

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Rev. Application No. 116 of 2022

Crl. Rev. Application No. 138 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of main case.

02-06-2022

Mr. Raj Ali Wahid Kunwar, Advocate for applicant.

Mr. Talib Ali Memon, APG.

Mr. Mustafa Afzal, advocate has filed his vakalatnama on behalf of complainant which is taken on record.

Omar Sial, J: Shabbir Ahmed was convicted for an offence under section 489-F P.P.C. and sentenced to 3 years imprisonment as well as directed to pay a fine of Rs. 45,000 and in case of a default to spend 30 days more in prison.

2. Kashif Shabbir was convicted for an offence under section 417 P.P.C. read with section 237 Cr.P.C. and sentenced to 1 years imprisonment as well as directed to pay a fine of Rs. 45,000 and in case of a default to spend 30 days more in prison.

3. The above convictions and sentences to the two applicants were handed down to them pursuant to a judgment dated 08.12.2021 passed by the learned 15th Civil Judge and Judicial Magistrate, Karachi South.

4. Both applicants challenged the above judgment before the learned 2nd Additional Sessions Judge, Karachi South however the appeal was dismissed on 14.05.2022. The two applicants have now assailed the judgments of both the learned courts below through these criminal revision application.

5. During pendency of these applications, both applicants have sought suspension of their sentences and release on bail until the final disposal of their respective revision applications. Learned counsel has argued that apart from the merits of the case, the sentences awarded to the applicants are short ones. The learned counsel for the complainant filed his vakalatnama and opposed the applications on the ground that if the sentence is suspended the applicants will not pay the complainant the money due to him. The learned APG has also supported the stance of the complainant.

6. I have heard the parties and the learned APG.

7. Jail rolls were called for which reflect that Shabbir Ahmed has served 2 years and 1 month (inclusive of remissions) of his 3 year sentence whereas Kashif Shabbir has served 3 weeks of his 1 year sentence. The sentences awarded to the applicants is a short one and with the backlog of appeals and revisions in this court, a final hearing in these cases does not appear to be imminent. As far as applicant Shabbir is concerned he has already served out the major portion of his sentence. In the event the applicants are successful in their challenge to the decisions of the learned courts below, they cannot be compensated for the time spend in incarceration. With much respect I do not agree with the learned counsel for the complainant or the learned APG that incarceration of a person can be used as an arm twisting tactic for him to forcibly comply with a demand which to the applicant is an untrue and unjust demand. Civil courts would be the appropriate forum to initiate any recovery proceedings.

8. In view of the above, both applicants are admitted to bail subject to their furnishing solvent sureties in the amount of Rs. 500,000 each and P.R. Bonds in the same amount. The sureties and P.R. Bonds should be submitted before the learned Nazir of this Court and are subject to his satisfaction.

9. Let the revision applications be re-listed for hearing in the 1strd week of September.

JUDGE