

## **IN THE HIGH COURT OF SINDH AT KARACHI**

PRESENT:

***Mr. Justice Mohammad Karim Khan Agha***  
***Mr. Justice Amjad Ali Bohio***

### **Spl. Criminal A .T. Appeal No.55 of 2022**

Appellant : Tajdar son of Sardar Ali through  
Mr. Haad A.M. Paggawala, Advocate.

Respondent : The State through Mr. Muhammad  
Iqbal Awan, Additional Prosecutor  
General, Sindh.

Complainant : Irshad Ali through Mr. Nadeem  
Shahzad, advocate

Date of Hearing : 23.08.2023

Date of Judgment : 31.08.2023

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

**AMJAD ALI BOHIO, J:-** This appeal is directed against the judgment delivered by learned Judge Anti-Terrorism Court No.XX, Karachi on 28.02.2022, whereby he has convicted appellant Tajdar son of Sardar Ali in Special Case No.68 of 2020, arising out of Crime No.132 of 2020, registered at P.S. Gulistan-e-Johar, Karachi for offences punishable under section 7(a) of Anti-Terrorism Act, 1997 read with section 302(b) PPC and has sentenced him to life imprisonment with a fine of Rs.2,00,000/- (Two Hundred Thousand Rupees), in case of default S.I. for six months more.

2. Brief facts of the prosecution's case are that on February 5, 2020, at about 10:30 PM, the complainant namely Irshad Ali s/o Rasheed Ali a retired Coast Guard officer, lodged a First Information Report wherein he stated that he resides with his family at House No. A-322, Block-9, Gulistan-e-Johar, Pehlwan Goth, Karachi. On the same day,

he and his brother Rehman Ali (the deceased) aged 33 or 34 years old were available at their house when at about 5:00 PM, deceased Rehman Ali went out of the house and shortly then complainant heard gunshots as such, he rushed outside and found his brother lying injured in front of their house. He also saw one accused attempting to escape on a motorcycle as such complainant apprehended him and identified him as Sartaj Ali s/o Sardar. The said apprehended person called his companions who were identified by him as Atif s/o Afzal Hussain, Tajdar s/o Sardar and two unknown persons. During such chaotic moment, the complainant's mother asked him to prioritize taking care of his injured brother who was found to have sustained a head injury causing flowing of blood. Thereafter with the help of his other brother, complainant after arranging transport, shifted the injured brother to Dar-ul-Sehat hospital for medical treatment. It is further stated that such incident was witnessed by Syed Qasim Hussain and Jaffar Hyder. However despite all efforts by medical officers, the injured Rehman Ali died because of severe injuries while receiving treatment at Jinnah Post Medical Center (JPMC) Hospital. The complainant therefore registered such FIR against above named accused persons.

3. Registration of FIR followed the investigation in the case and on conclusion of investigation, the Investigating Officer submitted report under section 173 of the Criminal Procedure Code showing appellant Tajdar in custody while remaining four accused were shown as absconders.

4. A formal charge was framed against the accused/appellant on July 18, 2020, for the offences under section 302/34 of the Pakistan Penal Code, read with Section 7 of the Anti-Terrorism Act, 1997 to which appellant pleaded not guilty and claimed for trial.

5. In order to establish its case, the prosecution examined thirteen witnesses viz-a-vis Complainant Irshad Ali (PW-01), Mst. Lal Zaiba (PW-02), Magistrate Niaz Hussain Kandhro (PW-03), Inam Ali (PW-04), Jaffar Ali Assistant at NICVD (JPMC) Karachi (PW-05), SIP Muhammad Ashique (PW-06), ASI Asad Ali Chattha (PW-07), Muhammad Sami (PW-08), MLO Abdul Ghaffar (PW-09), Medical Officer Sajjad Mehmood (PW-10), SIP Dilawar Hussain (PW-11), HC Faisal Rizwan (PW-12) and Inspector Tufail Ahmed (PW-13). After recording of such evidence, prosecution side of evidence was closed by Assistant Prosecutor General.

