

THE HIGH COURT OF SINDH, KARACHI

Spl. Cr. Appeal No. 09 of 2023

[The State / ANF v. Muhammad Anwar Achakzai @ Anwar Khan Khattak & others]

Appellant : ASI - Faraz - ANF is present.
Date of hearing : 07-08-2024
Date of decision : 07-08-2024

JUDGMENT

Adnan Iqbal Chaudhry J. - ASI - Faraz for the ANF is present and yet again requests for an adjournment. However, in view of the order that follows, the request for adjournment is declined.

The appeal is time-barred and the Appellant has moved M.A. No. 13267/2023 under section 5 of the Limitation Act to condone the delay on the ground of departmental delay. However, the affidavit does not disclose which officer or department caused the delay in giving approval. Be that as it may, there is another question to the maintainability of appeal which is discussed *infra*.

This appeal by the Anti-Narcotics Force [ANF] is under section 43 of the Prevention of Smuggling Act, 1977 [PSA] from judgment dated 21-08-2023 passed by the Special Court-II (Control of Narcotic Substances) Karachi under section 32(1) of the PSA in Case No. 214/2015, discharging the properties held by the Respondents 2 to 4 from the purview of section 31 of the PSA and thus declining to forfeit the same as properties required by proceeds of smuggling.

It is by now settled that against an order dismissing the information placed by the ANF under section 31 of the PSA, the ANF is not a 'person aggrieved' within the meaning of section 43 of the PSA, and therefore it cannot maintain an appeal thereunder. That has been so held by the Supreme Court of Pakistan by judgment dated 23-11-2023 in Civil Appeal No. 277/2014, *The State through ANF v. Obaid Khan*, and then by a learned Division Bench of this Court in C.P. No. D-5822/2023, *The State (ANF) v. Agha Mehmoodul Hassan Haravi* (along with C.P. No. D-5490/2023). Resultantly, this appeal is not maintainable. Same is dismissed.

JUDGE