

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Muhammad Iqbal Kalhoro.

Mr. Justice Syed Fiaz ul Hassan Shah.

Spl. Cr. A.T. Appeal No.136 & 137 of 2023

Appellant: Abdul Ghaffar through Mr. Kashif Ali Shah
Advocate.

Respondent: The State through Mr. Muhammad Iqbal Awan,
Addl. P.G.

03.12.2025.

JUDGMENT

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Muhammad Iqbal Kalhoro, J. Appellant Abdul Ghaffar was arrested by police of P.S SSHIA Karachi from MDS Godown situated in KDA Scheme 33, near Sabzi Mandi, Super Highway Karachi on 14.12.2022 at 1400 hours after an encounter in which some of members of the police team received injuries. From appellant Abdul Ghaffar an unlicensed repeater bearing No.1020909 with three live cartridges was recovered whereas he disclosed name of absconding accused as Abdul Malook Mangi. Accordingly, appellant was booked in two separate FIRs bearing Crime No.1692/2022 U/s 324,353,337 F(i), F(iii), 34 PPC and 1693/2022 u/s 23(i) A, of Sindh Arms Act, 2013.

2. Appellant was tried against the same allegations and has been convicted U/s 324, 34 PPC to suffer R.I. for 10 years with fine of Rs.50,000/-, in default to suffer R.I. for six months, his property was also forfeited to the government, U/s 353, 34 PPC to suffer R.I. for 02 years, U/s 337 F(i) r/w section 34 PPPC to suffer R.I. for one year, U/s 337 F(iii) r/w section 34 PPC to suffer R.I. for 03 years, U/s 23(i) A, Sindh Arms Act, 2013 to suffer R.I. for 07 years with fine of Rs.20,000/-, in default to suffer R.I. for 02 months more and U/s 7 (h) ATA, 1997 to suffer R.I. for 10 years with fine of Rs.50,000/-, in default to suffer RI for six months. All the sentences were ordered to run concurrently. Benefit under section 382-B Cr.P.C was also extended to him. By means of these appeals, the appellant has challenged his conviction and sentence as stated above.

3. Learned defence counsel at the very outset submits that the appellant is the first offender and has remained in jail for a sufficient time, therefore, the period already undergone by him in jail may be treated as his sentence and he may be released. He further submits that there are certain discrepancies in the prosecution case which are sufficient for reduction of sentence.

4. Learned Addl. Prosecutor General has not opposed this proposal and has conceded that the appellant is not a previous convict.

5. We have heard learned counsel for appellant, learned APG and perused the material available on record. In the trial, the prosecution has examined 08 witnesses, who have supported the prosecution case on salient features viz. arrest of the appellant on the spot at the time of encounter with police and recovery of an unlicensed repeater from him. However, there is no evidence to suggest that due to the alleged encounter the general public had gone into panic or suffered from sense of insecurity or that the offence was committed by the appellant with a design to achieve any of the objectives specified in clause (b) of subsection (1) of section 6 of ATA, 1997 or aimed to achieve any of the purposes mentioned in clause (c) of subsection (1) of section 6, ATA, 1997 to attract applicability of sections 7(1)(h), ATA, 1997 in the case. At the most the offences seem to fall u/s 324, 353 PPC. This legal position has not been disputed by the learned APG. No record has been produced to show that the appellant is previous convict. His counsel has stated that appellant is regretful of what went wrong in the past and wants to improve himself. The jail roll of appellant dated 25.11.2025 reflects that appellant has served sentence of 09 years, 04 months and 06 days including remission. The punishment u/s 324 PPC is extendable to 10 years, section 353 PPC is punishable upto two years and fine and punishment u/s 23(i),A of Sindh Arms Act, 2013 may extend to 14 years and fine. In such circumstances, we see no impediment legal or otherwise in acceding to the request of appellant for reduction of his sentence, when he has already served out sentence of more than 06 years with remission.

6. In view of above, conviction and sentence of the appellant u/s 7(1) (h) ATA, 1997 is set-aside. However, his conviction u/s 353, 324 PPC and

u/s 23(i), A Sindh Arms Act, 2013 is maintained, but his sentence on all counts is reduced to the period already undergone by him. Fine in respect of all counts is also reduced to Rs.5,000/, in default, the appellant will have to undergo a period of 10 days more on each count.

The appeals in the terms as stated above stand disposed of.

Office to place a copy of this judgment in connected appeal.

Judge

Judge

A.K.