

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S- 127 of 2014

Appellants : Ali Murad and Abdul Razzak
Through Mr. Mir Naeem Talpur, Advocate.

Respondent : The State
Through Mr. Shahid Ahmed Shaikh, A.P.G.

Date of hearing: 22.05.2017

Date of decision: 22.05.2017

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J U D G M E N T

ABDUL MAALIK GADDI, J – Through this criminal appeal the appellants have assailed the legality and propriety of the judgment dated 11.11.2014 passed by the learned Additional Sessions Judge, Tando Allahyar in Sessions Case No.210/2012 (Re: State v. Ashraf and others) pertaining to crime No.109/2011, registered with P.S. Chamber, for offence u/s 365-B PPC, whereby the learned Trial Court after full dressed trial has convicted and sentenced the appellants U/s 365/34 PPC to undergo two years Rigorous Imprisonment and to pay fine of Rs.10,000/- each, and in case of default in payment of fine to suffer three months S.I. However, benefit of Section 382-B Cr.P.C was extended to them.

2. The brief facts of the prosecution case are that complainant Ghulam Shabir is residing in village Sodho Rind Taluka Chamber District Tando Allahyar and his sister Mst. Afsana aged about 18

years was married with Iqbal son of Dost Ali and marriage was solemnized 8/9 months back prior. On 12.10.2011, his sister Mst. Afsana came from Chohar Jamali to village Sobho Rind for the purpose of visiting, and she has no offspring. On 16.10.2011, he, his brother Arbab Ali and cousin Ahmed Rind and other family members after having food were sleeping, when all of sudden at about 1.00 A.M. on the cries, he woke-up and saw in the light of bulb that four persons were standing in the house armed with guns, whom he and his brother Arbab Ali and Cousin Ahmed Ali identified well, who were 1) Ashraf son of Mubarak Rind resident of Haji Baharo Rind Taluka Chamber, 2) Mir Muhammad son of Muhammad Hassan alias Natho Rind, 3) Ali Murad son of Ali Ghulam Rind R/O Daliabad, 4) Abdul Razzaque son of Haji Muhammad Khan Rind R/O Baharo Rind Taluka Chamber, who on the show of weapons were taking his sister Mst. Afsana Rind outside the house. His sister Mst. Afsana was raising cries. Complainant told accused that they recognize them and accused are doing wrong, but the accused Ashraf Rind said to keep quite and stay there, otherwise it will not be better for complainant. Thereafter, all family members, due to fear remained quite and in their presence all four accused persons put his sister Afsana in white car and left. Meanwhile, other villagers also reached there, who also seen his sister going in car. Thereafter, they managed vehicle and cashed the accused persons but could not locate the accused. Thereafter, in the morning they complained to the nekmurds of the village, who told that faisla will be held, but till today no response from the accused persons. Thereafter, complainant went to P.S and lodged F.I.R. against the accused persons that above named accused persons abducted his sister on the show of weapons with intention to

commit zina/rape. After lodging of F.I.R. the abductee was recovered; and case was challaned.

3. Today, this appeal is fixed for final arguments. Learned Counsel for the parties have been heard but after hearing the learned counsel for the parties at some length learned counsel for appellants submitted that on merits though the appellants have a good case for their acquittal, but they are facing the agony of protracted trial since 2011, therefore, according to him, he would be satisfied and shall not press this appeal on merits if the sentence awarded to the appellants by the learned Trial Court is reduced to the period which they have remained in Jail and the fine is remitted. It is stated by the learned APG as well as learned Counsel for appellants that the appellants have remained in jail for considerable time.

4. Learned A.P.G has also raised no objection on the above proposition.

5. It appears from the record that after passing the said judgment the appellants were sent to jail to serve out the sentences awarded to them. However, they were granted bail by this Court during pendency of this appeal on 24.11.2014. Today, they are present on bail and they have also repented and undertaken not to repeat such abrasive act in future.

6. I have thoroughly examined the record with the able assistance of learned A.P.G. and Counsel for appellant. In view of the record, I am of the opinion that the conviction of the appellants is based on cogent reasons. The appellants are first offenders. No past criminal history against them is placed on record. They are in young ages of 22

and 25 years respectively. Therefore, in these circumstances they need to be given chance in their life to rehabilitate themselves.

7. Consequently, the conviction is maintained, however, the sentences awarded to the appellants by the Trial Court is reduced to one which they have already undergone and the fine of Rs.10,000/- each is remitted.

8. With the above modification in the sentence, this appeal is dismissed. The appellants are present on bail, their bail bonds stand cancelled and surety discharged.

JUDGE