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IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE ATHAR MINALLAH
MR. JUSTICE MALIK SHAHZAD AHMAD KHAN
MR. JUSTICE SALAHUDDIN PANHWAR

CRIMINAL MISC. APPLICATION NO. 555 OF 2025 IN/AND
JAIL PETITION NOS. 516 & 517 OF 2022

(Compromise)

(On appeal against the judgment dated 22.11.2022 passed by the High Court of Sindh, Circuit Court, Larkana in Cr. Jail Appeal No. D-67/2019, Cr. Confirmation Case No. D-34/2019 and Cr. Jail Appeal No. S-33/2020)

Ashique Ali @ Abdul Ghafoor

(In all cases)

... Applicant / Petitioner

Versus

The State

(In all cases)

...Respondent

For the Applicant /
Petitioner:

Mr. Muhammad Kassim Mirjat, AOR/ASC

For the State:

Mr. Siraj Ali Khan, Addl. P.G. Sindh

Date of Hearing:

19.08.2025

ORDER

ATHAR MINALLAH, J.- Ashique Ali alias Abdul Ghafoor, applicant/petitioner was tried by the learned Additional Sessions Judge-III, Larkana pursuant to a case registered vide Crime Report No. 72/2013 dated 10.07.2013 registered at Police Station Civil Line Larkana for the commission of the alleged offences under Sections 302/114/34 PPC. He was also tried separately by the learned Additional Session Judge-III, Larkana pursuant to registration of an offshoot case vide Crime Report No. 125/2014 dated 12.11.2014 under Section 24 of the Sindh Arms Act, 2013 at Police Station Civil Line, Larkana. Upon conclusion of the trials, the learned Trial Court vide its two separate judgments dated 19.10.2019 and 04.03.2020 convicted the applicant/petitioner under Section 302(b) PPC and sentenced him to death. He was also directed to pay Rs. 150,000/- as compensation to

the legal heirs of the deceased. In case of default, the compensation amount was ordered to be recovered as arrears of land revenue. He was also convicted under Section 24 of the Sindh Arms Act, 2013 and was sentenced to suffer rigorous imprisonment for seven years with fine of Rs.10,000/- or in default thereof to further suffer simple imprisonment for two months. Benefit of Section 382-B Cr.P.C. was also extended in favour of the petitioner. The learned High Court vide its consolidated judgment dated 22.11.2022 upheld the judgments of the learned Trial Court and dismissed the appeals filed by the applicant/petitioner, therefore, the Reference was answered in the affirmative.

2. Petitioner has sought leave against the said judgment of the High Court. He has also sought permission to compound the offence through Criminal Misc. Application No. 555/2025. A copy of the application along with allied documents was sent to learned District & Sessions Judge, Larkana with the direction to record the statements of all the legal heirs of the deceased and verify the genuineness of the contents of the compromise and submit his report.

3. The report has been filed by the Sessions Judge. We have gone through the report as well as the statements of the legal heirs recorded by the learned Sessions Judge and found that insofar as the offence under Section 302(b) PPC is concerned, the compromise is voluntary without any duress or coercion. The learned Law Officer does not oppose allowing of the compromise application. As a consequence, Criminal M.A. No. 555/2025 is allowed. Jail Petition No. 516/2022 is converted into an appeal and allowed. The impugned judgment is set aside. The petitioner is acquitted of the charge on the basis of compromise. He is directed to be released from the jail unless required to be detained in any other case.

4. The petitioner has also filed Jail Petition No. 517 of 2022 before this Court challenging the impugned judgment dated 22.11.2022 passed by the High Court whereby the conviction and sentence under Section 24 of the Sindh Arms Act, 2013 awarded to him by the Trial Court, was upheld. We have noted that the alleged recovery on the pointation of the petitioner was effected from the western side wall of Pilot School, Larkana, which being an open place was accessible to the general public and was not in exclusive possession of the petitioner. Besides, the record also reflects that the crime weapon and the empties were sent together to the office of Forensic Science Laboratory on 19.11.2014, therefore, in view of the law laid down by this Court in the cases of Sikandar @ Bhola Vs. The State (2025 SCMR 552) and Abdul Wahid Vs. The State (2023 SCMR 1278), the recovery is of no avail to the prosecution. Consequently, the conviction and the sentence awarded to the petitioner under Section 24 of the Sindh Arms Act, 2013, cannot sustain. Jail Petition No. 517/2022 is, therefore, converted into an appeal and allowed. The impugned judgment is set aside. The petitioner is also acquitted of the charge in this case. He is directed to be released from the jail unless required to be detained in any other case.

Islamabad, the
19th of August, 2025
Not Approved For Reporting
Khuram

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