

# THE HIGH COURT OF SINDH AT KARACHI

Spl. Cr. A. T. J. Appeal.No.187 of 2023

**Before: Salahuddin Panhwar  
Arshad Hussain Khan, JJ**

Appellants: Azeem and Bilal through Mr. Abdul Aziz advocate

Respondent: Through Mr. Ali Haider Salim, Addl. P.G

Date of hearing: 16.12.2024

Date of decision: 16.12.2024

## JUDGMENT

SALAHUDDIN PANHWAR, J- Appellants Azeem and Bilal have impugned the judgment dated 17.10.2023 passed by learned Judge, Anti-Terrorism Court No. III, Karachi, whereby after regular trial, the appellants were convicted under sections 397/353/324 PPC as well as under Section 24 of Sindh Arms Act, 2013, and sentenced to undergo various terms of imprisonments including fines. All the sentences were directed to run concurrently. Appellants were also extended benefit of section 382-B Cr.P.C.

2. At the very outset, the learned Counsel for the appellants contend that appellants would be satisfied and shall not press instant appeals on merits, if the sentences awarded to them are reduced to some reasonable extent. Learned counsel further submits that appellants are poor persons and are only bread earners of their families, as such, lenient view may be taken in order to enable them to mend their ways. Such proposal is not resisted by the learned Additional Prosecutor General Sindh.

3. We have heard learned counsel for the appellants and learned APG and perused the material available on record. In order to satisfy ourselves, we have re-examined the entire evidence produced by the prosecution at trial. In order to prove its case, prosecution has examined 05 witnesses, who have fully supported the prosecution case on its salient features viz. arrest of the appellants on the spot at the time of encounter with police, recovery of the robbed amount as well as mobile phone of the complainant and recovery of unlicensed pistols from the appellants. However, during encounter appellant

Bilal received gunshot injury on left leg. Prosecution witnesses were cross examined at length, but nothing in favour of the appellants could be brought on record. We have therefore, come to the conclusion that prosecution has successfully proved its case against the appellants beyond any shadow of reasonable doubt. It is emphatically argued that the appellants are only bread earners of their large families; they are not previously convicts and thus it is prayed that appellants may be provided an opportunity to mend their ways. According to record, the appellants have served more than 2 years and 5 months including remission.

4. Quantum of punishment is not only discretion of the Court, which has to be exercised while considering the circumstances of the case, but also is an independent aspect of Criminal Administration of Justice which, too, requires to be done keeping the concept of punishment in view.

5. Since, appellants are not pressing captioned appeals on merits but seeking reduction of sentences, therefore, we would examine the legality of such plea. Conceptually, punishment to an accused is awarded on the concept of retribution, deterrence or reformation so as to bring peace which could only be achieved either by keeping evils away (criminals inside jail) or strengthening the society by reforming the guilty. There are certain offences, the punishment whereof is with phrase "not less than" while there are other which are with phrase "may extend up to". Thus, it is quite obvious and clear that the law itself has categorized the offences in two categories regarding quantum of punishment. For one category the Courts are empowered to award any sentence while in other category the discretion has been limited by use of the phrase 'not less than'. Such difference itself is indicative that the Courts have to appreciate certain circumstances before setting quantum of punishment in first category which appear to be dealing with those offences, the guilty whereof may be given an opportunity of "reformation" by awarding less punishment which how low-so-ever, may be, will be legal. The concept of reformation should be given much weight because conviction normally does not punish the guilty only but whole of his family/dependents too. A reformed person will not only be a better brick for society but may also be helpful for future by properly raising his dependents. In any event, in the case of **State through Deputy Director (Law), Regional Directorate, Anti-Narcotics Force vs. Mujahid Naseem Lodhi (PLD**

**2017 SC 671**), in the matter of sentence, it is observed 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.*"

6. In view of above, convictions and sentences recorded u/s 397/324/353 PPC and u/s 24 Sindh Arms Act, 2013 vide judgment dated 17.10.2023 are maintained, but their convictions and sentences recorded under sections 397/324 PPC are reduced to 07 years R.I each. However, convictions and sentences recorded under sections 353 PPC, 24 of Sindh Arms Act as well as fines and sentence in default of payment of fines shall remain intact. The appellants would be entitled for remissions. All the sentences to run concurrently and benefit under section 382(b) Cr.P.C is also extended to the appellants.

7. With the above modification in the sentences of the appellants instant jail appeal stands disposed of in the above terms.

JUDGE

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