

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

Cr. Appeal No.S — 05 of 2018.

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>14.03.2022.</u>	

FOR ORDERS ON M.A. 268/2022.
FOR ORDERS ON M.A. 269/2022.
FOR HEARING OF M.A. 8331/2020.
FOR HEARING OF MAIN CASE.

M/s Omparkash H. Karmani & Ghazi Salahuddin Panhwar
Advocates for appellants.
Mr. Shoukat Ali Kaka Advocate for complainant.
Mr. Muhammad Ali Noonari D.P.G. for State.

NAIMATULLAH PHULPOTO, J. Appellants Mobeen s/o Gul Hassan Khoso, Tarique s/o Bakhsho Lund and Abdul Rehman s/o Bakhsho Lund were tried by learned II-Additional Sessions Judge Badin in Sessions Case No.215 of 2014. After regular trial, appellants were convicted under section 302(b) PPC and sentenced to imprisonment for life. Appellants were extended benefit of section 382-B Cr.P.C.

2. Being aggrieved appellants filed appeal before this Court and it was admitted for regular hearing vide order dated 30.01.2018. During pendency of the appeal, appellants and legal heirs of the deceased Muhammad Urs entered into the compromise and filed application bearing M.A. No.268 of 2022 under section 345(2) Cr.P.C. for permission to enter into the compromise and M.A. No.269 of 2022 under section 345(6) for acquittal of the appellants by way of compromise. Appellants / accused signed the compromise application before the Superintendent Central Prison Hyderabad. Notices of these applications were issued to the Additional P.G.

3. In order to ascertain genuineness or otherwise of the compromise between the parties, trial court was directed to hold inquiry and submit the report. Trial court after observing the required formalities held enquiry and

submitted the report in which it is stated that there is genuine compromise between the parties. Relevant portion of the report of the trial court is reproduced as under:-

"From the inquiry conducted by this Court, it appears that the deceased Uris son of Soomar Dasti left no other legal heir except the above named legal heirs. Perusal of the statements of legal heirs of deceased Uris Dasti show that the compromise arrived at between the parties is genuine and voluntarily."

4. Learned Advocate for the appellants submitted that deceased Muhammad Uris died leaving behind the legal heirs namely Dilshad his son aged about 18 years, Siddiqan widow aged 45 years and Muhammad Soomar s/o Noor Muhammad father aged 70 years, it is submitted that all L.Rs. have entered into the compromise with appellants in the name of Holy Quran, for better relations between the parties and they have not claimed Qisas or compensation or anything from the appellants, therefore, compromise applications supported by affidavits on prescribed proforma have been filed by legal heirs of the deceased Muhammad Uris. Lastly, submitted that appellants may be acquitted by way of compromise.

5. Learned Deputy Prosecutor General assisted by Mr. Shoukat Ali Kaka learned Advocate for the complainant after perusal of the statements of legal heirs of deceased recorded before the trial court extended no objection if the appellants are acquitted by way of compromise.

6. I have carefully heard learned counsel for the parties and perused the enquiry report of trial court. It appears that FIR was lodged by complainant Muhammad Sharif Dasti against appellants / accused under sections 302, 341, 342, 504, 114, 34 PPC. On the conclusion of the trial, appellants / accused were convicted under section 302(b) & 34 PPC and sentenced to imprisonment for life by trial court vide Judgment dated 09.12.2017. During pendency of appeal compromise application is filed. Trial court has held inquiry regarding genuineness or otherwise of compromise. It is submitted that both parties reside in the same vicinity and they have entered into compromise due to intervention of Nekmards of the community for good relations in future. Offence

u/s 302(b) PPC is compoundable with permission of court. This offence has not been committed on the pretext of 'Karo Kari'. This Court is satisfied that compromise is genuine between the parties without any influence or compulsion, therefore, for better relations between them, parties are allowed to enter into compromise as offences are compoundable, necessary permission is granted by this court. In the view of above M.A. No.268/2022 under section 345(2) PPC seeking permission to compound the offence is allowed.

7. Resultantly, application to accept the compromise under section 345(6) Cr.P.C. [M.A. No.269 of 2022] is allowed. Consequently the appellants / accused Mobeen s/o Gul Hassan Khoso, Tarique s/o Bakhsho Lund and Abdul Rehman s/o Bakhsho Lund are acquitted by way of compromise in crime No.37 of 2014, registered at Police Station Khoski under sections 302, 341, 342, 504, 114, 34 PPC and they are ordered to be released forthwith, if not required in any other case.

8. In the above terms, appeal stands disposed of along with pending application.