

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-128 of 2019

Appellants: Abdul Razzak and Mst. Moomal
(present on bail) through
Mr.Ashfaque Ahmed Lanjar,
Advocate.

Appellant Mst. Sughran since
expired, as such, proceeding against
her abated.

Respondent: The State through Mr. Shawak
Rathore, Deputy Prosecutor General
Sindh.

Date of hearing: 30.08.2022.

Date of Decision: 30.08.2022.

J U D G M E N T

AMJAD ALI SAHITO, J. Through this Criminal Appeal, the appellants have challenged the judgment dated 12.07.2019, passed by learned 1st Additional Sessions Judge/MCTC, Shaheed Benazir Abad in Special Narcotics Case No.500 of 2016, Crime No.60 of 2016 registered at PS Jam Dattar for the offence under section 9 (c) CNS Act, 1997, whereby the appellants namely Abdul Razaque and Mst. Moomal were convicted and sentenced for the offence u/s 9 (c) CNS Act, 1997 for possessing 2000 grams and 1040 grams of charas respectively to undergo R.I. for four years and six months and pay fine to the tune of Rs.20,000/-; in case of default to undergo S.I. for five months more each. However, the benefit of section 382-B Cr.P.C. was extended to the appellants.

2. It is pertinent to mention here that the appellant Mst.Sughran was also convicted and sentenced for possessing 2060 grams of charas to undergo R.I. for four years and six months and pay fine to the tune of Rs.20,000/-; in case of

default to undergo S.I. for five months more; however, she has been expired, as such, proceeding against her are abated.

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

4. On the other hand, learned Deputy Prosecutor General Sindh concedes that the appellants have remained behind the bars for sufficient period and learned the lesson, therefore, he has no objection if a lenient view is taken against them by dismissing the instant Criminal Appeal and treating the sentence to one as already undergone.

5. We have heard the learned counsel for the appellants, learned D.P.G. for the State 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 2016. The Jail Roll of the appellants were called from the concerned Jail, which reflects that the appellant namely Abdul Razzaque has served out nine months and seventeen days; and appellant namely Mst. Moomal has served out five months and eight days including remission. The appellants have remained in jail and learned the lesson as they have undergone sufficient period of their sentences. The punishment provided for the same is upto four years and six months, therefore, there is no legal impediment in accepting request of learned counsel for the appellants. Consequently, while taking leniency, instant Criminal Appeal is dismissed but with the reduction of his sentence to one as already undergone by the appellants including fine amount. The appellants namely Abdul Razaque and Mst. Moomal are present on bail. Their bail

bonds stand cancelled and surety [-ies] discharged. In view of the above position, the office is directed to return surety papers to the surety [-ies] after proper verification and identification.

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

JUDGE

JUDGE

Abdullah Channa/P.S