

THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Crl. Appeal No. S- 79 of 2022

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

1. For hearing of MA 7572/2023
2. For hearing of MA 7708/2023
3. For hearing of MA 7709/2023
4. For hearing of MA 4553/2023
5. For regular hearing.

M/s Ubedullah Ghoto and Maeemuddin Chachar, Advocates for the appellants.

Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

Date of Hearing & Order: **19-02-2024**

ORDER

MUHAMMAD IQBAL KALHORO J.,- During pendency of appeal, appellants and legal heirs of deceased have filed applications in terms of sections 345(2) and 346(6) CrPC (MAs-7572 & 7708 of 2023) so also application (MA-7709 of 2023) moved by Mst. Rubeena Khatoon for her appointment as Wali on behalf of minors, namely, Azhar Jameel, Sajida, Abida, Laiba, Asifa and Bisma Batool being her daughters and son. Vide order dated 11.12.2023, compromise applications were sent to the trial Court for ascertaining legal heirs and genuineness of compromise and submitting such report.

2. Learned Additional Sessions Judge-III, Ghotki has submitted a report dated 24.01.2024, wherein he has disclosed that major legal heirs of deceased Jameel Ahmed were examined by him, who in their statements have voluntarily, without any fear, pressure or any inducement forgiven the appellants in the name of Almighty ALLAH and waived their right of Qisas and Diyat and in lieu of compromise, they have also not received the hand of any girl from appellants. Injured PWs have also forgiven the appellants. So far minor legal heirs of deceased, namely, Azhar Jameel, Sajida, Abida, Laiba, Asifa and Bisma Batool are concerned, their mother Mst. Rubeena Khatoon has already moved application for her appointment as their Wali, which is allowed by consent and she is appointed as Wali of her minor children.

3. Today, Hafiz Ghulam Qadir (father) and Mst. Rubeena Khatoon (widow) of deceased and all the minors/legal heirs of deceased have appeared before this Court and admitted their signatures/thumb impressions on their affidavits and contents of the same. They have further stated to have voluntarily forgiven the appellants in the name of Almighty ALLAH without any coercion, compulsion or inducement and waived their right of Qisas and Diyat and recorded no objection to the acquittal of appellants. Mst. Rubeena Khatoon, the Wali of above named minors has also stated on oath to have forgiven the appellants in the name of Almighty Allah and waived the right of Qisas on behalf of minors.

4. Pursuant to order dated 12.02.2024, the Accountant has submitted report determining the share of Diyat amount of all minors to the tune of Rs. 4,786,847.25, in terms of latest Notification dated 4th September, 2023, issued by the Government of Pakistan, Finance Division.

5. In view of above circumstances, learned Deputy P.G for the State has recorded no objection to the grant of permission to compound the offence and on the basis of which to acquit the appellants.

6. I have carefully heard the learned counsel for parties, perused the impugned judgment, compromise applications and report of the trial Court regarding genuineness of compromise between the parties. *Prima facie*, it appears that ingredients of section 311 PPC are not attracted in the instant case. Therefore, in my humble view and looking to the circumstances of this case on the basis of report of learned trial Court, the compromise arrived at between the parties is voluntary and genuine. Accordingly, for better relations between the parties in future, the compromise applications are accepted. Appellants Sadam Hussain, Hazoor Bux, Gulbahar, Muhammad Qasim, Abdul Kareem, Sakhawat Ali, Fayaz Ahmed, Ameer Bux and Naeem alias Naeemullah all by caste Sanghar are acquitted of the charge on the basis of compromise subject to payment of Rs. 4,786,847.25 as share of minors. At this juncture, learned counsel for appellants submits that in lieu of Diyat amount of Rs.4,786,847.25, the appellants are ready to give agricultural land to the minors, equivalent to their respective share of Diyat amount, through registered sale deeds. The request is allowed. Let them submit such record-of-rights of agricultural land in the name of above

named minors with valuation certificate as per their respective share of Diyat. However, the appellants will be released either subject to deposit of Diyat amount of Rs.4,786,847.25 of six minor legal heirs of deceased, namely, Azhar Jameel, Sajida, Abida, Laiba, Asifa and Bisma Batool so also compensation amount, as determined by the trial Court, with the Accountant of this Court, if not required in any other custody case; or on production of sale deeds and record-of-rights of the agricultural land based thereon in the name of above named minors with valuation certificate of land transferred in the name of each minor as per his/her share of Diyat, as the case may be. If the Diyat amount and compensation to the extent of minors is deposited, the Accountant shall invest the same in any profitable bearing government scheme for the ultimate benefit of the minors, who shall be entitled to receive the said amount along with profit on being attaining the age of majority. While, the amount of compensation to the extent of major legal heirs of deceased shall be released to them after due formalities.

7. The Crl. Appeal along with listed applications is accordingly **disposed of** in the above terms.

JUDGE

Ahmad