

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-40 of 2024

Appellant: Mirza Khorkhani through Mr. Abdul Malik Mari, Advocate.

Respondent: The State through Ms. Rameshan Oad, Deputy Prosecutor General Sindh.

Date of hearing: 03.06.2025.

Date of Decision: 03.06.2025.

J U D G M E N T

Amjad Ali Sahito, J. Through the above captioned appeal, the appellant has impugned judgment dated 14.03.2024, passed by the learned Additional Sessions Judge-II, Sanghar in S.C. No.710/2023 [Re-The State v. Mirza and two others], Crime No.69/2023 for the offences under sections 324, 114, 34 PPC registered at PS Sinjhor, whereby the appellant was convicted and sentenced as under:-

For the offence under section 324 PPC, R.I. for five years and fine of Rs.100,000/- and in case of default whereof, he shall further under S.I. for three months;

For the offence under section 337-F (iii) PPC, to pay Rs.50,000/- as Daman to the victim Ghulam Murtaza and in case of default whereof he shall undergo S.I. till realization of Daman amount; and

For the offence under section 337-F (vi) PPC, to pay Rs.150,000/- as Daman to the victim Ghulam Murtaza and in case of default whereof, he shall undergo S.I. till realization of the Daman amount.

However, he was extended benefit of section 382-B Cr.P.C.

2. Learned counsel for the appellant contends that although the case against the appellant is fit for acquittal on merits, the appellant has, in any event, already completed the substantive sentence awarded to him under Section 324 PPC on 31.03.2025. He contends that the appellant is presently incarcerated solely for non-payment of *Daman* in the sum of Rs.200,000/-, as directed in the impugned judgment passed by the learned trial Court. He further contends that the appellant is an extremely poor person with no means to pay the full amount. However, as a gesture of good faith, the appellant is willing to deposit Rs. 100,000/- today. In view of his financial condition, learned counsel prays that the amount of *Daman* may be reduced accordingly.

3. On the other hand, learned D.P.G. Sindh supports the impugned judgment; however, she admits that the appellant has served out his entire sentence but he is only behind the bars for want of payment of *Daman* amount.

4. Heard and perused the material available on record.

5. On careful perusal of the material available on record, it appears that the prosecution has succeeded in establishing its case against the appellant and accordingly, he was convicted and sentenced. However, the appellant does not wish to press the appeal on merits. It is noted that he has already served out the sentence awarded to him for the offence under Section 324, PPC and is presently confined solely on account of non-payment of *Daman* for the offences under Sections 337-F (iii) and 337-F (vi), PPC. *Daman*, as envisaged under Section 337-Y, PPC, is a form of compensation awarded to an injured person for the physical harm caused by the offender. *Daman* is personal to the injured party and is intended to compensate for pain, suffering and medical consequences resulting from the injury. It is compensatory rather than punitive in nature and is to be assessed by the Court considering the nature and extent of the injury, as well as the financial capacity of the offender. The quantum of *Daman* is

not fixed and lies within the discretionary domain of the Court to determine a fair and reasonable amount, ensuring a balance between the rights of the victim and the circumstances of the accused. In the present case, the appellant was directed to pay Rs. 200,000/- as Daman; however, he has expressed his inability to pay the full amount due to extreme financial hardship, asserting that he is a poor person with no stable source of income and is currently incarcerated. Pursuant to the directions of this Court, learned counsel for the appellant has deposited an amount of Rs. 100,000/- with the Accountant of this Court and the deposit receipt has been placed on record. Considering the compensatory object of Daman and the financial position of the appellant, the amount is accordingly reduced to Rs. 100,000/- in the interest of justice. Consequently, the appellant shall be released forthwith, if not required in any other custody case. The amount deposited by the appellant shall be disbursed by the Accountant of this Court in accordance with the directions contained in the impugned judgment.

6. At this juncture, learned counsel for the appellant requests that the release orders be issued through fax, citing the limited time available due to the forthcoming Eid holidays, as the ordinary course of the verification process would take considerable time. Order accordingly.

7. With the above modification in the impugned judgment, the appeal is **dismissed**.

JUDGE