

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

Cr.A No. 213-M/2013

***Sultan-e-Rome s/o Abdul Haq r/o Bangakh, Tor Kamar,
Martung, Tehsil Puran, District Shangla.***

(Appellant)

Versus

1) The State.

***2) Sultan Muhammad s/o Syed Muhammad r/o Sagai,
Tehsil Safi, Mohmand Agency.***

(Respondents)

Present:

Mr. Razaullah, Advocate for appellant.

Mr. Rafiq Ahmad, Assistant A.G. for State.

Complainant in person.

Cr.R No. 57-M/2015

State

(Appellant)

Versus

1) Muhammad Ishaq s/o Muhammad Sharif.

***2) Sultan-e-Rome s/o Abdul Haq r/o Bangakh, Toor
Kamar, Martung, Tehsil Puran, District Shangla.***

(Respondents)

Present:

Mr. Rafiq Ahmad, Assistant A.G. for State.

Mr. Razaullah, Advocate for respondents/convicts.

Judgment

Date of hearing: **29.01.2018**

ISHTIAQ IBRAHIM, J.- This Criminal Appeal

No. 213-M/2013 preferred by Sultan-e-Rome and

the connected Criminal Revision No. 57-M/2013 file

by State are the outcome of one and the same

judgment dated 03.09.2013 which was rendered by

learned Sessions Judge/Zilla Qazi Shangla, Camp

Court at Swat in case F.I.R No. 96 dated 06.08.2011 under Sections 302, 404, 202, 201/34 P.P.C registered against the appellant Sultan-e-Rome and co-convict Muhammad Ishaq at Police Station Martung, District Shangla. Both of them were convicted by learned trial Court under Section 302 (b)/34 P.P.C and sentenced to life imprisonment with fine of Rs.200,000/- payable by each convict to LRs of the deceased Syed Muhammad. In case of default in payment of fine, it was directed that each of the convicts shall further undergo 03 years S.I. Benefit of Section 382-B, Cr.P.C. was extended to them.

2. Detail of the occurrence emerging from the contents of the F.I.R is that Amir Salam Khan ASI (PW-5), pursuant to receipt of information regarding recovery of a dead body in village Tor Kamar on 05.08.2011, rushed to the said village accompanied by police contingents where complainant Sultan Muhammad (PW-2), son of the deceased, was present alongwith his cousin Muhammad Khitab. While making report to police at 16:00 hours on the same day, complainant narrated that his father Syed Muhammad was dealing in the business of weapons in village Tor

Kamar and adjacent areas for 20/25 years and in this respect his amount of several lacs was outstanding against the people of the area. The complainant stated ahead in his report that his father had left for this area some 02 months ago for recovery of debt and informed him through phone for the last time on 05.07.2011 that an amount of Rs.1,70,000/- has been recovered while an amount of Rs.2,70,000/- is outstanding against co-convict Muhammad Ishaq for which he was staying with him and will return home after receiving the said amount from the co-convict on getting cash from Habib Bank, Sawari on the following day. Complainant further stated that his father neither arrived at home after 05.07.2011 nor contacted him through phone, therefore, he and his relative started search for his father some 15/16 days ago beginning the same from Ghari Hassan Zai and thereafter making secret probe in every village finally reached to village Tor Kamar two days ago. On getting information through different sources, he got secret information that his father had been done to death by co-convict Muhammad Ishaq and appellant Sultan-e-Rome on 05.07.2011 at night time in his house and buried the corpse in the fields owned by the co-convict. Complainant informed the

police that on the day of report he searched different fields with the help of other persons and opened a place after getting smell of the dead body which was recovered and it transpired that his father had been done to death by firing on his head, right hand and right ribs. He charged the appellant and co-convict Muhammad Ishaq for committing murder of his father, snatching Rs.1,70,000/- from him and retaining the outstanding amount of Rs.2,70,000/-.

3. Report of the complainant was recorded in *Murasila* Ex.PA/1 by PW-5 Amir Salam Khan ASI. Formal F.I.R (Ex.PA) was chalked out by S.H.O Muhammad Saraf Khan (PW-1) on 06.08.2011 at 02:00 hours. The dead body of Syed Muhammad aged about 60 years was examined by Dr. Mushtaq-ul-Mulk (PW-4). After conducting external examination of the dead body, he prepared his report Ex.PW-4/1 which is as under:-

“Abdomen is distended due to gas formation. All tissues of upper and lower limbs are mummified, eyes are shrunken.

