

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha

CRIMINAL APPEAL NO.407 OF 2020.

Appellant	Abdul Sattar son of Muhammad Shaban through Mr. Muhammad Nizar Tanoli, Advocate.
Respondents	through Mr. Ghulam Sarwar Baloch, Assistant Attorney General
Date of Judgment	13.11.2024

JUDGMENT

Mohammad Karim Khan Agha, J. Appellant Abdul Sattar son of Muhammad Shaban was tried in the Court of Special Judge (Central-I) Karachi in Case No.12/2026 in respect of FIR No.20/2016 registered under Sections 6(1)(g) Passport Act, 1974, readwith Section 22(b) of E.O 1979 readwith Section 420/468/471/109/34 PPC and vide judgment dated 30.09.2020 the appellant was convicted and sentenced as under:

“(a) The accused found guilty for committing offence punishable u/s 22(b) of EO 1979 and sentenced RI for Three (3) Years and shall pay fine of Rs. 10,00,000/- (Rupees Ten Lacs Only), in default of payment of fine he shall undergo SI for Six (6) months

(b) The accused found guilty for committing offence punishable u/s 468 PPC and sentenced RI for One (1) year and also he is liable to pay fine of Rs. 5000/- in default thereof ne shall further undergo SI for Three (3) Months

(c) The accused is found guilty for committing offence punishable u/s 471 PPC and sentenced RI for One (1) Year and fine of Rs. 5000/- in default thereal he shall further undergo SI for Three (3) Months

(d) The accused found guilty for committing offence punishable u/s 6(1)(g) of Passport Act 1974 and sentences RI for Two years and shall pay fine of Rs 10 000/- (Rupees Ten Thousands Only) in default thereof he shall further under to SI for Three (3) Months.

However, all the sentences were directed to run concurrently except the payment of fine. The benefit of section 382(B) Cr.P.C. was extended to the appellant.”

2. The brief facts of the prosecution case as per FIR are as under:

“That today i.e. 29 01 2016 while searching of Pos/ CAs by FIA party comprising Inspector/ SHO Muhammad Mobeen Inspector Muhammad Arshad Afridi Sub Inspector Fida Hussain Khan Sub Inspector Tasleem Ahmed and undersigned credible sources informed that accused Abdul Sattar s/o Muhammad Shaban is involved in cheating innocent people with fake promises of sending them abroad for employment purposes against huge amount in collusion with accused persons namely Syed Junaid Hassan Hasni and Muhammad Shahrukh Qadri. It was also reported that the said accused person is in illegal possession of number of passports The sources added that accused Abdul Sattar is available at Cantt Station Karachi Therefore FIA party rushed to the said place

On reaching at the spot the informant pointed out one person who was present at the entrance of Cantt Railway Station Karachi After due introduction the said person was inquired about his name who disclosed his name as Abdul Sattar s/o Muhammad Shaban nolder of CNIC No 43304-0594871-9 The said accused person was holding a plastic bag Thereafter search of plastic bag was conducted and following articles were in his possession (Detail is mentioned in the FIR) Subsequently accused Abdul Sattar s/o Muhammad Shaban was enquired about the possession of above said passports and employment visas of UAE but he failed to give any plausible reply Thereafter personal search of Abdul Sattar s/o Muhammad Shaban was also conducted and following articles were taken into FIA possession;

1. Color copy of Sindh Building Control Authority office Card No 2440 in the name of Abdul Sattar
2. Photocopy of CNIC No 43304-0594871-9 in the name of Abdul Sattar s/o Muhammad Shaban
3. One RIVO Mobile in Black Color
4. One Q Mobile NOIR in Black Color

All the above articles/ passports/ employment visas were taken into FIA possession under a proper seizure memo prepared at the spot in presence of witnesses and affected his arrest. The accused Abdul Sattar s/o Muhammad Shaban was brought to this PS for further necessary legal action.

Meanwhile one Muhammad Taymur Mushtaque s/o Muhamamd Mushtaque Malik holder of CNIC No 42101-3263891-3 r/o Flat No B-12 1 Floor Sunny Pride Gulistan-e-Johar Block-20 Karachi visited this PS for filing a complaint against said arrested accused persons He disclosed that accused Abdul Sattar s/o Muhammad Shaban had cheated him on the pretext to send him Dubai UAE for employment purpose against Rs 140.000/- but failed to fulfill his false promise He added that on his repeated demand accused Abdul Sattar s/o Muhammad Shaban gave him UAE employment visa having Entry Permit No 52142142/2015/ 574 dated 30 07 2015 issued in his name and favour. However the said employment visa was found to be fake/ forged when he checked the same to internet/ from Emirates Airlines office Karachi. Thereafter accused Abdul Sattar s/o Muhammad Shaban reduced contact with him personally and telephonically. He also added that accused Syed Junaid Hasan Hasni (Mobile No 00971553619363/ 00971557864246) holder of CNIC No 42501-9749234-9 and accused

Muhammad Shahrukh Qadri (Mobile No 0334-3101290) rio R-122 Sector 15-B Buffer Zone Nagan Chowranghi Opposite Al Habib Restaurant Karachi employed at Sindh Building Control Authority Civic Centre Karachi are accomplices of accused Abdul Sattar s/o Muhammad Shaban in this illegal business. He further added that accused Abdul Sattar s/o Muhammad Shaban had also cheated 15 other innocent individuals (approx) on the same pretext against an amount of Rs 140.000/- (approx) each.”

3. After usual investigation, the challan was submitted against the appellant / accused to which he pleaded not guilty and claimed trial.

4. The prosecution in order to prove its case examined in all 12-PWs and exhibited various documents and other items. The statement of accused was recorded under Section 342 Cr.P.C in which he denied the allegations levelled against him. However, the appellant did not give evidence on oath nor produce any DWs in support of his defence.

5. After hearing the parties and appreciating the evidence on record, the trial court convicted the appellant and sentenced him as set out earlier in this judgment; hence, the appellant has filed this appeal against his conviction.

6. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 30.09.2020 passed by the trial court, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. At the very outset, learned counsel for the appellant did not argue the case on merits and sought only reduction in sentences based on the following mitigating circumstances:-

- a) That the appellant is first time offender and capable for reformation.
- b) That the appellant had a large family to support.
- c) That by accepting his guilt he has shown genuine remorse.
- d) That the appellant had served out a major part of his sentence.

8. Based on these mitigating factors mentioned by the appellant, learned Assistant Attorney General had no objection to the reduction in sentences to some reasonable extent.

9. I have gone through the evidence on record both are oral and documentary and find that that the prosecution has proved its case beyond a reasonable doubt against the appellant and as such his convictions are upheld.

10. With regard to sentences awarded to the appellant based on the mitigating circumstances mentioned above and no objection given by the learned Assistant Attorney General for reducing the sentences, the sentences awarded to the appellant are reduced to one which he has already undergone in jail and his fine(s) is/are waived off. The appellant is present in Court on bail. His bail bonds are discharged and he is free to go.

11. This appeal stands disposed of in the above terms.

JUDGE

Nadir*