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Judgment Sheet
THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Appeal No.D-09 of 2023

Before:

Mr. Justice Muhammad Saleem Jessar
Mr. Justice Khadim Hussain Soomro

Appellant:

Farooq Ahmed Panhwar,
Through Mr. Asif Ali Abdul Razak
Soomro, Advocate

Respondent:

The State, through Mr. Aitbar Ali
Bullo, Deputy Prosecutor General,
Sindh

Date of hearing:

20.12.2023.

Date of Judgment:

20.12.2023.

J U D G M E N T

MUHAMMAD SALEEM JESSAR, J-. Through this Criminal Appeal, the appellant has challenged Judgment dated 13.01.2023, handed down by learned Special Judge for Control of Narcotic Substances, Shikarpur in Special Case No.292 of 2022 emanated from Crime No. 30/2022, registered at P.S. Garhi Yasin for the offence under section 9(c) CNSA, 1997, whereby the appellant was convicted and sentenced to for the offence under section 9(c) CNSA, 1997 for possessing 05 kilograms of chars to undergo R.I for nine years with fine to the tune of Rs.80,000/- (Rupees Eighty Thousands only); in case of default in payment of fine, the appellant to undergo S.I for four months more. However, the benefit of Section 382-B Cr.P.C. was extended to the appellant.

2. Learned counsel while arguing draws attention of the court towards memo of recovery available at Page-29 of the paper book, F.I.R, at Page-35 and road certificate at Page-53 of the paper book and submits that allegedly 05 kilograms chars was secured from the appellant however, chemical report available at page 61 and 62 reveals in all 04 kilograms and 700 grams net weight which is contradictory to the prosecution case however, submits that the appellant is the only bread earner of his family; as such, he does not wish to contest this Criminal Appeal on merits and leave himself at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to one he has already undergone, he would not press the Criminal Appeal.

In support of his submissions learned counsel places reliance upon the case of Javed Iqbal v. the State (2023 5 C M R 139).

3. On the other hand, learned Deputy Prosecutor General, Sindh states that though the discrepancies pointed out by the counsel for the appellant are minor one; however, since the appellant has remained behind the bars for sufficient period and has learnt the lesson; therefore, he has no objection if a lenient view is taken against him by dismissing instant Criminal Appeal and treating the sentence to one as already undergone.

4. We have heard learned counsel for the appellant as well as learned Deputy Prosecutor General and have gone through the material available on record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions.

5. The Jail Roll of the appellant was called from the Superintendent, Central Prison and Correctional Facility, Larkana, which reflects that the appellant has served out his sentence up-to six years, five months and two days including remission. The appellant is sole bread earner of his family, he has remained in jail and learnt the lesson as he has undergone sufficient period of his sentence, therefore, there is no legal impediment in accepting the request of the appellant.

6. Only in order to enable the appellant to reform and rehabilitate himself to rejoin the mainstream life to once again become a useful member thereof, by taking leniency, instant Criminal Appeal is dismissed, but with the reduction of his sentence to one as already undergone by the appellant including fine amount. The appellant is directed to be released forthwith, if, he is not required in any other custody case. Office is directed to issue release writ of the appellant today.

7. Instant Criminal Jail Appeal is dismissed with the above modification.


JUDGE


JUDGE