

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Jail Appeal No.S-394 of 2010

FOR ORDER ON OFFICE OBJECTION.  
FOR ORDER ON MA NO.10480/2022.  
FOR HERAING OF MA NO.3765/2010.  
FOR HEARING OF CASE.

Appellant: Hakim present in person on bail.

Respondent: The State through Mr. Nazar Muhammad Memon A.P.G. Sindh along with SIP Iftikhar Ahmed Chandio PS Shahpurchakar.

Date of hearing: 05.12.2022.

Date of Decision: 05.12.2022.

**J U D G M E N T**

**MUHAMMAD IQBAL KALHORO, J:-** Through this Criminal Appeal, the appellant has challenged the judgment dated 25.09.2010, passed by learned Additioanl Sessions Judge, Shahdadpur in Sessions Case No.38 of 2009, Crime No.29 of 2009 registered at PS Shahpurchakar for the offence under sections 324, 337-A(ii), A(iv) PPC, whereby the appellant was convicted and sentenced for the offence u/s 337-A (ii) PPC to undergo R.I. for five years and fine of Rs.5,000/- and in case of default to undergo R.I. for thirty days and for the offence u/s 337-A (iv) PPC to undergo R.I. for five years and fine of Rs.5,000/- and in case of default to undergo R.I. for thirty days more. Both the sentences were ordered to run concurrently. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

**2.** Apellant, who is on bail, at the very outset, has stated that he has remained in Jail for sufficient period; as such, he does not wish to contest this Criminal Appeal and leaves himself at the mercy of the Court and he is ready to deposit fine amount of Rs.5000/-. He states that if this Court while maintaining the conviction reduces the sentence to the one he has already undergone, he would not press the Criminal Appeal.

3. On the other hand, learned A.P.G. Sindh concedes that the appellant has remained behind in Jail for three years, one month and twenty six days including remisison and learnt the lesson and has also deposited fine amount today, therefore, he has no objection if a lenient view is taken against him by dismissing the instant Criminal Appeal and treating the sentence to one as already undergone by him.

4. I have heard the appellant in person, learned A.P.G. for the State and have gone through the record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions. However, the offence pertains to the year 2009. The punishment awarded to the appellant is only five years and the appellant has learnt the lesson as he has undergone sufficient period of his sentence i.e. three years, one month and twenty six days including remisison coupled with deposit of fine amount Rs.5000/- with Accountant of this Court and is still facing the proceedings, therefore, there is no legal impediment in accepting request of appellant. Consequently, while taking leniency, instant Criminal Appeal is dismissed but with the reduction of his sentence to one as already undergone by the appellant. Appellant is present on bail. His bail bonds stand cancelled and surety discharged.

5. Since case has been concluded, notice issued to the surety is hereby recalled.

6. Instant Criminal Appeal is **dismissed** with the above modification. Listed applications also stand disposed of. Office is directed to deposit amount of fine Rs.5000/- in government treasury.

**JUDGE**