

# THE HIGH COURT OF SINDH AT KARACHI

## Criminal Appeal No.542 of 2017

Present:  
Naimatullah Phulpoto, J.  
Irshad Ali Shah, J.

The State: through Mr. Habib Ahmed, Special  
Prosecutor ANF

Respondent: Nil.

Date of hearing: 23.08.2024

Date of announcement: 23.08.2024

### **JUDGMENT**

**IRSHAD ALI SHAH, J.** It is alleged that the private respondent was found in possession of 1030 grams of heroin powder, for which he was booked and reported by the police party of PS ANF Muhammad Ali Society Korangi. On completion of the trial, the appellant was convicted under Section 9 (c) of CNS Act, 1997 and sentenced to undergo Rigorous Imprisonment for 02 years and to pay a fine of Rs.30,000/- and in default in payment whereof, to undergo Simple Imprisonment for 01 month with the benefit of section 382-B Cr.PC by learned Judge, Special Court No.I (CNS) Karachi Central, vide judgment dated 03.12.2016, which is impugned before this Court by preferring the instant Criminal Appeal by the State/ANF.

2. It is contended by learned counsel for the appellant that the appellant has been punished improperly; therefore, he is to be punished adequately in terms of the mandate laid down by Lahore High Court in Murtaza's case (PLD 2009 362).

3. None has come forward to advance arguments on behalf of a private respondent.

4. Heard arguments and perused the record.

5. In Murtaza's case it is provided that if the heroin powder exceeds 01 kg and is up to 02 kg then the punishment is to be rigorous imprisonment for 06 years with a fine of Rs.30,000/- and default whereof, to entails simple imprisonment for 06 months. By observing so, an exception is also provided therein by stating that in a particular case carrying some special features relevant to the matter of sentence, a court may depart from the norms and standards prescribed above but in all such cases the Court concerned shall be obliged to record its reasons for such departure. The departure so permitted has adequately been considered in the present case by the learned trial Court by awarding lenient punishment to the private respondent by observing that he is a first offender with no criminal record; a middle-aged person and has spoken the truth. In such a situation, the punishment awarded to the private respondent by the learned trial Court appears to be adequate and does not call for any interference by this Court.

6. Because of the above discussion, the instant appeal is dismissed.

**JUDGE**

**JUDGE**