6. Appellant's statement was then recorded under section 342 Cr.P C wherein he refuted all the allegations leveled against him. He firmly maintained his innocence and further stated as under:

*"I am police constable, between 4<sup>th</sup> and 5<sup>th</sup> February 2020, I was on my "15" emergency duty, on same day I returned back to my house early in the morning. After reaching to home I took breakfast and went to take some rest. On 05.02.2020 at about 05-00 pm, I was present at my house, in the meanwhile I heard some fire noise to later I informed to "15" police emergency in this regard. Later one PC Aqeel spoke with me through his mobile phone No.0321-3145849 and inquired the address of the incident and asked me to come at PS, so I proceeded to PS Gulistan-e-Johar, I have also received a call from PS Gulistan-e-Johar, on my mobile phone No:021-99218750. After reaching at PS the police booked me in this crime. I am innocent and pray for justice."*

7. Appellant did not further testify on oath as per section 340(2) Cr. P.C. so also did not produce evidence in his defense. After hearing the arguments urged by both parties' counsel, the trial court passed the impugned judgment resulting in appellant's conviction and sentence as stated above, which are challenged before this Court.

8. The counsel representing the appellant asserts that material contradictions exist among the testimonies of the prosecution witnesses. Additionally, he highlighted a delay of over five hours in

the lodging of the First Information Report. It is argued that the appellant is falsely implicated by the complainant and no weapon associated with the crime has been recovered from the appellant. It is further urged that the inquest report fails to mention the name of the appellant, a detail available from page 225 to 231 of the paper book which aspect has been overlooked by the trial court and therefore he maintains that such oversight entitles the appellant to be acquitted extending him the benefit of doubt. It is further argued that all PWs share familial relations and are therefore interested which casts doubt on sufficiency of their testimonies to warrant conviction. In summation of his arguments, the learned counsel asserts that the impugned judgment may be set aside and in support of his contention, he has relied upon the cases reported as Rao Ishtiaq Khurshid v. The State and another (2018 P. Cr. L.J 1), Sahib Khan and another v. The State (2015 YLR 257), Asadullah and another v. The State and another (1999 SCMR 1034), Rahat Ali v. The State (2010 SCMR 584), Muhammad Iqbal v. The State (1984 SCMR 930), Jalal Ud Din v. The State (2022 YLR Note 68), Ghungar Khan v. The State (2022 P. Cr. L.J. Note 32), Khalil-Ur-Rehman alias Bholoo and another v. The State and others (2022 P Cr. L.J. Note 25), Sardar Bibi and another v. Munir Ahmed and others (2017 SCMR 344), Sajid v. The State and another (2023 P. Cr. L.J. 19), Tariq Pervez v. The State (1995 SCMR 1345), Riaz Masih alias Mithoo v. The State (1995 SCMR 1730), Tahir Mehmood @ Achoo v. The State and another (2018 SCMR 169), Mubarak Ali v. The State (2003 P.Cr.L.J 986).

09. State represented by Additional Prosecutor General has countered the defense's arguments by asserting that the prosecution has indeed produced significant evidence in the case.

This evidence includes the First Information Report, which was promptly lodged by the complainant on the same day of the occurrence. This timely action minimizes the possibility of consultation or premeditated false implication of the appellant/accused. The testimony of the complainant, PW-2 Lal Zaiba (the deceased's mother), and PW-8 Muhammad Sami collectively corroborates the events of the occurrence. Their presence at the time of the incident, given that they all reside in the same household, designates them as natural witnesses. Their accounts appear to be genuine, coherent, and instill confidence. It is argued that the defense was unable to undermine their credibility during cross-examination. These witnesses recounted the incident, implicating the appellant/accused with a specific role in committing the aforementioned offense. Notably, the complainant apprehended the appellant at the scene, but upon his mother's instruction, he shifted his focus to his injured brother's immediate shifting to the hospital due to the gunshot wound sustained on the head, causing bleeding. The consistency of the above evidence by the above named eye witness PWs remained unshaken during the cross-examination. The prosecution further emphasizes that there is no evidence of any ill will or malice on the part of the complainant's party, indicating a motive for false implication of the appellant/accused. On the contrary prosecution established through unchallenged evidence about the motive behind the offence committed by the accused. Ultimately, the prosecution argues that the charge has been successfully proven, and the trial court's decision to impose a sentence on the appellant/accused is justified.

