

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mushir Alam
Mr. Justice Sajjad Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.79-K of 2019

(Against order dated 21.3.2019 of the High Court of Sindh, Karachi passed in Cr. Accountability Appeal No.14/2013)

Sheikh Iqbal Azam Farooqui through his legal heirs

...Petitioner(s)

Versus

The State through Chairman NAB

...Respondent(s)

For the Petitioner(s): Mr. Amir Raza Naqvi, ASC
Mr. Ghulam Rasool Mangi, AOR

For the State Mr. Sattar Awan, Special Prosecutor

Date of hearing: 2.1.2020.

JUDGMENT

Qazi Muhammad Amin Ahmed, J. Sheikh Iqbal Azam Farooqui, since demised, was tried by an Accountability Court at Karachi; he was arrayed in the reference alongside Javed Iqbal Farooqui, Iftikhar A. Shaikh and Shaikh Mansoor Ahmed, away from law till date, proceeded accordingly; held guilty under Section 9(a)(viii) of the National Accountability Ordinance, 1999, he was sentenced to undergo Rigorous Imprisonment for seven years with a direction to pay Rs.5.187 million as fine, to be recovered as arrears of land revenue; upon his death, a learned Division Bench of High Court of Sindh, disposed of his appeal as having been abated, while keeping amount of fine intact to be realized from his estate *vide* impugned order dated 21.3.2019, *vires* whereof are being disputed herein.

2. Learned counsel for the legal heirs of the deceased convict contends that notwithstanding death of the convict, his appeal, admitted to regular hearing during his life time, merited full dress

regular adjudication as not only his name required vindication but also for the additional reason that his estate, devolving upon the legal heirs, was burdened with impugned conviction. While referring to the provisions of Section 431 of the Code of Criminal Procedure, 1898, law declared by this Court in the cases of **Dr. Ghulam Hussain (represented by 8 heirs) vs. The State** (1971 SCMR 35) and **Muhammad Shamoon (deceased) through legal representatives vs. The State and another** (2019 SCMR 1144) has been referred to argue that there was no occasion for the learned High Court to short circuit the pending proceedings with fiscal consequences of the conviction still impinging upon the estate. The learned Law Officer has contested the motion.

3. Heard. Record perused.

4. Corporal consequences of a conviction wither away with the death of the convict, therefore appeal filed by the convict would automatically abate, as the death severs all temporal links with his corpus. However, financial liability, consequent upon conviction and shifted upon the estate, would certainly require the appellate court to decide the appeal on its own merit as in the event of its failure, the liability is to be exacted from the assets devolving upon the legal heirs. A plain reading of Section 431 of the Code *ibid* confirms the above contemplation of law. Criminal petition is converted into appeal; allowed. The impugned order is set aside. Appeal filed by the deceased, being sustained by his legal heirs, shall be deemed as pending before the High Court for adjudication on merits.

Judge

Judge

Judge

Karachi, the
2nd January, 2020
Not approved for reporting
Ghulam Raza/-