

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Present:

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Saleem Jessar.

Criminal Appeal No.D-11 of 2022

Appellant: Muhammad Faheem through
Mr.Zahoor Ahmed Baloch, Advocate.

Respondent: The State through Shahzado Saleem
Nahiyon, Assistant Prosecutor
General Sindh.

Date of hearing: 14.12.2022.

Date of Decision: 14.12.2022.

J U D G M E N T

Through this Criminal Appeal, appellant has challenged judgment dated 14.01.2022, passed by learned Additional Sessions Judge-I/MCTC/Judge Special Court for Narcotics, Mirpurkhas in Special Case No.45 of 2021, Crime No.48 of 2021 registered at PS Mehmoodabad, Mirpurkhas, for the offence under section 9 (c) CNS Act, 1997, whereby the appellant was convicted and sentenced for the offence u/s 9 (c) CNS Act, 1997 for possessing 8000 grams of charas to undergo life imprisonment with fine of Rs.50,000/- and in case of default to undergo S.I. for one month more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

2. Learned counsel for the appellant, at the very outset, has stated that the learned trial Court has awarded the punishment to the appellant beyond the prescribed limit as provided in the case of 'GHULAM MURTAZA and another v. THE STATE' [P L D 209 Lahore 362]. The appellant has remained in Jail for sufficient period and still is being dragged in the instant case; as such he does not wish to contest this Criminal Appeal and leave the appellant at the mercy of the Court. 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 the bars for sufficient period and learnt the lesson, therefore, he has no objection if a lenient view is taken against him by dismissing the instant Criminal Appeal and treating the sentence to the one as already undergone.

4. We have heard the learned counsel for the appellant, 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. The offence pertains to the year 2021. The punishment awarded to the appellant is life imprisonment with fine of Rs.50,000/- however, as per the famous case of **'GHULAM MURTAZA and another v. THE STATE' [P L D 209 Lahore 362]**, the punishment provided for possessing charas exceeding 7 kilograms and upto 8 kilograms is R.I. for 10 years and 6 months and fine of Rs.45,000 or in default S.I. for 7 months. The appellant has undergone sufficient period of his sentence i.e. 08 years, 02 months and 17 days including remission as such he has learnt the lesson. Appellant is first offender as there is no record of his previous involvement in any criminal case, therefore, there is no legal impediment in accepting request of learned counsel for the appellant in such circumstances. Consequently, while taking lenient view, instant Criminal Appeal is dismissed but with the reduction of sentence of appellant to the period as already undergone by him including fine amount. In view of above, office is directed to issue release writ of the appellant to concerned Jail authorities with direction to release the appellant if he is not required in any other custody case.

5. Instant Criminal Appeal is **dismissed** with the above modification.

JUDGE

JUDGE