

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Jail Appeal No.D-05 of 2020

PRESENT:

Mr. Justice Muhammad Saleem Jessar,
Mr. Justice Shamsuddin Abbasi,

Appellant : Jameel Ahmed Shaikh, through Mr. Aamir Ali Sohoo, Advocate.

Respondents : State, Through Mr. Ali Anwar Kandhro, Additional Prosecutor General, Sindh

Mr. Safdar Kamal, Law Officer for NADRA a/w Waheed Nawaz Soomro, Assistant Director, NADRA.

Mr. Muhammad Imran Abbasi, Assistant Attorney General for Pakistan.

Date of Hearing : 17.05.2022.
Date of Judgment : 17.05.2022.

JUDGMENT

Muhammad Saleem Jessar, J.- Appellant Jameel Ahmed Shaikh, having been convicted on 17.01.2020 by the learned Special Judge, Anti-Terrorism, Larkana, in Special Case No.12 of 2016, (re-The State v/s. Jameel Ahmed and another) for the offence under section 324 P.P.C. and sentenced to suffer R.I for five years and to pay fine of Rs.10,000/- (Rupees Ten Thousands only) and in case of default in payment of fine, he shall suffer S.I for one month more, accused Jameel Ahmed Shaikh further convicted for an offence under section 353 P.P.C and sentenced for two years, has filed this appeal to challenge his conviction.

2. In compliance of earlier order, the jail authorities have submitted jail roll of appellant dated 12.05.2022, after perusal of the same it was taken on record.

3. After arguing the matter at some length, learned counsel for the appellant submits that the appellant has served out major portion of his sentence and there is no complaint against him inside the jail, hence, submits that looking to the conduct of the appellant, the sentence already served by him may be considered and the appellant may be released. The proposal so advanced is not opposed by the learned Additional Prosecutor General, the Law Officer, NADRA as well as the learned Assistant Attorney General for Pakistan.

4. We have considered the submissions of the parties and have perused the material available on record.

4. From the perusal of record, it appears that during pendency of trial co-accused Sadaquat Pirzado, Anees Solangi and Dilbar alias Dilbar Ali were acquitted by the trial Court in terms of Section 265-K, Cr.P.C, whereas co-accused Bashir Ahmed was also acquitted by the learned trial Court while passing the impugned judgment, mainly for the reason that he was neither named in the FIR and he was not identified by eyewitness PW Mehar Ali during trial. Record further shows that during the alleged incident neither the complaint nor any other staff member of his office were hurt, though per prosecution case six accused persons armed with weapons (no description of weapons allegedly carried by the accused except appellant) entered NADRA Office, Dokri. It is also surprising rather unconvincing that after face-to-face conversation with the complainant, apparently from very close distance, the appellant had

fired upon the complainant, who acting like a film-star felled him down and missed the fire, though it was an incident of broad daylight. The prosecution story appears to be exaggerated. However, since the Counsel for the appellant without disputing the conviction of the appellant has outrightly requested for reduction of the sentence awarded by the learned trial Court, therefore, we consider the above infirmities as mitigating circumstances.

5. Furthermore, according to the jail roll of the appellant furnished by the Senior Superintendent, Central Prison & Correctional Facility, Larkana, the appellant has served substantive sentence of three (03) years and eleven (11) days. The unexpired portion of the sentence of appellant is two (02) years, one (01) month and nineteen (19) days.

6. In view of above, the appeal in hand is dismissed on merits and the conviction is maintained. However, the sentence awarded to the appellant is modified and reduced from imprisonment for five years and two months to the period which he has already undergone. The sentence of fine is also remitted. Appellant Jameel Ahmed Shaikh is in custody. He shall be released forthwith, if not required to be detained in any other case.


JUDGE
JUDGE