It is further reiterated that to establish the occurrence of the unnatural death of the deceased Rehman Ali, the MLO Dr. Abdul Ghaffar Shaikh, a Senior Medical Officer was examined in whose testimony, he stated that individual identified as Jafar brought the injured person named Rehman Ali s/o Rasheed Ali aged 34 years. The injured had sustained a gunshot wound and was brought in for medical examination. Upon arrival, the patient remained conscious, and in the presence of the police, Dr. Shaikh conducted an examination. The results of the examination indicated an injury to the head and he deposed as follows:

**“Injury No.1:**Fire arm injury 01 cm x 0.5 cm on right maxilla with inverted margin mild blackening wound of entry. Exit wound 0.1 cm x 0.1 cm on left eyebrow with everted margin mild blackening then I shifted to patient to the CMO/EOT for further treatment. After that police gave me a letter for statement, then I referred back to the patient for statement but he was not fit for statement. I see Exh-14/C, it is same, correct and bears my signature. I issued MLC. I produce MLC No.1060/2020 at Exh-16/A. patient was expired during treatment at EOT and death certificate is issued by EOT doctor. I see Exh-13/C, it is same and correct.”

It is further argued that the Investigating Officer SIP Muhammad Ashiq submitted the death certificate of the deceased Rehman Ali as part of the evidence. He testified that the deceased's body was entrusted to Inam Ali for burial. However, no postmortem examination was conducted on the deceased's body. The cause of Rehman Ali's death was determined to be a firearm injury on the left side of his eye, as indicated by a medical certificate issued by the Medical Officer (M.O.) at Jinnah Postgraduate Medical Centre Neuro Trauma. Thus all such evidence proves the unnatural death of deceased. Controverting the argument raised by the appellant's

counsel regarding the absence of a postmortem report, it is urged that aforementioned medical evidence adequately establishes the nature of the death, which conclusion is supported from direct and natural ocular evidence. In support of such arguments, the Additional Prosecutor General has relied upon the case of Sikandar v. The State and another (2006 SCMR 1786), Muhammad Afzal and 02 others v. The State (2003 SCMR 1678), Muhammad Nadeem alias Deemi v. The State (2011 SCMR 872), Qasim Shehzad and another v. The State (2023 SCMR 117) and Muhammad Ehsan v. The State (2006 SCMR 1857).

10. After hearing both sides, we have observed that the crux of the prosecution's case against the appellant relies on the testimonies of two eyewitnesses namely Mst. Lal Zaiba (PW-2) and Muhammad Sammi (PW-8) who are further corroborated by the evidence of complainant Irshad Ali.

11. Complainant Irshad Ali testified that on February 5, 2020, around 5:00 PM, he witnessed his brother leaving their residence. Shortly thereafter, he heard the sound of gunshots and rushed outside only to find his brother injured with blood seeping from a wound. Notably accused Sartaj Ali s/o Sardar Ali, was seen attempting to escape on his motorcycle by kick-starting and there he called for assistance from his brothers Atif Ali, Tajdar Ali, and Amir Ali. However complainant Irshad Ali managed to apprehend the co-accused Sartaj Ali, but he was instructed by his mother, Lal Zaiba (PW-2) to immediately shift his injured brother as such he shifted his brother to Dar-ul-Sehat Hospital. It is further deposed that with the assistance of Jaffar Haider, Inam Ali, and Qaim Hussain, the injured was then transferred to Jinnah Postgraduate Medical Centre (JPMC) but tragically injured Rehman Ali

succumbed to injuries and passed away on the same day at 9:30 to 9:35 PM. Following this, Irshad Ali proceeded to the police station where he got recorded his statement at 10:30 PM. This statement was subsequently recorded and registered as FIR under the aforementioned sections. Thus, any slight delay in lodging the FIR has been fully explained.

12. In support of complainant's version, eyewitness Mst. Lal Zaiba (PW-2) real mother of the deceased was examined who deposed that she was sitting besides the main gate of their house, holding her grandson in her lap, while another grandson named Sami was also present. It was at this moment that her son, Rehman Ali emerged from the house. She witnessed the accused, Sartaj caught hold her son and another accused Tajdar, fired a gunshot at Rehman Ali and despite receiving gunshot Rehman Ali managed to apprehend Tajdar. Following this, another co-accused Amir Ali at the instigation of Sardar Ali's fired a shot that hit at Rehman Ali on his head. This injury caused Rehman Ali to collapse. Irshad Ali the complainant, also emerged from the house, capturing Sartaj Ali, who was attempting to flee on his motorcycle. However, upon her directions, Irshad Ali released Sartaj and focused on transporting his injured brother to the hospital. Unfortunately, despite medical intervention, Rehman Ali succumbed to his injuries and passed away.

