

IN THE HIGH COURT OF SINDH CIRCUIT COURT
HYDERABAD

Cr. Appeal No.D-131 of 2022

Present:

Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Muhammad Saleem Jessar,

Appellant : Liaquat Ali through Mr. Imtiaz Ali Abbasi,
Advocate

State : Through Mr. Shahzad Saleem Nahiyoan,
Additional Prosecutor General, Sindh.

Date of hearing : 21.06.2023
& Judgment

JUDGMENT

MOHAMMAD KARIM KHAN AGHA, J:- This criminal appeal is directed against the judgment dated 05.22.2022, passed by the learned Special Judge CNS / MCTC-II / 4th Addl. Sessions Judge Hyderabad, in Special Case No.64 of 2022 (re: The State V Liaquat Ali), emanating from Crime No.87 of 2022, registered at Police Station Husri Hyderabad, under section 9-C of CNS Act, 1997, whereby the accused/appellant Liaquat Ali has been convicted u/s 9-C and sentenced to RI for nine (09) years along with fine of Rs.30,000/-; however, in case of default, he shall suffer SI for one (01) month more. Benefit of section 382-B Cr.P.C was also extended to the accused.

2. Facts of the prosecution case in brief, are as under:

“ On 27.03.2022 at 2030 hours complainant along with staff namely ASI Ashique Ali Abro, HC Naseer Ahmed, PC Hussain Bux and DHC Ghulam Mustafa, duly armed with arms, ammunition and investigation kit, in Government Mobile vehicle No.SPE-263 left Police Station for patrolling. After having rounds from various places, they were going towards Beehan Mori, during which, spotted a person holding black colour thelli in his hand, under the headlight of police mobile, who on seeing them tried to turn but he was apprehended at 2030 hours. In absence of public mashirs, ASI Ashique Ali Abro and HC Naseer Ahmed were nominated as mashirs. On inquiry, apprehended person disclosed his name as Liaquat Ali S/o Raham Ali Dahani and on his personal search, one note of Rs.100/- was recovered from his side pocket. The black colour shopper was checked and found containing two big pieces of Charas wrapped with white colour Panni

and tape weighing 2,010 grams of Charas, which was sealed in white cloth bag for chemical examination and currency note was kept in Khakhi envelope. Thereafter, memo of arrest and recovery was prepared in presence and with the signatures of above mashirs; then accused and case property were brought at Police Station where instant FIR was registered."

3. After usual investigation, police submitted challan of the case before the concerned Court. After completing necessary formalities, learned trial court framed charge (Ex.2) against accused to which he pleaded not guilty and claimed trial.

4. In order to prove its case the prosecution has examined as many as 04 witnesses and exhibited numerous documents and other items and thereafter prosecution side was closed at Ex.7.

5. The statement of the accused/appellant was recorded under Section 342 Cr.P.C. at Ex.7, in which he denied the allegations leveled against him and claimed his false implication on account of enmity. However, he neither examined himself on oath nor produced any witness in his defence.

6. On conclusion of the trial, learned trial court after hearing learned counsel for the parties and appraisal of prosecution evidence brought on record, convicted and sentenced the accused / appellant, as mentioned in the preceding paragraph of this judgment; hence, the appellant has preferred this appeal against his conviction.

7. The evidence produced before the trial Court finds an elaborate mention in the impugned judgment, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

8. At the very outset, learned counsel for the appellant under instructions of the appellant has stated that he did not press this case on merits in respect of his conviction and admitted his guilt in respect of the same provided that he would be given some reduction in sentence based on the following mitigating circumstances:-

- a) That the appellant is first time offender and is capable of reformation.
- b) That the appellant is young man with a large family to support.
- c) That by admitting his guilt the appellant has shown genuine remorse and save precious time of this Court.
- d) That the appellant has served out a substantial period of his sentence.

9. Based on the above mitigating circumstances, learned Additional Prosecutor General has no objection to a reduction in sentence in respect of the offence under which the appellant stands convicted.

10. We have gone through the evidence on record and find that the appellant was caught red handed with an amount of 2010 grams of charas in his possession; that the arresting officer and mashirs of arrest and recovery have no enmity or ill will against the appellant to falsely implicate him in this case and that their evidence is on the same lines and we find the same reliable, trustworthy and confidence inspiring and believe the same. The recovered narcotic was chemically examined which produced a positive chemical report and as such, we find that the prosecution has proved its case beyond a reasonable doubt and maintain the conviction of the appellant.

11. With regard to sentencing based on the mitigating circumstances raised by the appellant as mentioned earlier in this judgment and the no objection given by the learned A.P.G, we find that this is a fit case to reduce the sentence of the appellant therefore, by exercising our discretion we hereby reduce the sentence of the appellant to the time already undergone in custody and waive off any fine payable by him. The appellant shall be released unless he is not wanted in any other custody case.

12. The instant appeal stands disposed of in the above terms.

Hafiz Fahad