

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.**

Cr. Jail Appeal No: D-04 of 2003

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Cr. Jail Misc.A. No.D-51 of 2012.

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Date \_\_\_\_\_ Order with signature of judge. \_\_\_\_\_

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For Hearing of M.A No.1601/2012.

14.11.2012.

Mr. Faiz Mohammad Larik, advocate for the appellant.

Miss Shazia Surahio, State Counsel

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By this single order, we intend to dispose of both the applications moved by the appellant for grant of benefit of section 382-B Cr.P.C.

Criminal Jail Appeal No.D-04/2003 and Cr.Reference No.01/2003 were disposed of by this court vide order dated 19.04.2006 for the following reasons:

“After hearing the parties and going through the evidence on record, we are of the opinion that there is no justification to interfere with the finding of guilt of the appellants as has been held by the learned 2<sup>nd</sup> Additional Sessions Judge, Jacobabad in his judgment dated 7.1.2003. However, taking lenient view, we commute the sentence of both the appellants from death to life imprisonment. With this modification, Cr.Jail Appeal No.4/2003 alongwith Confirmation Case No.01/2003 stands disposed of.”

Thereafter learned advocate for the appellants has moved application for extending benefit of section 382-B Cr.P.C to the appellants. Notice was issued to the State.

Learned advocate for the appellants has mainly argued that provisions of section 382-B Cr.P.C are mandatory in nature as such the appellants are entitled to have the benefit as provided U/S 382-B Cr.P.C. In support of his contention, he relied upon the case of Ahmed Yar and others v. The State (1985 SCMR 1167).

Miss Shazia Surahio, State Counsel opposed the application on the ground that appellants have been convicted in murder case hence deserve no benefit of section 382-B Cr.P.C.

We have carefully perused the order dated 19.04.2006 passed by this Court. Provisions of section 382-B Cr.P.C are mandatory in nature. Honourable Supreme Court in the case of Ahmed Yar and others v. The State (1985 SCMR1167) has extended benefit U/S 382-B Cr.P.C to the appellants who were not allowed such benefit by the Courts below. Since provision of section 382-B Cr.P.C is mandatory in nature. Therefore, in view of the above settled position of law, appellants are entitled to such benefit. Consequently the benefit of section 382-B Cr.P.C is extended to the appellants.

Application allowed accordingly.

**JUDGE**

**JUDGE**