

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-118 of 2003

Appellant: Muhammad Usman Pathan present on bail through Ms. Rehana Siddiqui, Advocate.

Respondent: The State through Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Date of hearing: 16.09.2022.

Date of Decision: 16.09.2022.

**J U D G M E N T**

**AMJAD ALI SAHITO, J.** Through this Criminal Appeal, the appellant has challenged the judgment dated 02.07.2003, passed by learned Special Judge, Anti-Corruption (P) Hyderabad in Special Case No.57 of 1997, Crime No.22 / 94 registered at PS ACE Hyderabad City under section 409 / 34 PPC read with section 5 (2) of Act-II of 1947, whereby the appellant was convicted and sentenced for the offence u/s 409 PPC to undergo R.I. for three years and pay fine to the tune of Rs.200,000/-; in case of default to undergo R.I. for six 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 has remained in Jail for sufficient period and still is being dragged in the instant crime which pertains to the year 1994; as such, she does not wish to contest this Criminal Appeal and leave the appellant at the mercy of the Court. She states that if this Court while maintaining the conviction reduces the sentence to one he has already undergone, she would not press the Criminal Appeal.

**3.** On the other hand, learned Assistant Prosecutor General Sindh has supported the impugned judgment but due to

old age of the appellant she has no objection if a lenient view is taken against him by dismissing the instant Criminal Appeal and treating the sentence to one as already undergone.

**4.** I have heard the learned counsel for the appellant, learned A.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 meaningful contradictions. However, the offence pertains to the year 1994. The appellant is 61 years old. He has remained in jail and learned the lesson as he has undergone sufficient period of his sentence. The punishment awarded to the accused is three years; therefore, there is no legal impediment in accepting request of learned counsel for the appellant especially keeping in view the old age of appellant. Consequently, while 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. He is present on bail. His bail bonds stand cancelled and surety discharged. The office is directed to return surety papers to the surety after proper verification and identification under valid receipt.

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

**JUDGE**