

IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD

**Cr. Jail Appeal No.D-36 of 2009**

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**DATE**

**ORDER WITH SIGNATURE OF JUDGE**

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1. For hearing of M.A No.11011/2019

01.09.2020

Mr. Khair Muhammad Bajeer, advocate for the appellant

Ms. Rameshan Oad APG a/w Shakeel Baig Assistant Superintendent  
Central Prison Hyderabad

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It appears that this Criminal Jail Appeal was disposed of by this Court, vide judgement dated 15.11.2018, whereby, the death sentence awarded to the appellant in subject crime by the Trial Court was altered and converted in Rigorous Imprisonment for life and resultantly the death reference was answered in negative. However, inadvertently the judgment is silent with regard to grant/extending benefit as provided under Section 382-B Cr.P.C to the appellant.

Now the appellant by means of listed application has prayed that since the benefit of Section 382-B Cr.PC has not been extended to him in the above judgement of this Court, therefore, same may be granted to him as he is entitled for the same. Learned counsel for the appellant submits that, as per his information and belief the appellant still has not filed any appeal before the Hon'ble Supreme Court of Pakistan against the judgment passed by this Court.

Learned APG has raised no objection in view of the case of GOVERNMENT OF KHYBER PAKHTUNKHWA through Secretary Home and Tribal Affairs Department Peshawar and others versus MEHMOOD KHAN (2017 SCMR 2044).

From the perusal of case law, cited by learned APG, it appears that benefit, as provided u/s 382-B Cr.PC is mandatory and the High Court u/s 561 Cr.P.C is competent to rectify error of not granting such benefit to an accused in the judgment passed by it. Accordingly listed application is *disposed of* and the appellant is extended the benefit of Section 382-B Cr.PC in terms of dicta laid down in the above referred case law.

JUDGE

JUDGE

Sajjad Ali Jessar