Amin, also undertook to withdraw from Civil Suit No.553 of 2019, pending adjudication before this Court, on the coming date. He further submitted that major portion of the property in dispute is already in their possession; however, so far as remaining portion is concerned, appellant Sohail Majeed Ayat has handed over two Pay Orders to legal heirs of deceased complainant on the said date in Court, while he had also brought 18 Pay Orders mentioned above, duly issued and prepared in their favour, which they undertook to deposit before Nazir of this Court on the same day. They, therefore, requested that legal heirs of deceased may be directed to hand over peaceful and vacant possession of remaining area of the property in suit to them within three (3) months' time. Accordingly, legal heirs of deceased complainant Ms. Shamim Yasin namely, Shoaib Yasin and Lubna Asif undertook that they shall vacate the suit premises and hand over its peaceful, vacant and safe possession to M/s. Farhan Yousuf and Fahad Amin, in presence of Nazir of this Court in terms of their joint application for settlement, without fail.

23. Mr. Mahmood A. Qureshi, learned counsel for appellant Sohail Majeed Ayat, reiterated that Section 498-A PPC was promulgated by the Legislature on 28.12.2011 duly published in PLD 2012 {Central Statute} 145; whereas, instant offence, as is evident, had occurred in the year 2007 and mutation with regard to disputed property was effected in the year 2008, therefore, Section 498-A PPC was wrongly applied and added by the trial Court in the Charge. He further submitted that since the Legislature had not provided retrospective effect in respect of said offence, therefore, conviction and sentence awarded to

appellant in terms of Section 498-A PPC is unjustified and cannot be maintained; hence, he prayed that conviction and sentence awarded to appellant Sohail Majeed Ayat to that extent may be set-aside. As far as, remaining Sections are concerned, learned counsel submitted that although he intended to make a prayer for remand of the case for its fresh trial before the appropriate forum; however, since the parties have entered into settlement / compromise outside the Court, thereby have buried their hatchets and do not want to prosecute each other on both counts, as such, in order to maintain peace and tranquility as well as law and order situation in the area, he would submit that it will be appropriate to consider their submissions by treating said offences as compoundable. He further submitted that though the sections are not compoundable; however, dispute between the parties is over inherited property and that being the case of civil rights, was to be adjudicated upon by the proper forum; however, at this juncture, as both the parties have settled their differences and have filed a joint application for settlement (being M.A No.6646 of 2024), which too is supported by their respective affidavits, whereby appellant has compensated the legal heirs of deceased Shamim Yasin in terms of Pay Orders mentioned above while remaining amount / compensation is to be deposited by the builders M/s. Farhan Yousuf and Fahad Amin, therefore, it would be in the best interest of justice that said compromise application may be allowed and appellant Sohail Majeed Ayat may be acquitted of the charges.

24. Accordingly the joint application for settlement (bearing M.A No.6646 of 2024) which is supported by the affidavits of all concerned and are duly sworn in by them in the office, was taken on record.

25. Complainant Asif Ibrahim, who is also husband of Ms. Lubna Asif / legal heirs of deceased Shamim Yasin / victim of the crime, in view of above discussion and joint application filed by them for settlement, also did not wish to press connected appeal against acquittal of respondent Mansoor Majeed Ayat. He also raised no objection to the grant of Criminal Appeal No.492 of 2022 as well as acquittal of appellant Sohail Majeed Ayat. He admitted the contents of joint application for settlement filed by them on said date before this Court. Complainant further undertook that they would hand over vacant and peaceful possession of remaining property in suit to M/s. Farhan Yousuf and Fahad Amin within three (3) months' time, in presence of Nazir of this

Court, subject to payment of compensation of amount of Rs.17 Million to them.