One entrance wound on right flank about 05-1 cm in diameter and around tissues is necrosed.

Two entrance wounds on right side skull about 1 cm in distance from each other about 0.5-1 cm with inverted edges.

Exit wounds on front of mouth (upper lips) with underline bone fractured.

One entrance wound on right hand about 0.5-1 cm in diameter.

One entrance wound on left side skull about 1-2 cm in diameter with no exit wound.

Probable cause of Death: injuries to vital organs.

Weapon used: FAI".

4. Arrest of co-convict Muhammad Ishaq has been shown on 07.08.2011 vide Card of arrest (Ex.PW-14/8) while card of arrest of appellant Sultan-e-Rome is Ex.PW-1/1 according to which he was arrested on 16.08.2011. Investigation in the case was conducted by Bakht Aqil S.I (PW-14) during which he prepared site-plan Ex.PB wherein additions (Ex.PB/1) were made on the alleged pointation of co-convict Muhammad Ishaq. He also prepared injury sheet and Inquest Report of the deceased which are Ex.PW-14/2 and Ex.PW-14/3 respectively. Two crime empties of 7.62 bore were recovered from the place of occurrence vide recovery memo Ex.PW-9/1 in support of which constable Saif-ur-Rehman has been examined as PW-9. The I.O arrested co-convict Muhammad Ishaq armed with Klashnikov and 16 rounds of 7.62 bore which were taken into possession vide Recovery Memo Ex.PW-14/6. On alleged pointation of the co-convict, an amount of Rs.85,000/- was recovered from his uncle Atiq-ur-Rehman which was his share in the amount they had snatched from

the deceased. Recovery Memo in this regard is Ex.PW-6/1, one of the marginal witness thereof namely Saleh Muhammad has been examined as PW-6. Photographs of the cot on which the deceased was present at the time of occurrence, the ditch from which his dead body was recovered, pointation memo of the place of firing and the path leading to the ditch by co-convict are Ex.PW-14/9, Ex.PW-14/10, Ex.PW-14/11 and Ex.PW-14/12. Co-convict Muhammad Ishaq was produced before Muhammad Tayyab Jan, Judicial Magistrate Puran (PW-13) who recorded his confession available on record as Ex.PW-13/2. The F.S.L report qua the recovered Kalashnikov and two crime empties is Ex.PZ.

5. After completion of investigation, challan was put in Court. The appellant and co-convict were charge sheeted for the offences on 21.09.2011 to which they pleaded not guilty and claimed trial. Prosecution examined 14 PWs in support of its case whereafter the appellant and co-convict were examined in terms of Section 342, Cr.P.C. They denied the allegations of prosecution and stated to be innocent. Co-convict Muhammad Ishaq recorded his statement on oath within the meaning of Section 340(2), Cr.P.C and retracted

from his judicial confession. He further stated that he is innocent and falsely been charged in this case. He denied the entire evidence attributed to him during the course of investigation including the recovery of cash amount and the alleged crime weapon, however, appellant declined to record his statement on oath.

6. The learned trial Court, after hearing the arguments of prosecution and defence, convicted the appellant and co-convict Muhammad Ishaq under Section 302 (b)/34 P.P.C for the murder of deceased Syed Muhammad. They were sentenced to life imprisonment with fine of Rs.200,000/- payable by each convict to LRs of the deceased. Appellant Sultan-e-Rome has challenged his conviction through this appeal while co-convict Muhammad Ishaq has preferred no appeal against his conviction and sentence, however, State has filed the connected Cr.R No. 57-M/2013 whereby enhancement in the sentence of both the convicts has been prayed for.

7. Learned counsel appearing on behalf of appellant in this appeal as well as respondent/co-convict Muhammad Ishaq in the connected revision

petition, *inter alia*, contended that the learned trial Court has mainly relied upon the alleged confession of the co-convict while recording conviction of both the convicts but the statement has not been recorded in accordance with law rather same is the result of pressure and torture by police. He submitted that the confession is not only retracted one but it also gets no corroboration from the circumstantial evidence, as such, does not fulfill the criteria for recording conviction. Learned counsel stressed that the story narrated by complainant in his report is not appealing to prudent mind and the evidence brought on the record by prosecution is suffering from serious frailties which have not been considered by learned trial Court. He added that co-convict Muhammad Ishaq has recorded his statement in terms of Section 340 (2), Cr.P.C wherein he stated on oath to have no nexus with murder of the deceased but the learned trial Court did not consider the same worth credence without making reference to any plausible ground in this regard. He maintained that recovery of crime empties after one month of the occurrence is improbable and similarly the alleged recovery of the crime weapon from the co-convict has not been proved in accordance with

law. Learned counsel prayed that the impugned judgment be set aside being against law and evidence on record and the convicts be acquitted of the charge.

