

IN THE HIGH COURT OF SINDH AT KARACHI

BEFORE:

Mr. Justice Aftab Ahmed Gorar

Cr. Appeal No.209 of 2019

Waseem Ahmed	-----	Appellant
	Versus	
The State	-----	Respondent

Date of Hearing: 03.03.2020

Appellant: Through Syed Lal Hussain Shah, Advocate

State: Through Mr. Muntazir Hussain Mehdi, APG

J U D G M E N T.

AFTAB AHMED GORAR, J.- The appellant Waseem Ahmed son of Akbar Shah was found guilty of offence and vide judgment dated 15.3.2019 passed in Sessions Case No.665/2016 arising out of Crime No.37/2016 registered at Police Station Orangi Town under Sections 392/397/34 PPC the appellant was convicted by the Court of learned Xth Additional District & Sessions Judge, Karachi (West).

2. During trial the learned trial Court after recording evidence of evidence of the witnesses came to the conclusion that though accused/appellant was charged with an offence under section 392 however the evidence brought on record made out a case of which falls within the ambit of Section 398 PPC instead of 392 PPC hence the trial Court convicted the appellant for offence under Section 398 PPC and sentenced him to serve R.I for 10 years and to pay fine of Rs.100,000/- and in default of payment to suffer further S.I for six months more.

3. The learned trial Court recorded the evidence of PW-1 complainant Muhammad Dilawar at Ex-3, PW-2 Muhammad Akbar Farooq both at Ex-4, both are also eye witnesses of the case, PW-3 ASI Abdul Ghani at Ex-5, PW-4 SIP Muhammad Ibrahim at Ex-6 and PW-5 Dr. Muhammad Saleem at Ex-7 and on such evidence found the appellant guilty for the charged offence and sentenced him as above.

4. Learned Counsel for the appellant submits that as per prosecution case the other eye witness of the case namely PW Muhammad Akbar Farooq is a companion of the complainant and there is no other independent witness to support the case of the prosecution. He submits that the learned trial Court failed to appreciate such fact while convicting the appellant. 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 eight years and two days including remission.

5. Heard the learned Counsel and perused the record.

6. The learned Additional Prosecutor General has raised his no objection for reduction of sentence as proposed by learned Counsel for the appellant.

7. It is an admitted fact that appellant remained in jail for about eight years and two 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.

8. In such circumstances, in my opinion, the appellant had suffered adequate punishment i.e. eight years and two days out of ten 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 398 PPC to undergone R.I. for 10 years is altered into imprisonment which appellant had already undergone along with fine. Jail authorities are directed to release the appellant forthwith if he is not required in any other case.

Karachi.
Dated: 03.3.2020

Judge