26. Learned Deputy PG Sindh, submitted that dispute between the parties was over inheritance and since the convict/appellant as well as other stakeholders; including builders Farhan Yousuf and Fahad Amin (on Court notice), have undertaken to deposit amount of Rs.17 Million before Nazir of this Court on said date and as victim legal heirs of deceased Shamim Yasin have been compensated, therefore, he also raised no objection to the grant of instant appeal on the basis of joint application for settlement filed by the parties on the said date, as well as acquittal of appellant Sohail Majeed Ayat. As far as Section 498-A PPC is concerned, learned Deputy P.G submitted that it was promulgated on 28.12.2011 and the offence as well as mutation in respect of the property in dispute had occurred/mutated in the year 2007-08; hence, legislature had not provided any provision or clause by which section 498-A PPC has been given retrospective effect, therefore, it was not applicable and the trial Court has wrongly added it in the Charge. He, therefore, submitted that conviction and sentences awarded to appellant to the extent of Section 498-A PPC, is not maintainable. As far as, remaining sections are concerned, learned Deputy P.G, submitted that though said sections are not compoundable; however, as the parties have settled down their differences outside the Court and they do not want to prosecute each other anymore; thus, a joint application for settlement filed by the appellant as well as legal heirs of deceased Shamim Yasin and others, who although are not direct party to these proceedings but are involved in captioned Civil Suits filed by them which are still pending adjudication before this Court, thus they being necessary parties, have also extended their no objection. Hence, in view of dicta laid down by this Court in cases of ASHIQUE SOLANGI and another Versus THE STATE (PLD 2008 Karachi 420) and AKHTAR HUSSAIN Versus STATION HOUSE OFFICER SACHAL and 2 others (2020 P.Cr.L.) Note 20), he has no objection to the grant of the appeal.

27. As far as, non-compoundability of the offences is concerned, learned DPG submitted that **since upon the persuasion of the Court for reconciliation**, parties have agreed to settle all of their disputes / differences amicably, and, thus, have filed a joint application for settlement viz. M.A No.6646 of 2024 thereby they have entered into compromise and settled down

their differences; hence, the application bearing M.A No.6646 of 2024 may be termed and treated as an initiative in terms of provisions contained under Alternative Dispute Resolution Act (II) of 2017, therefore, in order to resolve the dispute through mediation which provides many aspects for deliberation, reconciliation as well as compromise, even the non-compoundable offences with which appellant has been charged, may be permitted to be compounded and on the basis of such settlement between the parties, by granting listed application, appeal in hand may be allowed.

28. Accordingly and in view of dicta laid down by the Honourable Supreme Court of Pakistan in cases of PROVINCE OF PUNJAB through Secretary C&W, Lahore and others Versus Messrs HAROON CONSTRUCTION COMPANY, GOVERNMENT CONTRACTOR and others (2024 SCMR 947), FAISAL ZAFAR and another Versus SIRAJ-UD-DIN and 4 others (2024 CLD 1), NETHERLANDS FINANCIERINGS MAATSCHAPPIJ VOOR ONTICKKLINGSSLANDEN N.V. (F.M.O.) Versus MORGAH VALLEY LIMITED and SECP (PLD 2024 Lahore 315) and AAMIR and 2 others Versus THE STATE and another (2011 MLD 1468). listed application bearing M.A No.6646 of 2024 was allowed on the terms and conditions described and mentioned under the application.

29. Now, I proceed to assign reasons for the above said short order.

30. The moot point to be determined in the instant case is; as to whether in the circumstances of the case, compromise between the parties could be allowed in respect of non-compoundable offences?

31. Learned counsel for the complainant, so also advocate for the appellant in Cr. Acquittal Appeal, as well as learned D.P.G. appearing for the State, prior to filing of compromise application, had supported the conviction and sentence awarded to the accused / appellant; however, after filing of compromise application, they also conceded to disposal of the appeal on the basis of compromise arrived at between the parties and acquittal of the appellant even in respect of non-compoundable offences.

32. It may be observed that the Superior Courts have held that *compromise is meant to promote harmonious living and maintain cordial relations between the parties, therefore, even in non-compoundable offences if the*

*complainant / victim himself does not want to pursue the case any further, then the courts may accept the compromise arrived at between the parties.*

33. In this connection, guidance could be sought from the following decisions.

34. In case of *ASHIQ SOLANGI and another Vs. THE STATE (PLD 2008 Karachi 420)*, learned Bench of this Court, held as under:

*“2. The applicants were convicted under sections 452, 337-H(2), 506/2 and 148, P.P.C. The legal question is that certain offences are compoundable and certain offences are not compoundable. I am of the clear view that if the main offence is compoundable and parties have compromised against themselves then the small offences should be treated as compromised though under the statute those are not compoundable. In the present revision keeping in view the compromise which has taken place between the parties outside the Court, it is not proper to uphold the conviction specially when the complainant does not want to pursue his case anymore. In the circumstances I accept the revision application and order acquittal of both the applicants from the charge. Their conviction and sentence is set aside. They are present on bail, their bail bonds are cancelled and sureties discharged.”*

