

# THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Appeal No. S- 55 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 4111/2020

Mr. Imtiaz Ali Kolachi Advocate for Appellant.

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, appellant Sharbat alias Sharfoo has challenged the validity of impugned judgment dated 03.09.2020, passed by learned 3<sup>rd</sup> Additional Sessions Judge, Mirpur Mathelo in Sessions Case No.62 of 2019, culminating out of Crime No. 209 of 2018, registered at P.S, Ubauro under Section 24 Sindh Arms Act, 2013, whereby the appellant was convicted and sentenced to suffer R.I for 03-years with fine of Rs.5000/- and in case of default thereof, to suffer S.I for one week more with benefit of Section 382 (b) Cr.P.C extended to the 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 sufficient portion of his sentence.

3. In view of above submissions made by learned counsel for appellant, learned Deputy 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 08.10.2020 reveals that the appellant has served out substantive portion of sentence for a period of 02-months and 18-days with no remissions, which according to learned Deputy P.G appears to be an adequate 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 Crl. 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 Sharbat alias Sharfoo Bijarani is behind bars. He shall be released forthwith, if not required in any other custody case.

**JUDGE**

Ahmad