

JUDGMENT SHEET
HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD.
CRIMINAL APPEAL NO.D-56 OF 2008.

Date

Order with signature of Judge

PRESENT: 1. Justice Ahmed Ali M. Shaikh J
2. Justice Salman Hamid J.

Appellant:

1. Khan Muhammad s/o Wahid Bux Gour 2. Kamaluddin
s/o Gulab Jamali through Mr. Nandan A. Kella Advocate.

Respondent:

The State through Syed Meeral Shah, Deputy Prosecutor
General, Sindh at Hyderabad.

Date of hearing: 24.09.2010.

Date of judgment: 30.09.2010.

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Ahmed Ali M. Shaikh J: This appeal is directed against the Judgment dated 07.02.2007 passed by the learned Special Judge CNS/Sessions Judge, Shaheed Benazirabad in Sessions Case No.159/2004 culminating from crime No.09/2004 of P.S Excise DIO Camp Sakrand for offence punishable u/s 9(c) Control of Narcotics Substances Act, 1997 by which the appellants were convicted and sentenced to suffer imprisonment for life and to pay fine of Rs.100,000/- each and in case of non payment of fine, they have to suffer further R.I. for 12 months, however, benefit of section 382-B Cr.P.C was extended to them.

2. Briefly stated the facts of the prosecution case are that the appellants were arrested on 29.11.2004 from a Truck bearing registration P/2 No.SI-2501 which was parked near Sakrand Sugar Mills and from secret box of the cabin of said truck, Excise police party recovered 193 K.Gs Charas, out of which 04 K.Gs and 430 grams charas was taken out as sample for chemical examination. On completion of investigation, appellants were sent up to face the charge before Special judge CNS Shaheed Benazirabad.

3. Formal charge was framed by the trial court to which the appellant pleaded their innocence and claimed trial.

4. To substantiate its case, prosecution examined P.W.1 Excise Inspector Nihal Khan Shar, EC Abdul Sattar and closed its side.

5. Statements of the appellants u/s 342 Cr.P.C were recorded whereby they denied the prosecution allegations and claimed their innocence. However, they did not examine themselves on oath nor examined any defence witness.

6. After hearing the learned counsel for the parties, trial court passed the impugned Judgment as stated above.

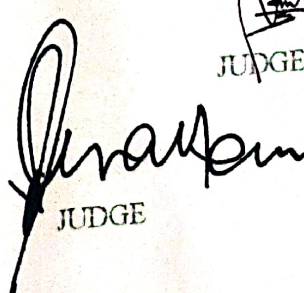
7. At the outset, learned counsel for the appellants states that he does not want to press the appeal on merits, however, he request for reduction in the quantum of sentence on the ground that appellants are first offenders and lone bread earners of their respective families.

8. Syed Meeral Shah, learned Deputy Prosecutor General contended that the prosecution has proved its case against the appellants and produced overwhelming and incriminating evidence against them, however, he did not raise any objection if the quantum of sentence of the appellants is reduced.

9. Heard learned counsel for the parties and perused the record.

10. No doubt, prosecution has successfully proved its case against the appellants through overwhelming and incriminating evidence, however, keeping in view the submissions made by the learned counsel for the appellants and following the dicta laid down by Honourable Supreme Court in case of Ghulam Raef Khan Vs. The State 2008 SCMR 865, Maqbool Masih Vs. The State 2010 P Cr. L J 1306, we deem it proper to reduce the sentence of the appellants from imprisonment for life to 20 years and ~~fine~~ Rs.100,000/- each. In case of non payment of the amount of fine, appellants shall suffer R.I. for six months.

11. With the above modification in the sentence, the appeal is dismissed.


JUDGE