35. In case of *AAMIR and 2 others Vs. The State and another (2011 MLD 1468 [Lahore])*, Honourable Lahore High Court, held as under:

*“9. Now I advert to the factum whether compromise can be effected in non-compoundable offence. I am of the view that the compromise is meant to promote harmonious living and maintain cordial relations between the parties. This view was affirmed by august Supreme Court of Pakistan in the case of *Ghulam Shabbir and 2 others v. The State (2003 SCMR 663)*.”*

36. In case of *GHULAM SHABBIR and 2 others Vs. The State*, reported in **2003 SCMR 663**, decided by a Full Bench of Honourable Supreme Court, which was also relied upon in the case of *AAMIR and 2 others* (supra), the accused were tried for the charge under sections 302/324/337-A(ii)/148 and 149, P.P.C read with section 9 and sections 6, 7 and 8 of **Anti-Terrorism Act, 1997** by the Special Court constituted under Anti-Terrorism Act, 1997, in pursuance of F.I.R. No. 174, dated 13th August, 1993 registered at Police Station Jand, District Attock. On conclusion of the trial the trial Court found the accused persons guilty of the charge and vide judgment dated 23rd September 2000 convicted and sentenced them for the abovesaid offences. The accused were also convicted under Section 9 of ATA, 1997 and sentenced to

undergo 4 years' R.I. each with fine of Rs.10,000 each in default whereof to undergo 2 months' R.I. In Appeal, Honourable Lahore High Court, Rawalpindi Bench, Rawalpindi, modified the sentences awarded under Sections 302/149, whereas the accused were acquitted for the offences under Sections 324/149 PPC. However, rest of the conviction / sentence was maintained, which also included conviction and sentence of R.I. for four years under Section 9 of the ATA, 1997. Thereafter, a Criminal Miscellaneous Application was filed on behalf of the accused persons, wherein it was stated that rival parties have compounded the offence and have forgiven to each other in the name of Almighty Allah and in this behalf a compromise had been effected, therefore, it was prayed that the same may be accepted and the accused may be acquitted of the charge. Honourable Supreme Court allowed said application holding as under:

*“Accordingly, the permission to compound the offence in view of subsection (5) of section 345 of the Cr.P.C. is accorded to the parties in order to maintain cordial relations and bury their hatchets forever. Resultantly, Criminal Miscellaneous No. 123 of 2002 is allowed... .. Since leave to compound the offence is allowed, as such we set aside the conviction / sentence of the petitioners as well as impugned judgment dated 25th September, 2001. The petitioners namely Ghulam Shabbir son of Ghulam Yousaf, Ghulam Raza son of Ghulam Mohi-e-Din and Mushtaq Ahmed are acquitted under subsection (6) of section 345, Cr.P.C. They are directed to be released forthwith, if not required in any other case.”*

37. It may be pointed out that in captioned case Honourable Supreme Court allowed the compromise application although the accused were also convicted under Section 9 of the Anti-Terrorism Act, 1997 which is a **non-compoundable** offence.

38. In another case of *ALI RAZA and another Vs. The State and another*, reported in **PLD 2013 Lahore 651**, it was held as under:

*“If the loss allegedly sustained by the complainant and his wife at the hands of the accused / petitioners has been made good, to their entire satisfaction, there may be no harm in allowing the instant applications for bail after arrest. Even otherwise, it has always been observed that the compromise even in non-compoundable offences is a redeeming factor, which brings peace, harmony and coherence in the society and it may have far-reaching positive effects, in the lives of warring-parties.”*

39. In case of *TASAWAR HUSSAIN Vs. The STATE and another* (2021 YLR Note 124 [Islamabad]), it was held as under:

*"7. Section 345, Cr.P.C. relates to compounding offences and subsection (1) of section 345 provides that the offences under the sections of the Pakistan Penal Code specified in the first and second columns of the table given therein may be compounded by the persons mentioned in the third column of that table.*

