

145
143

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Before:

Mr. Justice Omar Sial

Mr. Justice Khalid Hussain Shahani

**Criminal Appeal No.D-35 of 2020
Cr. Conf. Reference No.D-33 of 2020**

Appellants: Allah Bux Kandhro and others
Through M/s. Habibullah G. Ghouri, Safdar Ali
G. Bhutto and Mushtaq Ali Langah,
Advocates

Complainant: Ghulam Sarwar Kandhro
Through Mr. Asif Ali Abdul Razzak Soomro,
Advocate

The State: Through Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh.

Date of hearing: 30.01.2025

Date of decision: 30.01.2025

JUDGMENT

Omar Sial, J.:- Right at the outset of the hearing, the learned counsels representing the appellants drew our attention to the record and proceedings of this case. Without evaluating the case on merits, we went through the record with the assistance of the learned counsels for the appellants and the learned Deputy Prosecutor General.

2. We are constrained to observe that the record reflects that the trial has not properly taken place. It is abundantly clear that the testimonies of material witnesses are a "copy, cut, and paste" job by the trial judge. The examination-in-chief of the witnesses is all done on one day, whereas the cross-examination of all has been done on a separate but same date. The testimony of important witnesses has been copied for other witnesses. The Section 342 Cr.P.C. statements of the accused are all recorded in one day, and judgment is announced the next day. On most dates that the examination-in-chief of the witnesses took place, the trial judge has written that the cross-examination could not occur because the counsel for the accused



197

195

had "health issues." The counsels say this is an entirely incorrect reason, as the examination-in-chief was done in the absence of defense lawyers. Without commenting on the counsels' accusation that the examination-in-chief of all witnesses was done in their absence, we would like to state that it is appreciated when a trial judge expeditiously deals with a case. However, going through the trial record, this case falls within the adage that "Justice hurried is justice buried." Section 342 statements consist of essays for questions from which no ordinary man can understand the evidence against him.

3. The learned Deputy Prosecutor General agrees that the record does reflect the above observations.

4. We have restrained ourselves from making further observations; however, we believe that to ensure the requirements of a fair trial are complied with, the impugned judgment be set aside, and the case remanded back for a de novo trial. The trial judge shall ensure a fair trial for the accused. The learned counsels request that bail be granted to those appellants who were on bail when the judgment was announced. We are, however, of the view that as a death sentence has been given, in the first instance, the appellants should approach the learned trial court in this regard.

5. The appeal stands disposed of in light of the above. The death reference is therefore answered in the negative.



JUDGE


JUDGE