IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Appeal Nos.240 & 359 of 2025

Appellant In Appeal 240/25	:	Faraz Ahmed Khan son of Israr Ahmed Khan
Appellant In Appeal 359/25	:	Nisar Ali Khan @ Dishad Ali Khan *Through* M/s. Javed Ahmed Rajput and Raheela Javed, Advocates
Respondent	:	The State *Through* Mr. Muhammad Mohsin Mangi, A.P.G. Sindh duly assisted by the Complainant Muhammad Azam (in person).
Date of hearing	:	12.11.2026
Date of judgment	:	12.11.2026

J U D G M E N T

KHALID HUSSAIN SHAHANI, J. **-** Through this common judgment, I intend to dispose of the captioned two Criminal Appeals, namely Criminal Appeal No. 240 of 2025 (preferred by appellant Faraz Ahmed Khan) and Criminal Appeal No. 359 of 2025 (preferred by appellant Nisar Ali Khan @ Dilshad Ali Khan), as both arise out of the same impugned judgment dated 26.03.2025 passed by the learned IVth Additional Sessions Judge, Karachi (East) in Sessions Case No. 4109 of 2021 (arising out of FIR No. 05 of 2021, registered under Sections 397/34 PPC at P.S. Khokhrapar, Karachi East), whereby both appellants were convicted under Section 265-H(ii) Cr.P.C. for the offence punishable under Section 397 PPC and sentenced to undergo Rigorous Imprisonment ("R.I.") for seven (07) years each, with the benefit of Section 382-B Cr.P.C. extended to them.

2. At the very outset, Mr. Javed Ahmed Rajput, learned counsel for the appellants, under instructions from appellant Nisar Ali Khan @ Dilshad Ali Khan, submitted that the said appellant has already served out his entire sentence of imprisonment (having been released from Central Prison & Correctional Facility, Karachi on 30.03.2026 upon expiry of sentence on the remission system, as confirmed by the report of the Senior Superintendent, Central Prison Karachi) and, therefore, does not press Criminal Appeal No. 359 of 2025. Accordingly, Criminal Appeal No. 359 of 2025 is dismissed as not pressed along with pending application(s), if any.

3. As regards Criminal Appeal No. 240 of 2025 preferred by appellant Faraz Ahmed Khan, learned counsel for the appellant, after arguing the matter at some length and upon being confronted with the jail roll and the evidence on record, submitted that the appellant does not contest the conviction on merits if the sentence is reduced to the period already undergone, particularly in view of the fact that the complainant, Muhammad Azam (who is also present in Court in person), has forgiven the appellant and filed his duly verified Affidavit of No-Objection.

4. Notwithstanding the candid stance adopted by learned counsel for the appellant, it is the bounded duty of an Appellate Court to independently re-appraise the entire oral and documentary evidence available on the record to satisfy itself as to the legality and propriety of the conviction before considering the question of quantum of sentence.

5. Briefly, the prosecution case as set out in FIR No. 05/2021 (Exh. 13) lodged by complainant Muhammad Azam on 05.01.2021 at 1200 hours is that on the same night at about 0110 hours, while returning home from duty on his motorcycle, he reached the interior street near Al-Mustafa Hospital, Khokhrapar No. 2, Karachi, where two unknown motorcyclists intercepted him. The pillion rider alighted, drew a pistol, and on show of force robbed the complainant of his company-provided laptop (valued at Rs. 65,000/-), cash of Rs. 7,000/-, two mobile phones—a Samsung Galaxy S-5 and a Nokia keypad phone bearing IMEI Nos. 355820097040598 and 355828095040593—along with the original registration book of his motorcycle (No. KMX-5609), original CNIC, ATM card, and office card, before fleeing from the scene.

6. During investigation, ASI Altaf Hassan (PW-9) inspected the scene of occurrence on 09.01.2021 (Exh. 08). Initially, the case was disposed of under "A-Class" for want of clue. However, on 25.06.2021, one Abdul Hafeez (PW-6), accompanied by Zaheer Khan (PW-7), appeared at P.S. Khokhrapar and produced the robbed Nokia keypad mobile phone bearing the exact stolen IMEI numbers, disclosing that he had purchased the same for Rs. 1,000/- from his son-in-law, appellant Faraz Ahmed Khan, and Faraz's uncle, co-accused Nisar Ali Khan @ Dilshad Ali Khan. The said mobile phone (Article-A) was secured under Memo of Seizure (Exh. 09). Co-accused Nisar Ali Khan was arrested from Central Jail on 19.07.2021 (Exh. 06) and was duly identified by the complainant in an identification parade conducted on 15.09.2021 before Mr. Abbas Mehdi, learned IInd Judicial Magistrate, Karachi East (Exh. 10 / Exh. 27-A).

Meanwhile, appellant Faraz Ahmed Khan remained an absconder and was declared a proclaimed offender under Sections 87/88 Cr.P.C.

7. Following the earlier conviction of co-accused Nisar Ali Khan on 06.05.2024, appellant Faraz Ahmed Khan was arrested on 05.07.2024 by ASI Syed Zubair Ali (PW-3) and subsequently admitted to bail. In the meantime, vide order dated 23.12.2024 in Criminal Appeal No. 415 of 2024, this Court set aside the earlier conviction of Nisar Ali Khan and remanded the case for a fresh opportunity of cross-examination. Upon remand and arrest of the present appellant, an amended joint charge was framed against both accused on 08.01.2025 (Exh. 19), to which they pleaded not guilty.