*8. Offence of robbery as mentioned in section 392 of Pakistan Penal Code does not find mention in the table given in section 345, subsection (1) of the Criminal Procedure Code and, therefore, is not compoundable. Similarly, section 411 of Pakistan Penal Code does not figure in the table mentioned under section 345, Cr.P.C. and, therefore, is not compoundable. However, the fact that the complainant himself has executed the affidavit, wherein he has undertaken that he has forgiven the petitioner/accused on the name of Allah Almighty and shall have no objection if the petitioner / accused is acquitted or released on bail after arrest, may be considered as the ground for the grant of bail in the interest of justice and equity. Where the complainant party is no longer willing to prosecute the matter any further then it is not for this Court or the Courts subordinate to it to compel the parties to do so, as the saying goes, "you can take the horse till the water but you cannot make him drink".*

*9. In the similar case reported in "Muhammad Akram v. The State 1995 MLD page 1826" the factum of compromise was taken into consideration and bail was granted. More or less, the same view was taken in a case of rape in the case reported in "Mst. Mussarat Elahi alias Bibi v. The State 1997 PCr.LJ 1193", and the Supreme Court of Pakistan took judicial notice of a compromise in a matter which was otherwise not compoundable and converted the petition for Special Leave to Appeal into an appeal and, therefore, accepted the appeal by reducing the sentence to that which had already been undergone in the case of Ghulam Ali v. The State reported as 1997 SCMR 1411.*

*10. Thus, I am fortified in my opinion that judicial notice of a compromise having taken place can be taken even in offences which are not compoundable.*

40. In case of *MUHAMMAD JAMIL and others Vs. The State and another*, reported in 2013 P Cr. L J 1458 [Lahore], it was held as under:

*"Though, the accusations, mentioned in the F.I.R., constitute non-compoundable offences yet, compromise / reconciliation between the parties has always been held a redeeming feature, which brings peace and harmony in the society and only for this reason, the courts have always respected enthusiasms and passion of the parties to compound the offence, being compoundable or not. This is of course, not a job of the courts to pressurize the parties to continue with their hostilities or prosecute each other for years."*

41. In view of above, it would be in the best interest of justice, equity and fair play that the compromise arrived at between the parties in the instant case in respect of compoundable offences viz. Section 420 and 427 PPC as well as non-compoundable offences is accepted / allowed to take effect.

42. Now I advert to the contention of learned counsel for the appellant in respect of wrongful insertion of Section 498-A PPC in the Charge and subsequent conviction of the appellant under section 498-A PPC by the trial Court. According to learned counsel, in FIR No.93 of 2020 registered at P.S. Ferozabad, Karachi, there was no mention of Section 498-A PPC; therefore, insertion of said Section in the Charge and conviction of the appellant under said Section by the trial Court was not in consonance with law. According to learned counsel, at the time of transaction / mutation dated 17.11.2008, section 498-A PPC was not in the field / existence as it was promulgated by the Legislature through Criminal Law (Third Amendment) Act, 2011 vide Act No.XXVI of 2011 on 28th December, 2011; therefore said section was wrongly inserted in the Charge by the trial Court. The learned counsel for rival parties as well as learned A.P.G. appearing for the State, at the time when the compromise application was not yet filed by the parties, submitted that the trial Court has rightly inserted and subsequently convicted the accused / appellant under Section 498-A PPC; however, after filing of compromise application, they also conceded to disposal of the appeal on the basis of compromise arrived at between the parties and acquittal of the appellant even for the offence under section 498-A PPC too.

43. I find weight in said legal plea raised by appellant's counsel. In this connection, it would be advantageous to refer to a judgment pronounced in the case of *NOOR REHMAN and another Vs. The STATE through Additional Advocate General, Darul Qaza, Swat and another*, reported in **2023 P.Cr.L.J. 310 [Peshawar (Mingora Bench)]**. It was held by a Division Bench in captioned case as under:

*"7. During the course of arguments on 03.09.2019, it surfaced from the record that the murder in the present case, having been allegedly committed on the pretext of honor, is non-compoundable in terms of section 345, Cr.P.C, however, the aforesaid bar was introduced through Criminal Law (Amendment) (Offences in the Name of or on Pretext of Honor) Act, 2016 and later on extended to PATA. Thus, the main question which arose at that juncture was that as to whether the said Act can be applied to the present case which was committed prior*



