

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

**Criminal Appeal No.114/ 2017**

Sher Afzal  
Versus  
The Additional Sessions Judge & two others

Appellant by:	Ch. Naheem Ali Gujjar, Advocate
Respondents No. 3 by:	Mr. Naseer Anjum Awan Advocate
State by:	Mr. Sadaqat Ali Jahangir, State Counsel

**Murder Reference No. 10/2017**

The State  
Versus  
Sher Afzal

Date of Decision: 08.10.2020

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**Ghulam Azam Qambrani, J. :-** Through this common judgment we intend to dispose-of this appeal as well as Murder Reference No. 10/2017 arising out of judgment dated 20.07.2017 in case F.I.R No. 174, dated 16.08.2014 under Section 302 P.P.C, P.S Secretariat, Islamabad, whereby the appellant was convicted under Section 302 (b) P.P.C and sentenced to death by way of tazeer. He was also ordered to pay a compensation in the sum of Rs.4,00,000/-, to the legal heirs of the deceased under Section 544-A Cr.P.C. In case of default in payment of the compensation amount, the appellant was directed to undergo six months simple imprisonment.

2. That during the pendency of appeal, the appellant filed CM No. 155/2020, seeking acquittal and setting aside of the impugned judgment on the basis of compromise arrived at between the parties. Vide order dated 29.06.2020, matter was referred to the learned Sessions Judge, West, Islamabad to record statements of the legal heirs of the deceased and to verify the terms of compromise. In compliance of order dated 29.06.2020, the learned

District & Sessions Judge, West, Islamabad has submitted report dated 19.09.2020 whereby statements of the following persons have been recorded:-

- |       |               |          |
|-------|---------------|----------|
| (i)   | Feroz Din     | (Father) |
| (ii)  | Mukhtiar Bibi | (Mother) |
| (iii) | Farhan Afzal  | (Son)    |
| (iv)  | Bilal Afzal   | (Son)    |
| (v)   | Farhad Afzal  | (Son)    |

The learned District & Sessions Judge, Islamabad in his report has concluded that the above named persons are the legal heirs of the deceased.

3. All the legal heirs in their respective statements have unambiguously stated that they have forgiven the appellant/convict and they have entered into compromise with the appellant Sher Afzal/convict. In their statements, the legal heirs have clearly stated that they have no objection if pursuant to compromise, the appellant (Sher Afzal) is acquitted. Further more, the complainant of the case has also recorded his statement wherein he has specifically stated that they have entered into compromise with the appellant and waived-of their right of qisas and diyat.

4. So far as the payment of diyat for minor legal heirs of the deceased is concerned, in this regard land measuring 16-marlas situated in Mauza Basebun, Tehsil Khanpur, District Haripur has been transferred equally to each minor legal heir namely Bilal Afzal, Farhan Afzal and Farhad Afzal by their paternal uncle Mir Afzal and in this regard three attested original farads dated 11.09.2020 issued by halqa patwari attested and countersigned by Tehsildar Khanpur have been placed on record. Further the report of learned Sessions Judge reveals that the statement of Mir Afzal transferee, the paternal uncle of the minors has also been recorded for the purpose of verification of transfer of the property on the name of minors. The list of legal heirs has also been verified by the General

Councilor Ward No. 06 Kalingar E-11, U.C No. 50, Golra Sharif, Islamabad.

5. In view of the above, we are satisfied that the parties have entered into compromise and the legal heirs of deceased as well as complainant of the case have voluntarily recorded their statements. In the facts and circumstances described in CM No. 155/2020 seeking acquittal of the appellant on the basis of compromise is allowed. Consequently, the impugned judgment dated 20.07.2017 is set aside. The appellant, namely Sher Afzal is acquitted from the charge pursuant to the compromise arrived at with the legal heirs of the deceased. The appellant shall be released forthwith if not required in any other case.

6. Murder Reference is answered in negative.

**(AAMER FAROOQ)**  
**JUDGE**

**(GHULAM AZAM QAMBRANI)**  
**JUDGE**

**S.Akhtar**