

IN THE HIGH COURT OF SINDH, KARACHI
Crl. Appeal No. 524 of 2024

Present:

Justice Zafar Ahmed Rajput.

Justice Tasneem Sultana.

Appellant	:	Mst. Shazia w/o Adil, through Mr. Ajab Khan Khattak, Advocate
Respondent	:	The State, through Mr. Mumtaz Ali Shah Assistant Prosecutor General (APG), Sindh
Date of hearing	:	27.05.2025
Date of order	:	<u>27.05.2025</u>

JUDGMENT

ZAFAR AHMED RAJPUT, J: - This Crl. Appeal is directed against the Judgment, dated 03.07.2024, passed by the Addl. Sessions Judge-I/Model Criminal Trial Court, Karachi-West (**Trial Court**) in Special (Narcotic) Case No. 826 of 2023, arisen out of FIR. No. 618 of 2023, registered at P.S. Saeedabad, Karachi under section 6/9 (c) of the Control of Narcotics Substance (Sindh Amendment), Act 2021 (**Act**), whereby the appellant has been convicted and sentenced for life imprisonment and to pay a fine of Rs.100,000/- or, in default thereof, she should undergo S.I. for six (06) months more, while co-accused Iftekhar Ali has been acquitted of the charge by extending him benefit of doubt.

2. As per prosecution case, on 24.10.2023, SI Abid Ali of PS Saeedabad, Karachi during course of patrolling with other officials, on a tip-off that a woman carrying narcotics was present at Gwadar Gate Bus Terminal, reached the pointed place at 2030 hrs., where they apprehended the appellant, sitting in a rickshaw, on being recovered from her possession crystal weighing 2015 grams; for that, she and the rikshaw driver Iftekhar

Ali were booked in the aforesaid F.I.R. After usual investigation, police submitted the charge-sheet against the appellant and said co-accused. The Trial Court framed the charge against them, to which they pleaded not guilty, which followed a full-fledged trial, conviction and sentence of the appellant, as mentioned above, vide impugned judgment.

3. At the very outset, learned counsel for the appellant has contended that under instructions he does not press this Appeal on merit; however, he seeks reduction of appellant's sentence on the grounds that she is a lady; the net quantity of the crystal allegedly recovered from her is less than 2000 grams; and she is not previously convicted of any offence.

4. Learned APG, while conceding the fact that there is no criminal record of the appellant, has not opposed the proposition of learned counsel for the appellant.

5. We have heard the learned counsel for the appellant as well as learned APG and scanned the material available on record with their assistance.

6. As per prosecution case, police secured from the appellant a brown colour handbag having inside it, two shoppers containing cloth of crystal, which on being weighed came to 2015 grams. As per report of Chemical Examiner, the gross weight of the substance was 2015 grams and net weight was 1925 grams, and the same has been identified as Caffeine and Diacetylmorphine (Heroin) commonly known as Crystal, which has been defined as "narcotic drug" under Category (ii) of clause (s) of section 2 of the Act. Section 9 (c) of the Act provides for the alleged offence sentence of

death, imprisonment for life or imprisonment for a term which *may extend to* fourteen years and fine upto one million rupees, if the quantity of narcotic drug exceeded the limit of fifty grams, and if the quantity exceeds two kilograms, the punishment shall be not less than imprisonment of life. In the instant case, the Court while awarding sentence to appellant has to consider the net weight of alleged narcotic drug i.e. 1925 grams.

7. It is well established that punishment for an offence serves not only as a means of retribution but also as a tool for deterrence and a mechanism to strengthen the fabric of society through the rehabilitation of the offender. The law itself classifies offences distinctly. In some instances, punishment is mandated with the expression "*not less than,*" denoting a fixed minimum, while in others, the law provides flexibility through terms like "*may extend to*" or "*may extend up to.*" This legislative contrast signifies that, in the latter category, the courts are expected to exercise judicial discretion by taking into account the specific facts and circumstances of the case. These are the kinds of offences where a lesser punishment may serve the ends of justice by allowing room for the offender's moral and social reformation.

8. In the case of Niaz-ud-Din v. The State (2007 SCMR 206) the Apex Court in a case of recovery of 5-kilogram heroin reduced sentence of imprisonment from 10 to 6 years considering that the accused was not previously convicted and there was no instance of his involvement in drug trafficking, hence, he was given a chance in his life to rehabilitate himself. In the instant case, the appellant is a woman; she is neither previously convicted of any offence nor is there any instance of her involvement in

narcotics cases, we are inclined to give her an opportunity for reformation. We, therefore, deem it appropriate to reduce her sentence awarded by the Trial Court i.e. for life imprisonment to R.I. for six (6) years; however, the fine amount i.e. Rs.100,000/-and sentence in default thereof i.e. S.I. for six (06) months shall remain intact. She shall be entitled for the benefit of section 382-B, Cr.P.C.

9. For what has been discussed above, instant Crl. Appeal stands dismissed by maintaining conviction of the appellant recorded by the Trial Court vide impugned judgment with above modification in her sentence.

Crl. Appeal stands disposed of.

JUDGE

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