

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha

CR. APPEAL NO.476 OF 2024

Appellant: Haroon s/o Noor Alam through Mr. Qamar Iqbal, Advocate.

Respondent: The State through Mr. Muhammad Iqbal Awan, Addl. Prosecutor General, Sindh

Date of Hearing: 22.10.2024

Date of Announcement: 29.10.2024

JUDGMENT

Mohammad Karim Khan Agha, J: Appellant Haroon was tried by the Additional Sessions Judge-IV (East) Karachi in Sessions Case No. 4898 of 2022 in respect of Crime No. 1179 of 2022 registered under Section 23-A(i) SAA 2013 at P.S. KIA, Karachi and after a full-fledged trial vide judgment dated 29.05.2024 he was convicted under section 23-A(i) of SAA 2013 and sentenced to suffer RI for 07 years with fine of Rs.20,000/- and in case of default in payment the fine he shall further undergo simple imprisonment for one month. The benefit of section 382-B Cr.P.C. was also extended to the appellant.

2. The brief facts of the case as per prosecution are that the present case is an off shoot of Crime No.1178/2022 under Section 397/34 PPC of the same Police Station whereby from one unlicensed weapon alongwith 02 live rounds were recovered from the possession of the accused by SIP Suban Ali, hence the aforesaid FIR was lodged against the present appellant.

3. After usual investigation the matter was challaned and the appellant was sent up to face trial. He pleaded not guilty and claimed trial.

4. In order to prove his cases, the prosecution examined 03-PWs and exhibited various items and other documents. The appellant recorded his statement under Section 342 Cr.P.C. whereby he claimed that he was innocent and had been falsely implicated by the complainant who was a police man. However, he did not give evidence on oath or call any witness in support of his defence.

5. After appreciating the evidence on record, the learned trial court convicted and sentenced the appellant as set out earlier and hence, the appellant has filed this appeal against his conviction and sentence.

6. I have heard learned counsel for the appellant, learned Additional Prosecutor General Sindh and perused the record with their able assistance.

7. The appellant has already been acquitted of the charge in the main case. This offence concerns the recovery of an unlicensed fire arm/pistol from the appellant which was excluded from consideration in the main case. As a matter of consistency and to avoid conflicting judgments it should also be excluded from consideration in this case especially as the complainant's evidence in the main case who recovered the pistol from the appellant, was found doubtful in the main case on account of dishonest improvements and is similar in this case suffering from the same defects.

8. The above finding by implication has the effect that the charge against the appellant has not been proved beyond a reasonable doubt.

9. Thus, for the reasons mentioned above, by extending the benefit of the doubt to the appellant he is acquitted of the charge, the impugned judgment is set aside and the appeal is allowed. The appellant shall be released unless wanted in any other custody case.