

ORDER SHEET

IN THE HIGH COURT OF SINDH, AT KARACHI.

Cr. Appeal No. 107 of 2025

Present

Mr. Justice Dr. Syed Fiaz ul Hassan Shah

Date of hearing: 24.09.2025

Date of Judgment 24.09.2025

Appellant : Ghulam Mustafa S/o Wali Muhammad
through Mr. Ikramullah Khan, Advocate.

Respondent : The State through Mr. Siraj Ahmed Khan Chandio,
Addl. P.G.

J U D G M E N T

DR. SYED FIAZ UL HASSAN SHAH, J.- Appellant Ghulam Mustafa S/o Wali Muhammad has impugned the judgment dated 06.01.2025 passed by learned Additional Sessions Judge-XIII, Karachi East, for offence under Sections 397 PPC, whereby after full-fledged trial, the appellant was convicted and sentenced to undergo R.I for seven years and pay fine of Rs.20,000/- and in case of default in payment of fine, he shall suffer S.I for one month more. Appellant was also extended benefit of section 382-B Cr.P.C.

2. After arguing the matter at some length, learned counsel for the appellant, submits that he would not press the instant appeal on merits provided the conviction and sentence awarded to the appellant by learned trial Court under impugned judgment 06.01.2025 may be modified to the extent of period already undergone by the appellant.

3. Learned Addl. P.G has extended no objection.

4. I have heard learned counsel for appellant and learned Addl. P.G and perused the material available on record. In order to satisfy myself, I have re-assessed the evidence of the prosecution at trial. In order to prove its case, prosecution has examined 03 witnesses, who have fully supported the prosecution case on its salient features. Prosecution witnesses were cross examined at length, but nothing favourable could be brought on record. I have therefore, come to the conclusion that prosecution has successfully proved its case against the appellant.

5. The Jail Roll of appellant dated 26.08.2025 depicts that appellant has served sentence of 6 years, 5 months and 20 days including remission which shows that he has already served out major portion of the sentence awarded to him by the trial Court.

4. Quantum of punishment is not only discretion of the Court, which has to be exercised while considering the circumstances of the case, but also is an independent aspect of Criminal Administration of Justice which, too, requires to be done keeping the concept of punishment in view.

5. Since, appellant is not pressing captioned appeal on merits but seeking reduction of sentences, therefore, I would examine the legality of such plea. Conceptually, punishment to an accused is awarded on the concept of retribution, deterrence or reformation so as to bring peace which could only be achieved either by keeping evils away (criminals inside jail) or strengthening the society by reforming the guilty. There are certain offences, the punishment whereof is with phrase "not less than" while there are other which are with phrase "may extend up to". Thus, it is quite obvious and clear that the law itself has categorized the offences in two categories regarding quantum of punishment. For one category the Courts are empowered to award any sentence while in other category the discretion has been limited by use of the phrase 'not less than'. Such difference itself is indicative that the Courts have to appreciate certain circumstances before setting quantum of punishment in first category which appear to be dealing with those offences, the guilty whereof may be given an opportunity of "reformation" by awarding less punishment which how low-so-ever, may be, will be legal. The concept of reformation should be given much weight because conviction normally does not punish the guilty only but whole of his family/dependents suffer too. A reformed person will not only be a better brick for society but may also be helpful for future by properly raising his dependents. In any event, in the case of **State through Deputy Director (Law), Regional Directorate, Anti-Narcotics Force vs. Mujahid Naseem Lodhi (PLD 2017 SC 671)**, in the matter of sentence, it is observed as under:

"....in a particular case carrying some special features relevant to the matter of sentence a Court may depart from the norms and standards prescribed above but in all such cases the Court concerned shall be obliged to record its reasons for such departure."

6. The appellant has already been acquitted in two other cases bearing Sessions Case No. 2802 of 2023 and Sessions Case No. 2803 of 2023 both cases of same nature of crime separately registered for snatching and illegal possession of weapon registered under Section 397 PPC and 23(i) Sindh Arms Act, 2013 which were registered in same series of transaction just after short span of time. Appellant being youngman of about 23 years, is only surviving son of his old parents, who have also appeared before the Court. He is sole

bread winner of their family. Let the appellant be provided a chance to improve himself.

7. In view of above, conviction and sentence of the appellant 397 PPC vide judgment dated 06.01.2025 is maintained with certain modification that sentences on all counts are reduced to the period already undergone by him. With regard to conviction period in lieu of fine, same also include the sentence already undergone by him. Accordingly, appellant shall be released forthwith if not required in any other custody case.

8. Captioned Criminal Appeal stands disposed of in the above terms.

JUDGE

Shabir/P.S