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REGISTERED  
No.CrI.A.725/2020 - SCJ  
**SUPREME COURT OF PAKISTAN**  
Islamabad, dated 5/12/2020

From The Registrar,  
Supreme Court of Pakistan,  
Islamabad.

To The Registrar,  
Peshawar High Court,  
Peshawar. 40 AR (P)

Subject: **CRIMINAL APPEAL NO. 725 OF 2020**  
**OUT OF**  
**CRIMINAL PETITION NO. 1315 OF 2019**

Wahid Khan

Versus

Mohabat Khan & another

**On appeal from the Order/Judgment of the Peshawar High Court, Peshawar in and dated 19/11/2019 in Cr.A.1197-P/2019 and FIR No.969/2017 dated 10/10/2017 registered at Police Station Pahari Pura, Peshawar**

Dear Sir,

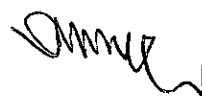
I am directed to enclose herewith a certified copy of the Order/Judgment of this Court dated 01/12/2020 **converting into appeal and allowing** the above cited cases in the terms stated therein for information and further necessary action.

I am further directed to return herewith the original record of the High Court received under the cover of your letter No. dated 21/01/2020.

Please acknowledge receipt of this letter along with its enclosure immediately.

**Encl: Order:**

Yours faithfully,



**(MUHAMMAD MUJAHID MEHMOOD)**  
ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE SAJJAD ALI SHAH  
MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL MISCELLANEOUS APPLICATION**  
**NO.1672/2020 IN CRIMINAL PETITION**  
**NO.1315/2019 AND CRIMINAL PETITION**  
**NO.1315/2019**

(Against the judgment of the Peshawar High Court,  
Peshawar dated 19.11.2019 passed in Criminal Appeal  
No.1197-P/2019).

Wahid Khan

(in both cases)

**Petitioner(s)**

**Versus**

Mohabat Khan and others

(in both cases)

**Respondent(s)**

For the Appellant(s)/Petitioner(s) : Mr. Asadullah Khan Chamkani ASC

For the (State) : Malik Akhtar Awan, AAG KPK

Date of Hearing : 01.12.2020

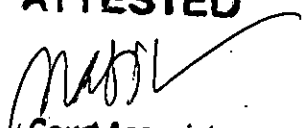
**ORDER**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J:-** The criminal petition for leave to appeal has been sought under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 against the judgment impugned dated 19.11.2019 passed by Peshawar High Court, Peshawar in CrI. Appeal No.1197-P/2019. Criminal Petition No.1315/2019 and Criminal Miscellaneous Application No.1672/2020 are connected *inter-se*, therefore, they are being decided through a consolidated order.

2. The appellant was involved in case bearing FIR No.969/17 dated 10.10.2017 offence u/s 302/34 PPC & Section 15 of KPK Arms Act, 2013, registered with Police Station Pahari Pura, District Peshawar. The petitioner was tried by a court of competent jurisdiction.

3. After the completion of the trial, the petitioner was found guilty hence

**ATTESTED**

  
Court Associate  
Supreme Court of Pakistan  
Islamabad

was convicted u/s 302(b) PPC and was sentenced to undergo life imprisonment as *Ta'azir* by trial court, with a further direction to pay Rs.4,00,000/- as compensation under section 544-A Cr.P.C to the legal heirs of the deceased, in case of non-payment of said amount, he was also to further undergo simple imprisonment for six months. The judgment of the learned trial court was assailed before Peshawar High Court, Peshawar through Crl. Appeal No.1197-P/2019. The learned High Court while maintaining his conviction dismissed the said criminal appeal vide judgment dated 19.11.2019. The judgment of the High Court was assailed before this Court through Criminal Petition No.1315/2019. During the pendency of the Criminal Petition, CMA No.1672/2020 was filed. The main ground in the said application was that compromise between the parties has been affected, the legal heirs of the deceased have forgiven him and as such they are prepared to make their statement, as a consequent sought acquittal of the appellant/petitioner on the basis of compromise between the parties. This Court vide order dated 14.10.2020 requisitioned a report from the learned District & Sessions Judge, Peshawar qua the genuineness of the compromise between the parties. The report requisitioned by this Court has been received bearing No.6264 dated 03.11.2020. The report of compromise is reproduced as under: -

