

THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Acq. Appeal No. 04 of 2022

[The State v. Presiding Officer Spl. Judge Customs & others]

For hearing of Bail Application.

Appellant/State : Nemo.
I.O. Abid Hussain Soomro, FIA, A.C.C., Karachi,
is present in Court.

Respondent 1 : Nemo.

Respondents 2-6 : Mr. Kashif Nazeer, Advocate.

Respondent 7-9 : Nemo.

Date of hearing : 07-12-2023

Date of order : 07-12-2023

FIR No.33/2017
U/s: 156(1) (14-A) (82) of the Customs Act, 1969
P.S. FIA ACC, Karachi.

ORDER

Adnan Iqbal Chaudhry J. - The Assistant Attorney General who has filed the appeal is called absent. Similar absence prevailed on the last date, and even before that, the Assistant Attorney General had either sought time to prepare himself or he remained absent. Therefore, I do not adjourn the matter.

2. This appeal by the State is against an order of the Special Judge (Customs, Taxation & Anti-Smuggling), acquitting the Respondents 2 to 9 under section 265-K Cr.P.C. for offences under the Customs Act, 1969.

3. Learned counsel for the Respondents 2 to 6 submits that the acquittal appeal is time-barred. The same objection has also been raised by the office, and the reply to that penned by the Assistant Attorney General is that the State is provided 180 days for filing an acquittal appeal under section 417 CrPC. However, since the instant appeal is against an order passed by the Special Judge (Customs, Taxation & Anti-Smuggling) Karachi, it is to be taken as an appeal

under section 185-F of the Customs Act, 1969. That provision provides an appeal against any order passed or decision made by the Special Judge under the Customs Act 'or under the CrPC', and prescribes a limitation of 60 days for such appeal. By reason of section 29(2) of the Limitation Act, 1908, the limitation provided in section 185-F of the Customs Act, 1969, which is special law, will prevail over the limitation provided in section 417 CrPC.

4. The impugned acquittal order was passed on 29-10-2021; whereas, the appeal was filed on 22-01-2022. Even excluding the time requisite for obtaining a certified copy, the appeal is still time-barred by 19 days. No application for condoning the delay has been made by the Applicant. Therefore, the appeal is dismissed as time-barred.

JUDGE

SHABAN*