

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-85 of 2020

Appellant: Ghulam Mustafa through Syed Ali Akbar Shah, Advocate.

Respondent: The State through Agha Abdul Nabi, Special Prosecutor Anti-Narcotic Force.

Date of hearing: 11.10.2022.

Date of Decision: 11.10.2022.

J U D G M E N T

AMJAD ALI SAHITO, J. Through this Criminal Appeal, the appellant has challenged the judgment dated 20.10.2020, passed by learned IIIrd Additional Sessions Judge/Special Judge Control of Narcotics Substance Act, Hyderabad in Special Case No.157 of 2018, Crime No.07/2018 registered at PS ANF, Hyderabad for the offence under section 9 (c) CNS Act, 1997, whereby the appellant was convicted and sentenced for the offence u/s 9 (c) CNS Act, 1997 for possessing 10 Kilograms of charas to undergo R.I. for twelve years and six months and pay fine to the tune of Rs.50,000/-; in case of default to undergo S.I. for two months more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

2. Learned counsel for the appellant, at the very outset, has stated that the appellant is only bread earner of his family has remained in Jail for sufficient period and still is being dragged in the instant case; as such, he does not wish to contest this Criminal Appeal and leave the appellant at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to one he has already undergone, he would not press the Criminal Appeal.

3. On the other hand, learned Special Prosecutor A.N.F. has vehemently opposed the proposal of learned counsel for the appellant. He further contended that the appellant has been captured with narcotics, therefore, he does not deserve for any leniency. He has supported the impugned judgment and prayed for dismissal of instant appeal.

4. We have heard the learned counsel for the appellant, learned Special Prosecutor A.N.F. and have gone through the record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions. However, the offence pertains to the year 2018. The Jail Roll of the appellant was called from the concerned Jail, which reflects that the appellant has served out ten years, four months and twenty eight days including remission. The appellant is sole bread earner of his family and has remained in jail and learned the lesson as he has undergone sufficient period of his sentence. The punishment awarded to the appellant is 12 ½ years, therefore, there is no legal impediment in accepting request of learned counsel for the appellant.

5. Only in order to enable the appellant to reform and rehabilitate himself to rejoin the mainstream life to once again become a useful member thereof, by taking leniency, instant Criminal Appeal is dismissed but with the reduction of his sentence to one as already undergone by the appellant including fine amount. In view of the above position, the office is directed to issue a release writ for the appellant if he is not required in any other custody case.

6. Instant Criminal Appeal is **dismissed** with the above modification.

JUDGE

JUDGE