

IN THE HIGH COURT OF SINDH AT KARACHI

BEFORE:

Mr. Justice Aftab Ahmed Gorar

Cr. Appeal No.830 of 2019

Abdul Basit	-----	Appellant
	Versus	
The State	-----	Respondent

Date of Hearing: 19.05.2020

Appellant: Through M/s. M.A. Kazi & Irshad Jatoi ,
Advocates

State: Through Ms. Rubina Qadir, DPG

J U D G M E N T .

AFTAB AHMED GORAR, J.- The appellant Abdul Basit son of Ghulam Muhammad was found guilty of offence and vide judgment dated 22.11.2019 passed in Sessions Case No.1196/2014 arising out of Crime No.143/2014 registered at Police Station Shah Faisal Colony, Karachi under Sections 397/353/324/34 PPC hence the appellant was convicted by the Court of learned IVth Additional District & Sessions Judge, Karachi (East) and sentenced him to suffer R.I. for seven years. Accused was also given benefit of Section 382-B Cr.P.C.

2. The learned trial Court recorded the evidence of PW-1 complainant Naeem Qureshi at Ex-3, PW-2 Inspector Sarfraz Hussain at Ex-4, PW-3 Aliya Naeem at Ex-5, PW-4 PC Manzoor Ali at Ex-6, PW-5 SIP Safdar Khan at Ex-7, PW-6 SIP Muhammad Ismail at Ex-8, PW-7 Dr. Kaleem Shaikh at Ex-10, PW-8 SIP Muhammad Ashraf at Ex-12 and PW-9 Dr. Afzal Ahmed at Ex-13 and on such evidence found the appellant guilty for the charged offence and sentenced him as above.

3. Learned Counsel for the appellant submitted that in the injured witness namely Aliya Naeem in her statement states that fire hit her from back side while Dr. Kaleem Shaikh who had examined the injuries stated that injured Aliya Naeem received firearm wound on her right liber region having no exit

and that too without blackening. He further added that even otherwise this witness was not cross examined as on said date the Counsel for the appellant was not in attendance. He submitted that there is no other independent witness to support the case of the prosecution. He further submitted that the learned trial Court failed to appreciate such fact while convicting the appellant. He lastly contended that at the time of incident the appellant was under the age of 18 years and was a child within the meaning of Section 4(3) of the Juvenile Justice System Ordinance, 2000. Learned Counsel for the appellant therefore states that the appellant has made out a case for reduction of sentence to the extent he has already undergone, as he remained in jail for about ten months and twenty nine days including remission.

4. Heard the learned Counsel for the appellant, learned D.P.G. and perused the record.

5. The learned Deputy Prosecutor General has raised no objection for reduction of sentence as proposed by learned Counsel for the appellant.

6. It is an admitted fact that appellant was under age of 18 years and was a child within the meaning of Section 4(3) of the Juvenile Justice System Ordinance, 2000 at the time of incident therefore, keeping the appellant in jail for a long period with hardened criminals would affect his social attitude whereas he has already remained in jail for about ten months and twenty nine days including remission. In the case of *Niazuddin v. The State* reported as **2007 SCMR 206**, the Hon'ble Supreme Court was pleased to reduce the sentence from imprisonment of ten years to six years whereas in the case of *Gul Naseeb v. The State* reported as **2008 SCMR 670**, the Hon'ble Supreme Court reduced the sentence from imprisonment for life to ten years.

7. In such circumstances, in my opinion, the appellant had suffered adequate punishment i.e. ten months and twenty days out of seven years hence the ends of justice has been satisfied. Accordingly, this Criminal Appeal against conviction is dismissed as not pressed and the sentence awarded to the

appellant for the offence under Section 397 PPC to undergone R.I. for seven years is altered into imprisonment which appellant had already undergone. Jail authorities are directed to release the appellant forthwith if he is not required in any other case.

Karachi.
Dated:19.5.2020

Judge