

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Appeal No.522 of 2017

Date Order with Signature(s) of Judge(s)

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Abdul Mobin Lakho

For hearing of main case.

29.09.2020

Mr. Muhammad Ishaq Memon, Special Prosecutor, ANF
Syed Junaid Alam, advocate

ORDER

Muhammad Iqbal Kalhoro, J.- This appeal has been filed for enhancement of sentence term of 10 months and fine of Rs.13,000/- awarded to respondent in Special Case No.69/2016 arising of FIR No.08/2016, u/s 6, 9(b) CNS Act, 1997, registered at Police Station ANF-II, Karachi against recovery of 597.500 grams of heroin from him on 03.02.2016 at 0400 hours when he was present at entry gate outside of International Departure Lounge Jinnah International Airport, Karachi.

2. In the trial when respondent was produced before the trial Court on 03.12.2016 he filed an application pleading guilty. His statement u/s 342 Cr. PC was recorded and then by the impugned order learned trial court influenced by his voluntary plea of guilt and his being first offender took a lenient view and convicted and sentenced him for the period stated above.

3. Learned counsel for the appellant has argued that respondent was not the first offender and conviction and sentence in Special Case No.119 of 2012 arising of FIR No.95/2012, u/s 6/9(b) CNS, Act, 1997, registered at Police Station ANF-II, Karachi was already running against him, therefore, the lenient view taken by the trial court was not justified. However, he has not been able to deny that factum of previous conviction against him was not mentioned in the charge in terms of section 221(7) Cr. PC and in absence thereof the procedure u/s 245-A Cr. P.C. or 265-I Cr. P.C., as the case may be, for considering previous conviction for enhanced sentence could not have been followed.

4. This being the position and the fact that punishment provided u/s 9(b) CNS. Act, 1997 is up-to 07 years and fine, no illegality entailing

interference by this Court in appellate jurisdiction for enhancing the sentence appears to have been committed by the trial Court. Further the lenient view taken against respondent in view of his plea of guilt, which saved the court for taking up usual hustle of holding a full-fledged trial, was a justified approach for inflicting a lessor punishment to the accused. We, therefore, see no merits in this appeal and dismiss it accordingly.

JUDGE

JUDGE

Rafiq/P.A.

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-934 of 2017

Date Order with Signature(s) of Judge(s)

Fresh Case

1. For orders on Misc No.9917/2017.
2. For orders on office objections No.2 & 3.
3. For orders on Misc No.4899/2017.
4. For hearing of main case.

06.04.2017

Mr. Abdul Jabbar Lakho advocate for the petitioner

1. Urgency is granted.
- 2-4. The petitioner claims to be sole representative Welfare Body of Officers of all Grades working in respondent No.4/Sui Sothern Gas Company Limited and has filed this petition through its General Secretary for seeking multiple reliefs which, inter alia, include declaration to the effect that the Directors & Officers of respondent No.3/ Chairman Board of Directors SSGCL and respondents No.4 are public servants and their conduct is challengeable under Anti-Corruption Act 1974; to declare that policies of respondents No.1 and 2 are binding upon respondents No.3 and 4; to direct respondents No.1 to 4 to place on record Policies, Rules

& Regulations relating to the recruitment, promotion and yearly revision of pays and privileges of the officers and appointment of consultants on Human Resources and the terms of reference for their appointment and SOPs for finalizing such schemes; to direct the respondents to submit the above stated information with further directions to respondent No.5/National Accountability Bureau and respondent No.6/ Federal Investigation Agency to securitize those policies and take appropriate remedial action against criminal misconduct and corrupt practices by the delinquent officers of respondent No.4; to direct the respondent No.6 to place on record findings of enquiry No.16/2015 etc.etc.

The learned counsel for the petitioner has argued that in respondent No.4/SSGCL, massive corruption in all fields and its departments is being committed, therefore, this Court under Article 199 of the Constitution can take cognizance of this fact and enquire into allegations of corruption in the SSGCL in the public interest. We have, however, asked the petitioners' counsel to satisfy the Court with regard to maintainability of this petition as issues raised by him are not amenable to the constitutional jurisdiction. He has replied that this is a public interest litigation wherein serious allegations of the corruption have been leveled against the officers of respondent No.4, therefore, this petition is maintainable.

We have heard the learned counsel for the petitioner and perused the material available on record. A perusal of the petition shows that the petitioner has articulated only general and vague allegations in respect of the alleged corruption in Sui Southern Gas Company without either quoting any specific example thereof or producing any document to prima-facie, show the existence of alleged corruption and non-action in the wake of which on the part of the respondent authorities or departments concerned. The Article 199 of the Constitution does not empower this Court to inquire into vague and nonspecific allegations of corruption or to hold any inquiry into such allegations, for, such course would always require evidence, which admittedly under the Constitutional jurisdiction could not be recorded.

As for the contention of the learned counsel that this is a public interest litigation, it may be stated that the learned counsel for the petitioner has not been able to satisfy as to how and by what acts and omissions of the respondents the public at large has been adversely affected to invoke Article 199 of the Constitution.

The instant petition is misconceived and is hereby dismissed in limine along with listed applications. However, the petitioner may take to appropriate remedy available to it under the law, if so advised.

JUDGE

JUDGE

S.Soomro/P.A