8. Learned Assistant. A.G. appearing for State also argued the case on behalf of complainant, who has already opted to be represented by A.A.G. He vehemently opposed the arguments of learned counsel for the appellant and co-convict. He argued that confession of co-convict has been recorded by Judicial Magistrate in strict compliance with the relevant provisions of the Criminal Procedure Code. He submitted that it was a voluntary confession getting ample corroboration from the circumstantial evidence, hence, there is no ground on the basis of which that piece of evidence, having paramount importance, could be discarded. He further contended that an amount of Rs.85,000/- has been recovered on pointation of co-convict besides recovery of the dead body from the fields owned by him and that of crime empties from the spot are the pieces of corroborative evidence which not only give support to confession but also proves involvement of the convicts with murder of the deceased. He submitted that this appeal be dismissed and sentence


of the convicts be enhanced by accepting the connected revision petition preferred by State.

9. We have given our anxious consideration to the above submissions of learned counsel for the parties as well as learned Assistant A.G. by going through the entire record.

10. Appellant Sultan-e-Rome and co-accused Muhammad Ishaq were tried by learned Sessions Judge, Shangla Camp Court at Swat and vide judgment dated 03.09.2013 both of them were convicted. Appellant Sultan-e-Rome has preferred this appeal but the co-convict has not challenged his conviction, however, the State has filed the connected Criminal Revision No. 57-M/2013 for enhancement of the sentence which is before us for adjudication.

11. Before going into merits of the case, first this Court would see that when the co-convict has not challenged the judgment of the trial Court, this Court while seized of a criminal appeal of his co-accused, can consider his case or not. In addition to that there is a criminal revision filed by State wherein notice to the non-appealing respondent/convict has been given and he is duly represented

today by his counsel by resisting the revision petition filed by State. The proposition which is before this court is whether the evidence can also be appraised qua the guilt of the non-appealing co-convict or not. State has filed the revision petition for enhancement of sentence under Section 439, Cr.P.C which is reproduced herein below for ready reference.



“High Court’s powers of revision.—(1) in the case of any proceeding the record of which has been called for by itself, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by Sections 432, 426, 427 and 428 or on a court by Section 338, and may enhance the sentence and, when the Judges composing the court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by Section 429.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by magistrate, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by Magistrate of the first class.


(4) Nothing in this section shall be deemed to authorize a High Court:

(a) to convert a finding of acquittal into one of conviction; or

(b) to entertain any proceedings in revision with respect to an order made by the Sessions Judge under Section 439-A.

(5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced, shall, in showing cause, be entitled also to show cause against his conviction".



From the bare reading of sub-section (6) quoted above it is clear that if an accused has not filed an appeal against his conviction and this Court while exercising revisional jurisdiction under Section 439, Cr.P.C, is under statutory obligation to hear the convict to whom notice has been given under sub-section (2) as by virtue of the above provision he is also entitled to show cause against his conviction. Learned counsel for the appellant and the convict/respondent in the criminal revision argued the entire case on merits, so, there is no legal embargo before this Court to appraise the case of the non-appealing convict on merits to adjudge as to whether the evidence adduced by prosecution during the trial

was sufficient enough to hold him guilty or not. In this regard we would refer the case of "Mst. Muhammadia Vs. Zari Bacha and another" (PLD 1982 Peshawar 85) according to which criminal revision filed by complainant was dismissed and the convict was acquitted of the charge. The relevant portion of the judgment and concluding para thereof are reproduced below:


"As the accused-respondent has not filed any appeal against his conviction and the case has come before us in revision for the enhancement of the sentence of the accused respondent his counsel wanted to argue the case on merits, therefore, he was allowed to open the case. He vehemently decried each and every piece of evidence that has been brought forth by the prosecution in support of its case....."

13. The upshot of the above discussion is that the prosecution has not been able to make out a case against the accused-respondent beyond a reasonable doubt and while giving him the benefit of doubt, we acquit him of the offence convicted for. He is to be set at liberty if not required in any other case.

