

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Criminal Jail Appeal No.S-108 of 2023

1. For hearing of MA No.1746/2025 (345(2) Cr.P.C)
2. For hearing of MA No.1747/2025 (345(6) Cr.P.C)
3. For hearing of main case

31-07-2025

Mr. Rukhsar Ahmed Junejo, Advocate for the Appellant
Mr. Muhammad Raza Katohar, Deputy Prosecutor General

ORDER

Muhammad Jaffer Raza, J:- Appellant Mohammad Arif @ Arif son of Kouro, by caste Bheri through captioned criminal appeal, impugned the judgment dated 05.10.2023, passed by learned Additional Sessions Judge-III, Ghotki, in Sessions case No.407/2021 (Re-the State vs Mohammad Arif @ Arif Bheri and others) whereby the learned Judge convicted and sentenced the appellant/accused for offence u/s 302(b) PPC r/w Section 149 PPC to suffer imprisonment for life as Tazir and to pay fine of Rs.100,000/- (one lac) as compensation to the legal heirs of the deceased as provided u/s 544-A Cr.P.C or in default thereof to suffer imprisonment for six months more in addition; for offence u/s 148 to suffer R.I for three years and to pay fine of Rs.10,000/- or in default thereof to suffer S.I for one month more. The above noted sentences were ordered to run concurrently and benefit of section 382-B, Cr.P.C was also awarded to him.

2. During pendency of the instant criminal appeal, the appellant as well as legal heirs of deceased Adam Khan, filed applications under section 345(2) & 345(6) Cr.P.C, along with affidavits of the complainant as well as major legal heirs of deceased namely Mst. Duran, Mukhtiar Ahmed, Muhammad Warial, Muhammad Shahban, Wali Dad, Akhtar Ali, Muhammad Paryal, Miandad, Zaman Ali, Mst. Mukhtiar, Anwar Ali and Waqar Ali, who are widow, sons and daughter of the deceased. They all appeared in court and have admitted the contents of application for permission to compound the offence and compromise application. They have further stated that they have no objection if compromise arrived between the parties is accepted and the appellant/accused is acquitted of the charge. Mst. Duran widow of deceased, being natural guardian of minors namely Anwar Ali and Waqar Ali (sons) stated so on behalf of the minors as well.

3. The widow of the deceased Mst. Duran also filed an application in terms of Section 345(4) Cr.P.C for permission to compound the offence on behalf of minor legal heirs namely Anwar Ali and Waqar Ali, which is allowed.

4. Heard learned counsel for the appellant and learned Additional Prosecutor General and perused the record.

5. Perusal of record reveals that complainant Mukhtiar Ahmed who is also legal heirs of the deceased, and other legal heirs namely Mst. Duran, Muhammad Warial, Muhammad Shahban, Wali Dad, Akhtar Ali, Muhammad Paryal, Miandad, Zaman Ali, Mst. Mukhtiar, who are widow, sons and daughter of the deceased while Mst. Duran widow, herself and on behalf of minors Anwar Ali and Waqar Ali (sons) being her natural guardian, are competent to compound/compromise the offence with the appellant / accused. They stated that they have entered into a compromise with the present appellant/accused and have pardoned and forgiven him in the name of Almighty Allah with their free will and without any pressure, compulsion or coercion. They further stated that they have waived their right of Qisas and Diyat against the present appellant and have recorded their no objection if the appellant/accused is acquitted.

6. The compromise arrived between the parties on the very face of it appears to be genuine and true, without any inducement or pressure. Considering the geniuses of the compromise, I feel no hesitation to accept the same as the offences punishable u/s 302 PPC is compoundable.

7. Keeping in view of the above facts and circumstances, the compromise arrived between the parties is hereby accepted. Consequently, appellant Mohammad Arif @ Arif son of Kouro, by caste Bheri is hereby acquitted u/s 345(6) Cr.PC in the above case/crime subject to payment of Diyat amount of the minors. He shall be released in this case if not required in any other custody case subject to deposit of Diyat amount of minors, namely Anwar Ali and Waqar Ali so also compensation amount, as determined by the trial Court, with the Accountant of this Court. The Accountant of this Court is directed to invest the money in some profitable scheme for the benefit of the minors until they attains the age of majority at which point they shall be able to redeem the Diyat amount and any profits thereof. As per report of

Accountant dated 14.06.2025, the amount of Anwar Ali and Waqar Ali is calculated as Rs.675,329.58/- each, in total Rs.1,350,659.17/-

8. The criminal appeal along with applications u/s 345(2) & 345(6) Cr.P.C, and all other pending applications stand disposed of in the above terms.

J U D G E

Naveed Ali