

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH
(Judicial Department)

G. Rev. No. 05-D of 2017

JUDGMENT

Date of hearing 05-06-2017

Appellant-petitioner (Gul Noora) By:-

Mr. Muhammad Yousaf Khan Advocate.

Respondent (State etc) By:- Mr. Kamran Hayat
Khan Miankhe, A.A.G.

ABDUL SHAKOOR, J.- Through the instant petition under sections 439/435 read with section 561-A Cr.P.C, the petitioner Mst. Gul Noora has called in question the order dated 23.01.2017 rendered by learned Additional Sessions Judge-IV, D.I.Khan, whereby accused Muhammad Khan alias Muhammad was declared as proclaimed offender and perpetual warrant of arrest was issued against him.

2. The brief facts giving rise to the instant petition are that on the report of petitioner, a case vide FIR No.385 dated 04.10.2014 was registered at police station Saddar, D.I.Khan under sections 302/324/148/149 PPC against accused Gul Rehman alias Bilal, Gulab Khan, Fazal Rehman, Muhammad Khan alias Muhammad and Abdur Rehman. Complete challan against the accused was submitted before the learned trial Court. In the meanwhile,

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legal heirs of deceased Rehmatullah and Zar Muhammad entered into compromise with the accused and submitted relevant documents before the learned trial Court. The learned Additional Sessions Judge-IV, D.I.Khan recorded joint statement of Mst. Gul Noora (widow) and injured Mamoon (son) of deceased Rehmatullah who stated that they have patched up the matter with all the accused including absconding accused and pardoned them in the name of Allah Almighty by waiving of their rights of Qisas and Diyat. The learned Court also recorded the statement of Faridullah, son of deceased Zar Muhammad. He stated his father Zar Muhammad was murdered and to this effect, report was lodged by Mst. Gul Nooran Bibi who charged accused Gul Rehman alias Bilal, Fazal Rehman, Haji Gulab, Abdur Rehman and Muhammad Khan. He further stated that he has patched up the matter with the accused party and pardoned them in the name of Allah Almighty. Similarly, joint statement of Mst. Shahida Bibi (widow) and Mst. Gul Sarwara Bibi (mother) of deceased Zar Muhammad was recorded who also stated to have patched up the matter with the accused party. Thereafter, the learned Additional Sessions Judge-IV, D.I.Khan acquitted accused Gul Rehman alias Bilal, Gulab Khan and Fazal Rehman and declared accused Muhammad Khan alias Muhammad as proclaimed offender and issued perpetual

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warrant of arrest against him vide judgment dated 23.01.2017, hence the instant criminal revision by complainant Mst. Gul Noora.

3. We have heard the arguments of learned counsel for the petitioner and the learned Addl: A.G representing the State and have gone through the record.

4. Perusal of record reveals that the offences with which the accused including the absconder are charged, are legally compoundable. The legal heirs of both the deceased and the injured categorically stated in their statements before the learned trial Court that they have patched up the matter with the accused facing trial and the absconding accused, have pardoned them in the name of Allah Almighty and have no objection if they are acquitted on the basis of compromise. Under Islamic law, there is no provision that in any case of a compoundable offence, the accused person can be forgiven only and only when he agrees to being forgiven. There is an example that when the Holy Prophet (S. A.W.W) visited Taif and the street urchins of Taif, upon instigations by the notables of Taif, pelted Holy Prophet with stones and according to historians, so much so that the blood of the Holy Prophet dropped into his shoes, the Holy Prophet instead of praying for God's wrath angers upon the residents of Taif, forgave

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and prayed for their forgiveness. Keeping in view such golden Islamic principles, it would not be in the interest of justice to indulge ourselves into technicalities that accused Muhammad Khan alias Muhammad was an outlaw and did not appear either before the investigating agency or before the Court. When legal heirs of both the deceased and the injured have settled their differences also with accused Muhammad Khan alias Muhammad, the order of learned trial Court issuing perpetual warrant of arrest against him is legally incorrect and not sustainable. Reliance in this respect can be placed on the case of Muhammad Nawaz and others. Vs. State (1998 M L D- 1 Lahore).

5. For the reasons mentioned above, we allow the instant criminal revision, set aside the impugned judgment dated 23.01.2017 of learned Additional Sessions Judge-IV, D.I.Khan to the extent of issuance of perpetual warrant of arrest against accused Muhammad Khan alias Muhammad and acquit him of the charges on the basis of compromise.

Announced.
Dt: 05.6.2017.
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Muhammad Ayub Khan - J
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Abdul Sharoor - J.

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