*to the enforcement of the Act. For resolution of the said controversy, M/s Aurngzeb, Sabir Shah, Masood-ur-Rehman, Barrister Asad-ur - Rehman, Jehanzeb Buneri and Aziz Ahmad Hashmi Advocates were appointed as amici curiae who assisted this Court regarding the applicability and retrospective effect of section 311, P.P.C. read with section 345, Cr.P.C. Thereafter, record of the case was sent to trial Court for confirmation of compromise with directions to submit a detailed report before this Court which has already been received.*

*8. Admittedly, the clog on compromise in honor killing cases was introduced through Criminal Law (Amendment) (Offences in the Name or on pretext of Honor) Act, 2016. Prior to that the offence of honor killing was compoundable though of course with permission of Court, however, thereafter the ibid Amendment Act, 2016 was brought restricting compromise in honor killing cases. The moot questions before this Court are whether the said Act would have retrospective effect on the present case and what would be the relevant date of composition of the offence in question. The relevant date of composition of offence, in our view, would be the date on which the occurrence took place. In the present case the occurrence of alleged honor killing took place in 2011 and by that time the said offence was compoundable albeit with permission of Court, therefore, the bar of compromise introduced through the Amendment Act, 2016 cannot be made retrospectively applicable to this case."*

44. In case of *MUHAMMAD YOUSAF Vs. MUHAMMAD YOUSAF and another*, reported in 2014 P.Cr.L.J. 1517 [Lahore], it was held as under:

*"It is the admitted position on the record that at the time of issuance of the disputed cheques, the law did not exist for taking cognizance in respect of the issuance of negotiable instrument drawn dishonestly and to avoid the liability, but it existed at the time of availing the remedy before the court that is why F.I.R. was registered under section 489-F, P.P.C. on 30-5-2004 much after the promulgation of the said provisions of law. It is settled principle of law that a lis shall be dealt with in accordance with the law available at the time of accrual of a right to sue in favour of a person and this principle has been envisaged in case of "Colonial Sugar Mills" reported as 1905 Appeal Cases 369, subsequently, followed in chain of cases. Although the right to sue in favour of the appellant had existed on the date of issuance of the cheques but he did not set into motion criminal machinery at that time, thus a valuable right has accrued in favour of respondent, of which he cannot be deprived due to indolence of appellant. The learned trial Court keeping in view these facts that section 489-F, P.P.C. has no retrospective effect and is prospective in nature has not committed any illegality nor the order passed under section 249-A, Cr.P.C. can be treated as perverse or against the canons of law, as such, the same is liable to be maintained."*

45. In case of *Haji NAWAB DIN Vs. The State* (PLD 1996 Lahore 304), it was held as under:

*“7. The petitioner allegedly committed an offence under Article 3/4, the as Prohibition (Enforcement of Hadd) Order 4, 1979 on 4-3-1992 which was punishable with imprisonment for life or with imprisonment which is not less than 2 years and whipping not exceeding 30 stripes and shall also be liable to fine. The persons accused of these offences were not liable to be punished to death. The trial of the petitioners for the offences under section 9(c) of the Ordinance would be in violation of the safeguard provided under Article 12 of the Constitution of Islamic Republic of Pakistan, 1973. In the Ordinance VI,, 1995 it is nowhere provided that it would have retrospective effect. The Ordinance cannot be termed merely a procedural law but it materially affect the rights of the individuals, and therefore, cannot be permitted to have retrospective effect. As a matter of fact this Ordinance is prospective in nature and persons who committed the offences prohibited by this Ordinance on the day of its enforcement or thereafter shall be governed by this Ordinance and not the persons who have committed offences prior to its enforcement. The nexus is the time of commission of offence and not the time of commencement of the trial or its conclusion. Any piece of legislation which deals with the punishment cannot be termed mere a procedural. legislation.”*

46. In case of *ABU BAKAR Vs. The State*, reported in 2006 P.Cr.L.J. 659 [Lahore], it was held as under:

*“6. The instant case was registered in the year, 1994 when neither the Control of Narcotic Substances Ordinance, 1995 nor Control of Narcotic Substances Act, 1997 was enforced... .. Control of Narcotics Substances Act, 1995 was enforced on 15-8-1995 and section 9 of the Ordinance enhanced the punishment of life imprisonment to death and also provided that the amount of fine shall not be less than Rs.1,00,000, however, this Ordinance being a Penal Ordinance cannot have retrospective effect and the petitioner cannot be tried or charged for the offence under section 9(c) of Control of Narcotics Substances Ordinance, 1965. Moreover, Article 12 of the Constitution of Islamic Republic of Pakistan, 1973 safeguards the petitioner's right and provides protection against retrospective punishment.”*

47. In view of above legal position, it can safely be held that insertion of Section 498-A PPC in the Charge framed by the trial Court and subsequent conviction of the accused / appellant for the offence under said section was not warranted under the law, so also it was contrary to the dictum laid down by the Superior Courts from time to time.

