

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-22 of 2017

Appellant: Fareed alias Mohsin present on bail through Mir Shakir Ali Talpur, Advocate.

Respondent: The State through Mr. Mr. Imran Ahmed Abbasi, Assistant Prosecutor General Sindh.

Date of hearing: 18.05.2023.

Date of Decision: 18.05.2023.

**ORDER**

**AMJAD ALI SAHITO, J.** Through this Criminal Jail Appeal, the appellant has challenged the judgment dated 19.01.2017, passed by learned VI<sup>th</sup> Additional Sessions Judge, Hyderabad in S.C No.1300 of 2015 whereby the appellant was convicted and sentenced for the offences u/s 376/511 PPC to suffer R.I for five years and fine of Rs.50000/-; in default whereof, to suffer R.I for three months more in crime No.248/2015 u/s 376, 511 PPC, registered at PS A-Section Latifabad, Hyderabad. However, benefit of section 382-B Cr.P.C. was extended to the appellant.

**2.** Learned counsel for the appellant after arguing the matter at some length has stated that though he has good case on merits; however, he states that the appellant has remained in Jail for sufficient period and is being dragged in the instant case since 2015; he is a first offender and is not previous convict; however, appellant does not want to proceed the case this Criminal Jail Appeal further and leave the appellant at the mercy of the Court. Learned counsel, however, filed a statement duly signed by him as well as appellant that the appellant prays for reduction of the sentence from R.I. five years to R.I. four years including fine. The statement is taken on record.

**3.** Learned Assistant Prosecutor General, Sindh appearing for the State does not have objection to the reduction of the sentence from five years to four years.

**4.** I have heard the learned counsel for the appellant, learned A.P.G. for the State and have gone through the record. The appellant was convicted and sentence for the offence under section 376/511 PPC to suffer Rigorous Imprisonment for a term of 05 years and fine of Rs.50,000.00 [Rupees fifty thousand only]; and in case of default to pay the fine, accused was ordered to suffer simple imprisonment for three months more. During pendency of instant appeal, the conviction and sentence was suspended and the appellant was enlarged on bail on the ground that he has already served out a major portion of his sentence. The offence pertains to the year 2015. Record reflects that the appellant has already served out sufficient period of his sentence; however, as per learned counsel, the appellant neither is not previous convict nor involved in such type of cases and he is first offender and requested reduction of his sentence from R.I. for five years to R.I. for four years. Learned A.P.G. has also raised no objection. Consequently, the impugned judgment is modified and the appellant is ordered to serve out his sentence R.I. for **four** years instead of R.I. for five years and to pay fine of Rs.50,000.00 [Rupees fifty thousand only]; and in case of default to pay the fine, appellant is ordered to suffer simple imprisonment for three months more. However, benefit of section 382-B Cr.P.C. is extended to the appellant. The appellant is present on bail, his bail bonds are cancelled and surety is discharge. He is taken into custody and remanded to Jail to serve out his remaining sentence. The office shall return surety papers to the surety after proper verification and identification as per rules.

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

**JUDGE**