

# THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Appeal No. S- 08 of 2010

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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## **For hearing of main case**

- 1.For orders on MA 221/2014.
- 2.For orders on MA 6270/2018.
- 3.For hearing of main case.

Mr. Shabbir Ali Bozdar Advocate for the appellant.  
Mr. Aftab Ahmed Shar, Additional P.G for the State.

**Date of hearing:** 31-08-2020

**Date of Judgment:**31-08-2020

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

**AFTAB AHMED GORAR J.,** Through this Crl. Appeal, appellant Ali Dino Thebo has challenged the validity of impugned judgment dated 17.12.2009, passed by learned 2<sup>nd</sup> Additional Sessions Judge, Khairpur in Sessions Case No.118 of 2009, culminating out of Crime No. 33 of 2009 registered at P.S, Gambat under Sections 295-B, 295-C and 435 PPC, whereby the appellant was convicted for offence under Section 295-B PPC and sentenced to imprisonment for life so also appellant was convicted for offence under Section 435 PPC, and sentenced to suffer R.I for two years and pay fine of Rs. 5000/- and in case of default thereof to further undergo R.I for one month. The sentences were ordered to run

concurrently with benefit of Section 382 (b) Cr.P.C extended to appellant.

2. It is, inter alia, contended by learned counsel for appellant that the appellant is innocent having falsely been implicated in this case by the police; that the appellant is a first offender and having family responsibilities; that due to his detention in prison, the appellant and his family have mentally and financially crippled; that the appellant has learnt a lesson and has regrets, as he committed the offence in mitigating circumstances; therefore, the appellant has remorse and penitence; that while serving out sentence, the appellant has improved a lot and realized his mistake that he committed an illegal offence and he wants to reform and rehabilitate himself as a respectable citizen. Lastly, learned counsel for appellant expressed his readiness not to press the instant appeal on merits if the sentence of the appellant is reduced to that of already undergone as the appellant has served out major portion of his sentence.

3. In view of above submissions made by learned counsel for appellant, learned Additional P.G for the State has frankly conceded and recorded no objection if the sentence awarded to the appellant by the learned trial Court is reduced to that of already undergone.

4. Perusal of Jail Roll of appellant dated 28.08.2020 reveals that the appellant has served out substantive sentence for a period of 11-years 06-months and 14-days with remissions of 12-years -5 months and 21-days, which appears to be a major portion of sentence, hence appellant deserves leniency.

5. The upshot of the above discussion is that the learned counsel for the appellant has made out a case for reduction in the sentence of appellant, therefore, while following the dictum laid down in cases of **Gul Naseeb v. The State (2008 SCMR 670)** and **Niaz-ud-Din v. The State (2007 SCMR 206)**, so also in order to give a chance to appellant in his life time to rehabilitate himself, the instant CrI. Appeal is partly allowed. Consequently, while maintaining the conviction of the appellant, the sentence of the appellant inflicted on him by learned trial Court is reduced to that of already undergone including the sentence of fine amount and the term of imprisonment in default thereof. Appellant Ali Dino Thebo is behind bars. He shall be released forthwith, if not required in any other custody case.

**JUDGE**