

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Criminal Revision Application No.D-11 of 2024

Before:

*Mr. Justice Shamsuddin Abbasi,
Mr. Justice Ali Haider 'Ada',*

Applicant/ Accused : Hamid Ali son of Kamal Khan Gopang,
through Mr. Asif Ali Abdul Razak
Soomro, Advocate.

Respondent : The State through Mr. Nazir Ahmed
Bhangwar, Deputy Prosecutor General,
Sindh.

Date of Hearing : 01.10.2025.

Date of Decision : 01.10.2025.

ORDER

Ali Haider 'Ada'.J:- Through this Criminal Revision Application, the applicant has assailed the judgment dated 23.01.2024, passed by the learned Judicial Magistrate-I, Jacobabad, (trial Court), whereby he was convicted and sentenced to undergo simple imprisonment for a period of ten months and to pay a fine of Rs.40,000/-, and in default whereof, to further undergo simple imprisonment for two months. However, the benefit of Section 382-B, Cr.P.C. was extended to him. It is pertinent to mention that after pronouncement of the impugned judgment of conviction, the applicant, who was on bail during trial, was taken into custody and remanded to jail. Being aggrieved, the applicant preferred a criminal appeal before the learned Sessions Judge, Jacobabad, which, however, was dismissed vide judgment dated 01.03.2024, thereby upholding the findings and sentence awarded by the learned trial Court. Both these judgments are now under challenge before this Court through the instant Criminal Revision Application.

2. The brief facts of the prosecution case are that on 11.12.2023, at about 0830 hours, complainant HC Wazir Ahmed, while on patrol along with subordinate staff, noticed one person, who, on seeing the police party, attempted to flee. On account of his suspicious movements, he was apprehended, and upon his personal search, 350 grams of Charas was

allegedly recovered from his possession. Thereafter, necessary formalities were completed at the spot, and the case property was sealed. Consequently, the FIR was lodged, usual investigation was conducted, and upon completion of the same, the challan was submitted before the learned trial Court.

3. After submission of challan, the learned trial Court supplied requisite documents to the applicant under Section 241-A, Cr.P.C. and framed charge against him. At that stage, the applicant moved an application, wherein he pleaded guilty and stated that he did not wish to contest the matter further, while praying for a lenient view. The learned trial Court, in compliance with law, issued a show-cause notice to the applicant, to which he submitted his reply reiterating his stance. Thereafter, the learned trial Court proceeded to convict and sentence the applicant on the basis of his plea of guilt.

4. Mr. Safdar Ali Ghouri, Advocate, holding brief for Mr. Asif Ali Abdul Razak Soomro, learned counsel for the applicant, contended that the learned trial Court did not follow the proper procedure while convicting the applicant. It is argued that the show-cause notice issued by the trial Court was not based on any proper legal footing, and it was the prime duty of the trial Court not to merely rely upon the admission or plea of guilty of the applicant, but also to consider the other aspects of the case in order to ensure that justice is done. Learned counsel submitted that such illegality vitiates the proceedings, and consequently, the impugned judgment of conviction, as maintained by the learned Appellate Court, is not sustainable in law and the matter be remanded back to the trial court for afresh proceedings.

5. Conversely, the learned counsel for the State has supported the impugned judgments, submitting that once the plea of guilt has been recorded, the Court is left with no option but to convict the accused. It is further contended that in the present case, the learned trial Court has already taken a lenient view while awarding sentence, and therefore, at this stage, the applicant is not entitled to any further relief as claimed.

6. Heard the learned counsel for the parties and perused the material available on record.

7. It has revealed from the record that the learned trial Court convicted the applicant merely on the basis of his application professing guilt. The learned trial Court, after receiving such application, issued a show-cause notice and thereafter proceeded to convict the applicant. At this juncture, it is appropriate to reproduce Section 243, Cr.P.C, which provides as under:

243. Conviction on admission of truth of accusation. If the accused admits that he has committed the offence 1[1][with which he is charged], his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

8. A bare perusal of the above provision reflects that before acting upon a plea of guilt, the trial Court is under a legal obligation to ensure that such plea is voluntary, unambiguous, and made with full understanding of its consequences. The section confers discretion upon the Court, which is required to exercise judicially, and conviction is not to be passed in a mechanical manner merely because the accused has tendered an application professing his guilt.

9. So, as per the wisdom of the statutory provision of law, the admission of guilt is required to be recorded in words used by the accused, and only thereafter the further procedure is to be adopted. In the present case, however, the plea of guilt was not recorded in accordance with law; rather, mere filing of an application was treated as a plea of guilt, which does not fulfill the statutory criteria prescribed under Section 243, Cr.P.C. The discretion to convict an accused solely on the basis of a plea of guilt is one of grave consequence and, therefore, must be exercised with utmost care and caution. Furthermore, it is the prime duty of the trial Court to apprise the accused of his fundamental right to a fair trial before acting upon such plea. The right to fair trial has been explicitly recognized and guaranteed by Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. For ready reference, Article 10-A is reproduced as under:

Article 10-A. Right to fair trial.---For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.

10. A plain reading of the above constitutional provision manifests that no person can be deprived of his liberty or punished unless the procedure adopted by the Court meets the standards of fairness, due process, and justice. Thus, in the instant case, the failure of the trial Court to properly record the plea of guilt in the words of the accused and to satisfy itself about its voluntariness, as well as to inform him of his constitutional safeguards, has resulted in violation of his fundamental right to fair trial.

11. In view of the foregoing discussion, this Criminal Revision Application is partly allowed in the following terms:

(a). The impugned judgment dated 23.01.2024 passed by the learned Judicial Magistrate-I, Jacobabad, in Criminal Case No. 08 of 2024, arising out of FIR No.102 of 2023 under Section 9(3)(a) of the Control of Narcotic Substances Act, registered at Police Station Airport, Jacobabad, as well as the judgment dated 01.03.2024 passed by the learned Sessions Judge, Jacobabad, in Criminal Appeal No. 01 of 2024, are hereby set aside. The matter is remanded back to the learned trial Court with direction to adopt the proper procedure by first issuing notice to the accused, apprising him of the consequences of admission of guilt, and strictly adhering to the statutory requirement under Section 243, Cr.P.C. The learned trial Court shall also ensure compliance with the constitutional mandate of Article 10-A of the Constitution, by informing the accused of his right to fair trial and the legal consequences of his plea of guilt, particularly keeping in view the punishment provided under the charge.

(b). After obtaining the applicant's response to such notice, the learned trial Court shall proceed with the case strictly in accordance with law and prescribed procedure.

Accordingly, this Criminal Revision Application stands disposed of in the above terms.

JUDGE

JUDGE