Consequently, the revision filed by the complainant petitioner fails and is hereby dismissed".

12. In addition to that even otherwise when the Court while hearing appeal of the co-accused if there is no revision and the co-convict has not filed the appeal even then while exercising powers under Section 423, Cr.P.C the Court is obliged to consider the case of the non-appealing convict and can pass any order according to merits of the case and

principles laid down for the appraisal of criminal cases. Wisdom is derived from the judgment in the case titled "Amin Ali and another Vs. The State" (2011 SCMR 323) wherein the benefit of judgment was given to the convict who had not preferred any appeal against his conviction. The relevant paras of the judgment are as under:-



"17. After considering the material available on record, we are of the considered view that the prosecution has failed to prove the case against the appellants beyond any reasonable doubt. Therefore, they are entitled for the benefit of doubt, which is accordingly given to them. The conviction and sentences awarded to them are set aside, therefore, they are acquitted of the charge. They should be released forthwith, if not required in any other custody case. Consequently, the appeal is allowed.

18. The benefit of this judgment is also given to the co-convict Shabbir Hussain who has not preferred appeal before this Court perhaps for the reason that his sentence was only 10 years and probably he had served out the said sentence".

In view of the wisdom contained in the afore-referred judgments, the end result is that this Court can hear the case of co-convict and appraise the same according to the celebrated principles.

13. Coming to merits of the case, the occurrence took place on 05.07.2011. One month

prior to that father of the complainant left Mohmand Agency for the area in question where allegedly the occurrence took place. The complainant kept mum till the date i.e 05.08.2011 when the dead body of the deceased was recovered. His version is that his father lastly contacted him through phone on 05.07.2011 and informed him regarding recovery of Rs.1,70,000/- from debtors and his stay with co-convict Muhammad Ishaq till the recovery of Rs.2,70,000/- from him. The entire story set out by prosecution since the alleged disappearance of the deceased on 05.07.2011, his roaming all alone in this area with huge amount far away from his native town and the manner for his search adopted by complainant is not appealable to reason. Prosecution has brought nothing with regard to phone calls between the deceased and complainant as alleged by him in his report. The photographs available on record shows that the dead body was naked. This fact persuade us to infer that there is some other reason of the murder in the background which could not be discovered from the available record. Committing murder of a person at night time for the cause of money and thereafter removing his clothes before burial are not the befitting circumstances in

the story narrated by prosecution. Site-plan Ex.PB was prepared by I.O on 05.08.2011 wherein the convicts and deceased have been shown inside the room but strangely no empty was recovered at that time and two empties were recovered from the spot on the following day i.e 06.08.2011 when the house was again searched by police. In addition to that it has not been explained in the site plan that from where the empties were collected. The above factors regarding recovery of the crime empties from the spot during second search of the house and most particularly after one month of the occurrence cast a serious doubt on its genuineness which cannot be ignored while adjudging the evidentiary value of the said piece of circumstantial evidence. The site-plan is also mute regarding bullet marks on the spot which aspect of the case again pricks our judicial mind regarding the mode and manner of the occurrence. Recovery of the dead body from the fields, in view of this Court, would not be sufficient for guilt of the co-convict and that may be a reason for his implication in this case by complainant. Though medical evidence shows firearm injuries on the person of deceased but when the dead body was disinterred the doctor in his report did not mention

any sort of soil residue on the corpse even garments of the deceased were not taken into possession. Moreso, there is no eye witness of the occurrence even to the extent that the convicts were seen by someone while burying the dead body in the fields. In addition to that it is highly improbable that the complainant who is hailing from far flung area would retrieve the dead body of his father on his own from the open fields allegedly owned by co-convict Muhammad Ishaq. So, in our view, the recovery of dead body and its surrounding circumstances do not stand to reason and moreso the mode and manner as alleged by complainant is also not appealable to prudent mind.

