

IN THE HIGH COURT OF SINDH AT KARACHI

BEFORE:

Mr. Justice Aftab Ahmed Gorar

Cr. Jail Appeal No.410 of 2018

Dildar Ahmed Shahzad	-----	Appellant
	Versus	
The State	-----	Respondent

Date of Hearing: 04.03.2020

Appellant: Through Mr. Muhammad Aqil Zaidi, Advocate

State: Through Malik Sadaqat Khan, Special
Prosecutor SSGC

J U D G M E N T.

AFTAB AHMED GORAR, J.- The appellant Dildar Ahmed Shahzad son of Muhammad Hanif was found guilty of offence and vide judgment dated 13.6.2018 passed in Sessions Case No.1350/2017 arising out of Crime No.70/2017 registered at Police Station Sui Southern Gas Company under Sections 15,19,24 GTC&R Act 2016 and 416, 34 PPC and the appellant was convicted by the Court of learned District & Sessions Judge, Karachi (Central) and sentenced him to serve R.I for 05 years and to pay fine of Rs.50,000/- and in default of payment to suffer further S.I for six months more.

2. The learned trial Court recorded the evidence of PW-1 Abdul Jabbar at Ex-3, PW-2 PC Imran Khan at Ex-4, PW-3/complainant Munir Ahmed at Ex-5, PW-4 ASI Muhammad Ilyas at Ex-6, PW-5 Laiq Muhammad at Ex-7 and PW-6 SIP Abid Shah at Ex-8. On such evidences found the appellant guilty for the charged offence and sentenced him as above.

3. Learned Counsel for the appellant submits that no private person was cited as witness hence there is clear violation of Section 103 Cr.P.C. He further argued that no recovery has been made from the appellant. He submits that

the learned trial Court failed to appreciate such facts while convicting the appellant. Learned Counsel for the appellant therefore states that the appellant has made out a case for reduction of sentence to the extent he has already undergone, as he remained in jail for about one year, three months and twenty eight days including remission up to 01.11.2018 and released on bail after suspension of sentence on 23.2.2019.

4. Heard the learned Counsel and perused the record.

5. The learned Special Prosecutor SSGC has raised his no objection for reduction of sentence as proposed by learned Counsel for the appellant.

6. Admittedly the appellant remained in jail for about one year, three months and twenty eight days including remission. In the case of ***Niazuddin v. The State*** reported as ***2007 SCMR 206***, the Hon'ble Supreme Court was pleased to reduce the sentence from imprisonment of ten years to six years whereas in the case of ***Gul Naseeb v. The State*** reported as **2008 SCMR 670**, the Hon'ble Supreme Court reduced the sentence from imprisonment for life to ten years.

7. In such circumstances, in my opinion, the appellant had suffered adequate punishment i.e. one year, three months and twenty eight days hence the ends of justice has been satisfied. Accordingly, this Criminal Appeal against conviction is dismissed as not pressed and the sentence awarded to the appellant for the offence under Sections 15, 19, 24 GTC&R Act 2016 and 416, 34 PPC to undergo R.I for 05 years and to pay fine of Rs.50,000/- is altered into imprisonment which appellant had already undergone along with fine.

The appellant is present on bail. His bail bond is cancelled and surety stands discharged. Office is directed to return the surety on proper identification and verification.

Karachi.
Dated: 04.3.2020

Judge