

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

Criminal Appeal No.S-62 of 2019

Date of hearing: 26.04.2019
Date of Judgment 26.04.2019

Appellant : Muhammad Suhail S/o Naseer Ahmed Shah
Through Mr. Ahmed Nawaz Chang,
Advocate

The State : Through Mr. Shahzado Saleem Nahiyoon,
Deputy Prosecutor General

J U D G M E N T

Through the captioned criminal appeal, the appellant has impugned the judgment dated 15.03.2019 passed by the learned IIIrd Additional Sessions Judge, Hyderabad, in Sessions Case No.582 of 2017, arising out of Crime No.75 of 2017, registered at P.S Husri for offence under Section 23(1)(a) of Sindh Arms Act, 2013, whereby the learned Judge convicted and sentenced the appellant to suffer R.I for 02 years.

2. Concisely, the facts of the prosecution case are that, complainant ASI Abdul Hameed lodged F.I.R at P.S Husri, alleging therein that on 27.07.2017 he alongwith his subordinate staff, vide *Roznamcha* entry No.26 was on patrolling duty in the area under his jurisdiction. During patrolling in the difference places, when they reached at Husri City, they received spy information that a wanted person Muhammad Sohail in Crime No.73 of 2017 is coming from Muhammad Shah bridge leading towards pointed place and at about 2100 hours, the police party arrested him. On inquiry, the person

disclosed his name as Muhammad Suhail (present accused). On his personal search, one pistol alongwith three live bullets was recovered from his possession. Thereafter, the accused and case property was brought to the police station, where present F.I.R was lodged against the accused.

3. At the very outset, the learned Counsel for the appellant has submitted that he would be satisfied and shall not press this appeal on merits, if the sentence awarded to the appellant i.e. R.I for 02 years is reduced to one already undergone by him. He further submits that appellant in Crime No.73 of 2017 of P.S Husri has also been acquitted on merits vide judgment dated 29.10.2018, which has been placed on record. He further submits that appellant is a poor person, first offender and is surviving bread earner of his family and while taking lenient view, his sentence may be reduced.

4. Learned D.P.G has conceded to the above proposition of the learned Counsel for the appellant.

5. I have heard the learned Counsel for the respective parties and have perused the record. Perusal of record, it reflects that appellant was arrested on 27.07.2017 on recovery of crime weapon coupled with three live bullets. Perusal of the impugned judgment, it also appears that appellant has been awarded sentence to suffer R.I for 02 years vide judgment dated 15.03.2019. Per learned Counsel, the appellant was also arrested in another case bearing Crime No.73 of 2014 registered at P.S Husri, Hyderabad; however, he was acquitted in the said case from the trial Court vide judgment dated 29.10.2018. The appellant is a first offender and is only bread

earner of his poor family. I, while taking lenient view against the appellant, who is sole bread owner of his poor family and being first offender, hold that the appellant has made out his case where he deserves leniency being proposed by the learned Counsel. Besides, the sentence already undergone by the appellant is sufficient to learned lesson from.

6. In view of the above facts and circumstances, I dismiss this appeal and maintain conviction and sentence awarded to the appellant by the learned trial Court vide judgment dated 15.03.2019; however, reduce the sentence awarded to the appellant to one already undergone by him. Since the sentence awarded to the appellant is reduced to one already undergone by him, therefore, his custody is deemed to be not under the Probation Officer and accordingly the surety executed for the said custody stands discharged.

JUDGE

Shahid