

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Jail Appeal No. S- 03 of 2023

Date of hearing	Order with signature of Judge
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- 1. For orders on MA 2370/2024 (B.A)
- 2. For hearing of main case.

Date of Judgment: 30.08.2024

Mr. Ali Nawaz Jagirani, Advocate for appellant.

Mr. Imran Mobeen Khan, APG.

J U D G M E N T.

MEHMOOD A. KHAN, J;- Instant appeal is directed against the impugned judgment dated 26.12.2022 passed by learned Additional Sessions Judge-IV Khairpur, in Sessions case No.106/2019, initiated vide FIR No.05/2018 of Police Station Guloo Sial registered under sections 376, 511, 458, 34 PPC at Police Station Guloo Siyal whereby the appellants Muhammad Ali Kurio and Rajib Ali were convicted for offence under sections 376, 511 read with section 34 PPC and sentenced to suffer RI for ten years and to pay fine amount of Rs. 50,000/- (Rupees fifty thousand) each. They were also convicted for offence under section 458 PPC read with section 34 PPC and sentenced them to suffer RI for ten years and to pay amount of Rs. 20,000/- each, in default in payment of fine amount, accused were directed by trial Court to suffer S.I for three months more, however, benefit of Section 382-B Cr.P.C was extended to the appellants.

2. The case of prosecution in nut shell is that on 12.07.2018 at 12.30 night time present appellants along with one unknown person in furtherance of their common intention entered in the house of complainant and on the show of weapons attempted to commit zinna with her and such FIR was lodged by complainant/victim Mst. Zeenat at Police station on 14.07.2018 at 1900 hours.

3. Learned counsel for the appellants submits that appellants are innocent and have been falsely implicated in the case. He submits that there are many contradictions in the impugned judgment but he failed to point out the same. However, he points out that as per Jail Roll dated 09.05.2024 available on record, appellant Muhammad Ali has already undergone RI for 02 years, 06 months and 09 days while appellant Rajib Ali has already undergone RI for 01 year, 04 months and 10 days respectively upto 09.05.2024 as such he submits tht some leniency may be taken in the instant case. Learned counsel requires that the appeal be disposed of as undergone as the appellants are bread earners of their family.

4. Learned APG supports the impugned judgment contending that the required ingredients are present.

5. I have heard the arguments and gone through the available record. In the instant case, appellants Muhammad and Rajib Ali were convicted by the trial Court for offence under section 376, 511 read with section 34 PPC and sentenced to suffer R.I for ten years and to pay fine amount of Rs. 50,000/- (Rupees fifty thousand) each. They were also convicted for offence under section 458 PPC read with section 34 PPC and sentenced them to suffer RI for ten years and to pay amount of Rs. 20,000/- each, in default in payment of fine amount, accused were directed by trial Court to suffer S.I for three months more, however, benefit of Section 382-B Cr.P.C was extended to the appellants. I have gone through the depositions and it appears that the witnesses are firm and there was no major contradiction in their statements recorded by learned trial Court. However, it considers that the quantum of sentence is excessive. Therefore, while dismissing the instant appeal, I reduce the sentence as already undergone from the sentence awarded by the trial Court as referred

to above, leaving the fine and sentence in default of such fine unaltered. The appellants are in Jail. The superintendent Prison concerned is directed to release the appellants above-named if they are not required in any other custody case as per the reduced sentence only, while the fine portion has not been disturbed.

Irfan/PA

JUDGE

