

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Irshad Ali Shah

SPECIAL CRIMINAL A.T. APPEAL NO.92 OF 2020

Appellant:	Arif Khan @ Khanzada s/o. Saeed Khan, through Mr. Javed Iqbal Burqi, Advocate,
Respondent:	State through Mr. Ali Haider Saleem, Additional Prosecutor General, Sindh.
Complainant:	Through Mohammad Farooq, Advocate
Date of Hearing:	11.10.2021
Date of judgment:	13.10.2021

J U D G M E N T

Mohammad Karim Khan Agha, J. The appellant has impugned judgment dated 18.06.2020 passed by learned Judge, ATC-XX, Karachi whereby after full-dressed trial, the appellant has been convicted and sentenced to various terms spreading over five years with fine for allegedly making demand and accepting money from complainant Mst. Hajran Mirza to make her know the whereabouts of her husband, who allegedly was abducted within the jurisdiction of PS Dalbadin at Baluchistan.

2. It is contended by learned counsel for the appellant that the appellant being innocent has been involved in this case falsely by the complainant party and the case against him at the most would fall under Section 385 PPC and he would not press disposal of the appeal of the appellant on merits if the conviction and sentence awarded to the appellant is reduced to one which he has already undergone.

3. Learned Addl. P.G for the state and learned counsel for the complainant have readily accepted the above said proposition.

4. Heard arguments and perused the record.

5. As has come on record through evidence of the complainant that the appellant approached her to make her know the whereabouts of her husband for

money, who allegedly was abducted within jurisdiction of PS Dalbadin at Baluchistan, which she paid to him from time to time as she was threatened to be kidnapped or murdered together with her kids. If such allegation is believed to be true than it prima facie makes out a case for an offence punishable under Section 385 PPC which entails imprisonment of either description for a term which may extend to two years or with fine or with both. In that situation the punishment awarded to the appellant for an offence punishable under section 7(1)(h) of ATA 1997 being irrelevant could not be sustained, it is set aside, therefore, we by modifying the conviction and sentence awarded to the appellant to one under Section 385 PPC alone, order for his release in the present case for the reason that he by remaining in jail for more than two years has already undergone the sentence which the above penal provision entails.

6. The above appeal is disposed of accordingly.