

THE HIGH COURT OF SINDH AT KARACHI

**Criminal Appeal No.501 of 2018**

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Date                      Order with signature of Judge(s)

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For hearing of main case.

**08.02.2022**

Mr. Habib Ahmed, Special Prosecutor ANF.  
Mr. Khalid Rajpar, Advocate for the respondent.

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

**Mohammad Karim Khan Agha, J.:** The respondent Mian Muhammad S/o Mian Pir Ahmed was tried by the Special Court-I (Control of Narcotic Substances) Karachi in Special Case No.68 of 2009 in FIR No.21/2009 of PS ANF-C, under section 6/9-C, CNS Act, 1997 and based upon his plea of guilty vide order dated 18.08.2011, the respondent was sentenced to suffer R.I. for four years with benefit of Section 382-B Cr.P.C. for the period he has already undergone, in the interest of justice, with the fine of Rs.10,000/- and in default whereof, to suffer further R.I. for eight days.

2. The State/ANF has challenged the impugned order of plea of guilty on the basis that the sentence handed down is not in accordance with law, keeping in view the fact that the amount of recovery would entail either capital punishment or imprisonment for life and as such the sentence is not in accordance with the law and the case should be remanded to the trial Court for re-hearing.

3. Learned counsel for the respondent/accused has not been able to refute that this is the correct legal position and has agreed with the Special Prosecutor ANF that the based on the particular facts and circumstances of this case this appeal warrants to be remanded to the concerned trial court.

4. We have reviewed the record and considered the order of plea of guilty and find that the sentence handed down to the appellant in the order of plea of guilty has not been passed in accordance with

the law. As such, we agree with the Special Prosecutor ANF and the learned counsel for the respondent that this case be remanded to the learned trial court.

5. Accordingly, the order of plea of guilty dated 18.08.2011 is hereby set aside. The case is remanded to the Special Court-I (Control of Narcotic Substances) Karachi, together with R&Ps, if any, with directions to take up the case from the position at which it was when the order upon guilty plea was passed and which is hereby being set aside and shall record the remainder of evidence and pass a judgment on merits in accordance with the law. The concerned trial court shall also ensure that the respondent is represented by counsel for remainder of his trial. The trial court shall decide this case within two months of receipt of this judgment.

6. On the first date of hearing of this matter, learned trial court shall summon remaining PWs and jail authorities shall also ensure the attendance of the respondent before the trial court. The respondent who is present in court shall be taken into custody and returned to Central Prison, Karachi until finalization of his case or until he gets bail from the concerned trial court.

7. A copy of this order shall be sent to the Special Court-I (Control of Narcotic Substances) Karachi for information and compliance. The Criminal Appeal stands allowed in the above terms.