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IN THE HIGH COURT OF SINDH AT KARACHI
Special Criminal Anti-Terrorism Appeal No.184 of 2020

Date

Order with signature of Judge

For hearing of main case.

04.02.2022

Mr. Nazeer Ahmed Gorar, Advocate for the Appellant

Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh

J U D G M E N T

Mohammad Karim Khan Agha J. The Appellant Athar s/o Muhammad Ismail was tried by the Anti-Terrorism Court No.VIII Karachi in Special Old Case No.150/2020/New Special Case No.15/2020 in respect of FIR No.243/2020 under section 4/5 Explosive Substance Act, 1908 read with section 7 of ATA 1997 and vide judgment dated 30.09.2020 was convicted for an offence under section 5 of Explosive Substance Act 1908 and sentenced to suffer Rigorous Imprisonment for five years and fine of Rs.50,000/-.

2. Brief facts of the prosecution case as per FIR are that on 06.06.2020 ASI Muhammad Asif along with subordinates were on patrol in official mobile when they received spy information that the appellant was in dubious condition near Star Ground, Mola Madad Qabristan (graveyard). They proceeded to such place and on pointation of spy informer encircled the appellant and apprehended him. On his personal search one live Hand Grenade was recovered and as such the appellant was arrested and FIR was lodged against him under the abovementioned sections.

3. After usual investigation the case was challaned and charge framed to which the appellant plead not guilty and claimed trial.

4. The prosecution in order to prove its case, examined four PWs and exhibited numerous documents and other items. The appellant in his section 342 statement claimed that he had been falsely implicated by the police officers. However, he did not give evidence on Oath or call any DW in support of his defence case.

5. After hearing the parties and appreciating the evidence on record the learned Trial Court convicted and sentenced the appellant as stated earlier in this judgment. Hence, the appellant has moved this appeal against his conviction.

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6. The evidence and facts of the case are set out in the impugned judgment and it is not necessary to set out the same in this judgment in order to avoid duplication and un-necessary repetition.

7. After reading out of the evidence learned counsel for the appellant stated that under instructions of the appellant he would not press this appeal on merits provided that the sentence was reduced to that of already undergone keeping in view various mitigating factors. The learned Additional Prosecutor General had no objection to such proposition.

8. We have gone through the evidence and find that the appellant was arrested on the spot with one live Hand Grenade in his possession by two police officers whose evidence we find to be trustworthy and confidence inspiring. They recovered from the appellant on the spot one live Hand Grenade which was confirmed by an officer from BDU. As such, we find that the prosecution has proved its case against the appellant beyond any reasonable doubt and as such uphold the conviction.

9. With regard to the sentence we note the following mitigating circumstances raised by the appellant.

(a) That the appellant is first time offender who is capable of reformation.

(b) That the appellant is 27 years of age and has a large family to support who are suffering on account of his continued incarceration in jail.

(c) That the appellant by admitting his guilt has shown genuine remorse.

10. Based on the above mentioned mitigating circumstances and the no objection by the learned Additional Prosecutor General we hereby reduced the sentence of the appellant to time already undergone in jail in respect of this appeal and which shall also include his fine. The appellant shall be released from custody unless he is wanted in any other custody case.

This appeal is disposed of in the above terms.