

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha

CRIMINAL APPEAL NO.640 OF 2022.

Appellant	Ahmedullah son of Abdul Hameed in person.
Respondent	The State through Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh and Malik Sadaqat Khan, advocate for SSGC.
Date of Judgment	06.11.2024

JUDGMENT

Mohammad Karim Khan Agha, J. Appellant Ahmedullah son of Abdul Hameed was tried in the Court of District & Sessions Judge Karachi West in Special Case No.288/2022 vide judgment dated 29th October, 2022, whereby the appellant has been convicted for the offence under section 15 of Gas Theft Control & Recovery Act, 2016, and sentenced to suffer R.I for 05 years and to pay fine of rupees One Million and in case of default in payment whereof, he shall suffer S.I for one year more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

2. The brief facts of the prosecution case are that on 22.11.2021 at about 1100 hours, present accused had committed theft of sui gas by purloining the sui gas from the service line of sui gas at Plot No.ST-15, Sector No.4, Sultanabad, Hamdard University Road, Karachi by running the hotel in the name and style of New Quetta Khyber Piyala Hotel. At the time of raid the accused was arrested on spot and from spot four stoves of 18 nozzles, yellow color rubber pipe measuring four feet having nipple on either side were recovered and FIR was lodged.

3. After usual investigation, the challan was submitted against the appellant / accused to which he pleaded not guilty and claimed trial.

4. The prosecution in order to prove its case examined in all 03-PWs and exhibited various documents and other items. The statement of

accused was recorded under Section 342 Cr.P.C in which he denied the allegations levelled against him and gave evidence on oath and examined one DW in support of his defence.

5. After hearing the parties and appreciating the evidence on record, the trial court convicted the appellant and sentenced him as set out earlier in this judgment; hence, the appellant has filed this appeal against his conviction.

6. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 29th October, 2022 passed by the trial court, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. At the very outset, the appellant did not argue the case on merits and sought only reduction in sentence based on the following mitigating circumstances:-

- a) That the appellant is first time offender and capable for reformation.
- b) That the appellant had a large family to support.
- c) That by accepting his guilt he has shown genuine remorse.
- d) That the appellant had served out a major part of his sentence.

8. Based on these mitigating factors mentioned by the appellant, learned Additional Prosecutor General and learned counsel for the SSGC had no objection to the reduction in sentence to some reasonable extent.

9. I have gone through the evidence on record both are oral and documentary and find that that the prosecution has proved its case beyond a reasonable doubt against the appellant and as such his conviction is upheld.

10. With regard to sentence based on mitigating circumstances mentioned above and no objection given by the learned Additional Prosecutor General Sindh and learned counsel for the SSGC for reducing the sentence, the sentence awarded to the appellant is reduced to one which he has already undergone in jail and his fine is waived off. The

appellant is present in Court on bail. His bail bonds are discharged and he is free to go.

11. This appeal stands disposed of in the above terms.

JUDGE

Nadir