

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-51 of 2015

Date of hearing: 11.05.2017

Date of decision: 11.05.2017

Appellant : Aijaz Ali
Through Mr. Bhagwan Das Bheel, Advocate.

Respondent : The State
Through Mr. Irum Ahmed DDPP.
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J U D G M E N T

ABDUL MAALIK GADDI, J – Through this criminal appeal the appellant has assailed the legality and propriety of the judgment dated 07.03.2015 passed by the learned 2nd Assistant Sessions Judge Umerkot in Sessions Case No.180/2014 (Re: State v. Aijaz Ali) pertaining to crime No.31/2014 registered with P.S. Pithoro, District Umerkot for offence u/s 24 Sindh Arms Act, 2013, whereby the learned Trial Court after full dressed trial has convicted and sentenced the appellant to suffer R.I for 05 years and to pay fine of Rs.25,000/-, in case of default in payment of fine he has to suffer six months more S.I. However, benefit of Section 382-B Cr.P.C was extended to him.

2. The brief facts of the prosecution case are that on 18.11.2014 at about 1530 hours at Pithoro to Shadi Palli leading main road at Abra Rasti deh Golarki Taluka Pithoro accused was apprehended by ASI Khalil Ullah Kunbher of P.S Pithoro and during the personal search of accused, secured one pistol No.31049536 (TIGER printer on barrel) of

30 bore along with magazine containing 5 live bullets of 30 bore from his possession and on enquiry accused failed to produce the license of said weapon/pistol. Thereafter, accused and case property were brought at Police Station Pithoro where complainant lodged the F.I.R. on behalf of State under Section 24 Sindh Arms Act, 2013.

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 appellant submitted that on merits though the appellant has a good case for his acquittal, but he is facing the agony of protracted trial since 2014, therefore, according to him, he would be satisfied and shall not press this appeal on merits if the sentence awarded to the appellant by the learned Trial Court is reduced to the period which he has remained in Jail. It is stated by the learned DDPP that the appellant is in jail since 18.11.2014.

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

5. Record reveals that the present appellant though challaned in main case under crime No. 29/2014 under Section 398, 401, 34 PPC of P.S Pithoro but in said case he has been acquitted by the trial Court vide judgment dated 07.03.2015.

6. I have thoroughly examined the record with the able assistance of learned DDPP and Counsel for 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 in jail for the last two years and six months since his arrest on 18.11.2014, thus, appears to have been

sufficiently punished. He is first offender. No past criminal history against him is placed on record. He is in young age of 20 years. The appellant has also been acquitted in the main case in Crime No. 29/2014 of P.S Pithoro. Therefore, in these circumstances he needs to be given chance in his life to rehabilitate himself.

7. Consequently, the conviction is maintained, however, the sentences awarded to the appellant by the Trial Court is reduced to one which the he has already undergone, whereas fine of Rs.25000/- and in case of nonpayment fine its sentence is maintained. The appellant shall be released forthwith if not required in any other case after payment of fine.

8. With the above modification in the sentence and fine, this appeal is dismissed.

JUDGE