13. PW-8 Muhammad Sami, the nephew of the deceased and an eyewitness corroborated the account of events as narrated by PW Mst. Lal Zaiba. It is important to note that both the eye witnesses knew the appellant from before, it was a day light incident which they saw from close range and thus there was no need of an identification parade.



14. Further it has been noted that A.S.I. Asad Ali Chatta, S.I.P. Muhammad Ashiq, and S.I.P. Dilawar Hussain conducted the investigation. During this process, they visited the place of incident and recovered an empty 9mm cartridge and its projectile, which was duly sealed. Additionally, they examined the deceased's body, prepared a memorandum for the inspection of the body, and compiled an inquest report in the presence of witnesses Inam Ali and Jafar. After Rehman Ali's demise, the Investigating Officer collected a death certificate issued by the MLO at Jinnah Postgraduate Medical Centre, Karachi. It is pertinent to note that ASI Asad Ali Chatta initially attempted to record the statement of the injured Rehman Ali, but the MLO advised against it, given Rehman Ali's incapacitated state.

15. The learned counsel representing the appellant has invited our attention to the inquest report of the deceased, marked as Exh-10/A. This report highlights that PW Inam Ali informed S.I. Muhammad Ashiq that Rehman Ali had been injured by Atif and his accomplice Sartaj in Pehalwan Goth. On such aspect he contended that appellant, present in the case, was falsely implicated. To bolster this contention, the counsel has referred to legal precedents such as 2018 P.Cr.L.J 1, 2015 YLR 257, and 2003 P.Cr.L.J 986. Upon examination, it is evident that the inquest report indeed mentions that Inam Ali informed S.I. Muhammad Ashiq about the incident, suggesting the involvement of Atif and Sartaj in the injury to Rehman Ali. But it is to be noted that name of Inam Ali was not mentioned as a witness in the First Information Report. During S.I.P. Muhammad Ashiq's testimony, he stated that he received a call from Irshad Ali but did not specify whether the accused's name was disclosed to him during this

communication. It's essential to emphasize that the contents of the F.I.R., wherein the appellant's name has explicitly mentioned alongside a specific role, carry more weight than the information provided in the inquest report. The F.I.R. asserts that the appellant, in conjunction with his co-accused, shared a common intention and collectively committed the murder of Rehman Ali. This act was witnessed by the deceased's mother Mst. Lal Zaiba (PW-2) and his nephew Muhammad Sami (PW-8) whose evidence with regard to specific role of the appellant at the time of occurrence remained consistent, straight forward and inspiring confidence which was not shaken during their cross examination. Therefore such evidence has preference upon the contents of inquest report based upon hearsay evidence.

16. Both eye witnesses PW Mst. Lal Zaiba and PW Muhammad Sami have presented unwavering accounts of the appellant's role in the incident. Notably PW Muhammad Sami's testimony is both convincing and devoid of doubts. Mst. Lal Zaiba, who witnessed the incident firsthand, has provided a vivid and convincing portrayal of the circumstances. Moreover, their testimonies find corroboration in the account provided by the complainant Irshad Ali. A meticulous examination of the witnesses' testimonies leaves no room for doubt as each eyewitness has presented an accurate and genuine account of the incident. Hence, considering the evidence presented above, it becomes evident that the circumstances of the case law cited earlier are considerably different and do not hold relevance in this context. Keeping in view such evidence, the circumstances of the legal authorities referenced by the defense counsel are quite distinguishable from the facts of this case.

