

IN THE HIGH COURT OF SINDH, KARACHI

Special Criminal A.T. Appeal No.201 of 2022

Present:

Mr. Justice Mohammad Karim Khan Agha

Mr. Justice Khadim Hussain Tunio

Appellant : Uzair Aziz S/o Abdul Aziz
through Mr. Ghulam Rasool Rind,
Advocate.

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

Date of Hearing : 06.04.2023

Date of Order : 06.04.2023

JUDGMENT

MOHAMMAD KARIM KHAN AGHA, J:- The appellant Uzair Aziz S/o Abdul Aziz was tried before the Anti-Terrorism Court No.II, Karachi in Special Case No.546-B/2021 under FIR No.376/2021 U/s 23(i)(a) of Sindh Arms Act, 2013 at PS Sher Shah, Karachi alongwith co-accused and vide judgment dated 28.11.2022, he was convicted and sentenced to suffer R.I. for three years and to pay fine of Rs.3000/- and in default of payment, he shall further suffer S.I. for three months. However, the appellant was granted benefit of Section 382-B Cr.P.C.

2. The brief facts of the prosecution case are that on 20.11.2021 during patrolling, police party of PS Sher Shah under supervision of SIP Nseer Muhammad Magsi received spy information regarding three suspects belonging to Lyari Gangwar involved in supplying narcotics, having bomb and weapons and that these three suspects were available at Akber road. Accordingly, the police went to the pointed place and arrested the appellant alongwith co-accused. From the appellant, one pistol was recovered which was found to be unlicensed and as such he was arrested and the aforesaid FIR was lodged against him.

3. After usual investigation, the case was challaned and the appellant alongwith co-accused was sent-up to face the joint trial where he pleaded not guilty to the charge.

4. The prosecution in order to prove its case examined 04 Prosecution Witnesses 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 claimed false implication by the police. However, the appellant did not give evidence on oath nor produce any DWs 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 28.11.2022 passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. At the very outset, learned counsel for the appellant under instructions of the appellant stated that he did not argue the case on merits and the appellant accepted his guilt provided that he was given some reduction in sentence based on following special features / mitigating factors:-

- i) That at present he was a first time offender and is capable of reformation.
- ii) That the appellant is a young man and has a large family to support.
- iii) That the appellant had admitted his guilt and shown genuine remorse.
- iv) That the appellant had served out a substantial portion of his sentence.

8. Based on the above special features/mitigating factors, the learned Addl. P.G. had no objection to a reasonable reduction in the sentence of the appellant.

9. We have gone through the evidence and found that the appellant was arrested on the spot pursuant to spy information whereby an unlicensed pistol was recovered from him. No ill-will or enmity has been suggested to the arresting police officials and mashirs of the recovery and as such, we find their evidence to be reliable trustworthy and confidence inspiring. The recovered pistol also produced a positive FSL report. As such we find that the prosecution has proved its case against the appellant beyond any reasonable doubt and maintain the appellant's conviction.

10. With regard to sentencing based on the special features/mitigating factors raised by learned counsel for the appellant and the no objection of learned Addl. P.G. to a reduction in sentence based on such factors we hereby reduce the appellant's sentence to the period already undergone in custody and waive off any fine payable by him. The appellant shall be released unless he is wanted in any other custody case. It is made clear that this judgment shall have no effect on any other case which the appellant might be standing trial for.

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