

**ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Criminal Revision Application No.D-21 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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For Katcha Peshi.

30.11.2017.

Mr. Amjad Ali Sahito, Advocate for applicant.

Respondents are present in person.

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Allegedly on 01.04.2010 at about 0300 hours the respondents were arrested by Anti Narcotics Force from Fateh Chowk in front of Total Petrol Pump and from respondent Muhammad Farooque 1020 grams of opium and from respondent Noor Hayat 715 grams of opium and 335 grams of charas was recovered. In pursuance of which a F.I.R. bearing Crime No.02/2010 at P.S ANF Hyderabad was registered and the respondents were tried in Special Case No. 24 of 2010. At the conclusion of the trial the respondents were convicted vide impugned judgment dated 28.02.2017 in the terms as stated hereinafter.

Both respondents Muhammad Farooque and Noor Hayat have been convicted and sentenced under section 6, 9(b) Control of Narcotics Substances Act, 1997, to suffer R.I for 01 year and 08 months and to pay fine of Rs.7000/- each and in default thereof to suffer SI for 04 months more. However, they have been extended benefit of section 382-B, Cr.P.C.

This Criminal Revision Application has been filed by the ANF for enhancement of sentence awarded to the respondents on the ground that the length of punishment provided in Ghulam Murtaza's case (PLD 2009 Lahore 362) has not been followed by the learned trial Judge while awarding the conviction and sentence to the respondents. However, in reply to the quarries, learned Counsel for the applicant has admitted that the respondents are the first offenders and previously no case of similar nature was registered against them. In addition, it may be observed that in a recent judgment passed in the case of STATE v. MUJAHID NASEEM LODHI (PLD 2017 Supreme Court 671), the Honourable Supreme Court has held that in the peculiar circumstances the punishment provided in Ghulam Murtaza's case can be departed and the court on the merits of each case can award the punishment which is provided in law and justified in the circumstances.

Keeping in view the above facts, we are of the view that no case for enhancement of sentence against the respondents is made out. Consequently, this Criminal Revision Application is dismissed.

JUDGE

JUDGE

Ali Haider