

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No. 34 of 2022

Applicant : Abdul Salam present in person.

Respondents : The State through Mr. Muhammad Noonari,
Deputy Prosecutor General Sindh.

Date of Hearing : 15.01.2026.

Date of announcement
of Judgment : 03.03.2026

JUDGMENT

TASNEEM SULTANA-J.:- Through this Criminal Revision, filed under Section 435/439 Cr. P.C., the applicant has called in question the legality and propriety of the order dated 20.01.2022 passed by the Additional Sessions Judge, Karachi South in Cr. Appeal No. 01 of 2022, whereby the order dated 29.11.2021 passed by the learned Vth Assistant Sessions Judge, Karachi South in Sessions Case No. 1067 of 2020 arising out of FIR No. 82 of 2020 registered at Police Station City Court under Section 23(i)(a) of the Sindh Arms Act, 2013, revoking his probation and imposing sentence, was maintained.

2. The brief facts of the case are that on 25.08.2020, the applicant Abdul Salam was apprehended by ASI Aziz Ullah of P.S. City Court from outside City Court Gate No. 3, Karachi, while allegedly found in possession of one unlicensed 25-bore pistol bearing No. 1012537 along with eight bullets.

3. After usual investigation, police submitted charge sheet for the offence punishable under Section 23(1)(A) of the Sindh Arms Act, 2013. A formal charge was framed against accused/applicant at Exh.2 to which he did not plead guilty and claimed trial vide his plea at Exh:2/A.

4. To prove its case, the prosecution examined three witnesses in support of its case, namely, PW-1 ASI Aziz Ullah (the complainant), PW-2 PC Muhammad Imtiaz (the Mashir), and PW-3 ASI (I.O.) Waqar, whose evidence was duly exhibited.

5. Statement of appellant under Section 342 Cr.P.C was recorded at Exh;7 in which he denied the allegations stating therein P.Ws are police officials and they have deposed falsely. He professed his innocence and

prayed for justice. However, neither he examined himself on Oath under Section 340(2) Cr.P.C., nor examined defence witnesses.

6. On conclusion of trial and after hearing learned counsel for applicant and learned ADPP for the State, learned trial Court passed judgment dated 01.12.2020 whereby instead of awarding sentence, the trial Court took a lenient view on and placed the applicant on probation for a period of one year under the supervision of Mr. Sardar Dahar, Assistant Director, Reclamation and Probation (R&P), Karachi South, upon his executing a personal bond and solvent surety in the sum of Rs. 50,000/- with an assurance to maintain good behavior and not commit any offence during the probation period.

7. The probation officer subsequently reported, vide letters dated 11.10.2021 and 14.10.2021, that the applicant had flagrantly violated the conditions of his probation and had been involved in a series of criminal cases during the probation period, namely:

- (i) FIR No. 109/2021 under Sections 324/504/427/506-B PPC at P.S. City Court;
- (ii) FIR No. 123/2021 under Sections 320/468 etc. at P.S. City Court, trial pending; and
- (iii) FIR No. 410/2021 under Section 23(1)(A) of the Sindh Arms Act, 2013 at P.S. Chakiwara, pending trial.

8. It further appears from the record that on 03.04.2021, the applicant obtained a certified copy of the trial Court's order dated 16.03.2021 whereby his application for return of the case property pistol had been declined. Thereafter, he fraudulently obtained possession of the same pistol from the Record Keeper, City Court, Karachi by forging the said order. The pistol was subsequently recovered from his possession and a separate FIR No. 410/2021 was accordingly registered.

9. After issuance of the show-cause notice, the applicant submitted a written reply and was heard in person. Upon consideration of the material on record and the explanation furnished, the learned trial Court found that the applicant had violated the conditions of probation. Consequently, vide order dated 29.11.2021, the Court revoked the probation, forfeited the bonds in their entirety, and sentenced the applicant to three years rigorous imprisonment with a fine of Rs.10,000/-, in default whereof to suffer three months R.I. The personal bond of Rs.50,000/- was also forfeited, with a further default sentence of three months S.I. under Section 514(4) Cr. P.C. The learned trial Court also ordered that a copy of the order be forwarded to the Home Department, Government of Balochistan, and to the Additional Deputy Commissioner, Lasbela, Balochistan, regarding the transfer of pistol bearing No.1012537 (25 bore) in the name of the applicant, notwithstanding

that the said pistol had earlier been ordered to be destroyed pursuant to conviction.