17. We have also considered the argument put forth by the learned defense counsel that the witnesses' close relation to the deceased creates a bias that compromises the reliability of their testimony. It is undeniable fact that the complainant being brother, real mother (PW-2 Mst. Lal Zaiba), and nephew (PW-3 Muhammad Sami) of the deceased have provided statements against the accused. Nevertheless, their testimonies are found to be natural, direct, and imbued with a sense of confidence. In the absence of any material contradiction in their evidence, their blood relation to the deceased could not be taken as ground to discard the same as it cannot be expected from such relatives that they would falsely involve an innocent person leaving the actual culprits when they do not have any malice or ill will towards any of the appellants. It is also important to consider that in the case at hand, a young individual of merely 34 years was tragically killed in the full view of his elderly mother Mst. Lal Zaiba, who is 66 years old. In this context, we refer to the case of *Zahoor Ahmed v. The State*, as reported in 2007 SCMR 1519. In this case, the Honorable Apex Court lauded the conclusion drawn by the learned High Court, stating that blood relations are unlikely to protect the real culprits and would instead tend to implicate innocent individuals. Time and again the Supreme Court has held that substitution in such like cases is almost impossible. Simply pointing out that witnesses are personally invested due to their relationship with the deceased does not suffice to discard their evidence. Unless the defense can establish malicious intent, ill-will, or hidden motives on the part of these witnesses to provide false testimony, their accounts cannot be readily disregarded specifically when they are the witnesses of the occurrence. Though their testimonies have to

be thoroughly scrutinized, yet it must be evaluated for its reasonableness, plausibility, and coherence with the circumstances of the case. Furthermore, such evidence should inspire confidence in the mind of a rational and prudent person. Therefore upon our assessment, we find that these critical aspects are present in the evidence that has been presented. Reference is also made to the case of Farooq Khan v. The State (2008 SCMR 917), which establishes a precedent for evaluating evidence in similar circumstances.

18. Upon thorough deliberation, we are inclined to conclude that the prosecution has successfully established the charge against the appellant. The testimonies of the complainant Irshad Ali, as well as that of the two eyewitnesses PW-2 Mst. Lal Zaiba and PW-8 Muhammad Sami are explicit, unwavering, confidence inspiring and we believe the same. These witnesses have unequivocally stated that the appellant, Tajdar was present at the place of incident alongwith co-accused Amir Ali, Sardar Ali, and Atif. It is also brought on record that he being present shared intention to commit the aforementioned offense.

19. The motive underlying the offense has also been successfully brought to light through the testimony of SIP Dilawar Hussain. He has deposed that came to know about a feud between the deceased Constable Rehman Ali, and the appellant Constable Tajdar. This animosity emerged due to the appellant's involvement in drug abuse, which prompted the deceased Police Constable to intervene and prevent such unlawful activities. According to I.O/SIP Dilawar Hussain, this grudge appears to have resulted in the accused taking the life of Rehman Ali. It is also important to note that the defense failed to contest this crucial piece of evidence during the

cross-examination of the Investigating Officer SIP Dilawar Hussain. In this regard, we find support in the case of Sheraz Tufail v. The State (2007 SCMR 518) wherein, it is held that defense if fails to cross-examine witness about a specific portion of his statement of examination-in-chief, such unchallenged statement would be deemed to have been admitted by defence.

20. Another contention of the defence counsel with regard of non-recovery of another empty and the crime weapon as failure of the prosecution to corroborate the incident. It is observed that non-recovery of crime weapon is not fatal to prosecution case because prosecution has produced sufficient trustworthy and reliable evidence and even if crime weapon is not proved then too all the pieces of evidence are to be placed in juxtaposition and evaluation is to be made accordingly. Such manner of assessment of evidence has been outlined by the Honorable Supreme Court of Pakistan in the case of Khizer Hayat v. The State (2011 SCMR 429). The guidelines set forth in this case are as follows:

*“The statement of the witness on account of being interested witness can only be discarded if it is proved that an interested witness has ulterior motive on account of enmity or any other consideration-----There is no rule of law that statement of interested witness cannot be taken into consideration without corroboration and even corroborated version can be relied upon if supported by surrounding circumstances.”*

21. It would not be out of place to mention here that the Investigating Officer also gathered a significant array of evidence. He collected eleven photographs capturing the scene of the incident, revealing pertinent details. Additionally, a bullet mark was identified on the gate of the deceased's house. To provide further context, the Investigating Officer obtained the criminal records (Criminal Record Office) of the accused indicating their involvement in criminal cases. Though such CRO may not have

influence in deciding this case, yet the record produced is adverse as against them.

