

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha

CRIMINAL APPEAL NO.593 OF 2023.

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| Appellant | Ghulam Mustafa son of Muhammad Hanif through Mr. Zakir Hussain Bughio, Advocate. |
| Respondent | The State through Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh. |
| Date of Judgment | 31.10.2024 |

JUDGMENT

Mohammad Karim Khan Agha, J. Appellant Ghulam Mustafa son of Muhammad Hanif was tried in the Court of Special Judge Anti-Corruption (Provincial) Karachi in Special Case No.85/2019, whereby the appellant has been convicted for the offence under section 161 PPC to suffer R.I for 02 years and to pay fine of Rs.50,000/- and in case of default in payment whereof, he shall suffer S.I for two months more. The appellant has also been convicted for the offence under section 5(2) of the Prevention of Corruption Act, 1947 and sentenced to undergo R.I for one year and to pay fine of Rs.10,000/- and in case of default in payment whereof, he shall suffer S.I for one month more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

2. The brief facts of the prosecution case are that the complainant is doing private job and his residence is at Flat No.401, near Haji Camp Jinnah Abad, Gali No.13, Saddar town, Karachi. While he was doing renovation of the said Flat, one person namely Mustafa, posing himself as official of SBICA department came to him and demanded bribe of Rs.6,00,000/-. In case of non-payment of the bribe, he threatened to bring the SBICA officials for demolishing the construction of the subject Flat. Under compelling circumstances, he arranged Rs.400,000/- and paid to accused Mustafa in presence of witnesses.

3. After usual investigation, the challan was submitted against the appellant / accused to which he pleaded not guilty and claimed trial.

4. The prosecution in order to prove its case examined in all 04-PWs and exhibited various documents and other items. The statement of accused was recorded under Section 342 Cr.P.C in which he denied the allegations levelled against him. However, the appellant did not give evidence on oath nor produce any DWs in support of his defence.

5. After hearing the parties and appreciating the evidence on record, the trial court convicted the appellant and sentenced him as set out earlier in this judgment; hence, the appellant has filed this appeal against his conviction.

6. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 13.11.2023 passed by the trial court, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. At the very outset, learned counsel for the appellant did not argue the case on merits and sought only reduction in sentences based on the following mitigating circumstances:-

- a) That the appellant is first time offender and capable for reformation.
- b) That the appellant had a large family to support.
- c) That by accepting his guilt he has shown genuine remorse.
- d) That the appellant had served out a major part of his sentence.
- e) That being a government servant he has already lost his job.

8. Based on these mitigating factors mentioned by the appellant, learned Additional Prosecutor General had no objection to the reduction in sentences to some reasonable extent.

9. I have gone through the evidence on record both are oral and documentary and find that that the prosecution has proved its case beyond a reasonable doubt against the appellant and as such his convictions are upheld.

10. With regard to sentences awarded to the appellant based on the mitigating circumstances mentioned above and no objection given by the learned Additional Prosecutor General Sindh for reducing the sentences, the sentences awarded to the appellant are reduced to one which he has already undergone in jail and his fine(s) is/are waived off. The appellant is present in Court on bail. His bail bonds are discharged and he is free to go.

11. This appeal stands disposed of in the above terms.

JUDGE

Nadir