

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI,

DATE	ORDER WITH SIGNATURE OF JUDGE
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Criminal Appeal No. 103 of 2020

For hearing of case.

Criminal Appeal No. 104 of 2020

1. For hearing of case.
2. For hearing of M.A. No. 1025 of 2020.

Criminal Appeal No. 123 of 2020

1. For hearing of case.
2. For hearing of M.A. No. 1271 of 2020.

Criminal Appeal No. 88 of 2020

1. For hearing of case.
2. For hearing of M.A. No. 927 of 2020.

11th February 2021

Mr. Allah Dita advocate for appellants in Appeal NO.103 and 104 of 2020.

Mr. Muhammad Safeer advocate for appellant in Appeal NO.123/2020.

Mr. Shoaib Safdar, APG.

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By this order I dispose of all the captioned appeals by this common order.

2. Appellants Rasheed @ Sheedo S/o Meran Bux, Zulfiqar S/o Sain Dad and Naseer S/o. Saleem have challenged impugned judgment dated 04.01.2020 passed in SC No.1084/2019 arising out of FIR No.113/2019 under section 395 PPC Police Station Al-Falah, Karachi, whereby the appellants were convicted under section 265-H(ii) Cr.P.C. and sentenced to undergo imprisonment for four years each and to pay a fine of Rs.100,000/- each, in default whereof they each were ordered to suffer simple imprisonment for two months more by extending them the benefit in terms of Section 382-B, Cr.P.C. Appellant Rasheed has also challenged judgment dated 04.01.2020 in SC No.1070/2019 FIR No.115/2019 under section 23(i)A Sindh Arms Act, 2013 (Act 2013) of same police station whereby he was convicted under section 265-H(ii) Cr.P.C. and sentenced to suffer R.I. for three years and to

pay fine of Rs.5000/- in default whereof to undergo S.I. for one month more, with benefit of section 382-B Cr.P.C.

3. Heard and perused the record.

4. At this juncture, learned counsel for the appellants contend that they would not press the instant appeals if this Court reduces the sentence awarded to the appellants to a reasonable period as deem fit and proper in view of the fact that the appellants are young boys; they are sole bread earners for their family and have served a considerable period of their conviction i.e. more than two years and nine months including remissions. Such a proposal is not disputed by learned APG.

5. *Quantum of punishment* is not only discretion of the Court, which has to be exercised while considering the circumstances of the case, but also is an independent aspect of Criminal Administration of Justice which, too, requires to be done keeping the concept of *punishment* in view.

6. Admittedly four persons were tried and judgment which is not reflecting that case of co accused was put on dormant file, hence ingredients of section 395 PPC are missing, this case falls under section 392 PPC which provides minimum punishment of three years.

7. Since, appellants are not pressing captioned appeals on merits but seeking reduction of sentence, therefore, I would examine the legality of such plea. Conceptually, punishment to an accused is awarded on the concept of retribution, deterrence or reformation so as to bring peace which could only be achieved either by keeping evils away (criminals inside jail) or strengthening the society by reforming the guilty. There are certain offences, the punishment whereof is with phrase "**not less than**" while there are other which are with phrase "**may extend upto**". Thus, it is quite obvious and clear that the law itself has categorized the offences in *two* categories regarding quantum of punishment. For one category the Courts are empowered to award *any* sentence while in *other* category the discretion has been limited by use of the phrase '**not less than**'. Such difference itself is indicative that the Courts have to appreciate certain circumstances before setting quantum of punishment in *first* category which appear to be dealing with those offences, the guilty whereof may be given an opportunity of "**reformation**" by

awarding less punishment which how low-so-ever, may be, will be legal. The concept of reformation should be given much weight because conviction normally does not punish the guilty only but whole of his family/dependents too. A reformed person will not only be a better brick for society but may also be helpful for future by properly raising his dependents.

8. Since, the offences wherein the appellants have been convicted fall within category of offences '*may extend upto*'; the appellants claim themselves to be sole bread earners; appellants are of young age; these are circumstances which justify reduction in sentence.

9. Keeping in view, the phrase "**may extend upto**" and the circumstances explained herein above, I find it appropriate to reduce the sentence of the appellants from four (04) years to three (03) years for offence under Section 392 PPC while converting the same from section 395 PPC, which include the sentence awarded in lieu of fine. Insofar as the punishment of accused Rasheed Ali @ Sheedo of three (03) years for the offence under Section 23(i)(A) of the Sindh Arms Act is concerned, the same is reduced to already undergone which also include the sentence awarded in lieu of fine.

Captioned Criminal Appeals stand disposed of in the foregoing terms. Office to place copy of this order in other connected appeals.

JUDGE

Sajid