

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**Crl. Jail Appeal No. D-70 of 2014.**  
**Const. Petition No.D-1479 of 2017.**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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For Regular Hearing.

Before:

**Mr. Justice Abdul Rasool Memon &  
Mr. Justice Aftab Ahmed Gorar.**

Mr. Mir Ali Nawaz Jagirani Advocate for appellants.  
Mr. Raham Ali Jatoi Advocate for petitioners.  
Mr. Zulfiqar Ali Jatoi, Additional P.G.

Date of hearing: 31-08-2017.  
Date of Judgment: 31-08-2017.

**J U D G M E N T**

**Aftab Ahmed Gorar J.,** Through this Crl. Jail Appeal, appellants Akhtiar Ali, Kashif Ali and Imdad Hussain have challenged the validity of judgment dated 28.10.2017, passed by learned Judge, ATC, Khairpur in special No. 137 of 2010, whereby appellants were convicted and sentenced as under:

- i. U/s 324 r/w section 149 PPC, appellants were sentenced to R.I for 10-years with fine of Rs. 50,000/-each and incase of failure to suffer RI for 06-months.
- ii. U/s 353 r/w section 149 PPC, appellants were sentenced to R.I for 02-years with fine of Rs. 5,000/-each and incase of failure to suffer RI for 01-month.
- iii. U/s 225 r/w section 149 PPC, appellants were sentenced to R.I for 02-years with fine of Rs. 5,000/-each and incase of failure to suffer RI for 01-month.

- iv. U/s 7 ATA, 1997, appellants were sentenced to R.I for 10-years with fine of Rs. 50,000/-each and incase of failure to suffer RI for 06-months.
- v. All the sentences were ordered to run concurrently with benefit of section 382-B CrPC extended to appellants.

2. Learned counsel for appellants contended that appellants are innocent and have falsely been implicated by the police. He further added that appellants are not previous convicts and are first offenders. He also contended that the appellants have expressed their readiness not to press instant appeal on merit if their sentence is reduced to that of already undergone as they have served out major portion of sentence and they may be given a chance in their life to rehabilitate themselves.

3. Learned Additional P.G conceded to the reduction of sentence of appellants to that of already undergone. On query, he admitted that appellants are not previous convicts.

4. We have carefully heard learned counsel for appellant and learned APG and scanned the entire evidence.

5. Per jail rolls dated 31.08.2017, appellant Akhtiar Ali has served his sentence for 03-years, 06-months and 27-days with remissions of 07-months and 24-days, whereas, appellant Imdad Hussain has served out his sentence for 05-years, 11-months and 16-days with remissions of 07-months and 24-days, while appellant Kashif Ali has served out his sentence for 05-years, 11-months and 16-days with remissions of 07-months and 24-days, which appears to be a substantial portion of sentence.

6. In view of above discussion, we are of the view that appellants have made out a case for reduction of their sentence, therefore, while following the dictum laid down in case of **Gul Naseeb v. The State (2008 SCMR 670)** and **Niaz-ud-Din v. The State (2007 SCMR 206)**, and in order to give a chance to the appellants in their life to rehabilitate themselves, instant CrI. Jail Appeal of the appellants is partly allowed. Consequently, while maintaining the conviction of the appellants, the sentence of the appellants inflicted on them is reduced to that of already undergone. Appellants are behind bars, they be released forthwith if not required in any other case.

7. Const. Petition No.D-1479 of 2017 seeking release of appellants on bail during pendency of appeal stands dismissed as withdrawn being infructuous.

JUDGE

JUDGE