*"In respectful compliance of the valued order, LRs of deceased Mst. Khadija Bibi and the convict/petitioner were summoned who appeared. In light of verified list of LRs, deceased Mst. Khadija Bibi is survived by her parents i.e. Mohabbat Khan (father/complainant), Mst. Bilqees. Bibi (mother), Sudais Khan, Awais Khan (minor sons) and Mst. Roshni (minor daughter) who are her only LRs. Joint statement of parents of the deceased recorded whereby*

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Court Associate  
Sudais Khan  
Islamabad

they affirmed that they have effected a genuine compromise with the convict/petitioner, pardoned him in the name of Allah Almighty by waiving off their right of Qisas & Diyat and have got no objection on his acquittal. They also stated that for the minor LRs, the convict/petitioner has given a constructed two story house comprising of 02 Marlaz situated at Yousaf Abad, Peshawar in lieu of Diyat. The Revenue Authority/Sub-Registrar concerned was directed to alienate the said house through a tax-free mutation/registration in the names of the minor LRs. However Syed Khurshid Shah, Tehsildar, Peshawar and Muhammad Iqbal, Sub-Registrar-I, Peshawar produced Notification No.Rev.VI/4/60/MF/145/8280-330 dated 03.03.2020 issued by the Govt. of KPK, Board of Revenue and Estate Department whereby previous Notification No.Rev.VI/4/60/MF/145/16993 dated 24.07.2015 regarding ban on khana-e-kasht was restored. As per Fard of Mouza Mahal Terai, Had Bast No.190 Tehsil City District Peshawar, convict/petitioner Wahid Khan s/o Shamshi Khan is owner in Khana-e-Kasht., Tehsildar as well as Sub Registrar-I Peshawar in this respect got recorded their statements. However in order to safeguard interest of the minor LRs, convict/petitioner (produced from jail via Zamima Bay) and parents of the deceased submitted their respective affidavits Ex.PZ/1 and Ex.PZ and also got recorded their statements before the court whereby the convict/petitioner bound down himself to transfer the said house in the names of minor LRs through registration of mutation/registry as and when the ban is lifted whereas parents of the deceased showed their satisfaction on such commitment. Aslam Khan and Hameed Khan as jirga members also got recorded their joint statement.

In the light of above, this court is satisfied that a genuine compromise has been effected inter-se the parties and the

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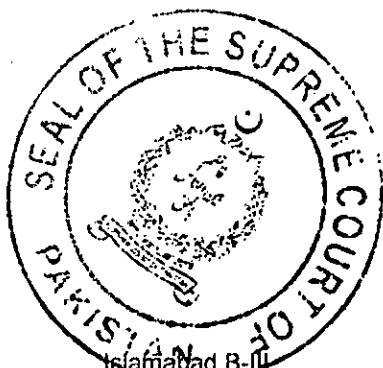


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Court Associate  
Islamabad

interest of the minor LRs of deceased Mst. Khadija Bibi  
are safeguarded.

3. The learned AAG KPK present in the Court when confronted regarding the report placed on the record, he categorically submitted that the compromise in between the parties is genuine and report has been prepared and submitted before this Court after exhausting all legal requirements as per law.

4. In view of the facts and circumstances, we are of the considered view that the compromise arrived between the parties would be effective subject to attestation of mutations mentioned in 'Fard Khana Kashf' in favour of legal heirs of deceased namely Sudaidd Khan, Awais Khan and Mst. Roshni qua the property disclosed in the report of learned Sessions Judge, Peshawar through registered sale deed, while attesting the said mutation in their favour, while following legal requirement permissible under the law. As a consequence, **Criminal MA No.1672/2020 is allowed** and consequence whereof the **Criminal Petition No.1315/2019 is converted into appeal and allowed**. The petitioner is ordered to be released forthwith from the jail if not required in any other case.



Islamabad, B-II  
01.12.2020  
Not approved for reporting.

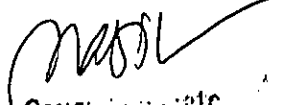
5/12/20

Sd - J

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Certified to be True Copy

  
Court Secretary  
Supreme Court of Pakistan  
Islamabad