

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Appeal No.S-02 of 2016.

Appellant : ALI ASGHAR MEERANI/TEGHANI, THROUGH
Mr. AHMED BUX ABRO, ADVOCATE.

Respondent : THE STATE, THROUGH Mrs. RUBINA DHAMRAH
ASSISTANT DISTRICT PUBLIC PROSECUTOR.

Date of hearing : 30.10.2017.

Date of Judgment : 30.10.2017.

JUDGMENT.

MUHAMMAD SALEEM JESSAR, J.- Appellant Ali Asghar Meerani/ Teghani was found guilty of keeping in his possession an unlicensed revolver of 30 bore loaded with three live bullets and vide judgment dated 31.12.2015, passed in Sessions Case No.210/2015, arising out of Crime No.18/2015 of Police Station Lakhia Gate, Shikarpur, under Section 23(i)(a) of Sindh Arms Act, 2013, he was convicted by the learned 3rd Additional Sessions Judge, Shikarpur, and sentenced to undergo R.I for one year and to pay fine of Rs.10,000/-, and in case of default in payment of fine to undergo simple imprisonment for one month more.

2. The learned trial Court, on the basis of evidence of complainant HC Syed Zahid Hussain Shah, PW Ghulam Shabeer and PW Shafi Muhammad, I.O of the case, held the appellant guilty and sentenced him as above.

3. Learned Counsel appearing on behalf of the appellant, before arguing the appeal on merits, submits that the appellant would not press the appeal on merits in case while maintaining the conviction, the sentence awarded to the appellant is reduced to one already undergone. Learned Counsel by placing on record attested photocopy of judgment dated 31.12.2015 passed by the learned 3rd Additional Sessions Judge, Shikarpur in Sessions Case No.653/2015 arising out of Crime

No.16/2015 of PS Lakhi Gate, registered under Sections 324, 353, 401, PPC, contended that instant case is offshoot of the said case, in which case the appellant having been convicted under Section 353, PPC with fine of Rs.40,000/- and in case of non-payment thereof three months simple imprisonment, was released by awarding benefit of Section 382-B, Cr.P.C. Certified copy of judgment dated 25.01.2016 passed by 5th Civil Judge & J.M Shikarpur, in Criminal Case No.13/2016, arising out of Crime No.13/2015 of PS Lakhi Gate, u/s 337_H(2), 353, 148, 149, PPC, has also been filed by the Counsel to show that the appellant was already wanted in the said crime and on conclusion of trial he was acquitted of the charge in the said case/crime.

4. The learned ADPP appearing for the State keeping in view the above contentions of learned Counsel for the appellant raised no objection to reduction of sentence awarded to the appellant by the trial Court to already undergone.

5. According to the jail roll furnished by Superintendent, District Prison, Shikarpur, the appellant has served the sentence of 03 months and 09 days and has earned remissions for only 02 days and the unexpired portion of his sentence is 09 months & 19 days. However, the contentions raised by learned Counsel for the appellant are borne out from the record. Perusal of judgment dated 31.12.2015 passed in the main case crime No.16/2015 of PS Lakhi Gate shows that the appellant was awarded sentence of fine of Rs.40,000/- for offence under section 353, PPC and in case of non-payment of such fine alternate sentence of 3 months simple imprisonment was ordered and while extending benefit of Section 382-B, Cr.P.C the appellant was released. Moreover, prior to registration of FIRs of Crime No.16/2015 and that of the instant case, the appellant was shown wanted in Crime No.13/2015 of same police station and in the said case/crime the appellant is shown to have been

3
acquitted of the charge by extending benefit of doubt vide judgment dated 25.1.2016.

6. Accordingly, considering the acquittal of the appellant in Crime No.13/2015 as well as short sentence of 3 months in the main case Crime No.16/2015 of the same police station, the appeal against conviction is dismissed as not pressed and the sentence awarded to the appellant is altered into the imprisonment which he has already undergone. The appellant is in jail. He is directed to be released forthwith if not required to be detained in any other case.

7. With the above modification in the sentence, the appeal stands dismissed.

~~JUDGE~~
of K-707

Disposed of Matter

- ① For Orders on M.A.N/1 468/18 (O/A)
- ② For Orders on M.A.N/1 469/18 (E/A)
- ③ For Orders on M.A.N/1 470/18 (S/C/A)

- Accountant Report as Reg. B