

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Appeal No. S- 56 of 2020

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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For hearing under Section 426 Cr.P.C.

- 1.For orders on office objection.
- 2.For hearing of main case.
- 3.For hearing of MA 4134/2020

Mr. Imtiaz Ali Kolachi Advocate for Appellants.
Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

Date of hearing: 19-10-2020

Date of Judgment: 19-10-2020

J U D G M E N T

AFTAB AHMED GORAR J., Through this Crl. Appeal, appellants Abdul Sattar, Sharbat alias Sharfoo, Sattar and Hameer have challenged the validity of impugned judgment dated 03.09.2020, passed by learned 3rd Additional Sessions Judge, Mirpur Mathelo in Sessions Case No. 47 of 2019, arising out of Crime No. 208 of 2018, registered at P.S, Ubauro, under Sections 324, 353, 411, 148 & 149 PPC, whereby all the appellants have been convicted for offence Section 324 PPC and sentenced to undergo for a period of 03-years R.I each and fine of Rs. 3000/- each and in case of default in payment thereof, appellants to suffer one week S.I each more. The appellants were also convicted for offence under Section 353 PPC and sentenced to R.I for 01-year each and fine of Rs. 1000/-

each and in case of default thereof, to undergo S.I for 03-days each more. The appellants were also convicted for offence under Section 148 PPC and sentenced to undergo for a period of 06-months R.I each and fine of Rs.500/- each and in case of default thereof to undergo S.I for one day each. The appellants were also convicted for offence under Section 149 PPC and sentenced to undergo R.I for 06-months each fine of Rs.500/- each and in case of default thereof to undergo S.I for one day more. All the sentences were ordered to run concurrently with benefit of Section 382-B Cr.P.C extended to appellants.

2. It is, inter alia, contended by learned counsel for appellants that the appellants are innocent having falsely been implicated in this case by the police; that the appellants are first offenders and having family responsibilities; that due to their detention in prison, the appellants and their families have mentally and financially crippled; that appellants have learnt a lesson and have regrets, as they committed the offence in mitigating circumstances; therefore, the appellants have remorse and penitence; that while serving out sentence, the appellants have improved a lot and realized their mistake that they committed an illegal offence and they want to reform and rehabilitate themselves as respectable citizens. Lastly, learned counsel for appellants expressed his readiness not to press this Criminal Appeal on merits if sentence of the appellants is

reduced to that of already undergone as the appellants have served out sufficient portion of their sentence.

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

4. Perusal of Jail Roll of appellants dated 07.10.2020 reveals that appellant Abdul Sattar has served out substantive portion of sentence for a period of 10-months and 26-days and remissions earned by him are 03-months and 18-days, while appellant Sharbat alias Sharfoo has served out substantive portion of sentence of 03-months and 24-days and remissions earned by him are 02-days, whereas, appellant Sattar has served out substantive portion of sentence for a period of 08-months and 12-days with remissions of 05-months and 16-days and appellant Hameer served out substantive sentence of 01-year, 02-months and 13-days with remissions earned by him are 07-months and 05-days, which according to learned Deputy P.G appears to be an adequate sentence, hence appellants deserve leniency.

5. The upshot of the above discussion is that the learned counsel for the appellants have made out a case for reduction in the sentence of appellants, 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 appellants in their life time to rehabilitate themselves, the instant Crl. Appeal is partly allowed. Consequently, while maintaining the conviction of the appellants, the sentence of the appellants inflicted on them 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. Appellants are behind bars. They shall be released forthwith, if not required in any other custody case.

JUDGE

Ahmad