

**JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, KARACHI.**

Cr. Appeal No.415 of 2024
(Nisar Ali Khan vs. The State)

23.12.2024.

Mr. Shafqat Gul Malik, Advocate for Applicant
Ms. Seema Zaidi, Addl: PG Sindh

J U D G M E N T

MUHAMMAD IQBAL KALHORO J: Appellant, Nisar Ali Khan has been convicted and sentenced vide judgment dated 06.05.2024 by IV-Additional Sessions Judge Karachi East in Crime No.05/2021 of Police Station Khokrapar, Karachi for committing an offence u/s 397 PPC to suffer R.I 07 years. Hence, this appeal

2. Learned Addl: PG Sindh at the at the very outset has submitted that the prosecution in the trial has examined in all 06 witnesses out of whom, none has been cross examined by the advocate of the accused. Only the complainant (Muhammad Azam) PW-6 (Exh.15) has been cross examined but he too by the accused himself and not by any advocate, hence a fair opportunity has not been given to appellant to defend himself against the charge through a professional advocate. In these circumstances, both the learned counsel for the appellant and learned Addl: PG Sindh have pleaded for remanding back the case to the trial Court with the direction to provide a fair opportunity of cross examination of the witnesses to the appellant and then on the basis of such evidence to decide the case on merits in accordance with law.

3. I have seen the records the fact that out of 06 witnesses only complainant has been cross examined; and that too by the accused himself, who has not asked the material questions from him, is not disputed. It is obvious that a fair opportunity of defending the charge has not been provided to the appellant and the learned trial Court has concluded the case in a hasty manner, which has resulted in miscarriage of justice. In view of above, the impugned judgment dated 06.05.2024 is set aside and the case is remanded to the trial Court with direction to provide a fair opportunity of cross examination of all the witnesses to the appellant through a counsel and conclude the case within a period of 03 months. Learned counsel for the appellant has undertaken that he would represent the appellant before the trial Court.

This appeal is disposed of along with all pending applications in above terms.

J U D G E