

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Jail Appeal No.581 of 2021.

Present:

*Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Zulfiqar Ali Sangi*

Appellant	Abdul-ur-Rehman @ Lalak S/o Niaz Muhammad Advocate is not present.
Respondent	The State through Mr. Ali Haider Saleem, Additional Prosecutor General Sindh.
Date of Hearing	12.09.2022
Date of Order	12.09.2022.

JUDGMENT

MOHAMMAD KARIM KHAN AGHA, J:- Appellant Abdul-ur-Rehman S/o Niaz Muhammad was tried before the Court of Additional District & Sessions Judge-8 Model Criminal Trial Court, Karachi West in Session Case No.555/2020 under FIR No.79/2020 for the offence punishable U/s 6/9-C CNS Act, 1997 at PS SITE-B, Karachi and vide judgment dated 02.03.2021 he was convicted of the said offence and sentenced to suffer R.I. for five years and six months and to pay fine of Rs.30,000/- and in case of non-payment of fine, he shall undergo SI for six months more. However, the appellant was granted benefit of Section 382-B Cr.P.C.

2. The brief facts of the prosecution case are that on 26.02.2020 complainant ASI Muzhar Khan alongwith HC Ikramullah, PC Arshad Mehmood and PC Shabbir Ahmed left PS for patrolling in police mobile vide entry No.44-0755. During patrolling from different places, when they reached at Main Hub River Road Baldia Traffic Chowki SITE Area Karachi at 1800 hours, he saw that one person was standing at the road in suspicious condition holding orange and white colour Rahber Water Cooler in his hand. He tactfully apprehended the suspected person for

checking purpose. On inquiry, he disclosed his name as Abdul-ur-Rehman S/o Niaz Muhammad. ASI made his personal search in presence of police mashirs and recovered Rs.500/- from front side pocket of his shirt, one colour photo copy of CNIC in the name of Gharan Muhammad son of Saleh Muhammad, Afghan citizen card and on mobile phone from his possession. ASI took the water cooler from the possession of accused and checked the water cooler and recovered three packets of charas wrapped in white colour shopper. He weighted each packet of charas through digital scale which was 1226 grams total 3678 grams. Then he prepared the mashirnama of arrest and recovery on the spot and sealed the case property. He brought the accused and case property at PS and lodged the instant FIR.

3. After usual investigation, the case was challaned and the accused was sent-up to face the trial where he pleaded not guilty to the charge.

4. The prosecution in order to prove its case examined 03 Prosecution Witnesses 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 and claimed false implication by the police. 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 02.03.2021 passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. This Court had appointed counsel on behalf of the appellant; however, he has remained absent without intimation for last two dates of hearing and as such, on the assistance of learned Addl. P.G and keeping in view that the appellant has already served out his sentence and released from jail as per jail roll dated 10.09.2022, we have determined and decided this case on the basis of record.

8. We have heard the learned Addl. P.G. and have gone through the evidence with his able assistance. We find that the appellant was caught red handed on the spot and recovered charas total 3768 grams by the police. No enmity or ill-will has been pointed out by the appellant against the police party, as such, we believe their evidence to be reliable trustworthy and confidence inspiring. The safe custody of recovered narcotic has also been proven from the time it was recovered until the time it was sent to chemical examination, which report also received as positive as such the prosecution has proved its case beyond any reasonable doubt.

9. Under these circumstances, this appeal is dismissed.