

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

Criminal Appeal No.S-72 of 2014

Date of hearing: 24.08.2020.
Date of decision: 24.08.2020
Appellant: Appellant Satabo present on bail.
Through Mr. Muzamil Khan Bughio, advocate.
The State: Through Mr. Nazar Muhammad Memon, Addl.P.G.
-.-.-.

J U D G M E N T

RASHIDA ASAD, J: The appellant has impugned the judgment dated 22.05.2014, passed by II-Assistant Sessions Judge, Umerkot, in case Crime No.08 of 2014, registered at Police Station Taluka Umerkot, whereby he was convicted by the trial court for an offence under section u/s 23(1) Sindh Arms Act, 2013 and was sentenced to undergo R.I. for five years and fine of Rs.30,000/-, in case of default in payment of fine to further undergo S.I. for six months, with benefit of Section 382(b) Cr.P.C.

2. Brief facts of the prosecution case are that appellant Satabo on spy information, was arrested from Kot Wah near New Mori, on 28.02.2014, by complainant ASI Rasool Bux of CIA Center Umerkot and from his possession one T.T. Pistol of 30 bore along with magazine containing six (06) live bullets of 30 bore was recovered. Such memo was prepared on spot and consequently appellant was booked in the present case vide F.I.R. u/s 23(1) Sindh Arms Act, 2013.

3. After completing the usual investigation, the investigation officer submitted challan against appellant for trial according to law.

4. The learned trial court framed charge against appellant at Ex.2, to which he pleaded not guilty and claimed his trial.

5. In order to prove its case the prosecution examined three (03) prosecution witnesses and exhibited numerous documents, in support of its case whereafter the prosecution closed its' side.

6. Statement of accused under Section 342 Cr.P.C. was recorded at Ex.8, wherein he denied the allegations of the prosecution and professed his innocence. However, he neither examined himself on oath under section 340(2), Cr.P.C. nor led any evidence in his defense. Finally at the conclusion of trial, the learned trial Court after hearing the parties convicted and sentenced the appellants vide impugned judgment in the terms as stated above. Hence this appeal.

7. Learned counsel for the appellant after arguing the appeal on merits at some length submits that appellant is an old person aged about 66 years with multiple medical issues and has served substantial portion of his sentence. Learned counsel agreed for reduction of sentence to the one already undergone.

8. Learned Additional Prosecutor General Sindh has recorded no objection to this proposal.

9. Since, appellant is not pressing appeal on merits but seeking reduction of sentence, therefore, I would examine the legality of such plea. The 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 upto". 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 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. I am of the view that the punishment appellant has already undergone is sufficient particularly when appellant has submitted that he is remorseful of his past and wants to improve himself. Considering his old age and these facts as well as no objection extended by the learned Additional Prosecutor General Sindh, I see no impediment legal or otherwise to accede to the request of appellant for reduction of sentence.

10. Accordingly, this criminal appeal is dismissed on merits, however, sentence of the appellant is reduced to the period already undergone by him which shall include the period which the appellant is required to undergo in case of default of fine. The appellant is on bail, his bail bonds stand cancelled and surety discharged.

11. The appeal is disposed of in the terms as stated above.

JUDGE