48. The upshot of above discussion is that Compromise Application (M.A No.6646 of 2024), is granted. Consequently, Criminal Appeal No.492 of 2022 stands allowed and the impugned judgment dated 06.08.2022 penned down by learned 4th Addl. Sessions Judge, Karachi (East) in Sessions Case No.761 of 2020 (re-the State Versus Sohail Majeed Ayat and another) being outcome of

FIR No.93 of 2020 registered at P.S. Ferozabad, Karachi, for offences under Sections 498-A, 468, 471, 427, 420, 34 PPC is set-aside to the extent of conviction and sentence of appellant Sohail Majeed Ayat only. Resultantly, Appellant Sohail Majeed Ayat is acquitted of the charges; he was present on bail, therefore, his bail bond stood cancelled and surety furnished by him was ordered to be discharged. As learned counsel for the complainant did not press Criminal Acquittal Appeal No.587 of 2022, therefore, Appeal against Acquittal is hereby dismissed, as not pressed.

49. The details of compromise as well as undertakings given by the respective parties were elaborately mentioned in the short order dated 20.5.2024. The said order, which is being reproduced hereunder, shall be deemed to be part and parcel of this judgment:

*“In compliance of directions as well as undertaking given by the appellant vide order dated 16.05.2024, appellant Sohail Majeed Ayat has brought two Pay Orders bearing Nos.7381221 amounting to Rs.7,500,000/- and No.7381220 amounting to Rs.7,500,000/- issued in favour of legal heirs of the complainant (deceased) namely Shoaib Yasin CNIC No.61101- 6856550-7 and Lubna Asif having CNIC No.42201-8856766-8. The appellant handed over above Pay Orders to them, in Court. Upon receipt of said Money Orders, both legal heirs of deceased complainant, who are also Plaintiffs in Civil Suit No.1322 of 2018 filed by their mother Ms. Shamim Yasin (deceased), undertake that they shall withdraw from Civil Suit No. 1322 of 2018, which is pending adjudication before this Court, on the coming date.*

*M/s. Farhan Yousuf and Fahad Amin, the Builders, who too had filed Civil Suit No.553 of 2019, are present and have brought 18 Pay Orders bearing Nos. 2449629, 2449630, 2449631, 2449649, 2449650, 5226670, 1106388, 1106389, 1033446, 1106210, 1106211, 2449627, 2449628, 4738433, 4738434, 4738435, 4738430 and 7381279, total amounting to Rs.17,000,000/- (Rupees Seventeen Million), issued in favour of legal heirs of deceased complainant/Plaintiff in Civil Suit No.1322 of 2018 and undertake to deposit the same today before Nazir of this Court. The Plaintiffs of Civil Suit No.553 of 2019 further submit that said amount shall be drawn by the legal heirs of deceased complainant Ms. Shamim Yasin subject to handing over the remaining portion of property in suit to them within three (3) months' time.*

*Mr. Farhan Yousuf, Plaintiff as well as attorney of co-Plaintiff Fahad Amin also undertakes to withdraw from Civil Suit No.553 of 2019, pending adjudication before this Court, on the coming date. He further submits that major portion of the property in dispute is already in their possession; however, as far as remaining portion is concerned, appellant Sohail Majeed Ayat has handed over two Pay Orders to legal heirs of deceased complainant today, in Court, while he has also brought 18 Pay Orders mentioned above, duly issued and prepared in their favour, is going to be deposited before Nazir of this Court today; hence, legal heirs of deceased may be directed to hand over*

*peaceful and vacant possession of remaining area of the property in suit to them within three (3) months' time. Legal heirs of deceased complainant Ms. Shamim Yasin namely Shoaib Yasin and Lubna Asif undertake that they shall vacate the premises in suit and hand over its peaceful, vacant and safe possession to M/s. Farhan Yousuf and Fahad Amin, in presence of Nazir of this Court in terms of their joint application for settlement, without fail.*