8. To substantiate its case, the prosecution examined nine witnesses: Complainant Muhammad Azam (PW-1, Exh. 20), HC Muhammad Zeeshan (PW-2, Exh. 21), ASI Syed Zubair Ali (PW-3, Exh. 22), HC Abdul Mohaiman (PW-4, Exh. 23), SIO Ali Asghar (PW-5, Exh. 24), Abdul Hafeez (PW-6, Exh. 25), Zaheer Khan (PW-7, Exh. 26), Mr. Abbas Mehdi, Judicial Magistrate (PW-8, Exh. 27), and I.O. ASI Altaf Hassan (PW-9, Exh. 28). In their statements recorded under Section 342 Cr.P.C. (Exhs. 30 & 31), both accused denied the allegations, claimed false implication, and opted neither to examine themselves on oath nor to adduce defence evidence. Upon conclusion of trial, the learned Trial Court convicted and sentenced both accused as noted above.

9. I have carefully scrutinized the evidence on record with the assistance of learned counsel for the appellant and the learned Assistant Prosecutor General. The prosecution case against appellant Faraz Ahmed Khan rests on a seamless chain of direct and corroborative evidence.

10. First, the complainant Muhammad Azam (PW-1) gave a natural, coherent, and confidence-inspiring account of the incident, positively identified appellant Faraz Ahmed Khan in open Court as the person driving the motorcycle during the robbery, and withstood rigorous cross-examination without any material contradiction.

11. Second, the complainant's ocular account stands powerfully corroborated by the recovery of the robbed Nokia keypad mobile phone (Article-A) bearing the exact IMEI numbers mentioned in the FIR. Crucially, the person who produced the snatched phone before the police was none other than Abdul Hafeez (PW-6), the real father-in-law of appellant Faraz Ahmed Khan, who candidly deposed that he had purchased the said

handset from his son-in-law Faraz. A father-in-law has no conceivable motive to falsely implicate his own son-in-law in a heinous offence of armed robbery; his testimony, duly supported by recovery mashir Zaheer Khan (PW-7), eliminates any hypothesis of police fabrication or foisting.

12. Third, the appellant remained a fugitive from law for over three years after the occurrence until his arrest on 05.07.2024, which furnishes further corroboration of his guilty consciousness.

13. Accordingly, the prosecution successfully established the guilt of appellant Faraz Ahmed Khan beyond any shadow of reasonable doubt, and his conviction under Section 397 PPC recorded by the learned Trial Court is unexceptionable and calls for no interference on merits.

14. Turning now to the quantum of sentence, I have examined the Jail Roll submitted by the Senior Superintendent, Central Prison & Correctional Facility, Karachi (Convict No. C-6833). A perusal thereof reveals that, the appellant is a young man of about 27 years with no prior criminal conviction recorded on the jail roll. Out of the substantive sentence of seven (07) years R.I., the appellant has already served 01 year, 04 months, and 17 days of actual incarceration (including under-trial period under Section 382-B Cr.P.C.) and has earned remissions of 02 years, 10 months, and 20 days, bringing his total served period including remission to 04 years, 03 months, and 07 days as of 05.05.2026 which, by the date of hearing on 12.11.2026, exceeds four years and nine months of substantive sentence.

15. His conduct during confinement in prison has been certified by the Jail Authorities as "Satisfactory" and his health as "Good". Furthermore, no physical hurt or injury was caused to the complainant during the incident, and only an un-recovered pistol was allegedly shown.

16. Most importantly, the complainant Muhammad Azam appeared before the Trial Court during his deposition and unequivocally stated that he had forgiven the accused. He has also appeared in person before this Court today and filed a duly verified Affidavit of No-Objection, affirming on oath that he has amicably settled the matter with the appellant out of his own free will without any fear or pressure, has forgiven him, and has no objection if the appellant is acquitted or released.

17. While an offence punishable under Section 397 PPC is non-compoundable under Section 345 Cr.P.C., and therefore a compromise

cannot automatically result in acquittal, it is well-settled jurisprudence of the Honourable Supreme Court of Pakistan and this Court that a genuine compromise or forgiveness by the victim, coupled with substantial incarceration already undergone, constitutes a valid and compelling mitigating circumstance for the reduction of sentence in non-compoundable offences, provided the minimum statutory threshold, where applicable, is respected or the ends of justice are met. In the present case, the appellant has already undergone nearly five years of imprisonment (inclusive of remissions) and suffered the agony of protracted trial and appellate proceedings since 2021. Even otherwise, his co-accused Nisar Ali Khan @ Dilshad Ali Khan, to whom the principal role of brandishing the pistol was attributed, has already been released upon completion of his sentence. Keeping the appellant behind bars any further after the complainant has wholeheartedly forgiven him would serve no useful penological or reformative purpose.

18. For the foregoing reasons, both appeals are disposed of in the terms that criminal Appeal No. 359 of 2025 (filed by appellant Nisar Ali Khan @ Dilshad Ali Khan) is dismissed as not pressed, along with pending application(s), if any. Moreover, criminal Appeal No. 240 of 2025 (filed by appellant Faraz Ahmed Khan) is dismissed on merits to the extent of his conviction under Section 397 PPC, which is hereby maintained. However, in view of the mitigating circumstances noted above, specifically the genuine forgiveness extended by the complainant and the substantial portion of sentence already served, the sentence of seven (07) years R.I. awarded to appellant Faraz Ahmed Khan S/o Israr Ahmed Khan is reduced to the period already undergone by him.

19. Appellant Faraz Ahmed Khan S/o Israr Ahmed Khan shall be released forthwith from Central Prison & Correctional Facility, Karachi, if not required in any other custody case. Pending miscellaneous application (M.A. No. 5119 of 2025) stands disposed of accordingly.

J U D G E