

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
Cr. Appeal No.769 of 2024
(*Yousuf & another vs. The State*)

20.12.2024.

M/s. Muhammad Daud Narejo, advocate for appellants
Mr. Shoaib Safdar, APG a/w complainant

J U D G M E N T

MUHAMMAD IQBAL KALHORO J: Appellants, Yousuf and Owais have been convicted vide judgment dated 25.10.2024 by learned Assistant Sessions Judge Karachi Malir in Crime No.430/2023 of Police Station Malir City, Karachi for committing an offence u/s 397 PPC to suffer 07 years of imprisonment and fine of Rs.100,000/- in default of which to undergo further rigorous imprisonment of 01 year. Hence, this appeal.

2. Learned counsel for the appellants at the very outset has submitted that the prosecution in the trial has examined in all 05 witnesses, one of the eye witness, namely, Asif Khan was declared hostile as he did not identify the appellants in his evidence. Whereas, cross examination of SIP Mumtaz, who had arrested the appellants, and of complainant has been marked nil as no advocate represented the appellants in the case at the time of recording of their evidence. Hence, he has requested that a fair opportunity be given to the appellants by remanding the case back to the trial Court to cross examine the said witnesses, so that a just and fair decision could be rendered in this case.

3. Learned Assistant Prosecutor General Sindh after going through the R&Ps of the case has confirmed this position and has given no objection to remanding the case back to the trial Court, so also, complainant, who is present in person.

4. Accordingly, the impugned judgment dated 25.10.2024 is set aside and the case is remanded to the trial Court to afford an opportunity to the appellants to cross examine the above said two witnesses within a period of one month and announce judgment after appreciating their evidence with evidence of remaining witnesses in accordance with law. Learned counsel for the appellants at this juncture, submits that at the time of judgment appellants were present on bail. In view of such fact, appellants would be at liberty to file a bail application for a fresh consideration by the trial Court.

This appeal is disposed of along with all pending applications in above terms.

J U D G E

Rafiq/P.A