

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-55 of 2015
Criminal Revision Application No.S-100 of 2015

Appellants: Liaqat Ali, Shoukat Ali, Farman Ali and Zulfiqar Ali through Mr. Aijaz Shaikh, Advocate. [Appellants in Criminal Appeal and respondents in Criminal Revision Application].

Appellant Sain Bux since expired, as such, proceeding against him are abated. Death Certificate submitted today is taken on record.

Appellant Shoukat Ali son of Sohrab Khan has completed his sentence, as such, he has already been released from Jail on 15.04.2019 vide Jail Roll dated 15.08.2022.

Respondent: The State through Mr. Muhammad Ali Noonari, Deputy Prosecutor General Sindh.

Complainant: Complainant Abdul Sattar Leghari and his counsel repeatedly called but remained absent.

Date of hearing: 15.08.2022.

Date of Decision: 15.08.2022.

JUDGMENT

AMJAD ALI SAHITO, J. Through the captioned Criminal Appeal, the appellants have challenged the judgment dated 31.03.2015, passed by learned 3rd Additional Sessions Judge, Shaheed Benazir Abad in Sessions Case No.133 of 2010, Crime No.13 of 2010 registered at PS Sakrand for the offence under section 324, 334, 147, 148, 149 PPC, whereby the appellants were convicted and sentenced for the offence u/s 324 PPC to undergo R.I. for seven years and pay fine to the tune of Rs.10,000/ each, to be paid to injured Mushtaque Ahmed; in case of default to undergo S.I. for one month more; u/s 334 PPC to undergo R.I. for seven years and pay Arsh amount of

Rs.10,000/ each, to be paid to injured Mushtaque Ahmed; in case of default to undergo S.I. for one month more and for the offence under sections 147, 148, 149 PPC to undergo R.I. for one year. All the sentences were ordered to run concurrently. However, the benefit of section 382-B Cr.P.C. was extended to the appellants.

2. 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, which pertains to the year 2010; 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.

3. Complainant Abdul Sattar Leghari and his counsel called absent. No intimation received. Record reflects that the Criminal Revision Application No.S-100 of 2015 was presented on 29.04.2015 and for the first time, it was fixed before the Court on 07.08.2015 when Agha Waqar advocate held brief for the counsel for applicant / complainant and requested for adjournment on the ground that Mr. Shahnawaz Brohi advocate is unwell. On 25.01.2016, Mr. Rasool Bux Solangi advocate held brief and requested for adjournment on the ground that counsel for the applicant / complainant is busy before another bench of this Court. Since both the cases viz. Criminal Appeal and Criminal Revision Application arising out of the one and same crime, as such, the same were being fixed together. On 25.04.2016, Mr. Manzoor Ahmed Panhwar advocate appeared and requested for adjournment on the ground that counsel for the complainant is busy before another bench of this Court. Again on 09.05.2016, Mr. Karamullah Memon advocate requested for adjournment on behalf of counsel for the applicant / complainant on the ground that he is busy another bench of this Court. On 19.12.2016, 06.02.2017, 06.04.2017, 19.05.2017 same request for adjournment was also made on behalf of

counsel for the applicant / complainant. On 12.06.2018, none has appeared on behalf of the complainant. On 14.06.2018, again a request for adjournment of behalf of counsel for the complainant was made on the ground that he is busy before the Principal of this Court at Karachi. On 17.12.2019, no one was in attendance on behalf of the complainant. On 20.01.2020, Mr.Mansoor Ali advocate appeared and filed power on behalf of complainant; however, after filing his power he failed to appear before the Court to proceed with the cases although the cases were fixed on 18.02.2022, 11.08.2022 and today viz. 15.08.2022. The conduct of the complainant and his counsel shows that he has lost interest in the proceedings.

4. On the other hand, learned Deputy Prosecutor General Sindh appearing for the State has opposes the acquittal of appellants but raises no objection in case, a lenient view is taken against them by dismissing the appeal treating the sentence to one as already undergone; however, he contends that the Arsh amount to Rs.10,000/- may be deposited.

5. I have heard the learned counsel for the appellants, learned D.P.G. for the State and have gone through the record. It appears that this criminal appeal is pending before this Court since 2015 and the matter pertains to the year 2010. The Jail Roll of the appellants was called from the concerned Jail, which reflects that the appellants have served out substantial period of their sentences and learned the lesson as the appellants namely, Liaquat Ali and Zulfiqar Ali remained in Jail for four years, five months and twenty eight days including remission earned; appellants namely, Shoukat Ali son of Fazal Muhammad Leghari remained in Jail for four years, five months and fifteen days including remission while appellant Farman Ali has served out four years, nine months and twenty eight days of his sentence including remission. The punishment awarded to the accused is upto seven years, therefore, there is no legal impediment in accepting request of learned counsel for the appellants. Consequently, while taking a leniency, instant Criminal Appeal is

dismissed but with modification that the sentence is reduced to one as already undergone by the appellants with order to deposit Arsh amount Rs.10,000/-, which the appellant Liaqat Ali has already deposited at the direction of this Court. The appellants namely Liaqat Ali, Shoukat Ali, Farman Ali and Zulfiqar Ali are present on bail. Their bail bonds stand cancelled and sureties discharged. The office shall return surety papers to all the surety[-ies] after proper verification and identification as per rules. Since the Arsh amount was directed to be given to the injured Mushtaque Ahmed in the impugned judgment, as such, Accountant of this Court is directed to deliver the same to him.

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

7. Now reverting to the Criminal Revision Application No.S-100 of 2015, filed by complainant against respondents, which is also fixed for hearing. In view of dismissal of Criminal Appeal No.S-55 of 2015 with modification as stated above, considering the circumstances detailed in the preceding paras, the Criminal Revision Application No.S-100 of 2015 is **dismissed**.

JUDGE