*Mr. Mahmood A. Qureshi, learned counsel for appellant Sohail Majeed Ayat, submits that Section 498-A PPC was promulgated by the Legislature on 28.12.2011 vide PLD 2012 Central Statute 145; whereas, instant offence, as is evident, had occurred in the year 2007 and mutation with regard to disputed property was effected in the year 2008, therefore, Section 498-A PPC was wrongly applied and added by the trial Court under the charge. He further went on to say that since the Legislature had not provided retrospective effect, therefore, conviction and sentences awarded to appellant in terms of Section 498- A PPC are unjustified and cannot be maintained to; hence, submits that conviction and sentences awarded to appellant Sohail Majeed Ayat to that extent may be set-aside. As far as, remaining Sections are concerned, learned counsel submits that he had to make a prayer for remand of the case for its trial before the appropriate forum and since the parties have entered into settlement / compromise outside the Court, thereby have buried their hatchets and do not want to prosecute each other on both counts. In order to maintain peace and tranquility as well as law and order situation in the area, it will be appropriate to consider their submissions by treating said offences as compoundable. He further submits that though the sections are not compoundable; however, dispute between the parties is over inherited property and that being the case of civil rights was to be adjudicated upon, by the proper forum; however, at this juncture, both the parties have settled their differences and filed a joint application for settlement (bearing M.A No.6646 of 2024), which too is supported by their respective affidavits, for which appellant has compensated the legal heirs of deceased Shamim Yasin in terms of Pay Orders mentioned above while remaining amount/compensation is to be deposited by the builders M/s. Farhan Yousuf and Fahad Amin. Learned counsel submits that Court has already adopted Alternative Dispute Resolution for reconciliation and settlement of the dispute between the parties, therefore, a joint application for settlement submitted by the parties may be considered and appellant Sohail Majeed Ayat may be acquitted of the charges by way of compromise. Hence, he prays for grant of appeal as well as setting aside of the impugned judgment. In support of his contention, learned counsel files a joint application for settlement (bearing M.A No.6646 of 2024) which is supported by the affidavits of all concerned and are duly sworn in by them in the office, today, taken on record.*

*Complainant Asif Ibrahim, who is also husband of Ms. Lubna Asif / a legal heir of deceased Shamim Yasin / victim of the crime, in view of above discussion and joint application filed by them for settlement, does not wish to press connected appeal against acquittal of respondent Mansoor Majeed Ayat. He has also no objection for grant of Criminal Appeal No.492 of 2022 as well as acquittal of appellant Sohail Majeed Ayat. He admits contents of joint application for settlement filed by them today, before this Court. Complainant further undertake that they would hand over vacant and peaceful possession of remaining property in suit to M/s. Farhan Yousuf and Fahad Amin within*

*three (3) months time, in presence of Nazir of this Court, subject to payment of compensation of amount of Rs.17 Million.*

*Learned Deputy PG Sindh, submits that dispute between the parties was over inheritance and since the convict/appellant as well as other stakeholders; including builders Farhan Yousuf and Fahad Amin (on Court notice) undertake to deposit amount of Rs.17 Million before Nazir of this Court today; hence, victim family/legal heirs of deceased Shamim Yasin have been compensated, therefore, he has no objection for grant of instant appeal and joint application for settlement filed by the parties today, as well as acquittal of appellant Sohail Majeed Ayat. As far as Section 498-A PPC is concerned, learned Deputy P.G submits that it was promulgated on 28.12.2011 (PLD 2012 Central Statute 145) and the offence as well as mutation in respect of the property in dispute had occurred/mutated in the year 2007-08; hence, legislature had not provided any provision of clause by which section 498-A PPC has got retrospective effect, therefore, it was not applicable and the trial Court has wrongly added it under the charge. He, therefore, submits that conviction and sentences awarded to appellant to the extent of Section 498-A PPC, are not maintainable. As far as, remaining sections are concerned, learned Deputy P.G, submits though said sections are not compoundable; however, parties have settled down their differences outside the Court and they do not want to prosecute each other anymore; thus, a joint application for settlement filed by the appellant as well as legal heirs of deceased Shamim Yasin and others, though they are not direct party to these proceedings, but are involved in captioned Civil Suits filed by them which are still pending adjudication before this Court, are necessary party and extend their no objection. Hence, in view of dicta laid down by this Court in cases of ASHIQUE SOLANGI and another Versus THE STATE (PLD 2008 Karachi 420) and AKHTAR HUSSAIN Versus STATION HOUSE OFFICER SACHAL and 2 others (2020 P.Cr.L.) Note 20), he has no objection for grant of appeal.*

