

IN THE HIGH COURT OF SINDH, KARACHI

Present:

*Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Arshad Hussain Khan.*

CRIMINAL APPEAL NO.195 OF 2022.

Appellants

1. Mst. Gul Saba W/o. Ghous Bux
2. Aijaz Lashari S/o. Ishaque Lashari through Mr. Nadeem Ahmed, Advocate.

Respondent

The State through Mr. Ali Haider Saleem, Additional Prosecutor General Sindh.

Date of Judgment

12.12.2022.

JUDGMENT

Mohammad Karim Khan Agha, J:- The appellants Mst. Gul Saba W/o. Ghous Bux and Aijaz Lashari S/o. Ishaque Lahari were tried in the Model Criminal Trial Court/1st Additional District & Sessions Judge Malir, Karachi in Sessions Case No.3380/2021 arising out of Crime No.1520/2021 U/s. 6/9-C of CNS Act registered at P.S. Shah Latif Town, Karachi and vide impugned judgment dated 22.03.2022 were convicted and sentenced as under:-

Accused (1) Mst. Gul Saba wife of Ghous Bux and (2) Aijaz Lashari son of Ishaque Lashari are both convicted and sentenced to rigorous imprisonment of Ten (10) years and fine of Rs.10,00,000/- (One Million) each. In case of failure to pay the fine both the appellants were ordered to undergo S.I for six months more. The benefit of section 382-B Cr.P.C. was also extended to the appellants.

2. Brief facts of the prosecution case appearing in FIR are that on 14.09.2021 at about 06:0 a.m. at Street outside house Katchi Abadi Lashari Goth Shah Latif Town, Karachi a police party headed by SIP/SHO-Javed Iqbal of P.S. Shah Latif Town apprehended the accused persons namely Mst. Gul Saba wife of Ghous Bux and Aijaz Lashari son of Ishaque Lashari. From

the possession of accused Mst. Gul Saba police recovered (Ice) total weighing 2500 Grams and from the possession of accused Aijaz Lashari police recovered Cannabis (Chars) total weighing 2245 Grams in presence of mashirs, hence the instant FIR was registered. Thereafter the investigation was conducted and accused were remanded to jail custody for disposal according to law.

3. After usual investigation, the challan was submitted against both the appellants who pleaded not guilty and claimed trial.

4. The prosecution in order to prove its case examined 03 Prosecution Witnesses and exhibited various documents and other items. The statements of accused were recorded under Section 342 Cr.P.C in which they claimed false implication however, neither they gave evidence on oath nor called any DW in support of their defence case.

5. After hearing the parties and appreciating the evidence on record, the trial court convicted and sentenced the appellants as set out earlier in this judgment; hence, the appellants have filed this appeal against their convictions.

6. At the very outset, learned counsels for the appellants under instructions of the appellants stated that they did not contest the case on merits and accepted their guilt and only sought reduction in sentence of the appellants for the offences they had been convicted and sentenced provided that they would be given some reasonable reduction in sentence based on the following mitigating circumstances:-

- a) That both the appellants are first time offenders and are capable of reformation.
- b) That all the appellants are married and had families to support.
- c) That by admitting their guilt they have shown genuine remorse and saved the time of this Court.
- d) That both the appellants have served out major portion of their sentence.

}

7. Based on these mitigating circumstances mentioned by the appellants, learned Additional Prosecutor General had no objection to the reduction in sentences to some reasonable extent.

8. We have gone through the evidence on record and find that both the appellants were caught red handed by the police party and Ice weighing 2500 Grams from the possession of accused Mst. Gul Saba and Cannabis (Chars) weighing 2245 Grams from the possession of accused Aijaz Lashari was recovered. No enmity was suggested against any member of the police party and as such it is well settled by now that we may rely on the evidence of the police officials provided that it is reliable, trustworthy and confidence inspiring and as such we believe the same. We also note that the recovered narcotics led to positive chemical report and as such we maintain the convictions of both the appellants.

9. With regard to sentences there ought to have been for 8 and 6 years R.I. respectively and as such keeping in view the mitigating circumstances raised by the appellants and no objection by the learned Additional Prosecutor General Sindh and the fact that the appellants have served a major portion of their sentences, we hereby reduce the sentence of the appellants to the time they have already undergone in Jail and waive off any fine and as such the appellants shall be released unless they are wanted in any other custody case.

10. The appeal stands disposed of in the above terms.