

IN THE HIGH COURT OF SINDH AT KARACHI

BEFORE:

Mr. Justice Aftab Ahmed Gorar

Cr. Jail Appeal No.408 of 2021

Asif son of Atai Khan

Appellant

Versus

The State

Respondent

Date of Hearing:

30.09.2021

Appellant:

Appellant is present in custody

State:

Through Ms. Rubina Qadir, DPG

J U D G M E N T.

AFTAB AHMED GORAR, J.- The appellant Asif son of Atai Khan was found guilty of offence and vide judgment dated 01.07.2021 passed in Sessions Case No.150/2010 arising out of Crime No.603/2018 registered at Police Station SITE-A, Karachi under Sections 392/397/34 PPC hence the appellant was convicted by the Court of learned IXh Additional District & Sessions Judge, Karachi (West) convicted the appellant for an offence punishable under section 397 PPC and sentenced him to suffer R.I. for seven years with fine of Rs.50,000/- whereas he was convicted for an offence punishable under Section 392 PPC and sentenced to suffer R.I. for seven years with fine of Rs.50,000/-. In case of his failure to pay fine, the appellant to suffer S.I. for three months more. Appellant was also given benefit of Section 382-B Cr.P.C.

2. The learned trial Court recorded the evidence of PW-1 Haider Ali at Ex-3, PW-2 complainant Fayaz Ahmed at Ex-4, PW-3 Muhammad Shoaib at Ex-5, PW-4 PC Abdul Ghaffar at Ex-6, PW-5 SIP Mehrab Khan at Ex-7, PW-6 SIP

Muhammad Ashraf at Ex-8, and on such evidence found the appellant guilty for the charged offence and sentenced him as above.

3. The appellant in the instant jail appeal has taken the grounds that though this is a case of robbery but no identification parade was held. It is further stated in the appeal that though snatching of seven touch mobiles, eight simple mobile phones, cash of Rs.15,000/- and two original CINIC were shown, however the police has failed to make any recovery. It is also stated that the appellant is innocent and has falsely been involved in the instant matter.

4. Heard the learned D.P.G. and perused the record.

5. The learned Deputy Prosecutor General submitted that the appellant seems to be a poor person hence could not engage a Counsel, therefore, on humanitarian ground she has no objection if the sentence of the appellant is reduced taking lenient view and this appeal may be disposed of accordingly.

6. Since as per jail roll submitted by the jail authorities, the appellant has already remained in jail for about four years six months and twenty two days including remission hence he has served a maximum period of his sentence whereas 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. four years six months and twenty two days out of seven years as such the ends of justice has been satisfied. In view of the sentence already served out by the appellant and the no objection given by the learned DPG, this Criminal Appeal stands disposed of and the sentence awarded to the appellant for the offences under Sections 397 and 392 PPC to undergo

R.I. for seven years for each offence 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 subject to deposit of fine or in case of default the appellant to suffer S.I. for three months.

Karachi.

Dated:30.09.2021

Judge