*As far as, non-compoundability of the offences is concerned, learned DPG submits that since upon the intervention of the Court for reconciliation, deliberation and compromise between the parties has been successful and the party(ies) have filed a joint application for settlement (vide M.A No.6646 of 2024) thereby they have entered into compromise and settled down their differences; hence, the same application may be termed and treated as an initiative in the terms of provisions contained under Alternative Dispute Resolution Act (II) of 2017, therefore, in order to resolve the dispute through mediation which provides many aspects for deliberation, reconciliation as well as compromise, the offences with which appellant has been charged, may be termed to be compoundable and upon the basis of such settlement between the parties, by allowing listed application, appeal in hand may be allowed. The point raised by learned DPG requires consideration.*

*Accordingly and in view of dicta laid down by the Honourable Supreme Court of Pakistan in cases of PROVINCE OF PUNJAB through Secretary C&W, Lahore and others Versus Messrs HAROON CONSTRUCTION COMPANY, GOVERNMENT CONTRACTOR and others (2024 SCMR 947), FAISAL ZAFAR and another Versus SIRAJ-UD-DIN and 4 others (2024 CLD 1), NETHERLANDS FINANCIERINGS MAATSCHAPPIJ VOOR ONTICKKLINGSSLANDEN N.V. (F.M.O.) Versus MORGAH*

VALLEY LIMITED and SECP (PLD 2024 Lahore 315) and AAMIR and 2 others Versus THE STATE and another (2011 MLD 1468). listed application (bearing M.A No.6646 of 2024) is hereby allowed on the terms and conditions described and mentioned under listed application. The parties shall follow the terms and conditions mentioned in the listed application as well as the condition that Builder M/s. Farhan Yousuf and Fahad Amin, who are Plaintiffs in Civil Suit No.553 of 2019 shall deposit pay orders amounting to Rs. 17 Million today, before Nazir of this Court and submit such receipt.

In view of above, learned counsel for the complainant does not wish to press Criminal Acquittal Appeal No.587 of 2022, which too is not opposed by the other side. Accordingly, it is hereby dismissed, as not pressed.

In the circumstances and in view of mutual consent of the parties as well as their joint application for settlement, all the parties present, shall withdraw from their respective Suits viz. Civil Suits No. 1322 of 2018, 553 of 2019, 394 of 2020 and 419 of 2020, pending adjudication before this Court, within two (2) weeks' time. Legal heirs of deceased complainant Ms. Shamim Yasin, who are Plaintiffs in Civil Suit No.1322 of 2018 shall vacate and hand over the peaceful and vacant possession of remaining portion of the property in suit to M/s. Farhan Yousuf and Fahad Amn, within three (3) months' time, in presence of Nazir of this Court. Nazir of this Court, after handing over possession of remaining portion of the property to M/s. Farhan Yousuf and Fahad Amin, shall release the amount of Rs.17 Million deposited by M/s. Builders Farhan Yousuf and Fahad Amin to legal heirs of deceased Shamim Yasin namely Lubna Asit and Shoaib Yasin, under proper receipt / acknowledgement with report compliance. Nazir of this Court is directed to submit such report.

Heard and perused record. For the reasons to follow on, instant appeal bearing No.492 of 2022 is hereby allowed. Consequently, impugned judgment dated 06.08.2022 penned down by learned 4th Addl. Sessions Judge, Karachi (East) vide Sessions Case No.761 of 2020 (re-the State Versus Sohail Majeed Ayat and another) being outcome of FIR No.93 of 2020 registered at P.S Ferozabad, Karachi for offences under Section 498-A, 468, 471, 427, 420, 34 PPC is set-aside to the extent of conviction and sentences of appellant Sohail Majeed Ayat, only. Appellant Sohail Majeed Ayat is acquitted of the charges; he is present on bail, therefore, his bail bond stands cancelled and surety furnished by him, is hereby discharged.

Office to place a copy of this order in the connected matter.”

**JUDGE**

Karachi  
20.05.2024