10. Before examining the merits of this revision, it is appropriate to record the procedural history of the matter, which bears relevance to the conduct of the applicant. The revision was initially heard and disposed of as having become infructuous vide order dated 08.11.2022, as the applicant had already completed his sentence and had been released on 23.08.2022. Thereafter, at his own request, the revision was restored vide order dated 02.05.2023 by recalling the earlier order dated 08.11.2022. Shortly after its restoration, the applicant appeared in person on 11.05.2023 and sought dismissal of the revision as “not pressed,” whereupon it was dismissed accordingly. Subsequently, the applicant filed M.A. No. 6649 of 2023 seeking restoration once again on the ground that the earlier dismissal had due to a misunderstanding. The revision was restored to its original position and is now pressed for decision on merits.

11. This Court cannot overlook the manner in which the proceedings have been pursued. A litigant cannot be permitted to approbate and reprobate in the same breath or to repeatedly invoke the jurisdiction of the Court in a manner that undermines the orderly conduct and finality of judicial proceedings. The record reflects that after restoration of revision at his own request, the applicant himself sought dismissal of the matter as “not pressed” and thereafter again approached the Court seeking restoration. Such inconsistent conduct does not commend itself to judicial discretion and reflects a casual approach towards the process of the Court.

12. This Court has carefully examined the record and finds that the applicant was charged for possession of an unlicensed pistol alongwith eight live bullets constituting offence under Section 23(1)(A) of the Sindh Arms Act, 2013 which was established at the trial by cogent evidence of three prosecution witnesses whose testimony remained unshaken in cross-examination. The trial Court's initial leniency in placing the applicant on probation rather than awarding sentence vide judgment dated 01.12.2020 was an act of judicial indulgence.

13. The applicant's conduct during the probation period was not merely a technical or trivial breach. He committed multiple fresh offences, including one involving violence and another involving the possession of the very same unlicensed weapon for which he had been convicted. It further appears from the record that the applicant committed forgery of a judicial order in order to obtain custody of the case property pistol from the Court. Such conduct directly affects the sanctity of judicial proceedings and cannot be viewed

lightly. His belated production of a firearm license for the said pistol, allegedly transferred in his name during the subsistence of proceedings and after the weapon had been ordered destroyed, does not assist him. The license cannot retrospectively legitimize the commission of the original offence, nor absolve him of the violation of the probation conditions.

14. The sentence of three years rigorous imprisonment awarded upon revocation of probation falls within the prescribed statutory limits and, in view of the applicant's conduct during the very period of judicial leniency extended to him, cannot be termed excessive or disproportionate. This Court finds no basis to interfere. There is no jurisdictional error, illegality, or material irregularity in the impugned orders of two Courts below warranting interference in revisional jurisdiction. The findings of the trial Court, affirmed by the appellate Court, are well-reasoned and well-supported by the evidence on record.

15. In the result, the revision lacks merit and is accordingly dismissed. The impugned judgment dated 01.12.2020 and the order dated 29.11.2021 passed by the Vth Assistant Sessions Judge, Karachi South, affirmed by the Additional Sessions Judge-II, Karachi South vide order dated 20.01.2022, are maintained.

16. Before part with this order, this Court deems it appropriate to observe that repeated invocation of this Court's revisional jurisdiction, abandoning it again and thereafter seeking yet another restoration on the plea "misunderstanding" reflects a vexatious and inconsistent approach towards Judicial Proceedings. Such conduct amounts to misuse of the process of the Court and ought not to be encouraged. Such conduct warrants the imposition of costs. The applicant is accordingly directed to deposit costs of Rs.10,000/- (Rupees Ten Thousand) in the account of High Court Clinic within thirty days of receipt of this order.

JUDGE

Nadeem