

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

CrI. Appeal No.02 of 2013

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

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- 1) For regular hearing
 - 2) For hearing of M.A. 11/2013
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21.01.2013

Mr. Ghulam Mustafa Memon, Advocate for Appellant

Mr. Khadim Hussain Khoonharo, D.P.G.

Through an application under section 426 Cr.PC appellant Muhammad Riaz son of Muhammad Younus seeks suspension of the execution of sentence awarded to him and further seeks his release on bail during the pendency of the appeal. The appeal has been admitted to regular hearing. The appellant has impugned the judgment dated 18.12.2012, passed by learned III Additional Sessions Judge Karachi South, whereby he was convicted under section 320 PPC and sentenced to undergo R.I. for 5 years and to pay diyat amount of Rs.10,94,816/- to the legal heirs of deceased Muhammad Adam. It is matter of record that the appellant remained on bail during the pendency of trial. It is also argued by the learned counsel for the appellant

that during the pendency of the case before trial Court, compromise application was filed and publication was made but without deciding the said compromise application, the appellant was convicted by the trial Court. It is further submitted that sentence of 5 years is a short one, the hearing of appeal shall take some time. Some irregularities and illegalities in the trial have also been highlighted. In support of his contentions learned counsel for the appellant placed reliance on the following cases:

1. Abdul Hameed Vs. Muhammad Abdullah (1999 SCMR 2589)
2. Nazeer Ahmad Vs. the State (2005 PCrLJ 657)
3. Shah Hussain Vs. The State (PLD 1995 Karachi 209)
4. Hata and others Vs. The State (PLD 1967 Lahore 1302)
5. Safdar Ali Shah Vs. The State (1997 MLD 961)
6. Abdul Samad Vs. The State (1999 SD 432)

Mr. Khadim Hussain, D.P.G. in view of the case law relied upon by the learned counsel for the appellant recorded no objection to the suspension of the sentence subject to heavy surety during the pendency of the appeal.

I have carefully heard arguments of the learned Counsel for the Parties. Appellant was driver of bus. This is a case of fatal accident. Trial Court without deciding compromise application has convicted appellant.

Some irregularities and illegalities in conduct of trial have also been highlighted. Sentence awarded to the appellant for 5 years R.I. under section 320 PPC is the short

one and hearing of appeal could take some time, consequently, the application for suspension of sentence is allowed and the sentence awarded to the appellant Muhammad Riaz son of Muhammad Younus is suspended, he may be released on bail upon his furnishing surety in the sum of Rs.300,000/- (*Rupees Three Hundred Thousand*) and B.R. Bond in the like amount to the satisfaction of the Nazir of this Court.

JUDGE

Gulsher/PA