22. We have also taken note of the delay of approximately six and a half hours in the lodging of the First Information Report (FIR). However, a thorough examination of the record reveals well-founded and cogent reasons accounting for this delay. The complainant's actions are supported by evidence that he promptly transported the injured brother to Dar-ul-Sehat Hospital and subsequently to Jinnah Postgraduate Medical Centre (JPMC) for treatment where medical intervention, the injured tragically succumbed to his injuries at about 9.30 pm or 9.35 pm. Such delay therefore was natural as he was busy in attending the injured because of critical condition of injured brother. No suggestion in denial to the complainant version during his cross examination alleging delay caused in lodging the FIR has been given. It is evident that the circumstances were beyond the complainant's control, as his immediate priority was to attempt to save the life of his brother. The delay in lodging the FIR was a direct result of his genuine efforts to provide the necessary medical attention to the injured party. Upon Rehman Ali's unfortunate demise, the complainant then took the step of lodging the FIR. Notably, there is no indication of a calculated or deliberate delay that could suggest a deliberate attempt to falsely implicate the accused. Moreover, it is crucial to highlight that the prosecution did not exploit this delay to its advantage. Given the successful establishment of the accused's guilt, any notion of delay's detrimental impact is nullified for which, reliance is rightly placed upon 2011 SCMR 872.

23. The learned counsel representing the accused has highlighted certain minor contradictions, which we deem to be immaterial. The key evidence provided by the eyewitnesses concerning the critical aspects of the case and the appellant's involvement remains consistent, corroborated, and credible. It is also noted that the remaining accused are still evading apprehension and are still at large.

24. To evaluate the circumstantial evidence, the Investigating Officer, Inspector Tufail Ahmed Chandi, undertook several crucial steps. He recorded the statements under Section 161 of the Criminal Procedure Code (Cr.P.C) of PW Inam Ali, Jaffar Haider, and Rahat. Moreover, he facilitated the recording of statements under Section 164 Cr.P.C. before a Magistrate. During their testimonies, PWs Inam Ali and Jaffar Haider affirmed their presence at the site of the incident. They witnessed Rehman Ali in an injured state, with the complainant holding the accused Sartaj Ali. These witnesses also provided consistent accounts of the subsequent actions, including the shifting of the injured individual for medical treatment.

25. On the 6th of February 2020, S.I.P. Dilawar Hussain proceeded to the location of the offense. In the presence of the complainant Irshad Ali and Jaffar Haider, he conducted an inspection of the scene. During this examination, he collected and sealed an empty 9mm cartridge and its corresponding projectile. Additionally, he secured samples of blood-stained earth and sealed them as well. Subsequently, during the course of the investigation, I.O. Tufail Ahmed submitted the blood-stained earth for forensic DNA analysis, which indicated the presence of human blood. On the same day i.e. 6th of February 2020, the appellant Tajdar was

apprehended. During the interrogation process, he revealed that he had made a call to the emergency helpline '15' in relation to the incident. The Investigating Officer obtained the Call Detail Record (CDR) of the accused's calls to '15' Madadgar and found two calls, both of very short duration – one lasting for "01" second and the other for "0" seconds which does not support his defence as how can any explanation of a crime be given in 1 and zero second telephone call.

26. Furthermore, it was brought to the attention of the Investigating Officer by DSP Abdul Sattar that the accused, Tajdar Haider, was absent from duty on 5th of February 2020. The corresponding order and report regarding this absence were presented as evidence (Exhibit-19/Q). Consequently, as part of the investigative process, accused Tajdar Haider was suspended by order dated 7th February 2020, issued by SSP H.Q Muhafiz Force Madadgar-15 (Exhibit-19/R). As part of his investigation, the I.O. also uncovered information regarding the enmity between the deceased Constable Rehman Ali and the accused party. It was brought on record that the accused were involved in drug abuse, and the deceased Police Constable had taken measures to prevent their illicit activities. This enmity appears to have been a significant factor that led to the tragic loss of Rehman Ali's life.

27. Based on the above discussion, we have reached at an unequivocal and incontrovertible conclusion that the appellant, as a member of the accused group, participated in collaboration with the co-accused to commit the offense in question. This conclusion has been drawn from the prosecution's presentation of independent and genuine evidence, as witnessed by the mother and nephew whose evidence we have already believed in the



judgment as being reliable and confidence inspiring. Their testimony stands as a testament to their refusal to shield the true culprits, thus affirming the veracity of their accounts and their credibility. Consequently, we affirm the decision of the learned trial court in regard to the appellant's conviction and the subsequent sentence imposed upon him. As such, this appeal being devoid of merits is hereby dismissed.

**JUDGE**

**JUDGE**

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