

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-82 of 1999

Appellants: Appellant Muhammad Ashraf since expired, as such, proceeding against him are abated. Death report dated 28.08.2017 submitted by SHO PS Pinyari is already on record.

Muhammad Maqsood alias Fighter present on bail.

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

Complainant: None present.

Date of hearing: 15.09.2022.

Date of Decision: 15.09.2022.

JUDGMENT

AMJAD ALI SAHITO, J. Through the captioned Criminal Appeal, the appellants have challenged the judgment dated 12.07.1999, passed by learned IVth Additional Sessions Judge, Hyderabad in Sessions Case No.675 of 1997, Crime No.59 of 1997 registered at PS Pinyari, District Hyderabad for the offence under section 324, 34 PPC, whereby the appellants were convicted and sentenced as under:-

“I hereby convict the accused Muhammad Ashraf alias Bholo and Muhammad Maqsood @ Fighter under section 324 Qisas and Diyat Ordinance r/o Section 34 PPC and sentence them R.I. for 9 years each and to pay fine of Rs.25,000/- each. In case of non-payment of fine the accused have to undergo R.I. for three months more. The accused Muhammad Ashraf @ Bholo and Muhammad Maqsood @ Fighter are further convicted under section 337-D of Qisas and Diyat Ordinance r/w section 34 PPC and sentenced to R.I. for 9 years each and Rs.25,000/- each as compensation to the injured Ghulam Mustafa. In case of non-payment of fine the accused have to undergo further R.I. for

three months. Both the above named accused are also convicted under section 337-F (i) Qisas and Diyat Ordinance r/w Section 34 PPC and sentenced to R.I. for 6 months each and Rs.10,000/- each as compensation to the injured Ghulam Mustafa. In case of non-payment of compensation / fine the accused have to undergone further R.I. for one month each. Accused Muhammad Ashraf @ Bholo and Muhammad Maqsood @ Fighter are also convicted under section 337-F (ii) Qisas and Diyat Ordinance r/w section 34 PPC and sentenced to suffer R.I. for 2 years and to pay fine / compensation to the injured Mustafa of Rs.10,000/- each. In case of non-payment of compensation the accused have to undergo further R.I. for three months each. All the sentences were ordered to run concurrently. However, the benefit of section 382-B Cr.P.C. was extended to the appellants.

2. Appellant Muhammad Maqsood, at the very outset, has stated that he has remained in Jail for sufficient period and still is being dragged in the instant case, which pertains to the year 1997; as such, he does not wish to contest this Criminal Appeal and leaves himself 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 Deputy Prosecutor General Sindh appearing for the State has opposes the acquittal of appellant but raises no objection in case, a lenient view is taken against him by dismissing the appeal treating the sentence to one as already undergone.

4. I have heard the appellant in person, 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 1999 and the matter pertains to the year 1997. The Jail Roll of the appellant Muhammad Maqsood @ Fighter was called from the concerned Jail, which reflects that he has served out substantial period of his sentences and learned the lesson as he has remained in Jail for eight years, nine months and twenty eight

days including remission earned. The punishment awarded to the accused is upto nine years, therefore, there is no legal impediment in accepting request of the appellant. 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 modification that the sentence including fine / compensation amount is reduced to one as already undergone by the appellant. Appellant is present on bail; he is released. His bail bonds stand cancelled and surety discharged. Office is directed to return the surety papers to the surety after proper verification and identification.

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

JUDGE