

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-456 of 2010

Date of hearing: 17.10.2022  
Date of decision: 17.10.2022  
Appellants: Zakria and Ghulam Muhammad (on bail),  
through Mr. Abdul Shakoor Keerio advocate.  
The State: Through Mr. Nazar Muhammad Memon, APG.

## JUDGMENT

**MUHAMMAD IQBAL KALHORO**, J:- On 20.06.2009 at 1900 hours while complainant was working in his agricultural land situated in Deh Romyoon, Taluka Sakrand, along with PWs Ghulam Rasool and Wahid Bux, appellants along with co-accused being members of an unlawful assembly duly armed with weapons attacked upon complainant party. Appellant Zakria Jamali caused fire arm injury to Sikander Ali and appellant Ghulam Muhammad caused fire arm injury to PW Sulleman with intention to cause their death whereas remaining accused made aerial firing.

2. Accordingly, FIR was registered, and after usual investigation, the trial commenced in which prosecution examined 07 witnesses to support its case. Finally, in terms of judgment dated 30.11.2010, passed by learned 3<sup>rd</sup> Additional Sessions Judge Shaheed Benazirabad in Sessions Case No.244/2009, appellants were convicted u/s 324 PPC and sentenced to undergo R.I for 07 years and to pay Arsh of Rs.20,000/- each to be paid to both injured, in default, to suffer SI for 01 year more, appellant Zakria was also convicted u/s 337F(v) PPC and sentenced to undergo RI for 05 years and to pay fine as Daman of Rs.10,000/- to be paid to injured Sikander Ali, in default, to suffer SI for 01 year more, and appellant Ghulam Muhammad was convicted u/s 337F(iii) PPC and sentenced to undergo RI for 03 years and to pay fine as Daman of Rs.10,000/- to be paid to injured Sulleman, in default, to suffer SI for 01 year more, both appellants were also convicted u/s 504 PPC and sentenced to undergo RI for 02 years and to pay fine of Rs.3000/- each, in default, to suffer SI for 06 months more. All the sentences were ordered to run concurrently. However, benefit of section 382-B CrPC was extended to them. Hence this appeal.

3. Learned defence counsel at the very outset submits that he would not press the appeal on merits if period of sentence the appellants have spent in jail is treated as full sentence to them.

4. Learned Additional PG has recorded no objection to it.

5. I have considered request of learned defense counsel and perused material available on record. The witnesses have fully supported the prosecution case. There is no material discrepancy in the case. It is obvious that prosecution has proved its case beyond a reasonable doubt. However, there is no record that appellants have ever been previously convicted of any of the offence, as has been confirmed by the learned Additional Prosecutor General. Learned defence counsel states that appellants are remorseful of their past deeds and want to improve themselves to be good persons in the society. Jail Rolls show that the appellants have remained in jail for 01 year 02 months and 17 days and have earned remission of 04 months and 25 days. Total sentence they have suffered is 01 year, 07 months and 12 days.

6. The penalty u/s 324 PPC is upto 10 years, u/s 337F(v) PPC is upto 05 years, u/s 337F(iii) PPC is upto 03 years, and u/s 504 PPC is upto 02 years, or fine, or both, hence, there is no legal impediment in acceding to the request of learned defence counsel, not opposed by the learned Additional Prosecutor General, for reduction of sentence. Appeal is therefore dismissed and the conviction of the appellants is maintained, however, their sentences u/s 324 PPC R.I for 07 years, u/s 337F(v) PPC RI for 05 years, u/s 337F(iii) PPC RI for 03 years and u/s 504 PPC RI for 02 years is modified and reduced to the period already undergone by them. The amount of arsh, daman and fine shall however remain intact which they shall pay to the injured in terms of impugned judgment within two months and only after receipt of such payment, the surety would be discharged. The appellants are on bail, their bail bonds are canceled and surety stands discharged.

7. The appeal is disposed of in the terms as stated above.

JUDGE

u/s 324 PPC R.I for 07 years, u/s 337F(v) PPC RI for 05 years, u/s 337F(iii) PPC RI for 03 years and u/s 504 PPC RI for 02 years