14. Reverting to alleged confession of co-convict Muhammad Ishaq, as per his card of arrest, he was arrested on 07.08.2011 while his statement was recorded by PW-13 Muhammad Tayyab Jan, Judicial Magistrate on 08.08.2011. But this is quite strange that the complainant who appeared as PW-2 stated in his cross-examination that:-


پولیس کے ساتھ ہم تقریباً آدھا گھنٹہ تک یعنی رپورٹ کے تحریر کئے جانے کے بعد جائے وقوعہ پر روکے رہے تھے اور اسکے بعد ہم نقش اٹھا کر الپوری بغرض پوسٹ مارٹم لے آئے اور ساتھ ہی ملزم اسحاق کو بھی بندھے ہاتھوں الپوری

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Talamul/PS*

(Cr.A No. 213-M of 2013 Sultan-e-Rome Vs. The State and one other)

case of "The State Vs. Asfandiyar Wali and 02 others" (1982 SCMR 321) wherein it has been held that:-



"On the other hand, the manner in which Asfandiyar had been detained was shocking to any one's sense of justice. As the confession on which the learned Advocate-General relied had been obtained after six weeks, we invited the learned Advocate-General to produce the remand order for Asfandiyar detention. The learned Advocate-General stated that there was no remand order and that a remand order was unnecessary because after the expiry of two weeks from his arrest Asfandiyar was under detention order, but, the learned Advocate-General was not able to produce that detention order, nor was he able to tell us what happened to the charge for which Asfandiyar had been detained.

In these circumstances, it is not surprising that the learned Judge did not accept the plea that Asfandiyar was being detained under detention order, and they were of the view that his confession had been recorded after he had been in illegal Police custody for six weeks. And, the view thus taken is a possible and reasonable view and is in consonance with the principles repeatedly laid down by this Court yet another circumstance relevant to the genuineness of Asfandiyar's confession which is absolutely shocking".

An another judgment rendered by Karachi High Court in the case titled "Hamzo Vs.

The State" (PLD 1960 Karachi 817) it was held that:-

"Criminal Procedure Code (V of 1898), Ss. 164 & 61 -Confessing-accused detained by Police for more than 24 hours without warrant- Voluntariness of confession doubted.

Where a person, before his confession was recorded, had been detained by the Police for 2 days without having obtained a remand and no attempt was made by the prosecution to explain the illegal detention by the police, it was held that the confession had the appearance of having been improperly obtained".

15. Record reflects that the co-convict not only retracted from his confession during his examination under Section 342, Cr.P.C but he also recorded his statement on oath in terms of Section 340(2), Cr.P.C. The purpose of examination of accused under Section 340(2) is almost different from his examination under, Cr.P.C Section 342, Cr.P.C with a view that statement recorded under the former provision is tendered to disprove the case set up by prosecution. A bare perusal of the statement under Section 340(2), Cr.P.C reveals that the co-convict absolutely denied all the allegations leveled against him in this case and further alleged that police have tortured him time and again for

recording confession. No doubt, the statement recorded on oath by the co-convict cannot be considered as a conclusive proof of his innocence, however, last but not least his statement, in the view of this Court, is sufficient to create a reasonable doubt qua his guilt. Confronting an accused with a question during his examination under Section 342, Cr.P.C with a view to seek his option for recording his statement on oath is not just a formality but the object thereof is to enable the accused to explain his position. When he opts to record his statement then the Court is duty bound to appraise the same in light of prosecution evidence but no such effort appears in this respect on behalf of the learned trial Court.

16. No doubt, retracted confession, if corroborated by independent evidence of reliable nature, could be made basis for conviction of an accused but same is not the situation in the present case. The occurrence is unseen one, the recovery of crime empties is also doubtful as the same has been effected after one month of the occurrence which is highly improbable and the dead body has been recovered from the fields allegedly owned by co-convict. There is not an iota of independent evidence on record to corroborate the confession allegedly

recorded by co-convict Muhammad Ishaq, therefore, we consider it highly unsafe to base the conviction of both the accused on the confession having the background discussed earlier. Wisdom is derived from the case titled "Muhammad Ismail and others V/s. The State" (2017 SCMR 898) wherein the august Supreme Court held that:

"The only other piece of evidence remaining in the field was a judicial confession allegedly made by Muhammad Iqrar, Khalid Hussain and Shakir Ali appellants before a Magistrate under Section 164, Cr.P.C. but admittedly the said judicial confession had been retracted by the appellants before the trial Court and in the absence of any independent corroboration such retracted judicial confession could not suffice all by itself for recording or upholding the appellants' convictions".

