

IN THE HIGH COURT OF SINDH AT KARACHI
Special Criminal Anti-Terrorism Appeal No.126 of 2020
Special Criminal Anti-Terrorism Appeal No.127 of 2020

Date	Order with signature of Judge
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1. For order on M.A. No.8120/2020
2. For hearing of main case.

21.02.2022

Mr. Muhammad Ibrahim Abro, Advocate for the Appellant
 Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh

J U D G M E N T

Mohammad Karim Khan Agha J. The Appellant Raheel alias Arsalan s/o K Muhammad was tried by the Anti-Terrorism Court No.IV Karachi Division in Special Case No.659/2019 in respect of FIR No.150/2019 under section 4/5 of Explosive Substance Act 1908 read with section 7 A.T.A. and in Special Case No.659-A/2019 in respect of FIR No.151/2019 under section 23-I-A of Sindh Arms Act, 2013, both lodged at PS SIU Sindh. Vide judgment dated 13.08.2020, the appellant was convicted under section 5 of Explosive Substance Act and sentenced to three years imprisonment and under section 23-I-A of S.A.A. and sentenced to suffer R.I for three years and fine of Rs.5000/- and in case of default he shall suffer further imprisonment for one month more. He was given the benefit of Section 382(B) Cr.P.C. and both sentences were to run concurrently.

2. Precisely, facts of the prosecution cases are that on 30.10.2019, police party headed by SIP Muhammad Ibrahim of PS SIU, Karachi, during patrolling in area received spy information that one suspect of religious banned outfit equipped with hand grenade and weapon, present at Rear Road, Government Degree College, Sector 5/L, New Karachi Bilal Colony, Karachi was waiting for his accomplice. Police party reached there, on pointation of spy informant, police party apprehended accused person, who disclosed his name as Raheel @ Arslan @ Achi s/o K Muhammad. Due to non-presence of public complainant conducted personal search in the presence of police officials recovered one hand grenade from ferozi colour school bag hanging on accused shoulder. On his further personal search one 30 bore pistol, rubbed number, having wooden butt/handle, load magazine with six bullets was also recovered tucked into right side of pant.

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After completion of legal formalities accused along with case property was brought at PS where above mentioned FIRs were lodged.

3. After usual investigation the case was challaned and after being charged the appellant claimed trial.

4. In order to prove its case, the prosecution examined four PWs and exhibited numerous documents and other items. The appellant in his section 342 statement denied all the allegations levelled against him and claimed that he had been falsely implicated in these cases. He did not give evidence on oath or call any DWs in support of his defence case.

5. After hearing the parties and appreciating the evidence on record the learned Trial Court convicted and sentenced the appellant as mentioned earlier in this judgment. Hence, the appellant has filed these appeals against his conviction.

6. The facts and evidence relating to the cases has been reproduced in the impugned judgment and as such there is no need to reproduce the same so as to avoid unnecessary repetition and duplication.

7. Whilst reading out of the evidence learned counsel for the appellant under instructions of the appellant Raheel alias Arsalan, *who was present in court on bail*, did not press these appeals on merits provided that his sentence was reduced to that of already undergone based on the following mitigating circumstances;

- (a) That he was first time offender and was capable of reformation;
- (b) That he was young man with a large family to support which would suffer further if he was returned to jail;
- (c) That by admitting his guilt he had shown genuine remorse by not contesting these appeals;
- (d) That he has served out half of his sentence.

8. The learned Additional Prosecutor General based on the aforementioned mitigating factors had no objection to the above proposition.

9. We have gone through the evidence and have found that the prosecution has proved its case against the appellant beyond any reasonable doubt. The appellant was arrested by the police on the spot and on his personal search a live Hand Grenade and working pistol were

recovered from him and no enmity has been suggested against the police officials and under these circumstances, we have no reason to disbelieve their evidence which we find trustworthy confidence inspiring and reliable and we believe the same. The evidence of B.D.U. expert also proves that the Hand Grenade was live and as such the conviction of the appellant is maintained.

10. With regard to the sentence having taking into account the mitigating factors put forward by the learned counsel for the appellant and having regard to the ^{no} objection certificate given by the learned A.P.G. we hereby reduce the sentence of the appellant to the period which he has already undergone in jail which shall include his fine.

11. The appellant is present on bail. His bail bonds stand discharged and he is free to go.

12. These appeals are hereby disposed of in the above terms.

Amjad PA*