

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
GILGIT**

BEFORE:

*Mr. Justice Syed Arshad Hussain Shah, Chief Judge
Mr. Justice Wazir Shakeel Ahmed, Judge*

Cr. Misc. No.13/2020 In Cr.PLA No. 14/2020

1. Mujtaba s/o Zolair r/o Satas Buner, Tehsil & District Diamer.
2. Nasirullah s/o Alishan r/o Satas Buner, Tehsil & District Chilas

The State	Petitioners
Versus	
The State	Respondent

PRESENT

For the State: The Prosecutor General, Gilgit-Baltistan

For the petitioners: Mr. Basharat Ali Advocate alongwith Mr. Shakoor Khan Advocate

For Complainant: Mr. Sher Alam Advocate
 The complainant present in person

Date of Hearing: **31.03.2021**

ORDER

Syed Arshad Hussain Shah, Chief Judge: The above Cr. PLA No. 14/2020 has been instituted against impugned judgment dated 10.06.2020 passed by the learned Gilgit-Baltistan Chief Court in Cr. Appeal No. 26/2019. Through this impugned judgment, learned Gilgit-Baltistan Chief Court has maintained the sentence awarded by the learned Trial Court under section 324 with certain modification i.e. reducing the sentence from 07 years RI sentence to 5 years RI each. Being aggrieved, the petitioners have now impugned the said judgment before this Court by way of the instant Cr. PLA.

2. During pendency of Cr.PLA, counsel for petitioners apprised the Court that a compromise has been effected between the parties, whereby the complainant has pardon the accused/petitioners. Today, the complainant, namely Mardan s/o Shoban

r/o Bonor voluntarily appeared before this Court and submitted that he has voluntary, with free will and in the name of Almighty Allah has pardoned/forgiven the petitioners. On the basis of compromise and statement of the complainant at bar, the learned counsel for the petitioners prays for their acquittal and release from Jail.

3. In view of the compromise based on free will and voluntariness, quantum of sentence awarded as well as observations made by the Hon'ble Supreme Court of Pakistan in the following judgments, we are inclined to accept the submissions of the learned counsel for release of the petitioner from Jail and his acquittal from the charges as well. While acquitting the petitioners from the charges, we are fortified by the observations of the Hon'ble Supreme Court of Pakistan in such cases. The relevant case laws are quoted below:

SUO MOTU CASE Re VS State P L D 2018 Supreme Court 703

Carrying the spirit of composition (forgiveness and reconciliation) forward we may add that grant of the requisite permission or leave by the court in such cases should be a rule and its withholding or refusal an exception. Composition of a compoundable offence is a concession extended by the legislature and also by the religion of Islam to the victims and their heirs and the same may not lightly be taken away or whittled down by the courts.

17. As a result of the discussion made above we declare the legal position as follows:

(i) As provided by the provisions of section 338-E(1), P.P.C. and the first proviso to the same and as already declared by this Court in the case of Chairman Agricultural Development Bank of Pakistan and another v. Mumtaz Khan (PLD 2010 SC 695) as a result of a successful and complete compounding of a compoundable offence in a case of Ta'zir under section 345, Cr.P.C., with permission or leave of the relevant court where required, an accused person or convict is to be acquitted by the relevant court which acquittal shall erase, efface, obliterate and wash away his alleged or already adjudged guilt in the matter apart

from leading to setting aside of his sentence or punishment, if any.

(ii) In the context of the provisions of section 345(6), Cr.P.C. the effect of an acquittal recorded by a court on the basis of a successful and complete compounding of a compoundable offence shall include all the benefits and fruits of a lawful acquittal.

Naseer Ahmed Vs. The State 2011 SCMR 1292

“3. All the legal heirs of the deceased on the basis of the compromise arrived at between the respective parties have forgiven the appellants/convicts in the name of Almighty Allah and have already sworn affidavits. The major legal heirs have deposed before the learned Sessions Judge that they have entered into a compromise and have forgiven the appellants/convicts, therefore, have no objection if the Criminal Appeal No. 312 of 2004 is accepted and the appellants be acquitted from the charge.

4. In the light of the foregoing reasons, facts and circumstances, Cr.M.A. No. 372 of 2008 is allowed and Criminal Appeal No. 312 of 2004 is disposed of in terms of compromise. The appellants are acquitted from the charge and shall be released forthwith if not required in any other case”

Muhammad Irshad Alias Shada Vs State 1997 SCMR 951

“3. We are convinced that the compromise between the legal heirs of the deceased and the petitioner accused is genuine. The composition of an offence under section 302, P.P.C by the legal heirs of the deceased shall have the effect of acquittal of the accused with whom the offence has been compounded”

2017 SCMR 1990 Waheed and other Vs. The State and others

“Having perused the afore-mentioned report of the District and Sessions Judge, Pakpattan, we find that the compromise effected between the parties is genuine, voluntary and without any coercion or duress. In view of the above, Crl. M.A. No. 312-L of 2017 filed by Waheed convict-applicant is allowed. Consequently, Jail Petition No. 477 of 2015 filed by convict-applicant is converted into an appeal and the same is allowed. The impugned judgment of the learned High Court dated 16.09.2015 is set aside. The appellant Waheed is acquitted of the charge and shall be released forthwith, if not required to be detained in any other case”

4. In the light of compromise, statement of complainant at bar and judgments of the Hon'ble Supreme Court of Pakistan herein above, the petitioners are acquitted from the charges and ordered to be released from the Jail, if they are not required in any other case(s).

5. Forgoing in view, the instant Cr. PLA No. 14/2020, being infructuous, is disposed of accordingly.

Chief Judge

Judge

Whether Fit for Reporting (YES / NO)