17. Keeping in mind that the confession was recorded after two days of wrongful confinement besides there is no independent evidence to corroborate the retracted confession, in the considered opinion of this Court, the same cannot be used against the co-convict. The learned trial Court has committed an error while considering the alleged judicial confession independent of the prosecution as well as defence evidence available on the record. Since, the appellant Sultan-e-Rome has

been convicted on the strength of the confessional statement of co-convict Muhammad Ishaq which we have disbelieved against its maker, how it can be considered against the appellant named therein particularly when there is no evidence is available on record against him. In this regard we would refer the case of "Arif Nawaz Khan and 03 others Vs. The State" (PLD 1991 Federal Shariat Court 53). Relevant observations recorded in the judgment on the point under consideration are as under:-

"10. In Islamic Criminal Law, the confession of an accused against the co-accused is not acceptable and if there is no other proof against him, he will not be punished on the said confession. It is based on the following hadith

Translation: "It has been related on the authority of Sa'd al-Sa'idi that a man came to the Prophet and confessed that he had committed adultery with a woman named by him. The Prophet (p.b.u.h.) sent for the woman and enquired from her about it. She denied the allegation. The Prophet (p.b.u.h.) punished the male but acquitted the female." (Ibn Qudamah: Al-Mughni, printed Riyadh, Vol. VIII. page 193 (This Hadith is stated in Al-Sunan, Abu Da'ud))".

18. In light of the above discussion and giving cumulative effect to prosecution and defence evidence, this criminal appeal is allowed while the connected criminal revision petition is dismissed.

Resultantly both the convicts namely Sultan-e-Rome and Muhammad Ishaq are acquitted of the charge leveled against them. They be set at liberty forthwith if not required in any other case.

19. Above are the reasons of our short order of the even date which is reproduced herein below.

For reasons to be recorded later on in the detailed judgment, this Criminal Appeal No. 213-M/2013 is allowed, the impugned judgment dated 03.09.2013 rendered by learned Sessions Judge/Zilla Qazi, Shangla, Camp Court at Swat is set aside and the appellant namely Sultan-e-Rome s/o Abdul Haq is acquitted of the charges in case F.I.R No. 96 dated 06.08.2011 under sections 302, 404, 202, 201/34 P.P.C registered at Police Station Martung, District Shangla. While exercising revisional powers under Section 439(6), Cr.P.C read with Section 423, Cr.P.C, co-convict Muhammad Ishaq s/o Muhammad Sharif is also acquitted of the charges leveled against him in the same case by setting aside the impugned judgment to his extent as well. Both of the convicts be set at liberty if not required in any other case. The connected Criminal Revision No. 57-M/2013 is dismissed.

Announced.
Dt: 29.01.2018

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JUDGE

JUDGE

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

Cr.A No. 213-M/2013

***Sultan-e-Rome s/o Abdul Haq r/o Bangakh, Tor Kamar,
Martung, Tehsil Puran, District Shangla.***

(Appellant)

Versus

- 1) The State.***
- 2) Sultan Muhammad s/o Syed Muhammad r/o Sagai,
Tehsil Sati, Mohmand Agency.***

(Respondents)

Present:

Mr. Razaullah, Advocate for appellant.

Mr. Rafiq Ahmad, Assistant A.G. for State.

Complainant in person.

Cr.R No. 57-M/2015

State

(Appellant)

Versus

- 1) Muhammad Ishaq s/o Muhammad Sharif.***
- 2) Sultan-e-Rome s/o Abdul Haq r/o Bangakh, Toor
Kamar, Martung, Tehsil Puran, District Shangla.***

(Respondents)

Present:

Mr. Rafiq Ahmad, Assistant A.G. for State.

Mr. Razaullah, Advocate for respondents/convicts.

ORDER

Date of hearing: **29.01.2018**

ISHTIAQ IBRAHIM, J.- For reasons to be

recorded later on in the detailed judgment, this Criminal Appeal No. 213-M/2013 is allowed, the impugned judgment dated 03.09.2013 rendered by learned Sessions Judge/Zilla Qazi, Shangla, Camp Court at Swat is set aside and the appellant namely

Sultan-e-Rome s/o Abdul Haq is acquitted of the charges in case F.I.R No. 96 dated 06.08.2011 under sections 302, 404, 202, 201/34 P.P.C registered at Police Station Martung, District Shangla. While exercising revisional powers under Section 439(6), Cr.P.C read with Section 423, Cr.P.C, co-convict Muhammad Ishaq s/o Muhammad Sharif is also acquitted of the charges leveled against him in the same case by setting aside the impugned judgment. Both of the convicts be set at liberty if not required in any other case. The connected Criminal Revision No. 57-M/2013 is dismissed.

Announced.
Dt: 29.01.2018

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