

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**Crl. Appeal No. 237 of 2016**

For hearing of case.

**25.04.2018.**

Appellants Muhammad Ayub and Saadat Khan present on bail.  
 Mr. Muhammad Javed K.K. Assistant Attorney General for Pakistan.

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**Salahuddin Panhwar-J.** At the outset, it would be conducive to refer the operation part of impugned judgment, which is that:-

*“To a formal charge both the present accused pleaded guilty and prayed for mercy.*

*The accused on show cause notice asked as to why conviction should not be recorded on their plea of guilt, replied that they have no explanation and that they are ashamed of the crime committed by them, however, they prayed for taking lenient view.*

*In the light of above, I am satisfied that the plea of the accused is voluntary and without any external pressure. In the reported authority 2006 Law Notes 1195, in case of Muhammad Akmal Vs. State it is held that where accused voluntarily confesses the guilt, the leniency in such cases has been a settled policy of the court of law. I, therefore, by relying upon the said authority, taking a lenient view and convict the accused under Section 17(2)(b), 18(a) of Emigration Ordinance, 1979 and under Section 6(1)(g)(h) of Passport Act, 1974 and sentence them under Section 17(2)(b) of E. O. 1979 to undergo R.I for two years, under Section 18(a) of E. O. 1979 to undergo R.I for three years and under Section 6(1)(g)(h) of Passport Act, 1974 to undergo for two years. All benefit of Section 382-B Cr.P.C. for the period they have remained in custody as under Trial Prisoner. The accused are produced in custody and are remanded back to serve out the sentence awarded.”*

2. At this juncture, appellants contend that they have challenged the impugned judgment on the quantum of sentence, which is too harsh, and when the question of admission comes, the Courts are required to take lenient view, they (appellants) are first offenders, therefore, it would be in the interest of justice to reduce the sentence to one already undergone, which is about 09 months.

3. Contentions, raised by the appellants, are reasonable. The *quantum* of sentence and determination thereof would always require the attention of the Court even if the accused is found *guilty* however *leniency* needs to be shown in

those offences for which the law itself makes every sentence (upto a certain *limit*) as *legal*. The deliberately vested *discretion* in determination of *quantum of sentence* must always be exercised thereby assuring balance in *society* which includes both *deterrence* and *reformation*. The *leniency* in determining quantum of sentence must be shown where the accused, if he is a *first* offender, at very *first* opportunity pleads his *guilt* while admitting to be ashamed of his act (*offence*). A *little* more grace may be shown if the offence is one not involving an *injury* to a private *individual* because the State is not to have its *subject* rot but *reformed*.

4. In the instant matter, appellants' at very *first* opportunity (framing of charge) pleaded their *guilt* and when served with notice the appellants admitted that they have no *explanation* for their act and are ashamed. The appellants' claim to be *first* offender is not challenged. Therefore, the reduction of *quantum* of punishment would meet the ends of justice particularly when such *reduction* would not prejudice to *legality* of conviction as well *quantum* thereof.

5. In consequence of above, the sentence awarded by trial court is reduced to one already undergone. Accordingly, instant appeal is disposed of in the above terms, bail bonds stand cancelled and surety discharged.

JUDGE