

Judgment sheet.
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr. Jail Appeal No.S-147 of 2010.

DATE ORDER WITH SIGNATURE OF JUDGE

For regular hearing.

Date of hearing: 16 .08.2017.

Date of judgment: 16.08.2017.

Appellant: Through Mr. Haji Khan Hignorjo, Advocate

The State Through Mr. Shahid Ahmed Shaikh, D.P.G.

None present for complainant.

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J U D G M E N T :-

ABDUL MAALIK GADDI, J :- By means of this criminal Jail Appeal, appellant Saifal Khan has assailed the legality and propriety of the judgment dated 15.1.2010 passed by learned Assistant Sessions Judge, Sanghar in Sessions Case No.21 of 2009 (Re:State vs Saifal Khan), emanating from Crime No.186 of 2009 for offence under sections 324, 337-F(iii) PPC, registered at P.S. Sanghar, whereby the learned trial court after full-dressed trial convicted and sentenced the appellant as stated in the findings on point No.2 of the impugned judgment, which reads as under:-

“In view of my reasons recorded in support of my findings on point No.1, I am of the humble view that the prosecution has successfully established its charge and proved its case against the accused on the points that accused Saifal Khan made gun fire upon his wife Mst. Hanifan with intention to kill her, and caused her fire-arm injuries on her chest and right arm, hence accused Saifal Khan is convicted U/S 265-H(2) Cr.P.C, he is convicted for committing offence under section 324 PPC and is sentenced to

undergo RI for five years. He is further convicting for committing offence under section 337-F(iii) PPC and is sentenced to undergo RI for three years. Accused should also pay fine of Rs.20,000/=. Out of amount of fine, if recovered, same be paid to injured Mst.Hanifan as compensation. In case of default in payment of fine amount accused shall suffer R.I for two months more. Both the sentence shall run concurrently. Accused is produced in custody, he is remanded to Central Prison Hyderabad through District Jail, Sanghar to serve out the above said sentences. The benefit of section 382(b) Cr.P.C is extended to him.”

2. Brief facts of the case of prosecution as disclosed in the FIR are that on 24.9.2009 at 1615 hours complainant Muhammad Ashfaq s/o Addul Ghafoor Leghari, lodged FIR alleging therein that he is serving as High School Teacher at village Molvi Khair Muhammad, there was marriage ceremonies of his nephews arranged. On the day of incident i.e. on 24.9.2009, complainant alongwith his cousin Muhammad Usman went to the house of accused Saifal Khan for invitation and for taking his sister Mst. Hanifan w/o Saifal Khan in advance, complainant gave invitation to his sister, her husband accused Saifal was also present in the house, to whom he also invited and asked him to allow his sister to accompany with him, but accused refused, on which complainant's sister insisted to her husband Saifal, hence accused Saifal annoyed and brought his licensed double barrel gun, loaded both barrels of gun and at 1215 hours in presence of complainant party he made gun shots upon complainant's sister in order to kill her, which hit her on chest who fell down villagers gathered, complainant party arranged vehicle and took the injured to hospital after obtaining police letter, thereafter leaving Muhammad Usman with injured, complainant went to PS and lodged FIR, subsequently accused was

arrested, crime weapons i.e. gun alongwith its license was recovered, and after usual investigation case was challaned.

3. Today this appeal is fixed for final arguments. Appellant though is on bail not present today on the ground of his illness, however, his counsel has prayed for condonation of his absence for today and hearing of this appeal as the instant appeal is pending since 2010. At his request the absence of the appellant is hereby condoned and the Counsel for the appellant has been heard.

4. It is stated by the learned counsel for the appellant that on merit though the appellant has a good case for his acquittal on the ground that case of the prosecution is false and the evidence of the prosecution witnesses are on record, is contradictory to each other. He further submits that the appellant is facing agony of protracted trial since 2009 without his fault, therefore, according to him, he would be satisfied and shall not press this appeal on merit, if the sentences awarded to the appellant by the learned trial court are reduced to the period which he has remained in jail and the fines are remitted. Per learned counsel that as per jail roll dated 06.7.2010 issued by Superintendent Central Prison Hyderabad, which is on record, showing that the appellant has remained in jail for one year, five months and one day. Thereafter, the appellant was granted bail by this Court under section 426 Cr.P.C vide order dated 18.8.2010 and since then appellant is attending this Court regularly and the appellant is in young age and he has no past criminal history. The appellant is only source for earning of his family. He further submits that at present appellant is residing with her wife Mst. Hanifan.

5. Learned D.P.G after going through the Jail Roll tenders no objection to above proposal.

6. I have thoroughly examined the record with the able assistance of learned D.P.G and Counsel for the appellant. In view of the record, I am of the opinion that the conviction of the appellant is based on cogent reasons. The appellant is first offender. No past criminal history against him is placed on record. He is young in age and remained in jail for about 1.1/2 years, therefore, in the present scenario of the case, the appellant has been sufficiently punished. Under these circumstances, he needs to be given chance in his life to rehabilitate himself. It has been informed by learned counsel for the appellant that the injured Mst. Hanifan is wedded wife of appellant Saifal Khan and she is residing with her husband happily. Per counsel, the dispute between the parties has already been settled outside the Court and they have compromised the matter.

7. Consequently, in view of above, the appellant deserves leniency. While taking lenient view, I dismiss this appeal on merits, however, reduce the sentence to one already undergone by the appellant and fine is hereby remitted. Appellant is present on bail, his bail bonds stand cancelled and surety discharged.

JUDGE