

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Criminal Appeal No.3 of 2024

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Date	Order with Signature(s) of Judge(s)
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For hearing of main case.

21.02.2025

Mr. Shaukat Ali Shehroze, Advocate for appellants No.1&2.

Mr. Moin Khan Sandilo Advocate holding brief for Mr. Malik Altaf Hussain, Advocate for appellant No.3.

Mr. Pir Riaz Muhammad Shah, DAG.  
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This Criminal Appeal is directed against the judgment dated 22.12.2023 passed in Case No.2 of 2016 arising out of F.I.R. No.33 of 2015, registered at P.S. FIA, ACC, Karachi under Section 23(1) (a) (vii), 23(1)(a) (x), 23(1) (b), 23(1) (d), 23(1) (i) (ii) punishable u/s 27(1) (a), 27(1) (b), 27(2) (b), 27(3), 27(4), R/W Section 34 of the Drugs Act, 1976 (**“the Act”**), whereby the learned Drug Court of Sindh at Karachi convicted the appellants for the contravention of S.23(1)(a)(x) & 23(1)(c) of the Act and penalized them under section 27(4) of the Act with fine of Rs.100,000/- each; in default whereof, to undergo R.I. for two weeks.

At the very outset, learned counsel for the appellants No.1&2 while referring para No.29 of the impugned judgment states that the appellants have been convicted and sentenced on the allegation that the articles at serial No.2, 3 & 4 of Form-2 (Exh-8/D), Form-3 (Exh-8/E) and the table given in the preceding paragraph No.16, namely, Nipro Syringe Batch No.15A27, Nipro Syringe Batch No.15A21 & Nipro Syringe Batch No.15A21 are not registered in Pakistan. Learned counsel further contends that in fact it was specifically pleaded by the appellant No.2 (Muhammad Arshad Awan) in his statement under Section 342, Cr.P.C. (Exh-13/B) that the Nipro Disposable Syringes are registered by the competent authority who duly issued registration for the product and he produced copy of the “Transfer of Registration of Medical

Devices” on the name of appellant No.1 from the name of former agent M/s. Oriental Sales Corporation, Karachi vide letter dated 28.10.2013 issued by the Government of Pakistan Ministry of National Health Services, Regulations & Coordination (Drug Regulatory Authority of Pakistan) [*available at page 355 of the Paper Book*]. However, the trial Court neither consider the statement of said appellant nor even the letter of Transfer of Registration and recorded conviction of the appellants by misreading and non-reading of the evidence on record, which sole point is sufficient for setting aside the impugned judgment and remanding the matter to trial Court to pass denovo judgment after hearing the parties and considering the aforementioned statement as well as documentary evidence regarding registration of the alleged medical devices.

Learned DAG concedes to the contention of learned counsel for the appellants.

We; therefore, allow this Criminal Appeal by setting aside the impugned judgment. Consequently, the matter is remanded to trial Court to decide the same afresh after hearing the learned counsel for the parties and considering the statement of appellants/accused, so also, the documentary evidence produced by them with their statement under Section 342 Cr.P.C.

JUDGE  
JUDGE