

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Revision Application No.S-65 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on office objections.
	2. For hearing of main case.

31.08.2023

Mr. Waqar Hussain, Advocate for applicant.

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By virtue of this Criminal Revision Application, applicant has questioned the vires of judgment dated 27.01.2013 passed by learned II-Additional Sessions Judge, Hyderabad, whereby respondent was convicted and sentenced in case bearing FIR No.161 of 2021, dated 03.11.2021, registered under sections 324, 506/2, 109 P.P.C, 5 & 7 of Domestic Violence Act, 2013, with Police Station Hussainabad Hyderabad.

2. Brief facts giving rise to the filing of instant revision application are that applicant lodged aforesaid FIR against respondent and others. After registration of the case usual investigation was regulated and finally report under section 173, Cr.P.C. was forwarded by the Investigating Officer to the learned trial Court. The learned trial Court seized with the matter after full-dressed trial in terms of judgment dated 27.01.2023 convicted and sentenced the respondent for causing two injuries to applicant falling within definition of Ghayr-Jaifah Damiyah punishable under section 337-F(i) P.P.C to pay daman of Rs.50,000/- per injury to said applicant / complainant and awarded him sentence till rising of the Court. Respondent was required to execute a P.R bond in the sum of Rs.100,000/- equivalent to the Daman which was to be paid to complainant within a month's time and in default whereof respondent be arrested and remand to jail to suffer SI for three months more however co-accused Sarfaraz Ali and Zufliqar Ali were acquitted.

Feeling aggrieved of the said conviction and sentences, the applicant preferred this revision application against the judgment of learned Additional Sessions Judge, Hyderabad seeking enhancement of sentence awarded to the respondent through judgment dated 27.01.2023. Hence, this revision application has been filed.

It is argued by learned counsel for the applicant that the impugned judgment passed by learned court below is illegal, unlawful, ultra vires and void ab initio and the same is not sustainable in the eye of law. The applicant has proved its case beyond any shadow of doubt by producing tangible and solid evidence, therefore, respondent is liable to be punished with full enhancement.

I have heard the arguments advanced by learned counsel for the applicant and also perused the record.

Perusal of the record transpires that the prosecution has alleged that on 02.11.2021, at about 0700 hours present respondent on the instigation of acquitted co-

accused Sarfaraz Ali and Zulfiqar Ali caused physical torture to applicant and pressed her neck in order to take her life by issuing threats of murder to her. Since the parties herein are husband and wife interse so the learned Trial Court after finding respondent guilty of causing injuries to applicant rightly convicted respondent for paying Daman amount of Rs.50,000/- in terms of per injury which is justifiable in circumstances of the case. There is nothing on record to establish that the respondent is embroiled in any other criminal case to consider him hardened and dangerous criminal or previously convicted, therefore, his case is covered by section 337-N(2), P.P.C. The law is by now settled on the point that in all cases of hurt provided for in Chapter XVI of the Pakistan Penal Code, 1860, the normal punishment to be awarded to an offender is payment of Arsh or Daman and the optional additional punishment of imprisonment as Tazir provided for the relevant offence can be awarded to an offender only where the offender is a previous convict, habitual or hardened, desperate or dangerous criminal or the offence has been committed by him in the name or on the pretext of honour, therefore, the sentence in respect of till rising of the Court along-with Daman of Rs.50,000/- per injury seems to be sufficient and I do not find any flaw or legal infirmity in the judgment of learned Court below.

For the reasons stated hereinabove, this Criminal Revision Application is dismissed.

JUDGE

Muhammad Danish *